

UKIFC & ISRA THEMATIC WORKSHOP ON SHARI’AH GOVERNANCE – OCTOBER 2016

The Islamic Finance Council UK (UKIFC) and the International Shari’ah Research Academy for Islamic Finance (ISRA) organised a thematic workshop, entitled ‘*Is the Current Model of Shari’ah Governance Fit for Purpose?*’ in London on 26th October 2016. Attracting over 100 participants and 19 local and international industry experts, the event was hosted by K&L Gates LLP. The workshop included the launch of the UKIFC/ISRA’s *External Shari’ah Audit Report* and provided an opportunity for leading Islamic finance experts to reflect on and respond to the increasing focus, across all financial markets, on issues of Shari’ah governance, regulation and personal ethics. The workshop was endorsed by IIBI.

Scholars Session

Leading international scholars participated in a live audience debate exploring the robustness of the current Shari’ah governance model and the role of scholars, particularly their independence and whether it is right for them to receive remuneration for signing off products on behalf of God. It was pointed out that a significant challenge in the 21st century was that scholars were dealing with totally new situations – new types of transactions and trading with each other. Perspectives were offered from Prof. Dr. Mohamad Akram Laldin (Malaysia), female scholar Dr Marjan Muhammad (Malaysia), Dr. Bashir Aliyu Umar (Nigeria), Sheikh Bilal Khan (UK) and Sheikh Haytham Tamim (UK).

Scholar Regulation and Remuneration

Issues of remuneration were addressed by the scholars, who discussed whether taking payment and operating on commercial terms impairs or dilutes the religious and spiritual imperative of the Shari’ah scholars’ role in the eyes of public and other stakeholders. Professor Laldin said that the question was rooted in how scholars are regulated. In 2000 the idea of regulating scholars was something of an anathema, but since then regulations have been gradually emerging. For instance in Malaysia since 2005, a scholar can only sit on the Shari’ah board of one bank in order to prevent conflicts of interest.

He went on to say that giving fatwas or opinions is the duty of religious scholars,

but this is not an easy task. Scholars have to understand Islamic law, but they also have to understand the realities of what is happening day to day with modern, complex transactions. Getting their Shari’ah judgements right is critical to the reputation of Islamic finance institutions. Professor Laldin said that his own belief is that scholars need to be remunerated for the effort and expertise needed in reaching their judgements, but he, personally, had never quoted a price for giving an opinion, because it is part of his duty as a scholar; he left it up to the people asking for the opinion to decide how much to pay. In conclusion, he commented that given the complexity of their role and the requirement for detailed knowledge of both the Shari’ah and complex financial transactions, it is reasonable that scholars should receive some remuneration.

He went on to say that there is sometimes a problem where scholars have their own advisory businesses. There is nothing intrinsically wrong in having such a business, but there must be a very strict governance process within the business, so that there is no conflict of

interest with performing the scholar’s role. Unfortunately such conflicts of interest have occasionally occurred. He pointed out that in Malaysia scholars are fully accountable under the Islamic Financial Services Act for any negligent decisions, in the same way that any member of a board of directors is, with substantial fines or the ultimate sanction of imprisonment if convicted of any malpractice. He suggested that other jurisdictions should consider similar laws.

Sheikh Bilal Khan said that he believed a code of conduct was needed for Shari’ah scholars and a professional body in line with other professions such as lawyers, with clear rules on different types of conduct such as conflicts of interest, client care and confidentiality. If a scholar breaches that code or brings the profession into disrepute, there should be an option to strike the scholar off. He added that the reputation of Shari’ah was



Thematic Workshop Audience

more important than the reputation of individual Shari'ah scholars.

On the issue of remuneration Sheikh Khan said that in Islamic law there are two apparently conflicting Hadiths. One is from Bukhari, considered to be second only to the Qur'an in terms of authority, which says that remuneration is allowed. On the other hand, there is one from Ibn Majah, which says it is not. Scholars from all the four schools of Islam have now reconciled these disparate statements and issued fatwas. They have said that if there is a mutually-agreed contract in place, not necessarily a written contract, then remuneration is allowed, provided that it is reasonable/at a market rate; profiteering is not allowed.

He supported the idea of establishing a professional body, with a full code of conduct in line with those of other professions, so that scholars could be held to account for their rulings. It was suggested that this is a possible role for AAOIFI (Accounting and Auditing Organisation for Islamic Finance Institutions), which is respected by scholars all over the world.

Auditing Fatwa

Sheikh Haytham Tamim stressed that, while scholars are well-intentioned and trustworthy, they are also human and therefore fallible. It was not wrong, therefore, to be able to question/audit their decisions in order to improve transparency and encourage professionalism.

He supported the idea of an external audit, not least on the grounds that a fresh pair of eyes will often pick up mistakes or inconsistencies. He used the analogy of proof reading a document, where the author is so close to the text that he or she simply misses mistakes that an external proof reader will find. He did point out, however, that there could be challenges around capacity and resources for many institutions that

were relatively small. On the plus side he suggested that risk departments and third party financial auditors could provide extra pairs of eyes that could feed back their views to Shari'ah boards.

One member of the audience questioned whether there was still a need for Shari'ah Supervisory Boards (SSBs). It was suggested that Islamic finance is now a relatively mature industry and that SSBs were an obstacle to growth and progress. In response the panel agreed that many Shari'ah issues have been resolved, but it was pointed out that Islamic finance is a dynamic industry that has to respond to a changing environment such as regulatory issues and from time to time, completely new questions arise that require scholars to research an answer. It was, therefore, felt that SSBs are necessary.

Dr. Bashir Aliyu Umar pointed out that the scholars role is about more than issuing fatwas. They should be involved with the development and structuring of new products and services right from the start, not just presented with a *fait accompli* to approve.

A further question sought to elucidate the position of the internal Shari'ah scholar. Was that scholar looking after the best interests of the institution or really giving an independent view? If a scholar is asked to find loopholes, and that does happen, that is not really Shari'ah. The panel suggested that this raised the further question of whether scholars should be on the payroll of a company at all. It was suggested that the Malaysian approach of having a central Shari'ah board is probably the best solution, because it gives a central, independent view in addition to having local boards.

Sheikh Haytham Tamim defended the position of internal scholars. He said that, while they do strive to serve

the best interests of the bank, they do not do so to the extent that they are compromising the integrity of Shari'ah law. He commented that many proposed projects have been turned down by internal Shari'ah boards.

Professor Laldin suggested that the Malaysian approach, where all fatwas and the basis for reaching those decisions, are published, was a good way of increasing transparency and fostering confidence in the decisions of scholars. He again suggested that it would be good if other jurisdictions followed this practice.

He was not in favour of auditing fatwa, because, except in cases where texts dictated an absolute, fatwa are opinions. Opinions can differ, but one is not necessarily right and another wrong. The whole subject is extremely complex.

Key Discussion Points Summarised

Scholar remuneration

- Given the complexity of their role and the requirement for detailed knowledge of both the Shari'ah and complex financial transactions it is reasonable that scholars should receive some remuneration.
- Scholars who own commercial businesses must have strict governance processes in place to ensure separation of interests between that of a scholar and that of a business.
- The reputation of Shari'ah is more important than the reputation of individual Shari'ah scholars.
- Establishing a professional body, with a full code of conduct in line with those of other professions, is needed now. This is a possible role for AAOIFI.
- It is important not to doubt the intentions of the scholars as the industry has been built on their shoulders.

Auditing your own fatwa and the role of external Shari’ah audit

- There was support in principle for the introduction of external audit requirements, although there are challenges around audit capacity and resources.
- The role of internal audit could be extended to review the functioning of the Shari’ah board.
- There is scope to strengthen the role of the local regulator and improving disclosure.

Risk of ‘fatwa shopping’

- This is an issue that needs to be considered further as it has positive and negative sides, i.e. in exploring possible different solutions to a new or particularly challenging problem.
- A key argument in favour of external Shari’ah audit is that it avoids the risk of scholars auditing their own fatwas.
- All scholars are subject to the overriding duty of protecting the interests of the relevant institution’s shareholders (as part

of their wider duty to preserve wealth).

External Shari’ah Audit Report Launch

The *External Shari’ah Audit Report* was introduced by Mezbah Uddin Ahmed of ISRA and Nadeem Haq of UKIFC. Based on more than 35 in-depth interviews with stakeholders including regulators and scholars across four jurisdictions – Pakistan and Oman (which have both already introduced an external Shari’ah audit (ESA) requirement), Bahrain (which is proposing to introduce ESA requirements in 2017) and Malaysia, the report compared and contrasted existing issued legislation and examined the varying implementation experiences. It was also noted that AAOIFI (Accounting and Auditing Organisation for Islamic Financial Institutions) are currently consulting on the issue of ESA.

It was noted that over the last 4-5 years there has been considerable progress in some areas relating to external audit. For instance, most regulators now have minimum standards on the issue of competence. Less progress has been

made in areas such as disclosure. This matters for two reasons. Firstly the regulators, who are the same for both conventional and Islamic banks, want to ensure that customers are getting a fair deal, so disclosure/transparency is important. Secondly, Islamic banking customers want to be sure they are getting a Shari’ah-compliant product, which is after all the whole point of Islamic banking.

While broad stakeholder feedback is in favour of moving to a mandatory requirement for external audit, significant challenges remain in relation to the availability and experience of potential auditors and their scope of work. The question of the public disclosure of external audit reports also remains a thorny issue. As the survey areas demonstrate, however, there is great variability in terms of external Shari’ah audit.

Pakistan

Islamic banking has been in place in Pakistan for 30-40 years, but it really only started to gather momentum in 2001. In 2014/15 new legislation on the Shari’ah framework was drafted and included in that was mandatory external audits. There are, however, a number of concerns among stakeholders.

It was felt that external Shari’ah auditors were not as knowledgeable and experienced as auditors advising conventional banks, highlighting the shortage of appropriately qualified scholars. (This problem is not exclusive to Pakistan.) Another problem was the lack of disclosure of external audits, which goes to the heart of the issue of openness and transparency. This may relate to the fact that the requirement for external audits is new and external auditors are not yet comfortable with producing reports of their findings, particularly if these are negative. Obviously any



Networking at the Thematic Workshop

negative reports could have implications for the financial institutions involved.

Oman

Oman came to Islamic banking and finance in 2013 and with no previous legislation relating to Islamic finance, they were able to incorporate some of the latest thinking into their laws and regulations. In the survey, however, stakeholders said they were somewhat confused about the scope of external audits. In conventional finance regulations the scope of the external audit is very clearly defined, but this guidance appears to be lacking for external Shari'ah auditors. In addition, like Pakistan, there were concerns about the lack of disclosure of external audits.

Bahrain

During the final stages of the report's compilation, Bahrain decided to issue a consultation paper on Shari'ah governance. Perhaps reflecting how they are learning from other jurisdictions, that consultation paper includes far more guidance about what is required in an external Shari'ah audit than is the case for some of the early adopters. Nevertheless Bahrain has some issues that still need to be addressed. The consultation paper requires external Shari'ah auditors to have the relevant skills and experience, but it has not actually spelled out exactly what constitutes the relevant skills and experience. Bahrain has also failed to address the issue of public disclosure.

Malaysia

Malaysia has one of the most comprehensive Shari'ah governance frameworks in place including specifics on what needs to be done and the roles of the various players including the central bank, the Shari'ah audit committee and the internal Shari'ah auditors. The report found that the main focus in Malaysia is on the internal Shari'ah audit, but with the input of

the central bank, which is very different from the other jurisdictions surveyed. Respondents to the survey suggested that independent sign-off is something that could enhance the framework.

Three Messages

There were three messages from the survey. Firstly, there should be clarity about the scope of what external Shari'ah auditors should cover. It was clear that stakeholders are currently confused about scope, which differs across the various jurisdictions.

Second, the readership of the output of Shari'ah audits is very restricted. It is hoped that this issue will be addressed in forthcoming guidance on external Shari'ah audits.

Finally, from a practical perspective there are issues around resources. For example, are there enough suitably qualified scholars and is there enough guidance.

Regulators Session

Chaired by Stella Cox (DDCap), with Dr Saeed Ahmad, Deputy Governor, State Bank of Pakistan and Arshadur Rahman, Specialist for Islamic Financial Services, Bank of England, this session explored the challenges in regulating the Shari'ah governance process and

individual scholars. Ms Cox began by asking Dr Ahmad to reflect on State Bank's experience of its regulations for Shari'ah governance process and particularly external Shari'ah audits.

Dr Ahmad began by saying that the work involved in fatwas is considerable and exhaustive. The idea that anyone can 'shop' around different scholars for an instant opinion until they get an answer that suits them has nothing to do with Shari'ah. All fatwas are derived from the Qur'an, Hadiths, earlier scholars and various practices that have taken place within the Islamic world at a time when everything was done according to Shari'ah requirements. Shari'ah is not there to be manipulated to fit conventional modes of financing. Sometimes temporary permissions have been given for reasons of necessity, but then these get stretched until it becomes established practice. This is unacceptable. If something claims to be Islamic finance, it has to be Islamic finance.

The difference between conventional finance and Islamic finance is the Shari'ah scholars and Shari'ah rulings. To say that there is no need for Shari'ah scholars, because the Islamic finance industry is mature, is like saying the law does not need lawyers. New issues



'Regulators Panel - from left to right, Arshadur Rahman, Dr Saeed Ahmad and Stella Cox

arise all the time. At the same time, the Shari'ah scholars also need to develop and make progress to keep pace with innovation.

In relation to the governance of Islamic finance, in Pakistan the goal is to establish a culture of Islamic finance within any given institution by having a resident scholar, who is a full-time employee. In addition there must be another senior and well-regarded Shari'ah scholar on the Shari'ah board, plus one other. Three scholars is the minimum requirement for the Shari'ah board of any bank or financial institution.

Banks also have to have a Shari'ah compliance department. Their function is to make sure the products and services comply with Shari'ah requirements, not just in their design, but also in the way they are delivered to customers.

There is also an internal Shari'ah audit that will question all Shari'ah operations. They report to the board of directors. An external auditor is also required. It is their job to look at and verify fatwas that have been passed.

The central bank in Pakistan also has a Shari'ah board composed of highly qualified and experienced scholars. Any new products have to be cleared by this superior board. Obviously, non-Islamic countries such as the UK do not have the same level of Shari'ah regulation, but it was suggested that financial institutions in such countries could ask a third party, high-level Shari'ah authority to approve their products and services.

Ms Cox asked Arshadur Rahman to reflect on the issues secular regulators face in their approach to the Shari'ah governance process. He said that regulators in the UK were in an interesting position because they had no statutory power over religious compliance. The Bank of England can

only regulate the financial rather than the religious aspects of products and services. The Bank also tries to achieve a level playing field for all forms of finance. There is a fear that, if Shari'ah compliance is not regulated, it becomes a bit like the American Wild West, where anything goes. That, however, is not the case, because UK regulation requires that any provider is clear and transparent about the products and services it is offering. Provided that information is adequate, it is then up to customers to decide whether they are comfortable that what is being offered is Shari'ah compliant.

Ms Cox did point out that the Bank of England did consult widely within and outside the UK on matters pertaining to Islamic finance such as the UK sovereign sukuk and Shari'ah-compliant student loans and that it was currently undertaking another consultation on the Shari'ah-compliant liquidity facility.

Mr Rahman commented that when the liquidity rules changed in 2008, requiring institutions to have higher levels of liquidity, it created a challenge for Islamic banks, where the universe of available assets that are both liquid and Shari'ah compliant is quite limited. The Bank of England has been speaking with other central banks, academics, scholars and other stakeholders from around the world to try to work out what can be done. In the process they discovered that this issue is not very well understood, not just in the UK, but across the world. The hope is that the Bank will be able to return to the market in early 2017 with a preliminary indication of how they are going to go forward with addressing this issue.

One member of the audience remarked that, if an Islamic bank was found not to be Shari'ah compliant, this could result in a loss of customer confidence and a run on that bank. It was, therefore, a risk management issue, which is

part of the Bank's remit. In light of Mr Rahman's comments that Shari'ah compliance was not something within the scope of the Bank of England's regulatory role, he asked how the Bank could ignore this significant risk.

Mr Rahman said that the Bank recognised Shari'ah compliance as a very material issue, but expertise on what is and is not Shari'ah compliant falls outside the Bank, which focuses on operational and risk management control. In as much as it is possible to disentangle operational and procedural weaknesses from Shari'ah compliance, if the Bank found that products and services were being misrepresented to customers in a way that affected their purchasing decisions, it would take action.

A second member of the audience asked what the Bank of England did to promote competition in the Islamic finance market. Mr Rahman said that regulators in the UK do not take an actively promotional role, although the FCA (Financial Conduct Authority) does have an innovation path to facilitate new products and services. Ultimately, however, it is up to the market to put forward new products and services. As a regulator, the Bank does try to ensure a level playing field for all financial institutions.

Key Discussion Points Summarised

- The need for internal Shari'ah Boards within Islamic financial institutions will not cease as new questions will continue to arise
- The role of external Shari'ah auditors in Pakistan was not seen as extending to reviewing the terms of fatwas themselves, but rather to auditing compliance with the fatwas issued by the State Bank's own Shari'ah Board thus highlighting the role of a central bank Shari'ah board

to enable a controls-based approach to external Shari’ah audit.

- A recent development in Pakistan was the addition of a CPD (continuing professional development) requirement for external Shari’ah auditors.
- There is a fundamentally different perspective within a non-Islamic jurisdiction such as the UK.
- As a secular regulator, the Bank of England’s policy was not to promote Islamic finance over conventional but to provide a level playing field so as to remove any potential disincentives to Islamic finance.
- The key focus of the FCA in the UK as a regulator is on product disclosures, i.e. in this context ensuring that statements as to Shari’ah compliance are accurate. It is up to customer to decide if they are comfortable with the interpretation of Shari’ah presented.
- There is no legal requirement in UK that an institution should have its own Shari’ah board.
- There has been a recent consultation in UK to consider the availability of sufficient Shari’ah-compliant assets to enable Islamic banks to obtain emergency liquidity support.



The Ethics Panel – from left to right Umer Suleman, Mohamad Noranuar Bin Sajari, Iqbal Asari and Sultan Choudhury

corporate ethics. He then went to ask panel members whether, in light of the recent public dismay towards bankers’ bonuses, rate fixing and misselling scandals in conventional banking markets, Islamic bankers were immune to such malpractice.

Sultan Choudhury put the question into context. When these scandals took place there were measures in place that were supposed to prevent such malpractice, but they still happened. There have been further developments since that time, particularly in terms of prudential stability and regulatory capital and more rules about conduct, but he suggested that they have been necessary rather than sufficient improvements. The root cause was and is the character of the individuals involved in the industry. He felt that the industry should be talking about virtues rather than codes of conduct, which, with the best will in the world, cannot cover every scenario.

If you start to go down that line of thinking, then the first question has

to be, does banking itself have a purpose other than a pure economic one. Should banking have a moral and social justice dimension? If the answer is yes, how do you disseminate that through the ranks of a bank? It is, therefore, necessary to develop a purpose for the banking industry, which is much more than economic gain. It has to do about the long-term prosperity of the customer base and the flourishing of society. When there is a broader societal goal, the individuals working in that bank have to develop the character and virtues to enable society to grow in a just way. It is not just about doing the right thing for customers and stakeholders; it is about doing the right thing for society.

In terms of Islamic banking, it has virtues that derive from Shari’ah and faith, which give some level of character protection. That does not mean that Islamic banking is wholly immune to the issues that created the problems, because humans are fallible. The ability to apply the values and ethics of Islamic banking is critical. Mr Choudhury argued that the people attracted into Islamic banking are less likely to be exposed to the temptations that have led to the scandals, but they are not totally immune.

Individual Ethics Session

The final session, chaired by Jonathan Lawrence (K&L Gates LLP) was on individual ethics. Views were shared by Sultan Choudhury (Al Rayan Bank Plc), Mohamad Noranuar Bin Sajari (Bank Nizwa), Professor Iqbal Asaria CBE and Umer Suleman (UKIFC/HSBC).

Jonathan Lawrence began by saying that he felt it was impossible to separate the question of individual ethics from

As the CEO of an Islamic bank he said the approach to nurturing character and ethics has to be top down. People need to understand that doing the right thing is sometimes more important than making the most money in any particular instance. There has to be a relentless pursuit of putting the customer first. When Islamic banks are recruiting it has to be not just about experience and technical competence; it is also about attitudes and behavioural traits. The important thing is to get the balance right. The induction course for new recruits has to reinforce both the bank's and Shari'ah values. In addition the bank runs an annual one-day, behavioural workshop for all employees, which is about the bank's values and how they translate into expected behaviour.

Mohamad Noranuar Bin Sajari responded to a question from the chair on fatwas and Shari'ah compliance. Referring to a conversation with Sheikh Usmani, he said that the problem with fatwas was not with the fatwas themselves but with the implementation by bankers.

The chair asked Umer Suleman, whether he saw a difference in the approach to ethics between conventional and Islamic banks. Mr Suleman said that from his experience in conventional banking, when you try to impose a compliance culture, unless people really buy into it, it is only ever going to be a tick-box exercise. People will only be compliant as long as there is a heavy hand on them. In conventional finance, people at the top are now personally accountable, so they are pushing compliance, but cultures cannot be changed overnight.

Islamic finance should not merely be about having different products; it should be about how it does things.

It should always be honest about the way it does its business. It must not lie about any defects or weaknesses in its products. It should also be proficient, understanding the markets and operating in the best possible way. Finally, it should be mindful of the customer – is the product right for the customer in every way, not simply from the credit risk perspective.

Finally, how does any individual determine whether something is right or wrong? If there is anything that a person has done that they would not want anyone else to know about or they feel uncomfortable with, then there is a question mark over it.

Iqbal Asaria rounded off the ethics panel by saying there are a number of key principles in relation to ethics. Firstly, there is a difference between what is legal and what is moral. Following on from the financial crisis, the number of people who have been prosecuted is miniscule, because nothing illegal, technically, has been done, but public anger is more in terms of morality – how can people get away with that.

Adam Smith talked about the even hand of the market, but in earlier writings he discussed the moral framework society needed to get his other/ later ideas to work properly. What the finance industry needs is a framework that balances institutional checks and personal morality .

One of the key principles of Islamic finance, which the industry is not quite adhering to all of the time, is to ensure the distance from the asset is as little as possible. By following this principle, financial institutions will stay on the straight and narrow. New regulation will have to come from that direction.

Second, sustainable activity is one of the things industry and commerce is looking at more and more. In any sustainable endeavour the return is over the long

term. Unless discounted cash flow is changed, sustainable projects will never be approved.

Finally, there is the issue of building long-term, intellectual capacity. Currently, economic thinking is very much biased towards deregulation and liberalisation rather than market regulation. All recent Nobel prizes have been awarded to economists that push that line of thought, but ethics and morality have to be controlled institutionally as well as individually.

The chair asked Sultan Choudhury how he viewed using the ethics of an institution or individual to gain market share. Mr Choudhury replied that if it differentiates an organisation and provides a competitive advantage then ethics should be used. He said that Al Rayan has products that are Shari'ah compliant and comply with AAOIFI rules, but that is not enough. Bank staff have to talk to people about why these products are better, which positions Al Rayan differently from its competitors.

Clearly, there is a cost involved in all this – a Shari'ah compliance officer, special documentation, etc. and this means competitive advantage cannot always be built through the price dimension and so it is necessary to show the added value of the ethics being applied. That is the theory, but it is not always easy to apply and it takes time.

Finally, the chair raised the issue of whistle blowing. The panel were asked how they viewed that as a moral and professional issue. Umer Suleman commented that to a large extent it would depend on the issue that the whistle blower raised. If the issue was very serious then individuals have a duty of care. It is more than finances at stake here. If people are behaving unethically, and often that means illegally as well, this behaviour should be exposed. Islamic finance practitioners claim to have higher standards and they should adhere to these.

Iqbal Asaria commented that whistle blowing is very much linked to the judiciary in any country. If there is confidence that you will get fair treatment from the judiciary, then you will go there, but the situation is much more difficult if there is no confidence in the judiciary. Whistle blowing is a big decision, especially if the stakes are high and sometimes there are other issues involved, e.g. matters of national or international interest. He added that society's attitude to whistle blowers is also important – will society in general support whistle blowers or make them scapegoats. It is a very complicated issue and all these factors will influence an individual's decision.

A member of the audience commented that not all Islamic bankers have their bank accounts with Islamic banks. He asked whether this suggested they had no confidence in the products they were selling. Sultan Choudhury said that when a bank hires people it is looking for a certain technical expertise in the function for which they are hired. At Al Rayan's head office in the UK about 50% are Muslim and the non-Muslims may have no problem with interest-bearing instruments. He did, however, say he had some sympathy with the question.

On a second issue raised, tension between Shari'ah scholars and practitioners, he said a certain distance does tend to develop between the scholars and the broad employee base. He felt it would be better if scholars were more like non-executive directors, where there is a restriction on the number of banks whom they advise. They should also devote one day a month to coming into the bank in order to build a closer relationship. He believed that would ease the tension and expedite solutions to the differences. Obviously there are some problems, e.g. there are not enough scholars.

Commenting on a question about whether it is possible to have true Islamic banking

in secular systems, Iqbal Asaria said it was not possible to have true Islamic banking within banking regulations as they are currently. These regulations are dependent on giving the banks a free ride on deposit protection schemes and on the ability to create money. It is only possible to practise a basic payments' system, where payments are separated from investments and then to have investment houses that deliver services at different levels. He added that currently Islamic banking is limited to very simple payment gateways, because any investment activity within a banking framework is geared to strictly collateralised loans.

Key Discussion Points Summarised

- Conventional banks expanded their ethical codes post the financial crisis but no code can ever be completely comprehensive.
- Culture vs. Character –there has to be a balance between a code of conduct and personal virtues.
- Those who elect to work in Islamic institutions are, at least partly, motivated by ethical considerations.
- Banks must have broader goals than purely profits, i.e. looking to promote the prosperity of

- their own customers and society as a whole.
- Fatwas play an important role not just in addressing technical issues but in setting an ethical framework as a whole.
 - The panel warned against a 'tick box' approach to compliance and ethical issues.
 - Personal integrity in relation to financial products offered and how they are sold and operated must be compliant with the principles of Shari'ah. Fatwas are relevant but when distorted and not applied correctly by bank staff they become less relevant.
 - Public disquiet with the behaviour of financial institutions has been more concerned with immorality than illegality.

Delegate Feedback

The event was attended by more than 100 Islamic finance professionals. Their feedback stated:

- 56% thought that the current model of Shari'ah governance is NOT sufficient
- 76% felt that external Shari'ah audit WILL strengthen Shari'ah governance

UKIFC

The UKIFC was established in 2005 as a specialist advisory and developmental body focused on promoting and enhancing the global Islamic and ethical finance industry. As a dynamic and forward-thinking not-for-profit organisation its Advisory Board Members, who provide pro bono support, have defined and evolved the role the UKIFC plays in making a tangible impact in the sector. Its principle service areas are: Advisory, Ethical Finance, Training and Awareness and Thought Leadership.

ISRA

ISRA is an autonomous body established under the direction of the Central Bank of Malaysia (Bank Negara Malaysia) to promote applied research in the area of Shari'ah and Islamic finance. ISRA provides a platform for greater engagement among practitioners, scholars, regulators and academicians via research and dialogue, in both the domestic and international arenas. Through pioneering research and rigorous intellectual dialogue, ISRA aims to promote innovation and dynamism and thus extend the boundaries of Islamic finance.