

Islamic Finance *forum*

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How can the legal industry and Shariah advisory boards work more closely to ensure speedier and perhaps cheaper conclusions?



While quality Shariah advice is only as costly as quality conventional legal advice, it is not uncommon to see institutions being more accepting of paying fees to the latter than to the former. This is perhaps attributable to a lack of familiarity and an undermining of the role that Shariah scholars actually play in the industry. While strongly opposed to these views, I have felt that the cumulative costs of legal and Shariah advice can often act as an impediment to the further advancement of this industry.

It was with this thought in mind that, in a previous capacity, I helped to pioneer a Shariah advisory intermediary process that enabled institutions to develop Shariah compliant products by procuring the services of the industry's leading scholars on a consultative basis. In such a scenario the Shariah advisory process is managed by the intermediary firm, ensuring timely and cost-efficient delivery of Shariah advice. Such an approach also allows the institution to adopt a disaggregated, unbundled approach with regard to its requirements, allowing it to be selective, only paying for its immediate concerns, and thus allowing for effective budgeting and cost considerations.

While the initial results have resulted in a growing global trend that promises to be both efficient and cost effective in the delivery of Shariah advice, it has been discouraging to note recently that some Shariah intermediary firms have begun quoting fees substantially higher than the costs of running an embedded Shariah board. Inevitably what began as an initiative to serve the industry has been interpreted by some as a commercial niche opportunity.

This is where I feel that firms like BMB Islamic offer a different perspective, with Shariah consciousness being implemented top-down within the firm and, with institutional independence, it has been able to offer a truly committed industry developing approach.

BMB Islamic has its own Shariah supervisory board and team of in-house Shariah technicians, and is thus able to work directly with law firms to produce legal documentation as well as to provide Shariah structuring for financial institutions. It seeks to set an industry benchmark as well as being a pioneer in charging nothing for Shariah compliancy, which it absorbs through an innovative mechanism of profit sharing.

Thus its clients incur no up-front costs at all, something BMB Islamic sees as being synonymous with a more edifying spirit. By not charging their clients, irrespective of their return, BMB Islamic seeks to earn its profits on a justifiable basis, by having first earned profits for its clients. Because of this, BMB Islamic does not charge separately for Shariah compliancy. This absorption of Shariah costs also pertains to its Shariah monitoring of various investment vehicles, designed and manufactured by it and used by its clients.

This to me serves as a perfect example of making Shariah advisory services seem “business as usual.” It also provides perhaps the most Shariah conscious way of providing Shariah advice, allowing the Shariah advisory process to enter into the equation as a value addition and not as a costly burden.