

PRIMARY RESEARCH

Enhancing the Competence and Effectiveness of Sharī'ah Advisory Boards: Case of Islamic Banking Institutions in Pakistan

Muhammad Ayub ^{1*}, Khurram Khan ², Abdul Rashid ³, Muhammad Asghar Shahzad ⁴, Habib ur Rehman ⁵

¹ Editor, JIBM, Riphah Centre of Islamic Business (RCIB) Riphah International University, Islamabad, Pakistan

² Associate Professor/Chairman, RCIB, FMS, Riphah International University, Islamabad, Pakistan

³ Associate Professor, International Institute of Islamic Economics (IIIE), International Islamic University, (IIU) H-10, Islamabad, Pakistan

⁴ Lecturer, Sharī'ah Academy, International Islamic University, Islamabad, Pakistan

⁵ Assistant Professor /Chairman Department of Trainings, Sharī'ah Academy, International Islamic University, Islamabad, Pakistan

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Abstract. The objective of this paper is to make an assessment of the competence of the members of Sharī'ah Boards of the Islamic Banking Institutions (IBIs) in terms of enabling and ensuring Sharī'ah compliance of banks business. The competency of Sharī'ah board members is considered as a critical issue in the State Banks Sharī'ah Governance Framework (SGF), which considers degree from any *Wafāq al-Madāris* as the basic qualification for their appointment. The paper investigates into the curricula of *madāris* (religious schools) in Pakistan and orientation of the *madāris* graduates for understanding increasingly innovative banking and finance operations. It also analyzes the syllabubs of the specialization/*takhasṣuṣ fī al-fiqh/takhasṣuṣ fī al-iftā* in the *madāris*. Some pragmatic recommendations have been made to enhance the expertise of the Sharī'ah board members in the light of SBPs Fit & Proper criteria. This is a pioneer study discussing the scheme of studies in Pakistani *madāris* and provides a basis for further research on this area.

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INTRODUCTION

Pakistan had been among the three countries in the world, the other two being Iran and Sudan, that started transforming the whole financial system to the principles of the Sharī'ah, in late 1970s and early 1980s. Later in 1991, the Federal Sharī'at Court, Pakistan declared

*Corresponding author: Muhammad Ayub

†Email: muhammad.ayub@riphah.edu.pk



the ‘Non-Interest based System’ introduced in Pakistan in early 1980s as un-Islamic due to the use of the buy-back arrangement (*bay‘al-‘inah*) and the sale of debt instruments as un-Islamic (Janjua, 2004). After a similar judgment by the Sharī‘at Appellate Bench of the Supreme Court of Pakistan, the State authorities and the State Bank of Pakistan (SBP) decided to launch Islamic banking system in the country parallel to conventional banking. Accordingly, the conventional and Islamic systems are in practice in Pakistan since 2002. As such, the ‘*Banking Companies Ordinance*’ (BCO) 1962 is equally applicable to both conventional and Islamic banks.

Over the last 16 years, Islamic banking services have been made available in almost all parts of the country. But the speed and the coverage is not satisfactory as in the country with around 95% Muslim population, the Islamic banking industry held only 13.6 percent share in banking assets in Pakistan by end September 2018 (State Bank of Pakistan, 2018). It is quite below the levels of over 25 percent in Gulf States and even Malaysia where Muslims are around 51 per cent of the population. According to the Thomson Reuters (2018) “*State of Global Islamic Economy, 2018-19*”, Pakistan ranks at the 7th position in Islamic finance, after Malaysia, UAE, Bahrain, Saudi Arabia, Kuwait, and even Oman that initiated its Islamic finance program in 2012. The main reason behind this slow growth is the lack of credibility of Islamic banks among the public in terms of the level of Sharī‘ah compliance and Sharī‘ah legitimacy (Khaleequzzaman, Mansuri & Rashid, 2016). Islamic banks have not been able to establish identity to offer really Sharī‘ah compliant products to resolve the problems created by the interest based system. It requires an effective regulatory framework with different approach aimed at adoption of the principles of Islamic finance in letter as also in spirit.

The regulators all around the world, and particularly the central banks of Pakistan (SBP) and Malaysia (the Bank Negara Malaysia, BNM) have issued comprehensive Sharī‘ah governance frameworks for Islamic banks in their respective jurisdictions. The Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and Islamic Financial Services Board (IFSB) have also issued Sharī‘ah governance standards for Islamic banks and financial institutions.

An effective Sharī‘ah governance framework is essential to maintain the trust of its users regarding the Sharī‘ah compliance of the IBIs products and services. In turn, the Sharī‘ah boards of Islamic banks and their members have to play an important role in ensuring compliance of the banks products and business to the principles of Sharī‘ah. The SBP, cognizant of the need for Sharī‘ah compliance, has been issuing instructions/regulations time to time (Shahzad and Rehman, 2017). One serious effort in this context is the ‘*Sharī‘ah Governance Framework*’ (SGF) issued in 2015 and slightly revised in 2018.

The SGF, 2015 provides for the Sharī‘ah Advisory Committee (SAC) at the level of the State Bank and Sharī‘ah Boards (SB) in Islamic banks, Islamic banking subsidiaries or the Stand-alone Islamic banking divisions of the conventional banks [collectively called as Islamic Banking Institutions (IBIs) in Pakistan]. The Sharī‘ah governance activities are to be performed by the Banks BOD, Sharī‘ah Board, resident Sharī‘ah board member (RSBM), Sharī‘ah Compliance Division (SCD), Sharī‘ah Audit Department and the Sharī‘ah Review

Department of the respective IBIs. The SGF covers all instructions given by Islamic Financial Services Board (2009)¹ with addition of external audit.

As here we are discussing the SGF, 2015 which is applicable to the banking institutions in Pakistan, we will be focusing on Sharī‘ah advisory and governance in IBIs only. The objective of this paper, therefore, is to discuss and analyze the effectiveness of the ‘Fit & Proper Criteria’ for the Sharī‘ah boards members of Islamic banks that pertain to their religious qualification, experience in *fatwá* issuance and competence in understanding the increasingly complicated banking and finance products. It also analyzes the Sharī‘ah Governance frameworks or guidelines issued by BNM, AAOIFI and IFSB in terms of expertise and qualification of the Sharī‘ah board members.

This study is qualitative in nature conducted by extracting data from the Sharī‘ah governance frameworks issued by the regulators like SBP and BNM, institutions like AAOIFI and IFSB and various classical and recent materials on requirements for issuance of *fatwá*, and the studies conducted on Sharī‘ah governance for the IBFIs.

The rest of the paper comprises i) review of literature on education and competence of the members of the Islamic banks Sharī‘ah boards; ii) importance of *iftā* and prerequisites for a *muftī* from the Qur‘ān, Sunnah, and opinions of the renowned jurists; iii) analytical comparison of the qualification requirements as prescribed by the SBP, BNM, AAOIFI and IFSB for the Sharī‘ah board members; iv) the syllabi of eight years education prescribed by five education boards of religious institutions in Pakistan i.e, *Wafāq al-Madāris ‘Arabīyah*, *Wafāq al-Madāris Salafīyah*, *Rabiṭah al-Madāris*, *Tanzīm al-Madāris* and *Wafāq al-Madāris Shī‘ah*; v) comparison of the syllabus of Specialization (*takhaṣṣuṣ*) offered in all *Wafāqs* in the country; vi) suggesting changes in curricula and training schemes enabling the *madāris* graduates to play effective role in developing products for Islamic banking and finance while ensuring compliance to the tenets of the Sharī‘ah; and vii) concluding the paper with findings and recommendations.

LITERATURE REVIEW ON EXPERTISE OF SHARĪ‘AH BOARD MEMBERS

Farook (2011) examined the qualification of Sharī‘ah scholars and emphasized that there was shortage of qualified scholars in Islamic finance industry. The author is of the view that only a few top ranking Sharī‘ah scholars are in concentration and prominence due to absence of any recognized standard or requirement for this profession with regard to qualification and expertise. The paper suggested qualification and emphasized training of Sharī‘ah scholars for understanding the modern complex economics and finance systems. It suggested some practical solutions to overcome the challenge in the long-run i.e., (i) by establishing academic and training institutions with relevant degree and training programs; (b) designing syllabus and setting standards for qualified Sharī‘ah scholars for understanding the finished product; and (c) forming a professional body to recognize and certify Sharī‘ah scholars in other modern professional disciplines (Farook & Farooq, 2013).

¹IFSB. (2009). Guiding principles on Sharī‘ah governance systems for institutions offering islamic financial services. Islamic financial services board

Alman (2012) explored the influence of Sharī‘ah supervisory boards compositional characteristics on Islamic banks risk taking behavior. He analyzed as to which degree the supervisory functions of a Sharī‘ah board affected the banks risk-taking behavior using data of 2000-2010 of banks in the Middle East, Northern Africa, and Southeast Asia. The author concluded that the assets portfolio related risk taking by Islamic banks was positively influenced by the increasing size of the Sharī‘ah supervisory board, as well as when top ranked Sharī‘ah scholars with multiple memberships had board mandates and annual changes occurred in the composition of a Sharī‘ah board. The study found that “*supervisory effectiveness and disciplining power of individual bank SSBs towards the risk-taking in the loan portfolio of Islamic banks decreases in a decentralized Sharī‘ah-compliant governance structure. The reverse causality analysis shows strongly that SSB factors affect primarily loan portfolio risk-taking, not the other way around.*”

Ullah (2012) reported some researchers saying that ‘*banks do not select Sharī‘ah scholars on the basis of their competence in Sharī‘ah and banking fields, but rather on the basis of their leniency in issuing fatwá*’. He mentioned in this regard Farook (2011) and others. He also referred to Warde (2000) saying that Islamic bankers consider SSC as a formality, rather than an active controlling body.

Kunhibava (2015) evaluated Malaysias Islamic Financial services Act 2013, Central Bank of Malaysia Act (CBMA), 2009 and its Sharī‘ah governance framework, and highlighted the role of the Sharī‘ah Advisory Council (SAC) of the BNM. The study suggested amendments in section 57 of the CBMA 2009 and proposed to allow ‘other persons’ to seek the expert advice of the SAC. Amanullah (2015) analyzed the criteria for appointment of SSB members. His study was comparative in nature; highlighting the guidelines of BNM and the Bangladesh Bank with regard to the criteria.

Raman and Bukair (2013) empirically examined the influence of the SSB and its impact on the level of Corporate Social Responsibility (CSR) related disclosure in 53 IBIs operating in GCC countries in 2008 by using content analysis and the multiple regression analysis.

Toufik (2015) explored the role of SSB in ensuring good corporate governance practices. The author used both primary and secondary data and concluded that Islamic banks were succeeding in adapting corporate governance elements i.e. accountability, trustworthiness and transparency. However, moral commitment in Sharī‘ah supervision is the real value adding factor to the corporate governance practices in Islamic banking institutions (Toufik, 2015).

Lahtasna (2011) discussed the role of *fatāwá* (Sharī‘ah rulings) and their issuance methodology in Islamic finance to ensure a sound process of issuing any accurate resolutions complying with the guidelines and rules prescribed in Islamic Jurisprudence. (Lahtasna, 2011).

According to a study published in the Journal ‘*Islamic Economics Studies*’ (IES) of IRTI (Ayub, 2008-9), *Dars-e-Nizāmī* syllabus, taught generally in *madāris* in Indian subcontinent (Particularly in Pakistan and India), comprises studies in *tafsīr*, *ḥifẓ*, *ṣarf* and *nahw* (Arabic syntax and grammar), Persian, Urdu, and Islamic history, Islamic jurisprudence and Islamic law. The study indicated that for certifying Sharī‘ah compliance of products and transactions/*ṣukūk*, scholars must not only be expert in Islamic law and banking, but also

have a thorough knowledge of conventional laws and financial system practices. It also required a high standard of English for understanding intricacies of the financial products and effective interaction with the financial engineers. The study estimated the facilities in *madāris* in Pakistan in 2005 for education in disciplines helpful to enhance desired expertise in Islamic banking and finance. The study found that only a few of total around 17,000 *madris* were providing or facilitating education in economics, banking and finance. Arabic language as medium of instruction was used in 11 *madāris*. While casual lectures on Islamic economics and finance were arranged in a few dozen, AAOIFI Sharī‘ah Standards were casually taught in 2 *madāris* at Karachi.

Regarding the level of Islamic economics/banking knowledge of the *madāris* graduates, the IES study concluded, "*madāris* graduates do not have sufficient knowledge of even those subjects that they study in the traditional books... majority of the teachers in did not know about the main principles of *salam/salaf*, a main topic in all traditional books of *ḥadīth* and *fiqh*....".

Practically, the ability of the Sharī‘ah boards members to fulfill their mandate may be constrained by the time they may give to any institutions and their involvement in the banks affairs, their understanding and access to monitoring systems, complexity of the products and transactions, and effectiveness of their independence (Grais & Pellegrini, 2006).

IMPORTANCE OF *IFTĀ* AND RESPONSIBILITIES OF A *MUFTĪ*

In the Muslim societies, *iftā* (giving juristic opinion or Sharī‘ah ruling) is considered a great responsibility. Qur’ān highlights the importance of *fatwā*, “So ask of those who have knowledge [learned religious men], if you know not” (16:43). *Iftā* is also an honorable position according to the sayings of the Holy Prophet (PBUH); he (PBUH) said, “The ‘*ulamā*’ are the heirs of the Prophets who bequeath neither *dīnār* nor *dirham*, but only knowledge; and he who acquires knowledge, has in fact acquired an abundant portion” (Abu-Dawud *ḥadīth* No. 3641). Ibn Salah, a renowned jurist, explained the *ḥadīth*, “So this *ḥadīth* is evidence that the Muslim jurists have an honorable position and a great rank in the Muslim community” (Ibn al Ṣalaḥ, 1987; also see Al-Nawawī, 1408).

A *muftī*, therefore, must be a pious and learned person, because he is supposed to be the inheritor of the Prophet (PBUH) in conveying the message of the Qur’ān and Sunnah. Issuing Sharī‘ah rulings has to be accomplished only by the competent persons. A person should avoid giving Sharī‘ah rulings about the issues which he may not have sufficient knowledge. Allah (SWT) says: “وَلَا تَقْفُ مَا لَيْسَ لَكَ بِهِ عِلْمٌ” “And follow not (O man i.e., say not, or witness not, etc.) that of which you have no knowledge” (Qur’ān, 17:36). Qur’ān warns, “Do not ascribe lies to Allah by decreeing with your tongues, “This is lawful and that is unlawful” for those people who ascribe lies to Allah can never come to any good. (They should remember that) the pleasures of this world are transitory and in the end there is a painful torment for them” (16:116). Ibn al Ṣalaḥ, while elaborating the above verse said, “The meaning of the verse applies to a jurist who deviates in his *fatwā* and declares lawful which is unlawful, or declares unlawful which is lawful”. (Ibn al Ṣalaḥ, 1987)

This is why, the Companions of the Prophet (PBUH) used to be very careful in giving Sharī‘ah rulings. Al-Nawawī (1408) wrote, “*Abdurrahman ban Lila narrated that I met 120 Anṣārī companions of the Prophet; when anyone was asked about an issue, he would sent to another, and then he would sent to another and finally he would come back to the first one*”. “*Ata bin Sayib narrated that he had seen the people (jurists) whose hearts become full of fear when any one of them was asked about any issue and he became shivering*”.

As Ahmed Ibn Hamdan (1960) reported from *Imām Malik*, it was considered an alarming problem in Islam that any issue was referred to a person who did not have the relevant knowledge. The Muslim rulers were suggested to investigate as to why incompetent persons were issuing Sharī‘ah rulings, and to appoint any capable persons for issuing *fatwá*.

Al-Nawawī (1408) indicated, “*Lack of care in issuing fatwá is due to lack of knowledge*”. He added that “*Imām Shafi (R.A) was inquired about an issue and he did not give any answer, he was asked, why you do not give answer? He said; till I know is it better to keep silence or to give answer*”. Similarly, “*Imām Abu Hanifa said; if there would not be fear that the knowledge would decrease, I would not have issued legal verdict because burden of fatwá would shift on me and they (to whom fatwá is given) would be beneficiary*” (Al-Baghdadi, 1850).

Competency Requirements for the Position of a *Muftī*

Any *muftī* has to be expert in all related fields of knowledge; and if a person does not understand any related matter fully, he may not be issuing any verdict. There is a quote of *Imām Shafi (R.A)* that describes a person who might issue any Sharī‘ah ruling:

“*It is not allowed for anyone to issue a fatwá, except one who is well-informed and educated about all aspects of the Holy Qur’ān including the verses that are abrogated and by which verses they were abrogated, what’s moḥkam [precise, decisive, entirely clear,] and mutashābeh [unclear, unspecific, or the verses resemble each other in the Holy Qur’ān], it’s [explanation, interpretation] and revelation, what’s Makkī or Madanī, what was meant by it and why it was revealed [perspective of revelation], and then he should be experienced (skilled) in ḥadīth: what’s abolishing and abolished, and know about ḥadīth like what he knows about Qur’ān. Further, he has to be aware of the differences among people in countries with regard to the relevant area; and above all, have to have the talent. Only then, one is permitted to give fatāwá and talk about ḥalāl and ḥarām, and if he doesn’t have all that then he can speak (discuss) in (Islamic) science but is not permitted to give fatāwá²*” (Al-Baghdadi, 1850).

”لا يحل لأحد يفتي في دين الله إلا رجلا عارفا بكتاب الله : بناسخه ومنسوخه ، وبمحكمه ومتشابهه ، وتأويله وتنزيله ، ومكيه ومدنيه ، وما أريد به ، وفيما أنزل ، ثم يكون بعد ذلك بصيرا بحديث رسول الله ﷺ ، وبالناسخ والمنسوخ ، ويعرف من الحديث مثل ما عرف من القرآن ، ويكون بصيرا باللغة ، بصيرا بالشعر ، وما يحتاج إليه للعلم والقرآن ، ويستعمل مع هذا الإنصاف ، وقلة الكلام ، ويكون بعد هذا مشرفا على اختلاف أهل الأمصار ، وتكون له قريحة بعد هذا ، فإذا كان هذا هكذا فله أن يتكلم ويفتي في الحلال والحرام ، وإذا لم يكن هكذا فله أن يتكلم في العلم ولا يفتي“

Imām Ahmad is reported to have said: “...Following five qualities are the fundamental requirements for issuing *fatāwá*. If any of them are lacking, there will be a commensurate defect in the *muftī*” (Albahoti, n.d.):

1. One should have a good intention, for if he does not have a good intention, he will not be blessed and there will be no blessings in his words.
2. One should be knowledgeable, forbearing, dignified and calm.
3. One should have a strong grasp of knowledge.
4. One should have a strong personality and not be affected by peoples criticism.
5. One should know well the habits and customs of the people and society to remain safe from their deceptive and mischievous ways and means.

It can be derived from the above that any person to serve as a *muftī* must be expert in following fields - Knowledge of the Islamic Law including: i) The Qur’ān and its sciences, ii) The *Ḥadīth* and its sciences; iii) The *ijmā*’(consensus) and difference of opinions regarding any issues; iv) The fundamentals of Islamic Jurisprudence; v) Command on Arabic language; and vi) The social and commercial norms of the people and current state of affairs.

Having the above qualifications and expertise, one is expected to give the right answers (and opinions), and derive correctly from the texts of the Sharī’ah while doing *qiyās* and *ijtihad* in case of new issues in banking and finance.

Role and Responsibilities of Sharī’ah Board in Islamic Banks

Sharī’ah board is the focal institution of Sharī’ah Governance system in the IBIs. The responsibility of the Sharī’ah board is to ensure Sharī’ah compliance in the bank by providing the management guidelines and reviewing their activities (Shahzad, Saeed, and Wallah, 2017). At least three Sharī’ah board members have to be appointed by the banks Board of Directors keeping in view the ‘Fit and Proper Criteria’ (FAPC) given in the SGF, 2015 (State Bank of Pakistan, 2018). One of the SB members serves as the Resident Sharī’ah Board Member (RSBM) as a full-time official of the bank. The RSBM has to provide explanation/clarification to the management and staff of the bank on products, documents, and processes in the light of decisions/rulings issued by the Sharī’ah board, and help the management in day-to-day activities for ensuring Sharī’ah compliance. The funds of the banks and the depositors are invested with approval of the Sharī’ah boards, and in case of non-compliance of any transaction to the Sharī’ah principles, the proceeds of such transactions are credited to the Charity Accounts of the banks, not to their P&L Accounts. It puts a huge responsibility on the shoulders of the Sharī’ah board members, in addition to the need for avoiding interest as the Sharī’ah requirement.

In terms of the SGF 2015, the Sharī’ah Board has to consider, decide and supervise all Sharī’ah related matters of the bank. Its decisions/rulings/*fatāwá* are binding on the bank whereas the SB is accountable for its Sharī’ah related decisions (Shahzad *et al.*, 2017). It has to help in developing a comprehensive Sharī’ah compliance framework and ensure that all products and services, agreements/contracts, structure, process flows, product manuals, marketing advertisements, sales illustrations and brochures are in conformity with the rules

and principles of Sharī'ah. It has to rigorously deliberate on any issue placed before it for consideration. It shall also specify the process and procedures for changing, modifying or revisiting its earlier issued *fatāwá*/rulings/guidelines. The Sharī'ah Board is also required to prepare a report on the Banks Sharī'ah compliance environment and conditions based on the work of internal Sharī'ah audit, external Sharī'ah audit and Sharī'ah compliance review. Hence, the burden whether a product passes Sharī'ah compliance test and the banks business is really Sharī'ah compliant rests on the shoulders of IBIs Sharī'ah board members.

The management is to ensure provision of all necessary information, details and documents enabling the SB to have adequate understanding of the product, its process flows, business and economic outcomes and Sharī'ah permissibility or impermissibility. The Sharī'ah compliance Head and RSBM have to discuss the significant and unresolved issues with SBP inspection team during their on-site inspection and submit the report in Sharī'ah Boards meeting.

In order to perform all above jobs diligently, Sharī'ah scholars/boards members need to be knowing the increasingly complicated banking and finance products to approve only those which are truly Sharī'ah compliant. Any deficiency in competence, or compromise in this regard could make the income so earned non-Sharī'ah compliant defeating the very purpose of introducing Islamic banking. It may also be a source of disrepute to banking and finance system tagged with the divine system of Islam.

All this implies very professional and sacred duty for the Sharī'ah boards and their members who are required to act like *mufī* and *mujtahid* in Islamic banks (Amanullah, 2015). The SBPs "*Fit and Proper Criteria*" also mentions that a candidate for Sharī'ah board member may know the banking and finance. But, the issue is, how to ensure/judge whether any person has knowledge of finance, banking and capital market and is capable of understanding English - the technical language used in the formats and processes of the instruments/products and prospectus of instruments or securities.

The point we have to discuss is whether the members of the Sharī'ah boards have sufficient knowledge and experience to accomplish all the above functions in befitting manner. According to the Jeddah based *Majma' al-Fiqh al-Islami*, banks', Sharī'ah board members should possess scholarly competence and practical knowledge to issue *fatāwá* and review all transactions to ensure that the same are in conformity with the rulings and principles of Sharī'ah (IIFA-2009).

Below we give a comparative statement on qualifications and experience of the Sharī'ah board/committee members as prescribed by the regulators like SBP and BNM, and AAOIFI and IFSB, the standards setting bodies.

Comparative Statement on Qualification & Responsibilities of Shari'ah Board Members in Different Shari'ah Governance Guidelines

TABLE 1
Comparative analysis qualification of Shari'ah board (Compiled by the authors)

Comparative Points	SBP (SGF, 2015)	BNM (2009)	AAOIFI	IFSB (2009)
"Qualification and Experience of SSB/SB Members	"The Shari'ah Board Chairperson shall have at least 05 years experience of working as Shari'ah Advisor or a member of Shari'ah Board of an IBI. The other Shari'ah Scholar members of the SB shall have at least 03 years experience as Shari'ah Advisor/Member of Shari'ah Supervisory Board" SBP, 'Shari'ah Governance Framework for Islamic Banking Institutions. (SBP, 2018)	"A Shari'ah Committee with qualified members who are able to deliberate Islamic finance issues brought before them and provide sound Shari'ah decisions.(BNM), (2009). He must have at least bachelors degree in Shari'ah, which includes study in <i>uṣūl al-fiqh</i> or <i>fiqh al-mu'āmalāt</i> (from recognized university" (Bank Negara Malaysia, 2009)	"The SSB is an independent body of specialized jurists in <i>fiqh al-mu'āmalāt</i> , however the SSB may include a member other than those specialized in <i>fiqh al-mu'āmalāt</i> , but who should be an expert in the field of Islamic Financial Institutions with knowledge of <i>fiqh al-mu'āmalāt</i> " (AAOIFI, 2015)	"He or she must at least hold a bachelors degree from a recognized university in the sciences of Shari'ah, including Islamic transaction/commercial law. The member of the Shari'ah board who has at least three years experience of making Shari'ah resolutions, or at least four years post qualification experience in teaching or research in Islamic finance, should be appointed as Chairman of the Shari'ah board"
Responsibilities of SB/SSB	"The SB shall advise the BOD and the executive management of the IBI on all Shari'ah related matters. All the SB decisions/rulings/ <i>fatāwá</i> shall be binding on the IBI whereas the	"The Shari'ah Committee shall be responsible and accountable for all its decisions, views and opinions related to Shari'ah matters."	"The SSB entrusted with the duty of directing, reviewing and supervising the activities of the Islamic financial institution in	"To ensure the business of IIFS is in accordance to Shari'ah,the Shari'ah Board will issue relevant guideline/ <i>fatāwá</i> , conduct Shari'ah

TABLE 1: Continue....

Comparative Points	SBP (SGF, 2015)	BNM (2009)	AAOIFI	IFSB (2009)
	Sharī‘ah Board shall be responsible and accountable for all its Sharī‘ah decisions." SBP, ‘Sharī‘ah Governance Framework for Islamic Banking Institutions. (SBP, 2018)	"The Sharī‘ah Committee is expected to perform an oversight role on Sharī‘ah matters related to the institutions business operations and activities. This shall be achieved through the Sharī‘ah review and the Sharī‘ah audit functions. Regular Sharī‘ah review reports and the Sharī‘ah audit observations should enable the Sharī‘ah Committee to identify issues that require its attention and where appropriate, to propose corrective measures."	order to ensure that they are in compliance with the Islamic Sharī‘ah rules and principles. The <i>fatāwá</i> of the SSB shall be binding for IFI."(AAOIFI, 2015)	review and Sharī‘ah audit." (Islamic Financial Services Board, 2009)
Responsibilities of RSBM/Sharī‘ah Advisor	"Responsibilities of the RSBM/Sharī‘ah Advisor are to provide guidance on a day-to-day or routine Sharī‘ah related issues , post product approval, Sharī‘ah Training, Response to Sharī‘ah related queries, conduct Sharī‘ah review and submit a quarterly report to Sharī‘ah Board."	"In order to ensure that the execution of business operations are in accordance with the Sharī‘ah the committee will provide guideline, conduct internal Sharī‘ah Review and Sharī‘ah audit on regular basis."(Bank Negara Malaysia, 2009)	Not Indicated	"The Sharī‘ah board shall be empowered to reserve rights to delegate some of its functions to the ISCU or internal Sharī‘ah officers of the IIFS i.e., product development and Sharī‘ah review" (Islamic Financial Services Board, 2009)

In the light of the above regulations, Sharī‘ah board members must be expert in the fields of Islamic commercial law, Islamic jurisprudence and Islamic financial transactions. According to the SBPs SGF (June, 2018), the fit and proper criteria of IBIs Sharī‘ah board members is as follow.

Academic Qualification

"*Shahādat al-‘ālamīyah* Degree (*Dars-e-Nizāmī*) from any recognized Board of *Madāris (Wafāq)* with minimum 70% marks and Bachelors Degree with a minimum of 2nd Class; or Post Graduate Degree from *Kulīyat al-Sharī‘ah* or *Kulīyah uṣūl al-dīn*, L.L.M. (Sharī‘ah) with a minimum GPA of 3.0 or equivalent from any recognized University" (State Bank of State, 2018).

Experience and Exposure

"The Sharī‘ah scholar members must have at least four (4) years experience of giving Sharī‘ah rulings including the period of *takhaṣṣuṣ fī al-iftā*; or at least five (5) years post qualification experience in teaching or Research and Development in Islamic banking and finance. **Preference will be given to those who have certificate in *takhaṣṣuṣ fī al-fiqh/takhaṣṣuṣ fī al-iftā***" (State Bank of State, 2018).

In addition to the skills in Islamic jurisprudence (*uṣūl al-fiqh*), the Sharī‘ah scholar members must have adequate understanding of banking and finance in general and Islamic finance in particular; good comprehension of Arabic language; and good communication skills in English language ³.

Accordingly, *Shahādat al-‘ālamīyah* Degree from recognized *Wafāq*, or its equivalent degree in Islamic jurisprudence or (*uṣūl al-dīn* from any University is the main required qualification for the appointment of Sharī‘ah board member in IBIs in Pakistan. Further, preference has to be given, as per the SGF, to the candidates having *takhaṣṣuṣ fī al-iftā*. But the area of *iftā* experience has been kept open and may pertain to general issues like *ṣalāh*, *zakāh*, *ṭalāq*, *khula‘*, etc. The provision of *fatwā* issuance, or specialisation should have been specified with the matters of trade, business, banking and finance (*al-mu‘āmalāt al-mālīyah*).

Evaluating the Curricula of Madāris

Evaluation and comparison of the syllabus of *Shahādat al-‘ālamīyah fī ‘ulūm al-‘Arbīyah w al-Islamia* Degree of five *wafāq al-madāris* in Pakistan reveals that there is not any direct relevant subject in the curricula relating to Islamic commercial law or banking. A graduate from these *wafāq* may be expert in Sharī‘ah, giving *fatāwa‘* on issues of divorce, inheritance, etc; but he/she does not become expert in the field of Islamic commercial law, and particularly, modern banking and finance. Similarly, after graduation from faculty of Sharī‘ah or *uṣūl al-dīn* of any University, the candidate might not be able to issue *fatāwā* on

³However, no process or measure has been suggested to assess the actual competence of the members to understand the banking and finance matter

many areas of Islamic banks transactions. Generally, he is not expected to be familiar with the modern Islamic banking transactions.

The syllabus or course outline of *takhaṣṣuṣ fī al-fiqh/takhaṣṣuṣ fī al-iftā* of different wafq have been listed out in Table-3 which shows that in the course work of *takhaṣṣuṣ* there are no specialized courses particularly in *fiqh al-mu‘āmalāt* (Islamic commercial Law), except Dar ul Uloom Karachi. Even in Dar ul Uloom Karachi, they offer in the last year of specialization only some selected Sharī‘ah standards issued by AAOIFI, while no course is offered about banking and present day finance, or accounting treatment in business by Islamic banks.

Table 2

Subjects of Islamic law (*fiqh*) and Islamic jurisprudence (*uṣūl al-fiqh*) in *wafāqs*’ curricula - *shahādāt al-‘ālamīyah* degree program (*dars-e-nizāmī*)

Degree	Year	<i>Wafāq al-Madāris ‘Arabīyah</i>	<i>Wafāq al-Madāris Salafīyah</i>	<i>Rabiṭah al-Madāris</i>	<i>Tanzūm al-Madāris</i>	<i>Wafāq al-Madāris Shī‘ah</i>
<i>Shahādāt al-‘ālamīyah</i>	2 nd Year	There are no <i>fiqh / uṣūl al-fiqh</i> Subjects in this class.	* <i>Bidayatal-Mujtahid</i> 4 Chapters <i>ijārah, mushārakah, qirāḍ,</i> * <i>Al Wajiz fi usool al fiqh</i>	There are no <i>fiqh / uṣūl al-fiqh</i> Subjects in this class.	There are no <i>fiqh / uṣūl al-fiqh</i> Subjects in this class.	* <i>Fiqh Istidlali</i> Vol. IV * <i>Usool al fiqh lil Muzaffar</i> Vol. II (Second half)
	1 st Year	* <i>Hidayah</i> Vol. III and IV	* <i>Bidayatal-Mujtahid</i> (Marriage and Divorce) * <i>Al Wajiz fi usool al fiqh</i> (from preamble to <i>ijmā‘</i>)	<i>Hidayah</i> Vol. IV (<i>Kitāb al Shuf‘a</i>)	* <i>Hidayah</i> Vol. IV (Part 4) * <i>Al Tozeeh</i> (Preamble)	* <i>Fiqh Istidlali</i> Vol. III * <i>Usool al fiqh lil Muzaffar</i> Vol. II (first half)
<i>Shahādāt al-‘ālamīyah</i> (B.A)	2 nd Year	<i>Hidayah</i> Vol. II <i>Al Tozeeh</i> (Preamble)	* <i>Hidayah</i> Vol. I (one fourth) * <i>Usool al Shashi</i> (till haroof al Maani)	* <i>Hidayah</i> Vol. III <i>Kitāb al Bayu</i> * <i>Al Tozeeh</i>	* <i>Hidayah</i> Vol. III (Part 4) i.e. <i>Adab al Qazi</i> and <i>Bayu.</i> * <i>Noor al Anwar</i>	* <i>Fiqh Istidlali</i> Vol. II * <i>Usool al fiqh lil Muzaffar</i> Vol. II
	1 st Year	<i>Hidayah</i> Vol. I <i>Husami</i> (from preamble to <i>Qiyas</i>)	* <i>Fiqh al Sunnah</i> (<i>Kitāb al Nikah</i>) * <i>Usool al Shashi</i> (till haroof al Maani)	* <i>Hidayah</i> Vol. I (<i>Al- jahārah –Al nikāh</i>) & <i>Hidayah</i> Vol. II (<i>Al-nikāh - Al-waqf</i>) * <i>Husami</i>	* <i>Hidayah</i> Vol. I * <i>Husami</i> (from preamble to <i>Qiyās</i>)	* <i>Fiqh Istidlali</i> Vol. I * <i>Usool al fiqh lil Muzaffar</i> Vol. 1
<i>Shahādāt al-‘ālamīyah</i> (F.A)	2 nd Year	<i>Sharh</i> <i>Wiqayat</i> last two volumes <i>Noor al Anwar</i> (from preamble to <i>Qiyās</i>)	* <i>Fiqh al Sunnah</i> (Prayer) * <i>uṣūl al-fiqh</i>	* <i>Sharh</i> <i>Wiqayat</i> * <i>Noor al Anwar</i>	* <i>Hidayah</i> Vol. I * <i>Noor al Anwar</i> (<i>Qur’ān, Sunnah & Ijma</i>)	* <i>Fiqh Shra’e al Islam</i> (al <i>Ibadat</i>) * <i>Al Mojiz fi al Usool</i>
	1 st Year	<i>Kanz al-Daqa’iq</i> (Except <i>Inheritance</i>) <i>Usool al Shashi</i>	* <i>Fiqh al Sunnah</i> (<i>jahārah</i>)	* <i>Kanz al-Daqa’iq</i> * <i>Usool al Shashi</i>	* <i>Qadori</i> * <i>Usool al Shashi</i>	* <i>Tozeeh al Masail</i> (till <i>kitab al ariya</i>)
<i>Shahādāt al-‘ālamīyah</i> (Matriculation)	2 nd Year	<i>Qadori</i>	There are no <i>fiqh/ uṣūl al-fiqh</i> Subjects in this class.	* <i>Qadori</i>	<i>Qanoon e Shariat</i> (Prayer)	* <i>Tozeeh al Masail</i> (till <i>kitab al Nikah</i>)
	1 st Year	There are no <i>fiqh/ uṣūl al-fiqh</i> Subjects in this class.	There are no <i>fiqh/ uṣūl al-fiqh</i> Subjects in this class.	* <i>Noor al Idah</i>	There are no <i>fiqh/ uṣūl al-fiqh</i> Subjects in this class.	* <i>Tozeeh al Masail</i> (till <i>kitab al salat</i>)

Table 3
Subjects of Islamic Law (Fiqh) and Islamic Jurisprudence (*Uṣūl al-fiqh*)
in *takhaṣṣuṣ fī al-fiqh/takhaṣṣuṣ fī al-iftā* at some Renowned *Madāris*

Year	Darul Uloom Karachi	Jamia Usmania Peshawar	Jamia Tafhim ul Qur'an Mardan	Markaz Taleem o Tahqiq Islamabad	Tanzeem al Madāris Ahl E Sunnat
1 st Year	<ul style="list-style-type: none"> • Muqaddama al Durr al Mukhtar • <i>Usool al Karkhi</i> • Provident Fund • Insurance and Takaful 	<ul style="list-style-type: none"> • <i>Uṣūl al-fiqh (hukm al-Sharī, legal capacity)</i> • Objectives of Sharī'ah 	<ul style="list-style-type: none"> • Al wajeez fi usool al fiqh • Al-Ashbah wa al-Naza'ir 	<ul style="list-style-type: none"> • <i>Uṣūl al-fiqh</i> Comparative study of <i>fiqh</i> • Objectives of Sharī'ah 	<ul style="list-style-type: none"> • Al-Ashbah wa al-Naza'ir • al Durr al Mukhtar, (<i>Al nikāh to ṭalāq</i>) • <i>Fiqh al-mu'āmalāt</i> (Kitab al bayu to Al saraf)
2 nd Year	<ul style="list-style-type: none"> • Al-Ashbah wa al-Naza'ir • Al Durr al Mukhtar • Jawahar al Fiqh • Imdad al Ahkam 	<ul style="list-style-type: none"> • Legal maxims • Islamic Banking • <i>Sharī'ah</i> Standards • Comparative study of <i>fiqh</i> 	<ul style="list-style-type: none"> • al Durr al Mukhtar • Legal maxims 	<ul style="list-style-type: none"> • Extension lectures on, Islamic banking, <i>takāful</i>, • 50 <i>fatāwā</i> relating to financial matters. 	<ul style="list-style-type: none"> • al Durr al Mukhtar, and Radd al Mukhtar • Bada'i al-sana'i Sanai (was ayah) • Al Durr al Mukhtar, (Kitab al waqaf to al Nazar wal Lams.
3 rd Year	<ul style="list-style-type: none"> • Sharī'ah Standards • Constitution of Pakistan • Practice of 250 <i>fatāwā</i> 	<i>Not Included</i>	<i>Not Included</i>	<i>Not Included</i>	<i>Not Included</i>

Of course, a few institutions are offering specialized degree in Islamic commercial law, e.g., Karachi based *Jamiah al-Rasheed* is offering *takhaṣṣuṣ fī al-mu'āmalāt al-mālīyah*. Secondly, Faculty of Sharī'ah & law, International Islamic University Islamabad is offering MS and LLM in Islamic Commercial Law. Both these institutions have very strong curricula in Islamic commercial law and their graduates could become the best professionals in Sharī'ah advisory, if proper training and orientation in practices of banks and other institutions is provided to them. But, this aspect of training and orientation is being ignored and, therefore, their graduates also are not capable of issuing Sharī'ah opinion on structured banking and finance matters due to lack of finance and banking related knowledge (Shahzad & Rehman, 2017).

Further, before or after appointment of Sharī'ah board members, there is not any training or refresher course required or prescribed in the SGF. The SBP issued a detailed circular "IBD Circular No. 02 of 2018" in order to enhance Training & Capacity Building Measures for IBIs which includes instructions for the training of Executive Management, Board of Directors, and even branch level staff. But, it pointed out the training of Sharī'ah Board members without giving the training areas, process or any other details. It is not clear as

to how such training of Sharī'ah board members is to be executed. Practically, of course, the IBIs are interested in engaging generally such *madāris* graduates, without bothering much about their expertise in banking and finance, who are supposed to be quite flexible in allowing the replicas of the conventional banking instruments and products (Ayub, 2016).

SUGGESTING CHANGES IN CURRICULA AND TRAINING SCHEMES

We come to the point, therefore, that while on the one hand, revision of curricula of *madāris* is required, on the other hand, a number of training and orientation courses need to be designed and introduced enabling the *madāris* graduates/Shari'ah scholars to make an effective contribution of development of Islamic finance while ensuring Sharī'ah compliance in letter and spirit. Below, we suggest changes in the curricula for various programs of *madāris* that need to be introduced by all *wafāqs* in Pakistan.

Teaching Material to be included in Curricula at 'Ālim, Muftī and Takhaṣṣuṣ level Classes in Madāris [As suggested by IES-IRTI Study (2008-9)]

Two options are discussed in this regards. One, there may be a Curriculum Review Committee, constituted jointly by the Ministry of Education and the Ministry of Religious Affairs, comprising experts from all *Wafāqs* that may select necessary parts from the chapters on Contracts ('*uqūd*), Partnership (*shirkah/qirād*), Sales (*bay'*), *ijārah* (leasing), Loans/Debts (*qard* and *dayn*) including Guarantee (*Kafālah*) and assignment of debts (*hawālah*) and others related with *mu'āmalāt* of the following books:

- 1) *Al-Sarakhsi, Shamsuddin Abu Bakr Muhammad: Al Mabsut;*
- 2) *Shafii, Abu Abdullah, Muhammad bin Idrees: Kitab al 'Umm*
- 3) *Malik Ibn-e-Anas: Al Muawatta;*
- 4) *Ibn Qudama, Abu Muhammad Abdullah bin Ahmad, 'Al Mughni'*
- 5) *Al Hilli, Shaair-al-Islam;*
- 6) *Hussain, Ali al Husaini (Aqd al Bai fi fiqhal Jafri)*
- 7) *Al Jaziri, Abdur Rahman, Kitabul Fiqh 'Alā Mazāhib-e-Arba'a*
- 8) *Al-Atasi, Muhammad Khalid: 'Sharah Majallah al Ahkm al 'Adliah',*

The selected material from the above books may be in addition to the books that are already being taught, or may be in replacement of some materials that neither have much relevance with the fundamentals of Islam nor have any obvious application in the present age.

The second option is that the research oriented books by the contemporary jurists only be included in the existing curricula of *madāris* as the students would find them helpful to comprehend the business, banking and finance systems and their application in the present age. Further, such books generally contain the comparative view of all schools of thought along with relevance with the primary sources of the Sharī'ah and views of the *salaf*. The authors would prefer the latter view as the focused material would be more useful and helpful in understanding the concepts and their application to the present business and financial

transactions without mere sectoral prejudices. Selected books by different authors may, *inter alia*, include:

- 1) Zuhayli, Wahbah; *Al Fiqhul Islami wa Adillatuhu (Chapters on Mu‘amalat)*,
- 2) Sh. Saleh bin Fozan; *Al Molakhas ul Fiqhi Talkhees; Darul Manar, Cairo, 2004; Vol. 2 (Chapters on Mu‘amalat (Pp: 1 - 119))*;
- 3) Mubarik bin Sulaiman b. Muhammad Aal e Sulaiman; *Ahkāmutt‘āmul fil Aswāqil mālia al Mu‘asirah, Dr Kanuz Ashbelia; Riyadh, KSA, 2005*
- 4) Al-Saloos, Ali Ahmad; i) *Mu‘amalatul mālia al Mu‘asirah fi Dhoa-al-Sharah al Islamiah; Maktaba al Falah, Kuwait, 1986*; ii) *Mausuiah al Qadhaya al Fiqhiiah al Mu‘asirah wal Iqtisad al Islami; Muassasah al Rayyan, 2005 / 1426 (chapters on Mu‘amalat)*.
- 5) Al-Dhareer, Siddiq M. Al-Amen (1997); *‘Al-Gharar fil ‘Uqood’*.
- 6) *Al M‘aāyeer al Sharī‘ah (AAOIFI Sharī‘ah Standards)*

Further, following book, though by a Jurist of 11th *Hijrah* century, could be useful for focused education in *madāris*: *Nail al Marib, bi Sharah-e-Dalil al Talib fil Fiqh al Hanbali* by *Imām Mar‘aa b. Yousuf* (d.1033 H), Darul Kutub al Ilmiah Beirut, 2005; (Pp 151-240).

Areas and Modules for Courses for Sharī‘ah scholars on Fundamentals of Economics, Business and Finance as suggested by IES, IRTI Study, 2008-09

- 1) The main features of the conventional economic system;
- 2) Money, monetary theory and the system of public finance;
- 3) Functions and creation of Money in Islamic Perspective;
- 4) The concept of direct and indirect financial intermediation and the need for banking and finance institutions;
- 5) The debt creation and problems generating from incurring debt by issuing debt instruments in an interest based framework;
- 6) Deposit taking and management by commercial banks;
- 7) Financing activities of conventional commercial banks;
- 8) Investment banking and fund management;
- 9) Service based operations of the commercial banks;
- 10) Financial instruments and markets;
- 11) Financial Derivatives
- 12) The basic principles of Islamic Economics;
- 13) The independent functioning of the market forces and the role of the State/Regulators for just distribution of wealth among various factors of production in the Islamic economic system;
- 14) The nature and time value of money in Islamic economics and impact of inflation.
- 15) The need for Islamic banking
- 16) The basic principles and philosophy of Islamic banking as distinct from the conventional banking.

Training Programs and Resource Persons for the Sharī‘ah Scholars’ Training

Designing training and orientation courses, introducing the same and improving upon them in the light of developments in Islamic banking products and practices requires a lot of efforts on the part of the *madāris* organizations and the authorities in banking and finance. There has to be a "*Business and Finance Course for Sharī‘ah Advisors*", structured and managed by NIBAF (Training arm of SBP), Institute of Bankers, Pakistan (IBP), or any other third party entity like EYFRSH, etc; that could offer professional courses, with choice of the applicants for preparation, on money, economics, finance, financial instruments, banking law and practice. Particularly, the new entrants in Sharī‘ah advisory for banks, and those having less relevant experience than the required, may be given examination to be eligible for Sharī‘ah advisory and certifications. Effective coordination between the institutions involved in designing, planning, introducing and amending the programs/courses is also important.

As the orientation of the *madāris* people in banking and finance is a big challenge, the resource persons (trainers) for such programs must have the following qualifications:

- a) They must be fully confident as to why Islamic finance be introduced, what are its distinctive features and tools and how, when and to what extent it may lead to socio-economic development and distributive justice in a society;
- b) Sound knowledge of the principles of Islamic jurisprudence for derivation of the principles of business and finance;
- c) The knowledge of difference of opinions in all established schools of thought on economic and commercial matters;
- d) Knowledge of the basis, features, products and operations of Islamic banking and finance;
- e) Knowledge about financial markets, instruments and operations in the conventional and Islamic frameworks;
- f) A good level of English and/or Arabic languages and impressive presentation skills.

Course contents of Diploma For the Madāris Graduates Specializing in Islamic Finance as Suggested by IES-IRTI Study, 2008-09

(Duration: Normally 100 to 120 teaching hours)

- 1) The Main Principles of Islamic Economics and Sharī‘ah Boundaries
- 2) Basic Concepts and Philosophy of Islamic Banking
- 3) Islamic Law of Contracts and Principles of trading
- 4) Concepts of *mushārah* and *muḍārah* classical and as could be operative today
- 5) Deposits/Resources Mobilization and management
- 6) Credit and Forward sales *musāwamah*, *murābahah* and *salam*, *istiṣnā‘*
- 7) Structured and hybrid products and instruments like DM, *tijārah*, *tawarruq* and derivatives
- 8) Processes of *ijārah* based financing along with accounting aspects and tax issues, case studies
- 9) Intermediation and accessory modes like *ju‘ālah*, *wakālah*, *amānah*, *hawālah*
- 10) An overview of AAOIFI’s Sharī‘ah Standards with practical orientation

- 11) Accounting Procedures under various Modes of Financing AAOIFI standards versus IFRS
- 12) Prospects and Issues in Specific Areas of Financing by Islamic banks
- 13) Local and Foreign Trade Financing Case Studies
- 14) Consumer and Corporate Financing
- 15) Islamic Securitization, Financial Instruments and Markets
- 16) Risk management framework for Islamic Banking
- 17) Internal Control and Audit for Sharī'ah Compliance of Islamic banks operations
- 18) Conversion of a Conventional Bank to an Islamic Bank
- 19) Debit, Charge and Credit Cards in Islamic Finance
- 20) Comparison of Islamic and Conventional Banking
- 21) Documentation for various Modes to be used by Islamic Banks.

Key Areas and Modules for 'Training of Trainers' Programs as Suggested by IES-IRTI Study, 2008-09

(Duration: Normally 48 teaching hours stretched over two weeks)

- 1) Module on the sources of Sharī'ah and the principles of Islamic jurisprudence with comparative position in all established schools of law.
- 2) Module on AAOIFI's Sharī'ah Standards
- 3) Module on accounting aspects of various Islamic financing modes in the light of AAOIFI's Accounting standards;
- 4) Module on Financial markets, instruments and operations in the conventional and Islamic frameworks;
- 5) Module on Issuance of Sharī'ah Rulings, Sharī'ah Endorsement of Products and Instruments and Sharī'ah advisory services for Islamic banking; Internal Controls and Inspection for Sharī'ah compliance;
- 6) Module on 'How to become a Professional Trainer' Comprising:
 - Learning Psychology: KASH: (Knowledge, Attitude, Skill, and Habit)
 - Inter-personal and Intra-personal Skills
 - Attitude Handling: How to handle different people
 - Excuse handling
 - Questions Handling
 - Learning process: (PESOS: Preparation, Explanation, Showing, Observing, and Supervision) - Information, Explanation, and Application.
 - Presentation Skills
 - Communication Skills
 - Classroom Management
 - Time Management
 - Workshop on Pedagogical tools: Self-assessment Test; Case Studies.

Below, some revisions are suggested in the courses of MS/LLM Islamic Commercial Law.

Revised scheme of studies for
MS / LL.M. Islamic Commercial Law (ICL)

1st Semester

S #	Course Code	Title	CH
1.	MSL-401	Islamic Law of Commercial Transactions-1	03
2.	MSL-402	Property and Ownership in Islamic Law	03
3.	MSL-403	Law of Banking	03
4.	MSL-404	Research methodology	03
Total Credit Hours			12

2nd Semester

S #	Course code	Title	CH
1.	MSL-405	Islamic Law of Commercial Transactions 2	03
2.	MSL-406	Shariah Maxims on Commercial Transactions	03
3.	MSL-407	International Trade and Finance	03
4.	MSL-408	Islamic Law of Banking and Insurance: Theory and Practice	03
Total Credit Hours			12

Research Work

S #	Course code	Title	CH
1.	MSL-415	Thesis	06

FIGURE 1. Revised scheme of Studies

As such, the State Bank of Pakistan has to pay proper attention regarding professional development of the Sharī‘ah board members. The Sharī‘ah governance guidelines issued by the IFSB (2009) [which has been implemented by the SBP] require the IFIs to facilitate continuous professional development of persons serving on their Sharī‘ah boards, as well as Internal Sharī‘ah compliance unit/department (ISCU) and Internal Sharī‘ah review/audit unit/department (ISRU). But, this aspect of training and orientation of Sharī‘ah scholars is being ignored and, therefore, majority of *madāris* graduates are not capable of giving proper Sharī‘ah opinion due to lack of finance and banking related knowledge. For the most of the IBIs, the practices of any other Islamic bank within the country or abroad become the basis for approval of the structured products and instruments.

CONCLUSION

Banking and finance products and instruments being increasingly complicated, the Sharī‘ah boards have to carefully review and supervise the business and transactions of the IBIs from product development stage to the implementation stage (Shahzad, 2015). In the process of promoting Islamic banking in the country, the SBP has not only tried to ensure independence of the Sharī‘ah boards of the IBIs, but also required the banks’ BODs and Executive Management to be fully involved in the process of development of the new system and be

accountable for any Sharī‘ah non-compliance. Still, it has to play crucial role to enhance credibility of Islamic banking system, which in turn, depends upon factors, inter alia, competence of the Sharī‘ah scholars involved in Sharī‘ah advisory for their effective role.

The position of a Sharī‘ah board members is sensitive because the legality or invalidity of all business transactions by the IBIs, and distribution of *ḥalāl* income among the capital owners depends upon their opinions/*fatāwá*. One can easily visualize the importance and sensitivity of the duty of Sharī‘ah board by the fact that if a prohibited transaction is approved by the board, may be due to lack of proper expertise of the SB members, the income of the bank and the return to the depositors would be *ḥarām*. It implies that the Sharī‘ahboard members must know all about the contemporary business, banking, finance and the impact of banks financing on individuals, society and the economy.

As the curricula and the courses currently taught in the *madāris* do not sufficiently provide the qualification and expertise required for effective Sharī‘ah advisory in banks, the Sharī‘ah scholars, even the graduates from *uṣūl al-dīn*, LLM Sharī‘ah and *takhaṣṣuṣ fī al-iftā* generally, not meet with appropriate qualification for the position. Therefore, while the curricula need to be revised on the one hand; training, orientation courses and Diplomas need to be designed and implemented, on the other hand. To meet the requirement, this paper has indicated various education and training programs in line with the suggestion given in the IES-IRTI study (2008-09) conducted with special reference to *madāris* in Pakistan.

Recommendations

- The curricula of the *madāris* need to be up-dated to also include the practical social and economic issues of the present age. Involvement of the relevant state authorities for the purpose would be a step forward in initiating a process of effective dialogue with *madāris* to make their education system practice-oriented particularly in respect of business and finance. Medium and long term policies may be discussed in the subsequent/follow-up meetings/seminars regarding the role of the Sharī‘ah advisors and the possible measures in imparting them requisite education and training. Some special education and orientation courses may be introduced at ‘*ālim*, *mufī* and *takhaṣṣuṣ* levels. Modules and courses for these training programs have been suggested.
- NIBAF, the training arm of the State Bank of Pakistan, may design and arrange an advance level rigorous training course on Islamic fiqh, economics, accounting, banking and finance for Sharī‘ah scholars having sufficient knowledge of Islamic law of contracts, banking, finance and accounting, followed by a comprehensive written Exam. Only the scholars securing (70)% or more marks may be eligible to become Certified *Sharī‘ah* Advisors in Islamic banking system of the country ⁴.
- As availability of resource persons and teachers for the emerging system is a big challenge, A ‘ToT’ program has also been suggested in the paper.
- As mentioned in the Principle 2.2 of IFSB Sharī‘ah Guidelines, the IBIs have to facilitate continuous professional development of persons serving on their Sharī‘ah board, as well as

⁴SBP may like to exempt some senior level Sharī‘ah scholars who in its view are already well aware of the innovative techniques and instruments in conventional finance.

its ISCU and ISRUT. Particularly, the role of the resident Sharī‘ah board member (RSBM) is crucial in application of the Sharī‘ah governance framework of the IBIs. Therefore, the State Bank of Pakistan has to ensure that the IBIs take necessary steps for training and orientation of their SB members also including RSBMs on regular basis.

- The SBP may cause to initiate special degree programs/certifications in collaboration with Centers of Excellence in Islamic Finance (CEIFs) and leading *madāris* to train the *madāris* graduates (Sharī‘ah Scholars) in the field of Sharī‘ah audit and Sharī‘ah advisory.
- A special program may be designed for induction of the Sharī‘ah advisors for the banks, their comprehensive training, and examination to prepare a list of the eligible Sharī‘ah board members/advisors. For the purpose, the SBP may like to maintain a panel of expert Sharī‘ah advisors, and nominate the SB members from that list for all Islamic banks. For effective independence of the Sharī‘ah boards, pay and perks of the members may also be decided by the State Bank.
- The panel, as indicated above, may have two categories of members, i.e., senior and junior members. If a candidate having more than 15 years of experience in the field, specifically, Islamic banking, as Sharī‘ah advisor, Sharī‘ah board member etc; he would be enlisted without any test or interview. Besides, the other category who have less or don’t have experience, but they have academic qualification in the field of Islamic banking, may apply for the membership in the panel. The SBP or the NIBAF may arrange test and interview to select the junior members.

REFERENCES

- Al-Baghdadiy. (1850). *Fiqh wa’l-mutafaqqih*. Damascus, Syria: Al Maktaba Al Ilmiyah.
- Al-Bukhari. (1987). *Kitab al-alam al kutab*. Beirut, Lebanon: Arab Scientific Publisher.
- Alman, M. (2012). Sharī‘ah supervisory board composition effects on Islamic banks’ risk-taking behavior. *Journal of Banking Regulation*, 14(1), 134-163.
doi: <https://doi.org/10.2139/ssrn.2140042>
- Al-Nawawi. (1408). *Adab al-fatwa wa-al-mufti, wa-al Mustafti*. Damascus, Syria: Darul Fikr.
- Amanullah, M. (2015). *Criteria of Sharī‘ah supervisory committee: A comparative study between guidelines of Bangladesh Bank and Bank Negara Malaysia*.
Retrieved from <https://shorturl.at/wHTV3>
- Auditing Organization for Islamic Financial Institutions. (2015). *Accounting, auditing and governance standards*. Retrieved from <https://urlzs.com/Wtkzz>
- Ayub, M. (2008-9). Madaris education and human capital development with special reference to Pakistan. *Islamic Economic Studies*, 16(1&2).
- Ayub, M. (2016). Focusing on Sharī‘ah Governance in regulating the Islamic banking institutions. *Journal of Islamic Business and Management*, 6(2).
- Bank Negara Malaysia. (2009). *Sharī‘ah governance framework for Islamic financial institutions*. Kuala Lumpur, Malaysia: Islamic Banking and Takaful Department.
- Farook, S. Z. (2011). Sharī‘ah governance for Islamic finance: Challenges and pragmatic solutions. Retrieved from <https://shorturl.at/dkoGV>

- Farook, S., & Farooq, M. O. (2013). Shari'ah governance, expertise and profession: Educational challenges in Islamic finance. *International Journal of Islamic Finance*, 5(1), 137-160.
- Grais, W., & Pellegrini, M. (2006). *Corporate governance and Shari'ah compliance in institutions offering Islamic financial services*. New York, NY: The World Bank.
- Ibn al al. (1987). *Adab al-mufti wa al-mustafti, maktaba tul uloom wal hikam, alam al kutab*. Beirut, Lebanon: maktaba Al Ilmiyah.
- Ibn Majah. (1456). *Bab ijtinab al ray wa-al qiyas*. Damascus, Syria: Dar Ihya al-Kutab al Arabia.
- Islamic Financial Services Board. (2009). *Guiding principles on Shari'ah governance systems for institutions offering Islamic financial services*. Report Islamic Financial Service Board, Kuala Lumpur, Malaysia.
- Janjua, M. A. (2004). *History of the State bank of Pakistan (1988-2003)*. Report State Bank of Pakistan, Karachi, Pakistan.
- Khaleequzzaman, M., Mansuri, M.T., & Rashid A. (2016). Shari'ah legitimacy of Islamic banking practices in Pakistan: An Evaluation. *Journal of Islamic Business and Management* 6(1): 77-95. doi: <https://doi.org/10.12816/0026416>
- Kunhibava, S. (2015). Legal Issues in Shari'ah Governance in the Islamic Finance Industry in Malaysia. *International Journal of Islamic Finance*, 7(2), 55-80
- Lahsasna, A. (2011). Fatwa and its shariah methodology in Islamic finance. *Journal of Fatwa Management and Research*, 2(1), 133-179.
- Majma'al-Fiqh al-Islami. (2009). Resolution no. 177 on the role of Shari'ah supervisory board. Paper presented at 19th session of Sharia Board, Sharjah, U.A.E.
- Raman, A. A., & Bukair, A. A. (2013). The influence of the Shari'ah supervision board on corporate social responsibility disclosure by Islamic banks of Gulf Co-operation Council countries. *Asian Journal of Business and Accounting*, 6(2), 65-104.
- Shahzad, M. A. (2015). Shari'ah governance for Islamic financial institutions: A comparative study of Pakistan and Malaysia. Paper presented at *MUST 1st International Conference on Business and Management Research*, Mirpur, Azad Kashmir.
- Shahzad, M. A., & Rehman, D. H. (2017). Shari'ah Supervision in contemporary Islamic Banking Institutions: An Analytical Study. *Quarterly Journal Fikr-O-Nazar* 54(4), 111142.
- Shahzad, M. A., Saeed, K., & Wallah, A. A. (2017). Shari'ah audit and supervision in Shari'ahgovernance framework: exploratory study of Islamic banks in Pakistan. *Business & Economic Review*, 9(1), 103-118. doi: <https://doi.org/10.22547/ber/9.1.6>
- State Bank of Pakistan. (2018). *Shari'ah governance framework for Islamic banking institutions Karachi*. Retrieved from <https://shorturl.at/ceioJ>
- Sulayman, A. D. (1879). *The book al Jihad*. Damascus, Syria: Darul Fikr.
- Thomson Reuters. (2018). *State of the global Islamic economy report 2017/18*. Retrieved from <https://urlzs.com/SARok>
- Toufik, B. B. (2015). The role of Shari'ah supervisory board in ensuring good corporate governance practice in Islamic banks. *International Journal of Contemporary Applied Sciences*, 2(2), 109-118.

- Warde, I. (2000). *Islamic finance in the global economy*. Edinburgh, UK: Edinburgh University Press.
- Ullah, S. (2012). *Fatwa repositioning: The hidden struggle for Sharī‘ah compliance within Islamic financial institutions*(Unpublished, doctoral dissertation). University of Southampton, Southampton, UK.
