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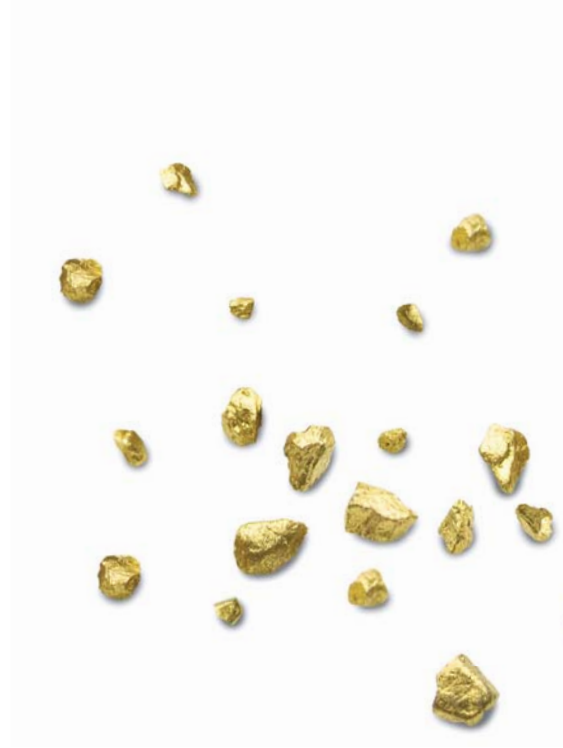
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4 Editor's Note

FEATURES

6 Australia and New Zealand: Sporadic progress

Shariah compliant financial activities in Australia and New Zealand remain concentrated in limited sectors, particularly in funds but Islamic investors are paying significant attention to the Land Down Under.

8 The Hayne Royal Commission and what it means for Shariah compliant financiers of Australian real estate

In his recent report on the Royal Commission into misconduct in the banking, superannuation and financial services industries (the Report), Queen's Counsel Kenneth Hayne recommended a number of changes which, if implemented, could alter the landscape of financial services (including the way mortgage brokers operate and are remunerated) in Australia.

10 Opportunities in Australia's Islamic finance industry

Although Islamic finance began officially in Australia in the late 1980s, it is no secret that it is still in its infancy with only 2% of the market subscribing to Islamic financial services as of today. The Islamic financial services industry has gained traction and prominence over the last five to 10 years due to new entrants in the market that have been more active in promoting their services as well as educating the market. HAKAN OZYON opines that the fundamental constraint is the financial literacy of our community, and also awareness and accessibility to such products and services providers.

12 Aussie opportunities

A recent visit to our current and pipeline properties in Australia accentuated to me what a great opportunity Australia offers Islamic real estate investors, with the extremes of forest fires in the north and flash flooding in Sydney to the south emphasising the vast scale of the country.

13 Case for gold in 2019

"Gold has motivated civilizations through the centuries to aim higher and strive harder. Gold is more than just a financial asset; it is an integral component of human life."

Dr Hamed Hassen Merah, a former secretary-general of AAOIFI

FORUM OVERVIEW

26 Speakers' List

27 Companies' List

28 Overall Evaluation

Aussie aspirations



Vineeta Tan
Managing Editor
Islamic Finance *news*

When Islamic finance professionals gathered in Sydney last year for IFN Australia Forum 2018 (the first in five years), the atmosphere was optimistic, with positive sentiments permeating. Market players were hopeful of the government's effort to introduce tax reforms which would spur Shariah finance activities in the country; excitement was in the air over the progress of the IBA Group to launch the country's very first fully-fledged Islamic bank; and the Australian Islamic fund universe just got bigger with the launch of a new fund.

But fast forward one year — the enthusiasm has gone rather lackluster. With little movement and few signals from the government to continue pushing for much-needed tax changes after years of promise, a protracted process in getting the first Shariah bank up and running and the persisting lack of appreciation and understanding of the qualities and benefits of Islamic financial products among the public, it seems that Islamic finance developments in the Land Down Under have reached a stalemate.

But I certainly would not write off Australia from our Islamic finance radar just yet.

While industry practitioners are more measured and cautious in their outlook for the sector, it does not mean that they are feeling pessimistic or are deterred from bringing Shariah compliant financial services to Australians. If anything, it seemed that they are more determined than ever. Conversations onstage and offstage at IFN Australia Forum 2019 were engaging — indicating a positive level of interest; questions asked were constructive — suggesting commitment; and most encouraging of all is that the audience included professionals from the financial, investment and legal fraternity who have yet to venture into the Islamic finance space, but are keen — illustrating potential.

So yes, while the regulatory impetus needed for the industry to flourish in Australia is still absent, there are other drivers propping the fledgling, but promising financial inclusion asset class.

And with the support of our partners, we are happy to be part of this important journey serving as a platform for essential conversation and discussion to move this sector forward.

Islamic Finance *news*

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Australia and New Zealand: Sporadic progress

Shariah compliant financial activities in Australia and New Zealand remain concentrated in limited sectors, particularly in funds but Islamic investors are paying significant attention to the Land Down Under. DURGAHYENI MOHGANA SELVAM writes.

Regulatory environment

After almost five years since the Australian Tax Office published its paper on Islamic finance for government review, the Australian government in May 2016 under its 2016-17 budget made recommendations to ensure equal tax treatment for asset-backed financing, thus facilitating Shariah compliant transactions in the country. These changes were anticipated to be effective by July 2018, but nothing has transpired since. It is only applicable to a limited range of Shariah compliant transactions, but is significant progress for the Australian Islamic market.

Islamic financial services providers in Australia are represented by the Islamic Financial Services Council of Australia. In New Zealand, Islamic finance is still regulated by existing laws as those for conventional activities.

Banking and finance

The Australian Islamic finance story started with the emergence of Shariah compliant home mortgages as early as 1989 through Muslim Community Co-operative (Australia) and later Islamic Co-operative Finance Australia and Iskan Finance. These institutions have expanded their operations and business over the years to include other products including investment funds, auto financing and business financing. And more mainstream institutions, including the National Australia Bank (NAB), are increasingly catering their products to the Muslim market.

The NAB is also a major funder of the No Interest Loans Scheme (NILS), an interest-free community-based microfinance program targeted at aiding low-income borrowers. While not necessarily Shariah compliant, the interest-free feature of NILS eased the restructuring of the program to be compliant with Islamic law and is now disbursed by local Muslim community groups. Islamic microcredit activities also take place informally through local mosques in the country. There is also interest from international Islamic banks in the Australian dollar. Qatar Islamic Bank last year secured fresh funds through Japanese yen and Australian dollar private deals.

The Australian Prudential Regulation Authority was looking to revise the bank licensing framework, which was expected to be announced in the second quarter of this year. No news on this front has been announced yet. The amendments are expected to facilitate the establishment of a fully-fledged Shariah bank. In line with this, work is underway toward the creation of the Islamic Bank of Australia. New Zealand, on the other hand, has struggled to offer Islamic financing products including mortgages. Several attempts to introduce Shariah mortgages since 2007 have failed. Last year, the UAE's Dubai Exports and Dubai Islamic Economy Development Centre conducted a trade mission to New Zealand to amplify bilateral trade relationships between both nations.

Asset management

There are a number of Islamic investment managers in Australia and experts expect the Islamic investment fund industry to grow up to

US\$22 billion by 2020. In 2017, an Islamic fund was launched by Hejaz Investment Funds, a global balanced retail fund – the firm's first-ever investment fund. The first Islamic fund in Australia was launched in 2009 by MCCA and other funds followed, including the world's first private Islamic superannuation fund by Crescent Wealth in 2013, an Islamic pension fund by First Guardian Capital in 2014 and in 2016, Crescent Wealth – which spearheaded the creation of the (ASX) Islamic Index (now known as the Thomson Reuters Crescent Wealth Islamic Australia Index) – launched the KAF Australia Islamic Property Fund in partnership with Malaysia's KAF Investment Funds.

Early 2018, Olive Investment rolled out a Shariah compliant wholesale vehicle, the Olive Fund, offering investors the opportunity to tap the fast-growing healthcare asset class and to choose between three levels of risk exposure. The fund expects to have AU\$100 million (US\$72.18 million) of assets under management within five years. New Zealand welcomed its first and only Shariah compliant KiwiSaver scheme – an investment option under the country's voluntary savings scheme – in May 2014 by Amanah Ethical. The firm in July 2016 launched Amanah New Zealand, investing in up to 50 US-listed Shariah compliant stocks that are conservatively selected and managed and that comply with its ethical mandate.

Real estate

Australia's Shariah compliant residential financing sector has increasingly become a favorite investor destination in recent years. Malaysian investors, such as Lembaga Tabung Haji, have been

particularly active in investing in Australian property. The Hajj pilgrim board in 2017 allocated RM2 billion (US\$482.97 million) to invest in real estate in Australia and the UK. Middle Eastern investors are also increasingly looking to Australia as a means to diversify their portfolio and are significantly keen to use Islamic finance.

The Shariah opportunities in the Australian real estate market are also attracting foreign players to set up shop Down Under – UK-based Shariah real estate investment specialist 90 North Group opened an office in Sydney this year. In July this year, 90 North acquired the brand-new Quest Apartment Hotel in Greater Springfield, Queensland, in a transaction worth AU\$24.3 million (US\$17.56 million), marking its first investment in Australia.

Sukuk

While there has yet to be any Sukuk issuance out of Australia or New Zealand, it is understood that Awqaf New Zealand is working with the International Shari'ah Research Academy for Islamic finance to develop and launch Smart Waqf, a vehicle to issue and manage Sukuk Waqf, indicating that there could potentially be a Sukuk facility out of New Zealand.

The Australian Securities and Investments Commission has been particularly active in reaching out to its counterparts in key Islamic finance countries, including Securities Commission Malaysia, Abu Dhabi Global Market's Financial Services Regulatory Authority and the Dubai Financial Services Authority, to foster bilateral relationships in various areas including Islamic finance.

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The Hayne Royal Commission and what it means for Islamic financiers of Australian real estate

In his recent report on the Royal Commission into misconduct in the banking, superannuation and financial services industries (the Report), Queen's Counsel Kenneth Hayne recommended a number of changes which, if implemented, could alter the landscape of financial services (including the way mortgage brokers operate and are remunerated) in Australia. JENNIFER MCCOSKER and JULIAN BOLGER write.

Shariah compliant financiers of Australian real estate should be alive to the potential for change — and the opportunities that could follow.

What are the relevant recommendations?

Certain aspects of the recommendations that touch on mortgage finance in particular, if implemented, could affect the day-to-day operations of Shariah compliant financiers and the way they market to clients. Relevant recommendations provide that:

1. in the residential market, mortgage brokers should be required to act in the best interests of the relevant purchaser, not the financier (noting that current remuneration structures often create the opposite result)
2. the purchaser of the relevant financial product (rather than the financier) should pay the mortgage broker for its services. The Report intimated that this takes place by prohibiting financiers from paying commissions to mortgage brokers and aggregators (with a proposal for a phased introduction over a three-year period commencing with a ban on trail commissions from the 1st July 2020), and
3. mortgage brokers should, over time, be regulated by the law that applies to entities providing financial product advice to retail clients.

Where are the likely impacts for the Australian credit market if the recommendations are implemented?

Against the backdrop of an impending federal election, the extent to which and how the recommendations will be implemented is not yet clear. Nonetheless, all financiers should consider the potential impact of the recommendations on:

- the effect on existing financier funding models — if the recommendations are implemented, financiers may need to review their existing product mix and current distribution channels. In particular, financiers may need to consider whether there will be a need for them to invest in new methods of delivery to ensure compliance with any proposed changes, and
- the increased need for finance amidst a tightening domestic credit market — residential purchasers may find it increasingly difficult to obtain acquisition finance in the face of the twin headwinds of tightening credit markets and a paucity of information on financiers. These macroeconomic trends are likely to remain salient for all financiers in the future.

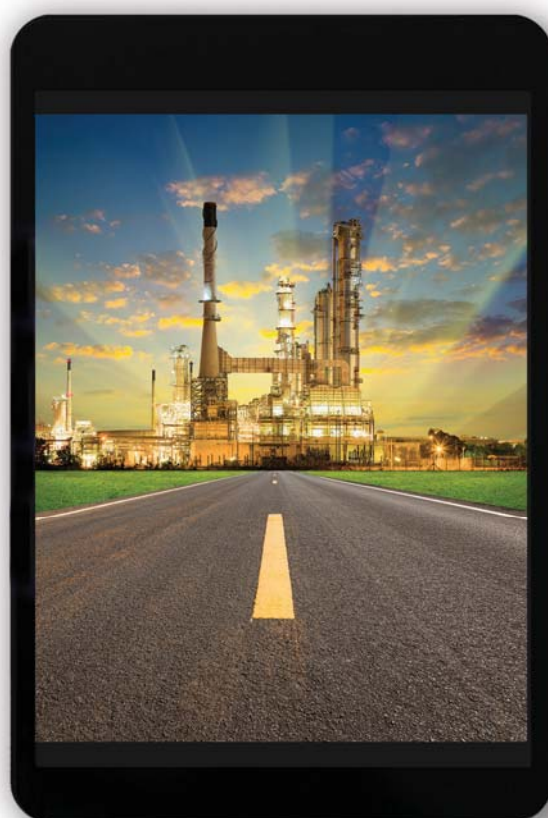
Where are the opportunities?

Depending on their positioning in the market, different financiers may seek to leverage their expertise to take full advantage of the strategic opportunities arising out of any legislative change following the release of the Report. Consider, for example:

- the need for 'warehouse' facilities — in the context of a tightening domestic credit market, developers may seek to secure 'warehouse' debt facilities to provide on-lending facilities to purchasers who are unable to obtain bank finance (or a developer who is willing to provide vendor finance). This may present an opportunity for developers to engage non-bank financiers to provide such debt facilities to assist end-purchasers settle on the acquisition of residential developments
- the strategic window of opportunity and market consolidation — prior to the proposed changes to mortgage broker remuneration, there may be scope for non-bank financiers to fully capitalize on the window of opportunity that is currently available to grow market share in the Australian credit market before any potential consolidation of the 'Big Four' players takes hold, and
- the need for further engagement with the legislative process — financiers involved in activities which may be viewed as analogous to broking (eg asset-based commodity transactions) should engage in the legislative process to ensure they are not unintentionally caught by the proposed mortgage broking restrictions.

Jennifer McCosker and Julian Bolger are real estate capital markets lawyers in the Sydney office of King & Wood Mallets.

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Opportunities in Australia's Islamic finance industry

Although Islamic finance began officially in Australia in the late 1980s, it is no secret that it is still in its infancy with only 2% of the market subscribing to Islamic financial services as of today. The Islamic financial services industry has gained traction and prominence over the last five to 10 years due to new entrants in the market that have been more active in promoting their services as well as educating the market. HAKAN OZYON opines that the fundamental constraint is the financial literacy of our community, and also awareness and accessibility to such products and services providers.

The industry needs two major requirements before it can enter the major growth phase:

1. Products and services need to be consumer-driven, rather than product-driven, and
2. The quality of products needs to be on par with, if not better than, conventional products.

The Muslim community living in Australia are exposed to an array of conventional financial products which not only cater to consumer needs but can also be customized for individual requirements.

With the introduction of highly qualified and experienced Muslim entrepreneurs and professionals into the Islamic financial services industry in Australia, we are beginning to see better quality services and products which comply with Shariah standards and are on par with conventional products and services.

Performance is being driven with more market share obtained from conventional products and services providers; however, the evolution is seen in the transition currently being made from product-driven to consumer-driven within our community. I have personally seen this transition in the past two years, where Muslims are now conducting their own research into providers and then making their own informed decisions. This is a pleasant development from the past where they would simply be making decisions on which product was better sold to them. This is a real indication of a market developing and approaching the growth phase. This can begin to not only allow current quality providers to leverage, but also ensure that Muslim consumers do not simply follow blindly into inferior products and services.

The Muslim community is growing the fastest in Australia at approximately 9% year-on-year, with almost 10% of all skilled migrants being of the Islamic faith. This allows an organic growth in the client base, ensuring a bullish trajectory for years to come. Islamic financial services providers within Australia need to ensure the key performance driver is not just a generic growth rate, but that Muslims are actively seeking their services and products off the back of good feedback, client research and superior products.

Regulatory constraints and tax issues

I am a true believer that a genuine entrepreneur never makes excuses, but only finds solutions to challenges. In my opinion, there has been too much talk on regulatory constraints and unfavorable tax laws which hinder the growth of the Islamic financial services industry in Australia, and western countries in general. Yes, it is true, in an ideal world, all regulations will assist in the marketability of Islamic

financial products, but until this transpires, we need to stop making excuses, and become problem-solvers and solution providers.

The conventional market has over centuries continuously innovated as a result of constantly changing laws and compliance by regulators and politicians. Financial institutions have always required product development to ensure competitiveness within the industry — this is the norm in all industries globally. We as Islamic financial services providers cannot just make excuses that the laws are unfavorable, and just sit on our laurels with inferior products and services. The Muslim community deserves quality products and services, and if this means that providers who do not wish to find solutions and innovate within the guidelines of Shariah are eliminated from the market, then so be it as this is beneficial for all Muslims.

This will ensure that quality individuals and organizations remain competitive in the Islamic financial services space. The Islamic community will eventually be the real winner, where they will be invested in high-performing investment funds and take loans that do not disadvantage them because they want to conform to their religious beliefs. There is no mountain that is unclimbable, hence tax laws and regulations should not stop the true believer from obtaining quality Islamic products and services.

Laws and regulations are constantly evolving, therefore sometimes they will change and benefit product developers and sometimes they will make it more difficult. However, one thing should always remain: the end user should always be provided with a better product.

Hakan Ozyon is CEO of Hejaz Financial Services. He can be contacted at hozyon@hejazfs.com.au.





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Aussie opportunities

A visit to our current and pipeline properties in Australia accentuated to me what a great opportunity Australia offers Islamic real estate investors, with the extremes of forest fires in the north and flash flooding in Sydney to the south emphasising the vast scale of the country.

The opportunity is largely driven by population growth, which is rising at a remarkable 1,000 people a day. That and the robust economy, which The Economist recently described as “arguably the most successful in the rich world.” Adding that, “It has been growing for 27 years without a recession — a record for a developed country.”

Put simply, such population growth is putting pressure on accommodation of all types, although recent exuberance in the construction of apartments in some city centers provides the exception to the rule. However, to Australia’s credit they are spending considerable amounts on new train lines, stations and rolling stock to relieve the pressure on city centers and ease commutes from those in the more affordable suburbs.

90 North’s acquisition with Sidra Capital of a Quest-branded serviced apartment property was in a completely new city of Springfield, outside of but linked by road and rail to Brisbane. Only the second master-planned city in Australia, after their capital

city of Canberra, the scale and speed of the development there is mindboggling and must be seen to be believed.

Complementing the well-established mining and agriculture sectors, education and medical are rapidly growing industries. Whilst university accommodation provides a natural opportunity, we are currently assessing a new (limited service) hotel opportunity in the medical district of a major city, where medical tourism either domestically (remember Australia is bigger than Europe!) or internationally is big business.

As we’ve now proven, the local Shariah expertise is most definitely there and with a wide range of opportunities across a vast country I sincerely hope that an increasing number of Islamic investors seize them.

Philip Churchill is the founder and managing partner of 90 North Real Estate Partners. He can be contacted at pchurchill@90northgroup.com.



Case for gold in 2019

“Gold has motivated civilizations through the centuries to aim higher and strive harder. Gold is more than just a financial asset; it is an integral component of human life.”

— Dr Hamed Hassen Merah, a former secretary-general of AAOIFI

Central bank buying urges

2018 marked the largest single year of gold buying by central banks since 1967, a time when the gold standard was in place and the precious metal played a vital role in international finance.

At the end of 2018, the World Gold Council (WGC) announced the tonnage of gold bought by central banks over the year was the second-highest annual total on record.

Central bank net purchases reached 651.5 metric tons last year, a massive 74% higher than the previous year's 375 metric tons.

The WGC reported that net purchases jumped to their highest since the end of US dollar convertibility into gold in 1971 as more central banks bought gold as a diversifier. It has estimated that the so-called official sector now holds nearly 34,000 metric tons of gold.

Some of the more notable purchases by sovereign entities during 2018 were:

- China
- Russia

- Turkey
- India
- Iraq
- Kazakhstan
- Hungary
- Poland, and
- The State Oil Fund of Azerbaijan.

Buoyant interest in the precious metal pushed total gold demand in 2018 to 4,345.1 metric tons, up from 4,159.9 metric tons in 2017.

Looking ahead into 2019, the WGC forecasts central banks and private investors across the globe will continue to buy gold. This is due to the interplay between gold's use as a hedge against potential risk and its role as a long-term savings tool, particularly as many analysts forecast slowing growth in the US and Europe alongside middle-class expansion in emerging markets.

In light of these recent insights, private financial institutions may wish to consider why central banks are investing in gold at current price levels and whether they and their clients should follow suit in their own portfolios.

As one of the world's most highly accredited and largest fully integrated precious metals enterprises, The Perth Mint offers a range of Shariah compliant options. These allow private financial institutions to share with their clients this same convenient and liquid diversification tool sought by central banks, with The Perth Mint's unique government guarantee.

As well as providing hedging and saving opportunities, products from The Perth Mint have been endorsed by highly respected Shariah advisory consultants Dar Al Sharia, in accordance with the Shariah standard on gold set by AAOIFI.

Within a Shariah compliant portfolio, gold can play a vital and effective role as follows:

1. Diversification tool

Over the 10 years to October 2018, gold's correlation to major Islamic equity indices ranged from only 0.14 to -0.03.

In relation to Sukuk and Islamic REITs, over the same period gold exhibited a minimal correlation of 0.05 and 0.03 respectively.

Gold's low correlation with other asset classes within a portfolio can help investors minimize risk, reduce volatility and potentially enhance returns.

2. Low volatility

Gold is less volatile than major Islamic equity indices, REITs and the Takaful index.

While gold can be more volatile than Sukuk, it is potentially a safer asset class because it carries no credit risk or third-party liability.

3. Strong risk management

Gold's behavior as a risk management tool is particularly significant for Islamic investors given derivative-based risk management instruments — such as credit default swaps and conventional futures or forwards — are not Shariah compliant.

4. Many traditional safe haven assets are not Shariah compliant

US Treasuries, conventional money market funds or other developed market sovereign bonds are often favored during times of market turbulence. However these, like many risk management tools, are not Shariah compliant.

Gold, on the other hand, offers a larger and more liquid Shariah compliant asset pool than what has been traditionally available as a safe haven.

5. Long-term preserver of wealth

Gulf-based investors generally hold positions denominated in the US dollar or a currency pegged to the dollar.

However Southeast Asia-based investors tend to denominate their positions in local currencies, usually the Malaysian ringgit or Indonesian rupiah. These currencies have historically fluctuated against G10 currencies and have tended to underperform during periods of severe market instability.

Adding gold to a ringgit or rupiah-denominated portfolio can greatly moderate exchange rate risk.

A trusted source of gold

Australia's leading precious metals enterprise, The Perth Mint is:

- 100% owned and audited by the government of Western Australia, which provides a unique government guarantee on all precious metals stored on investors' behalf.

The guarantee is underpinned by Western Australia's S&P's short-term credit rating of 'A1+'.^{*}

- Trusted to secure wealth worth more than AU\$3 billion (US\$2.15 billion) for clients from more than 130 countries across the globe. The Perth Mint safeguards precious metals for clients including central banks, sovereign wealth funds, pension funds and individuals within its network of central bank grade vaults, the largest such network in the southern hemisphere.
- The refiner of choice of more than 90% of Australia's and almost 10% of the world's newly mined gold. As Australia's oldest operating mint, The Perth Mint has been producing premium bullion products for 120 years.
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The Perth Mint upholds the responsible gold and silver standards presented by the London Bullion Market Association and the OECD.

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The Perth Mint's Depository Online platform, offering its Shariah compliant allocated and pool-allocated precious metals options, is easily configurable as a white-labeled service and can be tailored to your individual needs.

Enabling 24/7 live pricing, the mobile phone-friendly platform is underpinned by the highest level of security, with transactional confidentiality assured.

Through The Perth Mint's close relationship with the WGC, it can facilitate the training of staff and product marketing among existing and new clients.

** The Shariah Compliance Pronouncement on Tradability of Gold and Silver Products may be found at perthmint.com/ShariaCompliance.*

Further details about The Perth Mint can be found at www.perthmint.com/invest.

John Durham is the manager of the Depository of the Gold Corporation at The Perth Mint. He can be contacted at John.Durham@perthmint.com.



State of the Islamic Finance Industry in Australia

Shariah compliant financial activities in Australia remain concentrated in limited sectors. The two most commonly accessed products are Islamic superannuation (pension) funds and residential home loans. However, there is significant attention given to the property sector and infrastructure financing which is a considerable progress in the region

- What are the performance drivers in the Islamic finance industry in Australia?
- Regulatory constraints and tax issues for asset-backed financing hindering the growth of Islamic finance industry
- What are the opportunities for Islamic financial institutions to fill the gap in the property sector?
- How can we capture the interest in the Australian property market from foreign investors?



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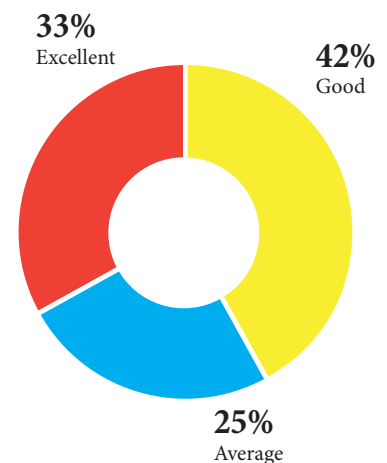
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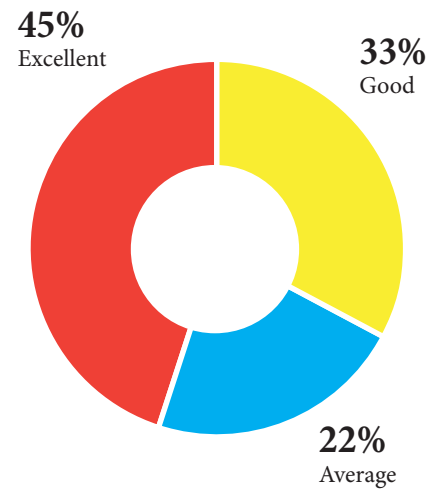


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Director, Finance and Compliance, Hejaz Financial Services



Presentation: Dispute Resolution in Islamic Finance — Alternatives to Litigation



DR MARIA BHATTI — Lecturer, Western Sydney University



PRESENTATION OUTLINE

- 1 What is Shariah Arbitration?
- 2 Nonarbitrability Doctrine
- 3 Shariah as Governing Law
- 4 i-Arbitration Rules
- 5 Conclusion

2

Shariah-Compliant Arbitration

First Phase (end of World War II till 1970s)

Lord Asquith in the *Abu Dhabi Oil Arbitration*: "a purely discretionary justice with the assistance of the Koran; and it would be fanciful to suggest that in this very primitive region there is any settled body of legal principles applicable to the construction of modern commercial instruments"

Second Phase (1970s to 1980s)

Three Libyan nationalization cases: BP Exploration, TOPCO and LIAMCO—disputes over oil concessions granted by respective national governments to Western oil companies

Several inconsistencies in the decision making process lead commentators to believe that the arbitrators preferred international law over Libyan law

Third and Present Phase

Increasing recognition in the international commercial system as a substantial exporter and a major area for foreign investment.

An increasing number of Muslim countries have chosen to draft their arbitration laws modelled on the UNCITRAL Model Law on International Commercial Arbitration.

3

What is *Shariah* Arbitration?

The concept of arbitration is known in Arabic as *tahkim* (تحكيم)

Traditionally, an arbitrator or *hakam* (حكم) was appointed and the criteria for appointment was someone with a favourable reputation in the community and someone who was noted for being an expert in dispute settlement.

Similar to Islamic finance, *Shariah* Arbitration may appeal to individuals, corporations or even countries wishing to conduct transactions compliant with Islamic law due to religious reasons.

4

Nonarbitrable Matters

What is the non arbitrability doctrine?

The nonarbitrability doctrine recognizes that certain matters are concerned with public rights, rights of third parties and matters of governmental authority and therefore, cannot be subjected to private arbitration.

Subject matters involving the imposition of interest (*riba*) and/or speculative agreements (*gharar*)

A financial agreement containing interest or speculation does not involve public rights or non-commercial matters.

Does an agreement containing interest or speculation render the arbitration agreement invalid?

The prohibition against *riba* and *gharar* is part of Islamic public policy.

5

Shariah as Governing Clause

Parties may choose *Shari'a* as the governing law in the following ways:

1. *Shari'a* as the sole governing law;
2. a "combined-law clause" pairing a national legal system with or subject to *Shari'a*; or or 3) *Shari'a* as part of a national legal system.

Parties have the autonomy to choose any legal system to govern their arbitration due to the 'party autonomy' principle under international commercial arbitration

Whether *Shari'a* law can be an effective choice of law clause to govern an arbitration agreement or the substance of an arbitration is under debate

Shariah as Governing the Substance of an Arbitration

If religious law is subject to various interpretations, can it effectively apply to arbitration?

Some argue that religious law, such as *Shariah*, is in many ways contradictory and subject to various interpretations and therefore the use of *Shariah* in arbitration matters is fraught with uncertainty.

Beximco Pharmaceuticals Ltd v Shamil Bank of Bahrain

It was argued by Potter J that "[t]he general references to *Shariah*...affords no reference to, or identification of, those aspects of *Shariah* which are intended to be incorporated into the contract, let alone the terms in which they are framed...[t]hus the reference to the "principles of...*Sharia*" stand unqualified as a reference to the body of *Shariah* law generally. As such, they are inevitably repugnant to the choice of English law as the law of the contract and render the clause self-contradictory and therefore meaningless."



Source: <https://www.aiac.world/Arbitration-i-Arbitration>

The i-Arbitration Rules 2017 (the "i-Rules") which came into effect on 9th June 2017 are a set of rules which are designed to effectively cater to the ever-growing needs and demands of commercial transactions premised on Islamic principles.

The i-Rules provides a certain and predictable legal framework to solving disputes from contracts involving Shariah principles, allowing parties the autonomy and flexibility of international commercial arbitration. The i-Rules are an innovative effort aiming to resolve disputes arising from any contract that contains Shariah (Islamic Law) issues. The i-Arbitration Rules first drew international recognition in 2012 after receiving the prestigious Global Arbitration Review Award for 'Innovation by An Individual or Organisation' where the i-Arbitration Rules was lauded as the first set of arbitration rules in the world that catered exclusively to the resolution of disputes arising from commercial contracts containing Shariah issues. The most striking feature of the Rules is the clear platform it sets for Islamic and non-Islamic parties to a dispute enabling them to arbitrate a Shariah complaint agreement under a non-Muslim tribunal and yet provide for the determination of the Shariah principles involved. Parties also enjoy the administrative services and benefits offered by AIAC as the administrator of disputes under the i-Rules. These rules are also offered in multiple languages to accommodate international parties, and are a helpful addition to the dispute resolution options available to parties. With the Centre's transformation to the Asian International Arbitration Centre in 2018 and driven by an Asian-international market, amendments to the i-Arbitration Rules will follow suit. These amendments will ensure that the integrity of the core principles subscribed to in the i-Arbitration Rules and the modalities and nuances of Shariah Law are maintained whilst continuous efforts are undertaken to extend our reach beyond South East Asia.

How do we address uncertainty?

Specific dispute resolution clauses outlining which school of thought governs the arbitration clause as well as appointing intermediaries to have final authority to interpret *Shari'a* matters with reference to "the Qur'an, *ahadith* of the Prophet Muhammad, *fatawa*, texts and treatises, and industry standards promulgated by AAOIFI, IFSP and other international standard setting bodies as listed".

Asian Arbitration International Centre (Formerly the Kuala Lumpur Regional Centre for Arbitration (KLCRA)) have developed *Shari'a*-complaint arbitration rules known as the i-Arbitration rules and are based on the UNCITRAL Arbitration

i-ARBITRATION RULES

- (g) unless the Parties have agreed otherwise, the arbitral tribunal may on any sum of money ordered to be paid by the award on the whole or any part of the period between the date on which the cause of action arose and to the date of realisation of the award:-
- (i) award a late payment charge determined by applying the principles of *ta'widh* and *gharamah*, where *ta'widh* refers to compensation on actual

Rule 6(g) of i-Arbitration Rules 2018

This means that an arbitral tribunal may award a late payment charge as per the i-Arbitration Rules as compensation for actual loss suffered by the aggrieved party.

Source: <https://www.aiac.world/wp-content/arbitration/AIAC-i-Arbitration-Rules-2018.pdf>

i-Arbitration Rules

Shariah Advisory Council of Bank Negara Malaysia

The SAC notes that "[t]o determine the compensation rate for actual loss (*ta'widh*) that may be applied by the judgment creditor, the SAC agreed to adopt the weighted average overnight rate of Islamic money market as a reference; and...[t]he total compensation charge shall not exceed the principal amount of debt. If the actual loss is less than the applicable rate for judgment in current practice, the balance shall be channeled [sic] by judgment creditor to charitable organisation as may be determined by Bank Negara Malaysia."

Traditional Perspective

The principle of *ta'widh* as stipulated by the SAC differs from the view of Islamic scholars such as Taqi Usmani, and scholars from the Islamic Fiqh Academy in Jeddah who argue that compensation is the same as interest. Furthermore, the i-Arbitration Rules provide the arbitral tribunal with the discretion to award interest if necessary, which is similar to the conventional position under contemporary ICA

CONCLUSION

- *Shariah* Arbitration needs to be further developed.
- If *Shariah* is comprehensive and well developed in the area of arbitration, there may be a higher possibility of recognition of *Shariah* as the governing law in secular jurisdictions and clarity in relation to the enforcement of arbitral awards in countries where public policy is based on *Shariah*.
- The concept of arbitrability under *Shariah* needs to be addressed in more detail by an international standard such as the i-Arbitration Rules in order to create more certainty for parties.

Rajoo, the director of the KLRCA argues that "[t]he Islamic world has not really explored international commercial arbitration, and after a certain point, there is a dichotomy between a religious and secular disputes system. In all honesty, business people do not want to go to the *Shari'a* court, and prefer a legal secular system...[w]ith the KLRCA *i-Arbitration Rules*, there is now an option for a dispute resolution mechanism that is *Shari'a*-compliant, thereby putting the last block in place for a complete *Shari'a*-compliant transaction."

- Sunda Rajoo, Director, Asian International Arbitration Centre





Islamic Asset Allocation and Portfolio Construction

- Current trends in Islamic asset allocation and portfolio construction
- Are Shariah compliant funds outperforming their counterparts?
- What are the key Shariah considerations in portfolio construction?
- What are the challenges and issues when competing with conventional counterparts?
- How are you overcoming and meeting investor expectations?
- What are the industries to look for in the future?



**NURHASTUTY
KESUMO
WARDHANI**

*Board Member,
Institute of Halal
Investing*



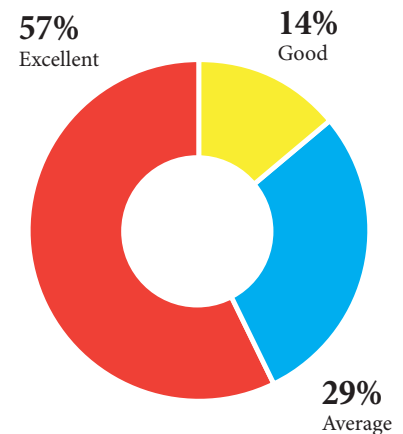
ARIFF SULTAN

*Regional
Director (APAC),
IdealRatings*



HAKAN OZYON

*CEO, Hejaz
Financial Services*



**MOHAMED
HAGE**

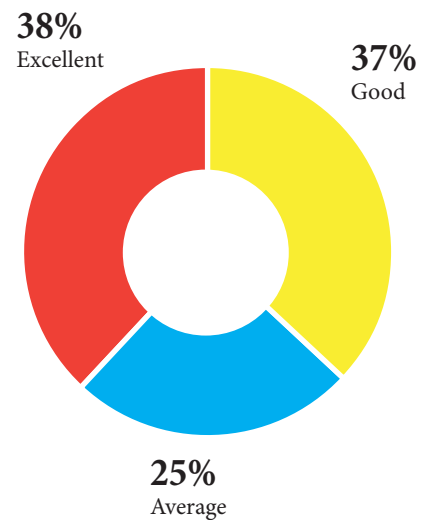
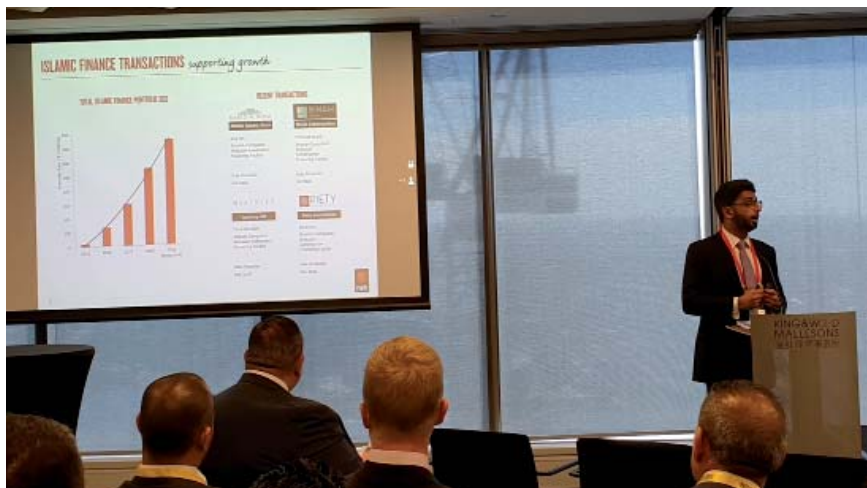
*Head of Research,
CPG Research and
Advisory*



NASHAT QADAN

*Director, Islamic Co-
Operative Finance
Australia (ICFAL)*

Presentation: NAB Islamic Finance: A Case Study on Gallipoli Health Care



SAJID BOKHARI — Senior Associate, Private Capital Markets Corporate and Institutional, National Australia Bank



NAB'S CURRENT ISLAMIC FINANCE OFFERING

| INITIATIVE | OFFERING SUMMARY | STRUCTURE | CLOSED TRANSACTIONS |
|---------------------------------------|---|---|---|
| Construction and Investment Financing | NAB developed a financing structure for Islamic clients in C&I and Business Bank that allows NAB to finance Islamic clients seeking investment or development financing. | • Wakala • Ijara muntahia bi'l-tamleek | We have completed around AUD \$750m in financing for clients including: • Heathley Asset Management • Piety Investments • AEPim |
| Compliant Derivatives | NAB structured the first Islamic IDMA FX forward structure in Australia. The IDMA is the equivalent of the ISDA. | • Bay' alSarf | Over \$230m in closed trades, the first offering of its kind in Australia. |
| No Interest Loans Scheme | NAB structured a Shariah-compliant Qard Hassan No Interest Loans Scheme (NILS) for Good Shepherd Youth and Family Services in partnership with the Islamic Council of Victoria. | • Qard Hassan | Over 600 Qard Hassan NILS provided to date. Global Finalist (Top 5) in the 2013 Thomson Reuters Ethical Finance Initiative Award. |
| Sukuk Bond Portfolio | NAB developed a Sukuk Bonds trading book to support its origination activity in this innovative space. | • Sukuk | Purchased Australia's first Sukuk bond trade in 2013. It is a live and active trading book. Currently developing a Sukuk for Australian corporates. |

2



SHARIAH COMPLIANCE with Amanie Advisors



3



SHARIAH COMPLIANCE with Amanie Advisors

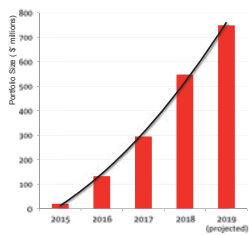


4



ISLAMIC FINANCE TRANSACTIONS *supporting growth*

TOTAL ISLAMIC FINANCE PORTFOLIO SIZE



RECENT TRANSACTIONS

| | |
|--|--|
| MASJID AL NOOR AlNoor Islamic Assoc A\$3.3m Shariah Compliant Wakalah Investment Financing Facility Sole Financier Jun 2018 | BINAH Binah Construction Total A\$30.3m Shariah Compliant Wakalah Construction Financing Facility Sole Financier Jul 2018 |
| Gallipoli Home Gallipoli Aged Care A\$18m Shariah Compliant Wakalah Construction Financing Facility Sole Financier May 2017 | PIETY Piety Investments A\$36.5m Shariah Compliant Wakalah Construction Financing Facility Sole Financier Dec 2018 |



5

GALLIPOLI HOME *culturally aware aged care*

THE NEED FOR MUSLIM AGED CARE

- Taking care of the elderly is a central part of the Muslim faith. Concerned community members recognised that there were no aged care homes that adequately catered for the specific needs of the growing culturally and linguistically diverse Muslim community.
- In response to this need, the Auburn Gallipoli Mosque and seven different cultural associations based in Sydney came together to develop Gallipoli Home.



6

GALLIPOLI HOME *culturally aware aged care*

THE FACILITY CAPABILITIES

- Gallipoli Home is Sydney's first aged care facility dedicated to serve the needs of Muslims, as well as culturally and linguistically diverse elders in Western Sydney.
- The 102-bed facility has staff that can speak Turkish, Arabic, Hindi and Urdu, to cater to over 10 different cultural communities. It is located next to the iconic Gallipoli Mosque.



7

GALLIPOLI HOME *culturally aware aged care*

THE DESIGN INSPIRATION

- Incorporated in the design, the artwork etched into timber at the front of the facility welcomes the community. The artwork pays homage to the many cultures that make up our one community.
- From Indigenous, European, Turkish and Islamic themes, it brings together Aboriginal Art, it reflects the Anzac tradition with the poppy as a feature, it represents nature through the native eucalyptus leaves and pays homage to Turkish and Islamic heritage represented by a classical Ottoman Mosque.



8

GALLIPOLI HOME *culturally aware aged care*

THE FUNDING JOURNEY

- Gallipoli Home is the first Muslim sensitive aged care centre in Sydney. As such, it was important to the Board that the source of finance was Shariah compliant. This was quite challenging as the Board initially commenced their search for Islamic finance from international financiers. Whilst these financiers made offers, the terms, legal and regulatory hurdles as well as the foreign exchange risk made acceptance of these offers too risky to accept.
- The team then approached their primary domestic bank in Australia and inquired if it could provide Shariah financing for the project. The bank was unable to structure the transaction and could only offer a conventional, interest based loan. It was during this time the team was introduced to Dr Imran Lum at NAB.
- NAB was able to provide a 3Y, \$28m Wakalah based facility for the construction of the aged care premises, and on terms and conditions that were far superior to the terms being offered by offshore Islamic finance providers.
- This transaction is significant for NAB on many fronts. Firstly, it demonstrates our focus on improving social and financial inclusion of all Australians, that would have otherwise been excluded from mainstream banking. Secondly, it highlights our commitment to cater for Australia's changing demographics, and our aging population. Thirdly, the transaction shows our aim to contribute to the development of infrastructure in greater Western Sydney.



9

GALLIPOLI HOME *culturally aware aged care*



Grand Opening



10

KEY CONTACTS



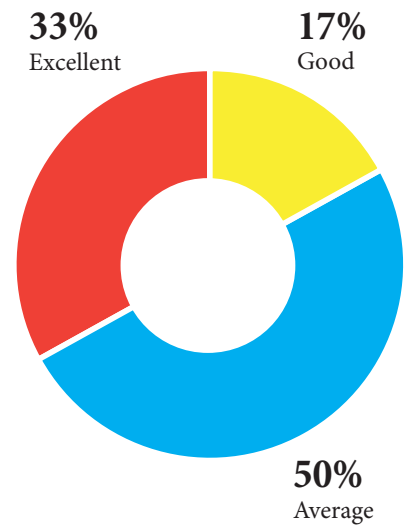
Dr Imran Lum
Director, Islamic Finance, NAB
Imran.k.lum@nab.com.au

Sajid Bokhari
Senior Associate, Islamic Finance, NAB
Sajid.bokhari@nab.com.au

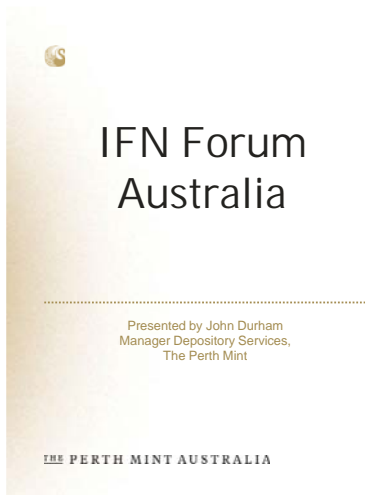


11

Presentation: Gold — Opportunities for Financial Innovation



JOHN DURHAM — Manager — Depository, Gold Corporation, The Perth Mint



THE PERTH MINT AUSTRALIA



IFN Forum Australia 2

Sharia standard inspires innovation



perthmint.com/shariacompliance

مطابق لأحكام الشريعة الإسلامية

2018 central bank demand highest since 1971



Source: World Gold Council

The investment case for gold in Islamic finance

- Diversification tool
- Low volatility
- Strong risk management
- Safe haven asset
- Long-term preserver of wealth

THE PERTH MINT AUSTRALIA

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Sharia compliant options

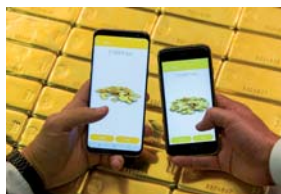
- Depository Program
- Depository Online
- Financial Institutions Depository Online (FIDO)
- AAAU ETF

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GoldPass® app

- Securely buy, sell, transfer peer-to-peer and store physical allocated gold via digital certificates at touch of smartphone.
- Compatible with leading platforms while providing a credible alternative to cryptocurrencies.



THE PERTH MINT AUSTRALIA

IFN Forum Australia 7

Across all Perth Mint products

- Precious metals stored on investors' behalf is guaranteed by our owner, the Government of Western Australia.
- Physical storage provided in central bank grade vaults, the largest such network in the southern hemisphere.
- Wealth worth more than \$3 billion is safeguarded for clients from more than 130 countries.
- Option to take physical delivery of precious metals at any time.
- Secure administrative and trading procedures.

THE PERTH MINT AUSTRALIA

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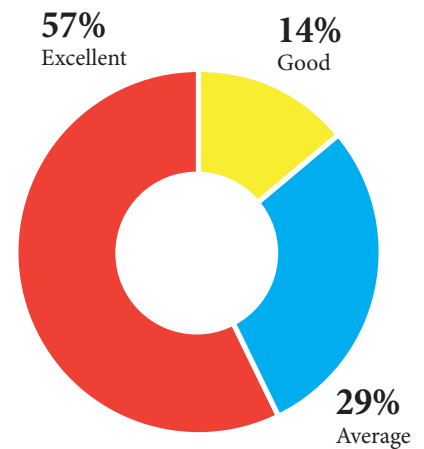
Gold - a trusted store of wealth



THE PERTH MINT AUSTRALIA

IFN Forum Australia 9

Presentation: Strategies to Overcome Market Volatility in Islamic Fund Management



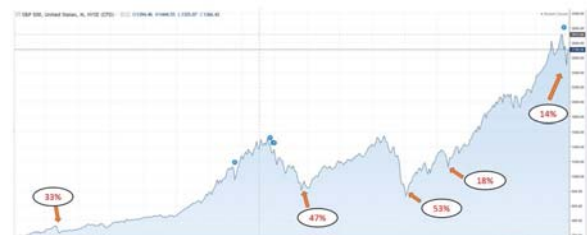
HAKAN OZYON — CEO, Hejaz Financial Services

Strategies to Overcome market volatility in Islamic fund management

Hakan Ozyon
Senior Portfolio manager (Global Ethical fund)



Market volatility (30 years)



Islamic portfolio construction

Main additional requirements:

1. Activity screening process
2. Financial screening process
3. Generally less diversification
4. Compliant fixed income solutions

Islamic portfolio construction

Main exclusions:

1. Hedging
2. Short positions
3. Quality bonds & fixed income solutions
4. Derivatives

Islamic vs Conventional



Solutions to combat volatility

Solution 1

Understand market volatility is unavoidable, but manageable

Solutions to combat volatility

Solution 2

Always remain diversified

Solutions to combat volatility

Solution 3

Increase exposure to lower volatile assets and securities
E.g. Beta, Standard deviation

Solutions to combat volatility

Solution 4

Always stick to plan, never panic

Solutions to combat volatility

Solution 5

Dollar cost averaging

Solutions to combat volatility

Solution 6

Active portfolio management

Solutions to combat volatility

Solution 7

Tactical asset allocation

Solutions to combat volatility

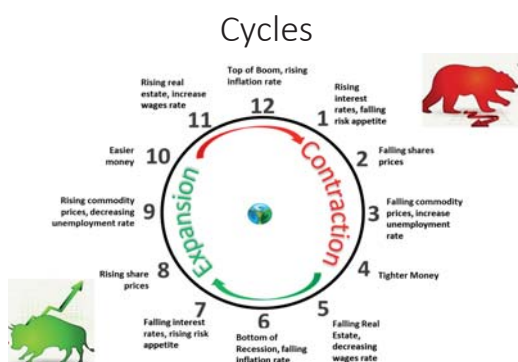
Solution 8

Robust and comprehensive screening process

Solutions to combat volatility

Solution 9

High dividend and income distributions



Thank you





Branding and Re-Branding Islamic Finance in a Muslim-Minority Market

- How do Islamic financial institutions position themselves in Muslim-minority markets and Muslim markets?
- Is there any intersection between ethical and religious investments?
- Do Islamic investment companies dare to promote in this intersection?
- How can the branding help break some of the common misconception about Islamic finance?



**NURHASTUTY
KESUMO
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*Board Member,
Institute of Halal
Investing*



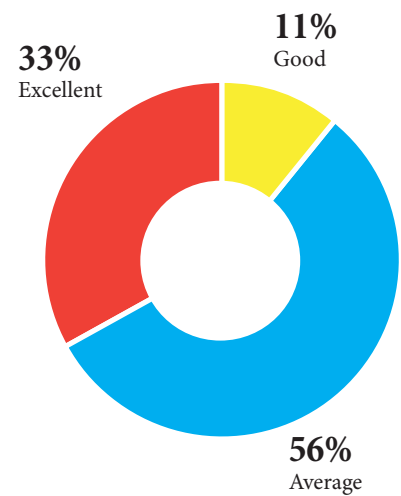
**DR MUHAMMAD
M KHAN**

*CEO, Halal
Australia*



REYAZ JEFFREY

*Former CEO,
Amana Takaful Life,
Sri Lanka*



| Name | Job Title | Company Name |
|----------------------------|---|--|
| ARIFF SULTAN | Regional Director (APAC) | IdealRatings |
| ASAD BATLA | CEO | Digital Platforms Group |
| DALE RAYNER | Partner | King Wood & Mallesons |
| DR MARIA BHATTI | Lecturer | Western Sydney University |
| DR MUHAMMAD M KHAN | CEO | Halal Australia |
| HAKAN OZYON | CEO | Hejaz Financial Services |
| JOHN DURHAM | Manager — Depository, Gold Corporation | The Perth Mint |
| MICHAEL C DOWLING | Partner, Head of Australia | 90 North Real Estate Partners |
| MOHAMED HAGE | Head of Research | CPG Research and Advisory |
| MUZZAMMIL DHEDHY | Director, Finance and Compliance | Hejaz Financial Services |
| NASHAT QADAN | Director | Islamic Co-Operative Finance Australia Limited (ICFAL) |
| NURHASTUTY KESUMO WARDHANI | Board Member | Institute of Halal Investing |
| REYAZ JEFFREY | Former CEO | Amana Takaful Life, Sri Lanka |
| SAJID BOKHARI | Senior Associate, Private Capital Markets Corporate and Institutional | National Australia Bank |
| STEVE MACDONALD | CEO | Forevercorp |

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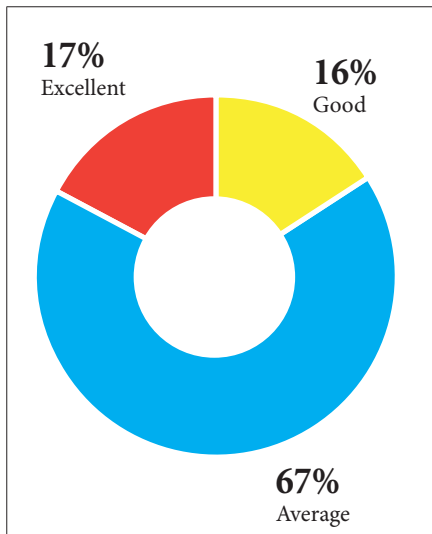
COMPANIES' LIST

| | |
|--|-------------------------------------|
| 90 North Real Estate | Khan Legal |
| Amana Takaful Life, Sri Lanka | King & Wood Mallesons |
| AMP Capital | KLSE Malaysia |
| Attia Lawyers | KPMG |
| Ausepco Ventures | Macquarie Group |
| Australian National University | Malaysia Rail Link |
| BB Accounting | MCCA |
| Brown Wright Stein | McCoy Associates |
| Carnbrae & Co | Monash University |
| Chauvel Capital Partners | National Australia Bank |
| Circle Bridge Legal | Norton Rose Fulbright |
| Clive Consulting | Owbiz Corporate |
| Convey | Perth Mint Australia |
| CPG Research and Advisory | Pipple Enterprise |
| Crescent Wealth | Queensland University of Technology |
| Digital Platforms Group | Savills Investment Management |
| Empowered Muslim Wife & Mother | Securities and Exchange Commis |
| Equitable Financial Solutions | Shaw & Partners |
| ETO Market | Sigma Funds Management |
| Financial ICT & Ops Consultant | SLF Lawyers |
| Forevercorp | SMSF madEasy |
| Gateway Bank | Sonar Technologies |
| GMSP | Sparke Helmore Lawyers |
| GrilloHiggins Lawyers | Tata Consultancy Services |
| Halal Australia | Tax Solutions |
| Hazelbrook Legal | The Perth Mint |
| Healthbridge Capital Australia | University of Newcastle |
| Hejaz Financial Services | Vincent's Chartered Accountants |
| Hunt & Hunt Lawyers | Visicase Australia |
| IBTN Group | Waqaf Selangor Corporation |
| IdealRatings | Western Sydney University |
| Institute of Halal Investing | |
| Islamic Co-Operative Finance Australia (ICFAL) | |

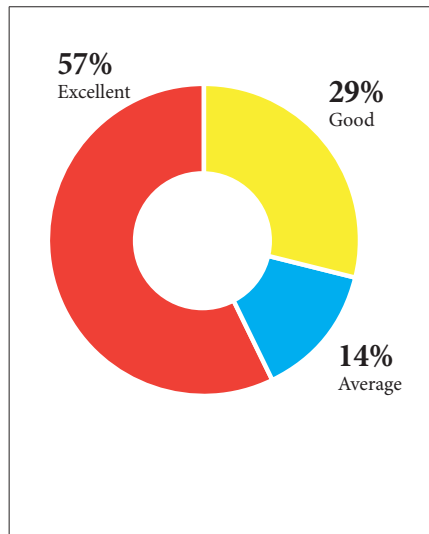
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OVERALL EVALUATION

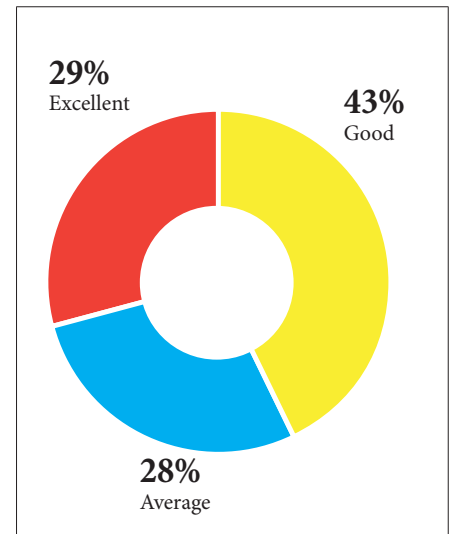
Pre-event Contact



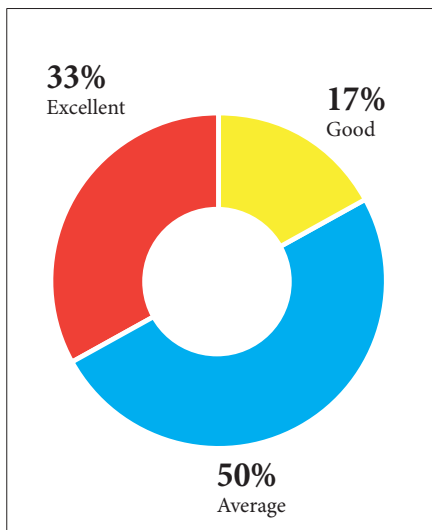
Venue & Facilities



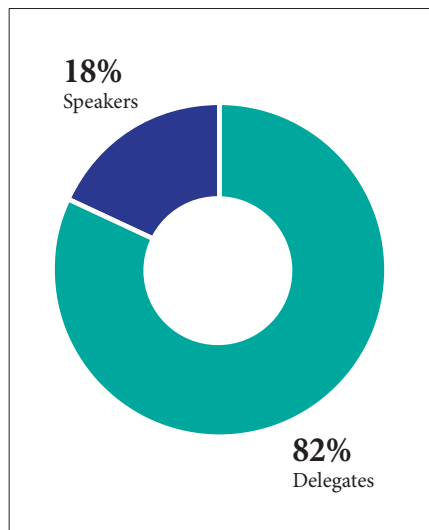
Overall Evaluation of the Event



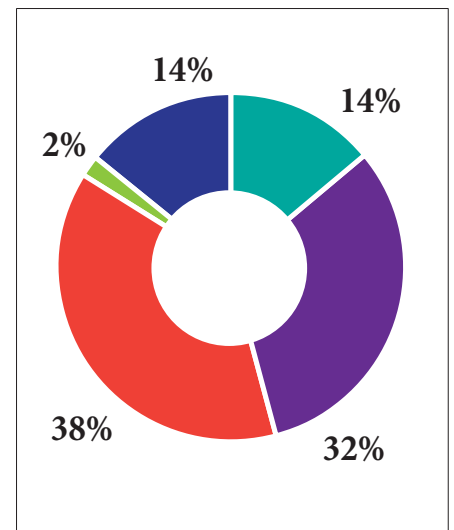
Overall Evaluation of the Speakers



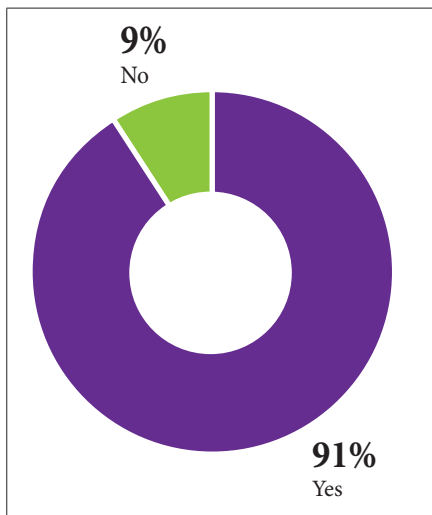
Delegate Breakdown



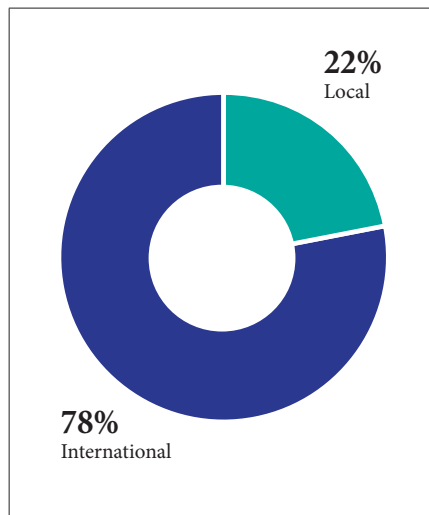
Delegate Job Title Breakdown



Delegates Who Would Like to Attend IFN Australia 2020



Delegate Breakdown (International & Local)



| DELEGATE JOB TITLE | NO |
|------------------------|-----------|
| Board Level Management | 32 |
| Senior Management | 27 |
| Management | 12 |
| Executive | 12 |
| Others | 2 |
| Total | 85 |

At the forefront of Islamic finance legal services

We have a holistic understanding of the cultural and legal background to asset based lending and Sharia compliant finance and how it can be applied to a range of transactions in Australia and regionally.



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