

[Exposure Draft (AGEB 6/2022) v15.0 of the
AAOIFI Governance Standard (GS) ____
Shari’ah Decision-Making Process

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AAOIFI Governance Standard (GS) _____ “Shari’ah Decision-Making Process” is set out in paragraphs 1-92.

Where the context so requires, the use of the masculine gender shall include the feminine gender and the singular shall include the plural, and vice versa and the word “person” shall include any institution, corporation, firm, partnership, body corporate or other forms of association. The table of contents and headings do not form part of the text of the standard and are for the purpose of convenience and ease of understanding, and may, at times, help in the interpretation of text only. This standard shall be read in conjunction with AAOIFI Shari’ah standard (SS) 29 “Stipulation and Ethics of Fatwa in the Institutional Framework”.

Preface

- PR1 The Islamic finance industry has seen accelerated growth over the last three decades in size, complexity of products and services, and geographic reach. Coupled with the advancements in technology and changes and improvements in the business models of the Islamic financial institutions (IFIs), this growth poses some serious challenges to industry players and regulators.
- PR2 One unique challenge is having in place an effective and efficient Shari'ah Decision-Making (SDM) process which involves different decision-makers, the most important of whom are the Shari'ah supervisory board (SSB) at an institutional level, and the central Shari'ah board (CSB) at a regulator (or national) level. The IFI's management, along with the different organs of Shari'ah and corporate governance, also play an important role in this decision-making, particularly, the honest and complete disclosure of facts by the management. The interplay between the various organs of governance and management is, therefore, an important aspect of the Shari'ah compliance of an IFI.
- PR3 This standard shall be read in conjunction with AAOIFI Shari'ah Standard (SS) 29 "Stipulations and Ethics of Fatwa in the Institutional Framework" and together, the two standards cover the overall process of obtaining and issuing a Shari'ah decision and its implementation.

Introduction

Overview

- IN1 The purpose of this standard is to set out a framework for Shari'ah Decision-Making (SDM), as a function in IFIs, and standardise the SDM practices across the globe.
- IN2 Specifically, it enlists standardised requirements for obtaining an opinion from the SSB and its subsequent implementation by the management. SDM is viewed in two ways – as an operational collaboration between the management and the SSB and as a regulatory requirement for an IFI to ensure Shari'ah compliance in its operations, processes, conduct and offerings. The standard prescribes, inter alia, the key considerations for instituting the SDM process, a set of governance techniques, controls and responsibilities of the various organs of governance involved. The standard identifies the certain significant psychological tendencies at the end of various governance organs that may impact the objectivity of the SDM process.

Rationale for this standard

- IN3 Sound and rational decision-making is an integral part of modern financial management to achieve organisational goals in an effective and systematic manner. Shari'ah compliance is the core and essence of an IFI to safeguard its integrity and credibility in offering Islamic financial services. An IFI's organisational goal is primarily achieved through cooperation and collaboration between the various management organs and the SSB in order to make and implement operative Shari'ah decisions.
- IN4 AAOIFI Shari'ah Board has previously issued a Shari'ah Standard (SS) namely AAOIFI SS 29 "Stipulation and Ethics of Fatwa in the Institutional Framework". However, the SS 29 deals primarily with the Shari'ah requirements related to the issuance of Fatwa, and is essentially applicable to the SSB of an IFI.
- IN5 SDM is a continuous, critical and dynamic activity that can influence the growth, profitability and reputation of an IFI. Hence, there is a need to develop an end-to-end control framework to minimise the possibility of making a Shari'ah decision that may undermine the Shari'ah validity of a product. Such a decision may also trigger a reputational risk for the IFI and even the industry as a whole.
- IN6 This standard aims to facilitate a greater level of harmonisation and convergence in the area of SDM in IFIs. Standardisation of SDM practices will provide clear-cut guidelines to an IFI's management and the Shari'ah compliance function, enabling them to perform their jobs efficiently and effectively.
- IN7 Since there is no globally accepted mechanism or control framework for SDM to reduce instances of contradictory Fatwas issued by different SSBs for the same / similar product, there is a need for a standard in this area to enhance the confidence of the broader stakeholders of the Islamic finance industry.
- IN8 There are mainly two aspects of SDM process in IFIs. Firstly, making and issuing a Shari'ah decision (normally in the form of a Fatwa by the SSB); and secondly, the overall governance

process behind the issuance of a Shari'ah decision and its subsequent implementation. AAOIFI SS 29 "Stipulations and ethics of Fatwa in the institutional framework" covers the first aspect. However, it has been observed that the governance aspect in the process of SDM in IFIs is exposed to various risks. This standard thus aims to provide detailed guidance to enhance the relationship and collaboration between the SSB and an IFI's management with regard to SDM.

[Exposure Draft (AGEB 6/2022) v15.0]

AAOIFI Governance Standard (GS) _____

Shari'ah Decision-Making Process

Objective of the standard

1. The objective of this standard is to set out a comprehensive framework for the Shari'ah Decision-Making (SDM) process for the Islamic financial institutions (IFIs) and Islamic finance transactions, while complementing the AAOIFI Shari'ah standard (SS) 29 "Stipulation and Ethics of Fatwa in the Institutional Framework".

Scope

2. This standard shall apply to all IFIs, other institutions¹ and Islamic finance transactions with regard to their respective SDM process, involving all governance organs, internal and external stakeholders, as well as, central Shari'ah boards (CSBs).

Relationship with other standards

3. This standard shall be read, understood and applied in conjunction with other AAOIFI Governance Standards (GSs) in general and with AAOIFI SS 29 "Stipulation and Ethics of Fatwa in the Institutional Framework", AAOIFI GS 8 "Central Shari'ah Board" and AAOIFI Code of Ethics for Islamic Finance Professionals, in particular.

Definitions

4. For the purpose of clarity and interpretation of this standard, the following short definitions are relevant:
 - a. Decision-maker – in the specific context of this standard, is the individual or body of individuals, such as a Shari'ah supervisory board (SSB), CSB or board of directors (BOD), entrusted with the responsibility, as well as, the authority to apply his (or their) collective judgment and take a decision (duly complying with Shari'ah principles and rules and considering Maqasid Al-Shari'ah (the higher objectives of Shari'ah)) in respect to any matter related to an IFI's compliance with the relevant Shari'ah principles and rules;
 - b. Islamic Financial Institutions (IFIs) – are financial institutions that operate in line with Shari'ah principles and rules performing banking, insurance / Takaful, capital markets and similar activities and include the stand-alone branches, divisions and windows of conventional financial institutions that offer products and services in line with the Shari'ah principles and rules;
 - c. Jurisprudential arbitrage – in the specific context of this standard, is an effort to develop a transaction or product which is seemingly Shari'ah compliant, while

¹ Other institutions that operate and conduct their activities in line with Shari'ah principles and rules.

circumventing the generally applied Shari’ah principles and rules through, for example, unjustified use of (i) options available under different schools of thought, (ii) juristic stratagems (Heelas), (iii) law of necessity (Dharurah) and / or (iv) public interest (Maslahah) [See paragraphs 8/1 to 8/6 of AAOIFI SS 29 “Stipulations and Ethics of Fatwa in the Institutional Framework”];

- d. Non-disciplinary Fatwa – is an opinion that is based on self-interest and not on proper evidence, does not follow the principles of Fatwa, and / or accumulates weak opinions leading to an opinion not acceptable by any school of thought in line with AAOIFI SS 29 “Stipulations and Ethics of Fatwa in the Institutional Framework”;
- e. Shari’ah decision – in the specific context of this standard, includes any Fatwa (issued by an SSB, being the sole authority for issuing a Fatwa) or other directive or resolution issued by the respective organs of governance in line with their respective responsibilities and authorities with or without the inputs from the management in relation to an IFI’s operations, products and services, general activities or policies which have an implication or is related to the compliance of the IFI with Shari’ah principles and rules (duly considering Maqasid Al-Shari’ah and respective Maqasid Al-Uqood);
- f. Shari’ah Decision-Making (SDM) process – in the specific context of this standard, is an objective, consultative process to obtain, issue and implement a Shari’ah decision in respect of an IFI(s), other institution(s) or Islamic finance transaction(s);
- g. Shari’ah principles and rules – comprise the Shari’ah principles and rules defined by the following hierarchy, as appropriate:
 - i. the Shari’ah standards issued by Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI);
 - ii. the regulations issued by the respective jurisdiction’s regulator insofar as these entail the regulatory Shari’ah requirements;
 - iii. the rulings of the CSB for the respective jurisdiction (if there is one);
 - iv. the requirements of the applicable Financial Accounting Standards (FASs) as issued by AAOIFI insofar as these entail Shari’ah related requirements; and
 - v. the approvals and rulings given by the SSB of the IFI²;
- h. Maqasid Al-Shari’ah – are the higher objectives of Shari’ah (Islamic law), which are meant to protect and safeguard human beings through obedience to Allah Almighty as the Creator and in line with Shari’ah principles and rules, achieved through the

² Explanation as per AAOIFI Auditing Standard (AS) 6 “External Shari’ah Audit (Independent Assurance Engagement on an Islamic Financial Institution’s Compliance with Shari’ah Principles and Rules)”: In case of an ambiguity identified during a compliance, audit or rating exercise, as the case may be, with regard to interpretations related to (i) to (iv) above, the SSB’s clarification shall prevail.

preservation of their Deen, life, intellect, progeny and wealth and the prioritisation of necessities followed by needs followed by embellishments and complimentary matters;

- i. Maqasid Al-Uqood (objectives of the contract) – are the objectives for which the relevant contract is legislated as per Shari’ah. [Explanation: the objective of the sale contract is to transfer ownership of the subject matter of the sale to the buyer against a consideration. The objective of Ijarah contract is to transfer ownership of the usufruct of the leased asset against a consideration, and so on. If the sale contract, for example, implies retaining ownership of the subject of sale by the seller till the buyer settles the sale instalments, then this shall negate the objectives of the contract. Similarly, if the contract of Ijarah implies that loss of the subject matter of the lease will be upon the lessee on an absolute basis, then this shall be out of the objectives of the Ijarah contract]; and
 - j. Product development process – is an internal process that an IFI adopts to develop or modify a product or service as a part of its business operations.
5. Other terms used in this standard shall be understood and interpreted in terms of the definitions provided in respective AAOIFI GSs and SSs.

Key areas of the SDM process

6. The key areas of the SDM process for an IFI (individually and collectively as an industry under a regulator’s jurisdiction) can be classified into three broad categories and are discussed in paragraphs 7-20.

Key areas of the SDM process: Fatwas and other SSB decisions

7. The SSB of an IFI is generally the primary organ of SDM in an IFI.³

Product approval⁴

8. The SSB is required to approve products and services offered by an IFI. These products and services can be divided into two categories:
- a. standard products – a Shari’ah decision is required for all products and services offered by an IFI on an ongoing basis, in a standardised format. The process for reaching such decision includes, at a minimum, a review of the following⁵:
 - i. product concept paper;
 - ii. final version of legal documentation;
 - iii. transaction recording and reporting for accounting purposes;

³ CSBs also have a similar role at the jurisdiction level, with a broader mandate and perspective.

⁴ A suggested format for presenting a product approval request to the SSB is provided in Appendix E.

⁵ See paragraphs 61-62

- iv. IT mapping of the product / service in the IFI's core banking system;
 - v. marketing material; and
 - vi. relevant standard operating procedures (SOPs), manuals and product programmes.
- b. non-standard products – a Shari'ah decision is required for agreements for bespoke transactions undertaken by an IFI such as Sukuk, syndication, club-deals or investment proposals. The process for reaching such decision includes:
- i. review of the structure and legal documentation related to the product;
 - ii. review of transaction recording and reporting for accounting purposes; and / or
 - iii. approval, after necessary review, of Shari'ah pronouncement(s) issued by other SSB(s).

Queries⁶

9. The SSB is also required to provide Shari'ah decision for queries raised by the management and different organs of governance. These queries can be classified into three categories:
- a. transactional queries;
 - b. non-transactional queries – related to matters not directly related to specific products and services. These may include:
 - i. financial queries – related to accounting practices, policies on provisions, calculation of Zakah, disbursement of charity amounts, distribution and allocation of expenses and costs between different stakeholders, adjustment of taxation amounts and others; or
 - ii. non-financial queries – related to marketing and promotion, human resources or public relations activities etc.; and
 - c. development queries – related to improvements in standard products either to enhance processes, improve cost efficiency or enhance customer experience.

Observations

10. Issues identified during the audit and compliance exercises should be presented to the SSB for corrective action / decision. The SSB should guide the IFI to adopt a certain course of action in respect of the respective findings for the conclusion and resolution of issues and to avoid any Shari'ah violation in the future.

⁶ A suggested format for presenting queries to the SSB is provided in paragraphs 81.

11. The SSB or any of its members may also raise observations for the consideration of the SSB to initiate the SDM process. These may include the following matters:
 - a. those identified during another agenda point of the SSB;
 - b. those arising as a result of the availability of market information;
 - c. frequent issues arising in a specific area; or
 - d. those resulting from changes in AAOIFI SS or the new regulatory requirements or the CSB's new resolutions.

Key areas of the SDM process: Fatwas and other CSB decisions

12. A CSB, in respect of the SDM process, shall follow the same principles as generally applicable to an SSB as discussed in paragraphs 8-11.
13. However, it is possible that the SDM process for a CSB is different from an individual IFI's SSB and may result in altogether different decisions. This is primarily due to a CSB having regard to the following factors, besides others, that impact the SDM process:
 - a. a broader picture and macro vision for each decision, whereas an individual SSB's micro vision is specific to a particular IFI and its stakeholders;
 - b. due consideration to the wider interests of the overall Islamic finance industry in a jurisdiction and its long-term development, as opposed to the specific interests of an individual IFI;
 - c. due consideration to the public interest;
 - d. due consideration to socio-economic developments and other national and global objectives in the broader context of national interest;
 - e. more consideration of the overall ethical behaviour and upholding of values by the overall Islamic finance industry;
 - f. more consideration to Maqasid Al-Shari'ah, particularly with regard to reconsidering the individual permission of controversial products not in line with Maqasid Al-Shari'ah; and
 - g. consideration of the precepts of do no harm, non-malevolence, do justice and etc..
14. The CSB shall be the sole authority in the respective jurisdiction to interpret and decide in respect of the matters mentioned in paragraph 13. Once a ruling / resolution of the CSB is issued, the sole authority to interpret and apply the same in the specific context of an IFI shall be the SSB of the respective IFI.

Key areas of the SDM process: Decisions by the management and the organs of governance other than SSB

15. While the primary authority for SDM in an IFI is generally the SSB, there are several aspects of SDM which are the responsibility of overall governance organs other than the SSB. This is mainly because of several peculiarities in relation to the SSB's function, as follows:
- a. the SSB's primary role does not include business decisions (such as which product to choose if multiple options are permissible but have differences from the perspective of Maqasid Al-Shari'ah);
 - b. the SSB's involvement is limited to the advisory / supervision for SDM, while the responsibility for conduct of business rests with those charged with governance and management; and
 - c. the SSB may suggest but cannot impose a decision that is based on recommended, but not mandatory, higher standards of ethics and values.

Decisions of those charged with governance

16. Those charged with governance govern the IFI on behalf of the owners and are the ultimate authority for setting the strategy and the tone for business operations and relevant decision-making. They shall always ensure that the IFI makes the right choices from among the different Shari'ah compliant options available while giving due weightage to ethics, values (such as fairness and transparency), rights and expectations of the relevant stakeholders and Maqasid Al-Shari'ah.
17. Those charged with governance shall ensure that the internal policies of an IFI are developed in a manner that the SDM processes of the management and governance organs are in compliance with the requirements of this standard.

Decisions of senior management

18. Senior management is normally the authority for business operations and relevant decision-making in an IFI. As a part of the day-to-day functioning of an IFI, senior management has to apply its judgment to the decision-making process. While the overall strategy is to be approved by the board of directors, the development of such strategy and its implementation are primarily the domain of the senior management.
19. The most crucial test for an IFI's senior management is making the right choices within multiple Shari'ah compliant options while managing a delicate balance between the expectations of the relevant stakeholders, Maqasid Al-Shari'ah and operating in line with institutional policies.

Decisions of SCD, PD, ISA and other organs⁷

20. The SCD, PD, ISA and other relevant organs of governance / functions of management have to play their respective roles in the SDM process. Their role is primarily with regard to providing the eventual Shari'ah decision-makers with relevant and useful information and research that will enable them to take the right decisions.

Significant considerations in SDM

21. Shari'ah decision-makers should take into consideration the factors that may influence the outcome of a Shari'ah decision and how it may adversely affect the overall Shari'ah compliance of an IFI. These factors are:
- a. avoidance of non-disciplinary Fatwa and jurisprudential arbitrage (see paragraphs 22-28);
 - b. consideration of Maqasid Al-Shari'ah (see paragraphs 29-33); and
 - c. avoidance of psychological tendencies (see paragraphs 34-37).

Avoidance of non-disciplinary Fatwa and jurisprudential arbitrage

22. An IFI, in all cases, shall avoid non-disciplinary Fatwa and jurisprudential arbitrage. The objective of Fatwa research should be to find the most authentic and reliable opinion that is suitable for the respective circumstances. It shall not merely be aimed towards obtaining an approval in favour of a predetermined outcome, while jeopardising the objectivity of the process.
23. In the normal context of an IFI, non-disciplinary Fatwa may generally not apply due to the existence of an established SSB in line with AAOIFI GSs and / or the respective regulatory requirements. However, there is a remote risk of another form of non-disciplinary Fatwa occurring in IFIs by way of the intentional replacement of scholars within the SSB, intended to primarily attain the same objective of non-disciplinary Fatwa. If the continuing members of SSB become aware of such a situation, they shall consider an appropriate course of action.
24. It is highly recommended, on account of good professional and ethical practice, that in case the newly appointed members of an SSB or other Shari'ah decision-maker(s) intend to change a previous Fatwa, they should preferably consult their predecessors (via management where necessary) to understand the rationale and basis of conclusion for the earlier decision. This would significantly improve the objectivity and accuracy of conclusions reached in the SDM process.

⁷ Shari'ah compliance department (SCD), product development (PD), internal Shari'ah audit (ISA)

25. An IFI shall, in no case, be involved in the proactive search for a scholar(s) and / or Shari'ah consultancy firm(s) with the intent to provide favourable Fatwas for a predetermined outcome, including the replacement of SSB members primarily with such intention.
26. Where a Shari'ah scholar, competent for membership of an SSB, becomes aware that the primary purpose of his appointment in place of another scholar is non-disciplinary Fatwa, accepting such an appointment will be considered a breach of good governance and ethical requirements.
27. A Shari'ah decision-maker, in order to avoid non-disciplinary Fatwa, shall always ensure compliance with the Shari'ah principles and rules and strictly according to their respective hierarchy, as defined under AAOIFI GSs. (See paragraph 4(g))
28. During the SDM process, a Shari'ah decision-maker shall consider the impact of the decision on the reputation of the IFI, as well as, the Islamic finance industry as a whole.

Consideration of Maqasid Al-Shari'ah

29. Islamic finance is not limited to the Shari'ah compliance in terms of the legal form of its transaction structures. It also includes its substance with due consideration to Maqasid Al-Shari'ah and upholding the ethics and values of Islam. Accordingly, the SDM process shall take into consideration the following (in order of hierarchy):
 - a. Shari'ah principles and rules; and
 - b. Maqasid Al-Shari'ah with due consideration of:
 - i. Maqasid Al-Uqood;
 - ii. ethics and values^{8 9}, particularly, maintaining Adl and preferring Ihsaan for the purpose of fairly balancing the mutual interests of the contracting parties;
 - iii. legitimate business objectives and institutional sustainability; and
 - iv. corporate social responsibility and sustainability considerations¹⁰, public interest, the laws of the relevant jurisdiction (unless such law contravenes Shari'ah principles and rules) and so on.
30. An IFI's SDM process shall, at all times, take into consideration Maqasid Al-Shari'ah. Where necessary, the Shari'ah principles and rules shall be understood and interpreted in the context of the relevant Maqasid Al-Shari'ah. In particular, it is highly recommended that whenever two different conclusions under Shari'ah principles and rules are acceptable, the

⁸ See AAOIFI Code of Ethics for Islamic Finance Professionals

⁹ Also see IFSB-9 "Guiding Principles on Conduct of Business for Institutions Offering Islamic Financial Services"

¹⁰ See AAOIFI GS 7 "Corporate Social Responsibility, Conduct and Disclosure for Islamic Financial Institutions"

Shari'ah decision-maker(s) shall give preference to the conclusion which is more aligned with Maqasid Al-Shari'ah.

31. As Islamic finance is meant to be a values-based service, IFIs are encouraged to give due consideration to best practices of values-based and responsible financial services, as well as, the social and the societal aspects such as those contained in the United Nations Sustainable Development Goals (SDGs), United Nations Principles for Responsible Investments and the United Nations Environment Program Principles for Responsible Banking^{11 12} in their SDM process. The principles encompass social, economic and environmental dimensions of development and responsible behaviour, among others, and these aspirations are largely in line with the principles and objectives of Shari'ah. IFIs should consider incorporating such principles (insofar as considered Shari'ah compliant) in their decision-making to enhance the value proposition of their Shari'ah compliant products and services.
32. It is important to understand that the compliance with the requirements of paragraphs 30-32, is not primarily the responsibility of the SSB of an IFI (although it has to play its due role). In normal circumstances, whenever two different options within Shari'ah principles and rules are available, the SSB will identify and justify the permissibility of both. At this stage, the senior management and, at times, those charged with governance have a more important role in such decision as they need to choose one of the two (or more) permissible options to be applied in the conduct of business of the IFI.¹³
33. The CSB and the respective regulator are expected to apply the requirements of paragraphs 30-32 in their respective jurisdictions. In particular, it is understood that the CSB, owing to its very nature and responsibility, needs to give due consideration to Maqasid Al-Shari'ah.¹⁴

Avoidance of psychological tendencies

34. The SSB and all organs of governance and other stakeholders (including external Shari'ah auditors, external auditors, consultants and lawyers) shall make a conscious effort to avoid psychological tendencies (or biases) that may lead to deficient SDM.
35. The SSB and all organs of governance of an IFI shall be well aware of these psychological tendencies. Where necessary, sensitisation sessions shall be arranged for all concerned for the identification and avoidance of such psychological tendencies. (See paragraphs 38-60)

¹¹ <https://sdgs.un.org>

¹² Also see the paper on "Why Islamic finance for sustainable development goals? principles of Islamic finance: their relevance to SDGs" by Dr. Salman Syed Ali.

¹³ For example, the chairman of the board of directors of a large, global IFI preferred not to allow certain controversial products (such as Tawarruq) in his institution. Despite being permissible in limited situations, such products are not encouraged for the Islamic finance industry due to their socio-economic consequences and excessive reputational risk to the industry.

¹⁴ For example, there are regulators who do not allow certain controversial transactions at all (with or without a supporting decision by their respective CSBs) as a matter of public policy, although such transactions may be termed permissible under the relevant Shari'ah principles and rules.

36. All organs of governance and the management of an IFI, including in particular the SCD, ISA and PD functions, shall ensure at all times that the matters related to SDM are always documented, presented and reported for decision-making at all levels, particularly at the level of SSB, in a manner that these are free from such psychological tendencies.
37. Certain psychological tendencies that are more relevant to the SDM are discussed in paragraphs 38-60.

Explanation of psychological tendencies related to SDM¹⁵

Framing tendency

38. Framing tendency in decision-making refers to the situation when a decision-maker makes a decision based on the way the information is presented, as opposed to on the facts themselves.
39. An important aspect of SDM is the verification of the matter (Tahqiq Al-Manat)¹⁶, which requires a Shari'ah decision-maker (or an SSB) to:
 - a. get an accurate description of an issue and have it presented before him to enable understanding of the very nature of the issue; and
 - b. apply the relevant Shari'ah ruling.
40. Verification of the matter includes how the issue has been presented or framed. The issue shall always be framed in a neutral, objective, factual and simplified manner, while reasonably explaining all the relevant key points and their likely tendencies.
41. The SDM process, at all levels, relies on the nature of the information presented and on the manner in which it is presented. There is a strong likelihood that the decisions may be influenced by the limitation and accuracy of the information or the manner and style of its presentation.

Anchoring tendency

42. Anchoring tendency refers to the common tendency of giving disproportionate weight to the first information received. During decision-making, an initial impression, estimate or idea may have an excessive impact on subsequent thoughts and judgments.
43. Anchoring tendency may affect the SDM process whereby all possible / viable solutions to the issue under discussion may not be given due consideration and attention. This risk cannot be countered unless reasonable research in an unbiased manner is conducted on all possible solutions and each one of them is evaluated on merit, ignoring initial impressions.

¹⁵ Examples of the common psychological tendencies are provided in Appendix B.

¹⁶ Tahqiq Al-Manat is to perform Ijtihad (deductive reasoning) for applying the correct Shari'ah ruling on the matter presented.

Status quo tendency

44. Status quo tendency refers to the situation where a decision-maker may consider a prevailing practice as a reference point, and may render other alternatives that vary from that baseline as inferior or undesirable. Adhering to the status quo may limit SDM options, hence it is important to avoid any emotional bias and preference for the current state of affairs.
45. Shari'ah decision-makers (particularly the SSB) should consider the following status quo tendencies which can influence SDM, particularly where an earlier Fatwa was made based on facts and circumstances that may have changed over time or when there is a reason to believe that the existing practice is based on aspects not originally envisaged when the Fatwa was issued:
 - a. managerial influence – where the management displays a strong bias in favour of a specific solution to an issue because it intends to maintain the status quo (e.g., current practice or features of existing product or service);
 - b. resistance against new initiatives – where the Shari'ah decision-makers do not support an innovative proposal due to inertia and perceived challenges; and
 - c. scholarly reputation – where a product or service is approved or rejected by a reputed / influential Shari'ah scholar (or scholars), and it becomes a challenge for other Shari'ah scholars to question it or suggest an alternative due to the reputation or influence of those who initially approved or rejected it.

Confirming-evidence tendency

46. Confirming-evidence tendency is the tendency to search for or favour evidence and information that confirms one's pre-existing beliefs or hypotheses.
47. Confirming-evidence tendency may affect a conclusion if a Shari'ah scholar seeks only the confirming juristic pieces of evidence in classical literature to validate his pre-existing beliefs regarding a contemporary case and ignores any evidence contrary to that. The same applies to the management and / or SCD, when, in presenting to the SSB, presents selected research and information on the respective issue, without showcasing appropriate alternative options with relevant evidence.
48. The SSB shall consider the information that challenges its prevailing point of view and ensure that adequate information supporting multiple solutions to the issue under consideration is available.
49. The management of the IFI shall, in no case, exert pressure on the SSB or any of its members to approve a product or service merely on the ground of contemporary precedence (e.g., that it was approved by a reputed / influential Shari'ah scholar(s), peer(s), another school of thought or by a competitor).

Exaggerated threat of financial loss tendency

50. The exaggerated threat of financial loss tendency (also called loss aversion bias) is the influence on the decision-making process whereby the risk of loss outweighs the perception of the probability of gain. The SDM process is at times intimidated or influenced by exaggerated claims of financial loss by the management in case of disapproval of a certain product / service. The definition of necessity, in this context, is often stretched to include losses in the normal course of business.
51. In cases where there is a genuine risk of a significant financial loss due to a specific Shari'ah decision, the management shall provide the Shari'ah decision-maker(s) with a detailed understanding of the actual underlying reason and the extent of the loss based on facts and evidence, including where necessary statistical, financial and economic data, rather than be pressured by mere threats of loss.

Availability tendency

52. Availability tendency refers to the human tendency of relying on immediate examples that come to a person's mind when evaluating a specific topic, concept or decision. Frequent and recent cases may impact the conclusions reached by Shari'ah decision-maker(s) about a new case that partially bears a resemblance to recent cases.
53. Shari'ah decision-maker(s) shall consider, and shall be provided with information about similar cases, earlier decisions and situations, including any earlier Fatwa(s), when making a decision.

Fundamental attribution error tendency

54. The fundamental attribution error tendency (also known as correspondence bias or over-attribution effect) refers to the tendency of over-emphasising the role of personal traits and internal factors, coupled with under-emphasising the situational explanation and external influences for explaining a phenomenon.
55. In other words, the Shari'ah decision-maker(s) may have a cognitive bias to assume that a person's actions depend on what kind of person he is, rather than on the social and environmental forces that influence the person. To avoid such tendency, and to objectively analyse an issue, the Shari'ah decision-maker(s) should be aware of the influences of both external and internal factors contributing to a specific phenomenon.

Halo effect and reverse-Halo effect

56. Halo effect refers to the tendency of allowing a positive impression (arising because of specific traits) about an individual, department or institution in one area to positively influence one's decision or opinion in another area(s).
57. Reverse-Halo effect is the opposite of Halo effect where a negative impression (arising because of specific traits) about an individual, department or institution in one area can negatively influence one's decision or opinion in another area(s).

58. In SDM, the pre-existing positive or negative impressions of the Shari’ah decision-maker(s) about an individual, department, function, team or institution may favourably or adversely impact the respective decision.

Overconfidence tendency

59. Overconfidence tendency refers to the excessive confidence in one’s own ability and accuracy when answering questions or making a decision. The first effect of this tendency is that the SDM due process may be compromised and insufficient research and consultation may have been conducted, as otherwise would be necessary to find a conclusion to the issue. It can have significant adverse effects on the ability of the Shari’ah decision-maker(s) to reach the right decision.

Self-serving tendency

60. Self-serving tendency refers to the common human tendency to claim more responsibility for successes than for failures or to evaluate ambiguous information in a manner that is beneficial to one’s own interests.

Product development

Product development process in IFIs¹⁷

61. Product development process is an important element of decision-making in IFIs. The purpose of this process is to address the customers’ needs via an optimal product / service solution which is both efficient and effective and successfully passes through the filters of legal, regulatory, risk, Shari’ah compliance, etc..
62. Some of the risks that affect SDM arise due to the absence of a comprehensive product development process in an IFI. To minimise these risks, IFIs should follow the suggested process¹⁸ (see Appendix F) for their product development¹⁹.

Roles and responsibilities of various organs of governance involved in SDM²⁰

Shari’ah supervisory board (SSB)

63. In line with the requirements of paragraphs 34-36, the SSB shall at all times and in all situations make all endeavours to avoid the applicable psychological tendencies. In particular, the SSB shall follow the requirements of paragraphs 64-68 to manage significant risk emanating from such tendencies.

¹⁷ Refer to Appendix E for procedure for proposing an agenda or a new product to the SSB and Appendix F for product development process flow.

¹⁸ This product development process applies to new products and in cases of substantial change / variation in the existing product. At a minimum, the product design and documentation (including SOPs and manuals) must be reviewed by the SSB.

¹⁹ See paragraph 51(e) of AAOIFI GS 9 “Shari’ah Compliance Function”

²⁰ Refer to Appendix D for more details on the key stages for the SDM process and the relevant flow chart.

64. The SSB should not automatically accept the initial frame formulated by any member of the SSB or the SCD or the management. A conscious effort should be made to challenge the initial framing and to come up with a plausible alternative(s).
65. The SSB should evaluate and analyse all options available in their decision-making process to overcome the status quo tendency. Exaggerating the effort or cost involved in departing from the status quo should be avoided.
66. The SSB should minimise the risk of the anchoring tendency (and where applicable, the availability and fundamental attribution error tendency) by using alternative starting points and approaches rather than continuing with the first line of thought. Shari'ah scholars should be open-minded with the capability to analyse problems independently before consulting other stakeholders (to avoid being anchored by their ideas or being impacted by other psychological tendencies). The SSB should also be vigilant to avoid being misguided or misled by advisors, consultants and regulators. SSB members should be willing to consult third parties but must maintain their own independence of judgment.
67. To circumvent the confirming evidence tendency (and the availability tendency), the SSB should examine the evidence with equal rigor, and avoid the tendency to accept confirming evidence without interrogation or examination. One of the SSB's members may act as an opponent to argue against the decision being contemplated. All possible juristic solutions should be explored before drawing a Shari'ah resolution. In seeking the advice of other experts, leading questions that invite confirming evidence should be avoided.
68. If the SSB concludes that there are multiple Shari'ah compliant options but some are more worthy than others on the basis of considering Maqasid Al-Shari'ah, it should provide necessary guidance and recommendation to the management.

Limited delegation of authority

69. In case of limited delegation of authority²¹ by the SSB (normally to one of its members) in line with the relevant AAOIFI GSs and the regulatory framework, the delegated officer so entrusted shall:
 - a. have knowledge of, and should keep in view the respective hierarchy of, Shari'ah principles and rules as prescribed by AAOIFI;
 - b. be obligated to give his response / answer in line with the terms of reference of the specific delegation of authority by the SSB; and
 - c. be free of any conflict of interest with the business and operational functions of the IFI.
70. The Shari'ah decision by the delegated officer must be ratified in the next SSB meeting or via circulation or in line with the relevant terms of reference.

²¹ The sole authority for issuing a Fatwa in an IFI is its SSB. See paragraph 4(e).

71. The SSB can delegate specific responsibility to one of its members with more expertise and knowledge in a certain area; however, this does not absolve the other SSB members of their responsibilities.

Minimum contents of a Fatwa

72. A Fatwa document issued by the SSB shall include the following as a minimum requirement:
- a. product structure – explained in appropriate detail with the help of process flows;
 - b. documentation of the underlying contracts;
 - c. original query / observation presented to the SSB;
 - d. the Shari’ah ruling;
 - e. controls for potential major / pervasive Shari’ah non-compliance risks;
 - f. Shari’ah basis of the issued Fatwa;
 - g. reservations and dissenting opinions, if any, along with the reasons for such reservation or dissent, and the name and signature of the respective member(s)
[Note: Dissenting opinion is to be made available (in case of publishing of Fatwa) to the general public only if so required by the respective regulator];
 - h. signature of all consenting members of the SSB – whereby the signature on the Fatwa by the members is an indication of their approval; and
 - i. date of issuance of the Fatwa.
73. It is also preferred, where applicable, that a Fatwa shall provide guidance in respect of the timing of, and conditions for, recognition of relevant revenues, assets and liabilities.

Shari’ah compliance department (SCD)

74. The SSB may delegate some tasks to a delegated officer in the SCD.
75. The SCD shall review the legal documentation, risk management analysis prepared by the respective department, accounting treatment for verification of queries / proposal and the resultant impact of the potential Shari’ah decision, before forwarding the query / proposal to the SSB. This will ensure that a Shari’ah decision has not overlooked the legal, accounting or risk management aspects, which are significantly and directly related to an IFI’s operations, reputation and sustainability.
76. Once a Shari’ah resolution is made, the SCD should revert to the legal, accounting and risk management departments to examine its impact on the IFI’s operations.

Mechanism for revisiting a previous Fatwa

77. It is the responsibility of the SCD to have in place a mechanism for review of a previous Fatwa, duly approved by the SSB. This is to verify whether the conditions and basis on which

the Fatwa was previously issued still exist. If necessary, the SCD shall recommend that the SSB revisit such Fatwa based on its findings.

78. When new regulations are imposed, it is the responsibility of the SCD to inform the SSB regarding their applicability.
79. It is the responsibility of the SCD to inform the SSB about contradicting views (if any) between AAOIFI Ss, regulatory guidelines, CSB rulings and the IFI's SSB decisions, as the case may be.
80. If a newly formed SSB attempts to change a previous Fatwa, the SSB shall consider taking the views of the former SSB members.

Format for presenting queries to the SSB

81. The format shall include the following as a minimum requirement:
 - a. query owner (name of the function / department raising the query);
 - b. nature of the query (transactional, non-transactional or observation);
 - c. type of the query (sub-theme under the nature of the query such as related to Sukuk or pool management);
 - d. background / purpose of the query; and
 - e. necessary detail [the query owner shall provide complete and correct information to the SSB enabling them to make an objective Shari'ah decision].

Research on Shari'ah issues

82. The SCD shall ensure that proper research and analysis are available on Shari'ah issues, where required, under the guidance of the SSB.

Management

83. The accuracy of a Shari'ah decision depends on obtaining complete, accurate and objective information. It is the responsibility of the management to provide the requisite information truthfully, objectively and comprehensively. It is also the responsibility of the management to refer all Shari'ah-related matters to the SSB for a decision.
84. The management shall ensure that adequate time is given to the SSB to review and discuss all information / documents, commensurate with the details, complexity and volume of such information / documents.
85. The management shall not insist that the SSB approve a product / service because it was already approved by other scholars or peers or opposite schools of thought or a competitor. The management shall avoid the practice of non-disciplinary Fatwa. (See paragraphs 22-28)

86. Where a decision made by the SSB requires further clarity, the management shall avoid using its own judgment and interpretation and shall refer the matter back to the SSB for further clarification as needed.
87. The management shall ensure that adequate training and guidance are provided to the staff on relevant Shari'ah decisions and their implications on the IFI's operations and products and services.

Reporting mechanism, training and culture

88. An IFI should preferably have in place an implementation and reporting mechanism to ensure that the SDM process is carried out as per the requirements of this standard. The SCD shall be the process owner for such implementation and reporting mechanism. The SCD should also agree with those charged with governance, the management and the SSB on such mechanism and criteria.
89. The management shall ensure proper sensitisation and training are provided to the respective organs of governance and relevant staff with regards to effective SDM process and applicable psychological tendencies. Those charged with governance and the SSB shall self-evaluate their understanding in this area, and shall consider adopting a continuous professional development (CPD) mechanism.
90. Those charged with governance, management and the SSB shall jointly contribute to creating a culture for effective SDM. A proper culture and environment can contribute to creating the right values and help in developing an effective SDM process. Such culture may not be developed unless the tone at the top is clear in this respect.

Effective date

91. This standard shall be effective from 01 January 2024. Earlier application is encouraged.

APPENDICES

Appendix A: Adoption of the standard

This standard was presented for the approval in the AAOIFI Governance and Ethics Board's meeting No. _____ held on _____, corresponding to _____ and was duly approved.

Members of the Board

1. Mr. Mohammad Farrukh Raza (chairman)
2. Dr. Walid Hegazy (deputy chairman)
3. Dr. Abdulbari Mashal
4. Mr. Abdullah Almoqbel
5. Dr. Abozer Magzoub
6. Dr. Ahmet Albayrak
7. Dr. Ali Sartawi
8. Mr. Ebrahim Sidat
9. Ms. Ibtihal Alshamali
10. Prof. Mohammad Kabir Hassan
11. Mr. Moosa Khoory
12. Mr. Muhammad Kasbati
13. Mr. Sohaib Umar
14. Mr. Wael Merza
15. Mr. Zahid ur Rehman Khokher

Reservation

The standard was approved unanimously.

Working group members

1. Dr. Abdulbari Mashal (chairman)
2. Dr. Ahcene Lahsasna
3. Mr. Ahmed Ali Siddiqui
4. Dr. Ali Sartawi
5. Sh. Ashraf Gomma Ali
6. Mr. Ebrahim Sidat
7. Mr. Faisal Shaikh

8. Mr. Mohammad Farrukh Raza
9. Mr. Moosa Khoory
10. Dr. Saad Bakkali
11. Mr. Sohaib Umar
12. Mr. Wael Merza
13. Dr. Ziyaad Mahomed

Executive team

1. Mr. Omar Mustafa Ansari (AAOIFI)
2. Ms. Zahra Jassim Al-Saraifi (AAOIFI)
3. Mr. Syed Siddiq Ahmed (AAOIFI)
4. Mr. Farhan Noor (AAOIFI)
5. Mr. Alyaa Adel Almahroos (AAOIFI)
6. Dr. Ehsanullah Agha (Executive Assistant)
7. Mufti Mohamad Nadim (Honorary Executive Assistant)

Appendix B: Examples of psychological tendencies

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>1. It is said that a Mufti at times is greatly influenced by the Fatwa seeker (as to how the matter is presented and framed). Hence, framing a question is not only a governance issue, it also has a Shari'ah implication. At times, the management, including the SCD and PD teams, comprise of eloquent individuals who try to convince the SSB by way of emotions, choice of words and gestures, presenting their case in a highly convincing manner to the SSB. It is important to understand that in a Hadith the Holy Prophet (PBUH) said: Maybe someone amongst you can present his case more eloquently and convincingly than the other, and I give my judgment in his favour according to what I hear. Beware! If ever I give (by error) somebody something of his brother's, right then he should not take it as I have only given him a piece of fire.²²</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt.²³ • SCD • PD 	<ul style="list-style-type: none"> • Framing tendency • Fundamental attribution error tendency
<p>2. A Fatwa endorsing conventional insurance is attributed to a famous scholar in the early 20th century. It is narrated that an insurance expert explained to him that insurance is like a Mudaraba contract where one party provides capital and the other manages the fund. The said scholar considered it a Shari'ah compliant product based on the limited information presented to him. This was in reality "misframing" of the product.</p>	<ul style="list-style-type: none"> • Independent Mufti 	<ul style="list-style-type: none"> • Framing tendency
<p>3. There is an inevitable risk that the Fatwa seeker may present a case according to his understanding and may ignore certain important aspects (that impact the Shari'ah ruling). In some instances, the Fatwa seeker may deliberately misrepresent (misframe) the matter (to manipulate its Shari'ah ruling). Therefore, rather than relying solely on the questioner (Fatwa seeker), Imam Muhammad, a famous Muslim jurist, used to visit markets to understand the nature of businesses and the prevailing commercial trends in order to enhance his own understanding of the contemporary practices.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • SCD • PD 	<ul style="list-style-type: none"> • Framing tendency

²² Mishkat Hadith No. 638. Vol. 3

²³ Senior management

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>4. The SSB of an IFI asks the management to block certain merchant codes for the credit / debit card transactions as these merchants are providing goods and services which include predominantly impermissible goods and services. To increase the size of their credit card portfolio, the PD team and the senior management requested the SSB to allow the unblocking of several merchants. In their view, such prohibition not only hinders the growth of the IFI's credit card portfolio but also impacts the growth of the saving and current accounts, as the users of debit cards also want such services.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • PD 	<ul style="list-style-type: none"> • Confirming-evidence tendency • Exaggerated threat of financial loss tendency • Fundamental attribution error tendency
<p>5. The management makes a presentation to the SSB showing that only 10% of the banking business in the country has been converted to Islamic banking, whereas the population is 90% Muslim. In the next agenda item, the management requests the SSB to approve a highly controversial product by framing it as (i) the product would encourage more people in the country to move away from conventional to Shari'ah compliant financing; and (ii) the product is user-friendly and its take-up is likely to be fast, thus increasing the Islamic banking market share. The SSB approves the product, not due to its merit, but due to the way it was presented and anchored to the overall position of the Islamic banking industry.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. 	<ul style="list-style-type: none"> • Framing tendency • Anchoring tendency
<p>6. The management of an IFI presents a product for approval to the SSB, which although permissible, has significant operational deficiencies from a Shari'ah compliance control perspective. The SSB has a view that the product if implemented will not meet compliance requirements. The management, mainly represented by the PD, strongly argues that (i) innovation in financial services is considered to be a key to success; (ii) as with any new and innovative product, the first version is always a bit rough on the edges; and (iii) it is through an evolutionary process of hard trial and testing that a product sees refinements until a near-perfect product is achieved. As such, demanding perfection from the get-go is unrealistic and impractical. PD emphasised on these aspects partly due to the need to achieve the department's KPIs of launching five new products annually, meeting which is a must to be eligible for performance incentive / bonus.</p>	<ul style="list-style-type: none"> • SSB • PD 	<ul style="list-style-type: none"> • Framing tendency • Fundamental attribution error tendency • Self-serving tendency

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>7. The management of an IFI presents a new transaction to the SSB. The style of presentation was such that they presented the process flow of a competitor IFI's product which had previously been discussed and rejected in an earlier SSB meeting. In this meeting, the management had requested the SCD to identify the key issues in the product that were the reasons for its earlier rejection. The PD presents the alternative changes to avoid the control deficiencies in the earlier product, as listed down by the SCD. Based on these presentations, the SSB approves the product. However, the way that the product was presented did not allow the SSB to consider other aspects of the product or to conduct sufficient research on the product independently or to consider the broader objectives of Shari'ah.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt • SCD • PD 	<ul style="list-style-type: none"> • Framing tendency • Anchoring tendency
<p>8. The PD presents a product to an IFI's SSB. The SSB wants a more sophisticated participation-based product. However, PD makes changes to the overall design of the product that it becomes virtually a fixed-return product. The head of PD argues that "the local Islamic banking and finance industry is in its initial fragile stages, and if we try to introduce only ideal products, there will be no market demand as customers are not familiar with such products, and hence the industry will collapse even before taking off, and consequently the country will not get another opportunity to rid itself of Riba". He added that once the industry has taken off, "we can then gradually introduce the ideal modes of financing". The SSB eventually approves the product based on this argument.</p>	<ul style="list-style-type: none"> • SSB • PD 	<ul style="list-style-type: none"> • Status quo tendency • Exaggerated threat of financial loss tendency

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>9. A subsidiary of a global Islamic banking group loses its regulatory status as an IFI on account of continuous and significant non-compliances with Shari'ah principles and rules and relevant regulations. The management is largely to blame for this. The SSB advises improvements from time to time but to no effect. Those charged with governance (of the parent entity) and the principal shareholders are unaware of the real situation and its gravity. As a result, the IFI loses its market share, and more importantly, its competitive advantage. Looking at the performance during the initial years where it posted good profits and the management earned huge performance incentives and bonuses, several years later, those charged with governance asked the local management to re-convert the bank to an IFI. This was a difficult, time-consuming and costly exercise. On top of that, they had already lost competitive advantage.</p>	<ul style="list-style-type: none"> • TCWG²⁴ • Sr. Mgmt. 	<ul style="list-style-type: none"> • Status quo tendency • Self-serving tendency
<p>10. The PD of an IFI presented a structured transaction based on a series of transactions in which each transaction was already considered individually to be in line with Shari'ah principles and rules. However, the eventual effect was the compounding of returns similar to the conventional compounding interest-based products. The way the product was presented to SSB, focusing on the permissibility of each transaction individually, and which were already approved by the SSB (and in some cases other SSBs), resulted in the SSB approving the structured transaction. The senior management, however, took a judgment call even after the product's approval to shelve the product, as it was not in line with the broader objectives of Shari'ah and the similarity with conventional transactions may create a significant reputation risk for the IFI and the whole Islamic banking industry. This call was based on the overarching instruction of the BOD of the IFI that the IFI shall not compromise on any of the broader objectives of Shari'ah and that safeguarding its reputation as an Islamic institution is of paramount importance.</p>	<ul style="list-style-type: none"> • TCWG • SSB • Sr. Mgmt. • PD 	<ul style="list-style-type: none"> • Framing tendency • Availability tendency

²⁴ Those charged with governance (including board of directors, their equivalent and their committees)

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>11. The management of an IFI is facing a decline in profitability due to excess liquidity with no Shari'ah compliant avenues to invest. The management decides to place the money in conventional government bonds. However, it proposed to the SSB in the following manner: The IFI will finance certain individuals through Tawarruq, who will then provide collateral in the form of a mortgage of property and additionally certain interest-bearing government securities. To dilute the Shari'ah non-compliance risk, the collateral will not include the interest receivable on such interest-bearing securities. The SSB approves the proposal. The eventual effect of the transaction is kept hidden from the SSB whereby the individuals are used as SPVs to purchase and hold the interest-bearing securities on behalf of the IFI and are given a very small spread against their service (and for providing partial collateral through the mortgage of their property). On the books of the IFI, only financings based on Tawarruq appear.²⁵</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • Treasury • PD 	<ul style="list-style-type: none"> • Framing tendency • Exaggerated threat of financial loss tendency • Self-serving tendency
<p>12. The management may use terminologies that are used in a previous Fatwa issued by the SSB to describe a new situation that may not necessarily be the same to get a similar Fatwa that is favoured by management.</p>	<ul style="list-style-type: none"> • SSB • S. Mgmt. • SCD • PD 	<ul style="list-style-type: none"> • Framing tendency • Anchoring tendency • Confirming-evidence tendency

²⁵ According to paragraph 4/3 of AAOIFI SS 39 "Mortgage and its Contemporary Applications" it is not allowed to keep interest bearing commercial paper (e.g., bonds) as a security in Islamic financing transactions.

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>13. The SSB of a Takaful entity approves a conventional reinsurance product allowing certain exemptions / relaxation. This is approved for the specific purpose of such transaction (as a matter of necessity) at a given point of time, because of certain specific issues the IFI was facing, as well as, the unavailability of Shari'ah compliant re-Takaful at a reasonable rate. Two years later, the management, disregarding the fact that the product was approved with specific exemptions applicable due to the external environment prevalent at that time, continues using the same conventional product on a generalised basis. When SCD raises objections on the same, the PD department and the senior management respond by applying the same rationale applied by the SSB which had given the relaxation in the past. One of the most important arguments of the senior management is that Shari'ah compliant re-Takaful is expensive compared to conventional reinsurance, thus opting for the former makes it uncompetitive.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • SCD • PD 	<ul style="list-style-type: none"> • Status quo tendency • Exaggerated threat of financial loss tendency • Fundamental attribution error tendency
<p>14. Senior management of an IFI presents its arguments in favour of a controversial product by stating that they had taken the opportunity to discuss the product with the regulator, major institutions and high-net worth individuals, and found them all to be positive about it. In fact, the government has also shown interest in it if it is approved by the SSB. They urged the SSB to imagine the uptake for Islamic banking products and services in the country if this product takes off, simultaneously requesting the SSB to see the broader picture.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • PD 	<ul style="list-style-type: none"> • Framing tendency • Confirming-evidence tendency • Status quo tendency • Exaggerated threat of financial loss tendency

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>15. The management of an IFI applies its judgment to secure a lucrative investment opportunity without due approval from the SSB on the grounds that it is a common product, which has been approved by other SSBs including the SSB of the counterparty. ISA later identifies a Shari'ah non-compliance during its audit process, and the issue is escalated to the SSB. The CEO tries to convince the SSB by saying that "whereas we fully understand the gravity of the situation, we request you at the same time to understand our predicament. These are highly challenging and unprecedented times, and a major loss could literally wipe us out of existence. Since it was a time-sensitive matter, we had no choice but to take the decision without consulting you. We had the comfort that the illustrious scholar who is the chairman of the SSB of a competitor IFI has deemed the transaction as Shari'ah compliant".</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • SCD • PD • ISA 	<ul style="list-style-type: none"> • Framing tendency • Exaggerated threat of financial loss tendency • Status quo tendency
<p>16. The CEO of an IFI explains the status quo tendency to the SSB members who he believes to be highly conservative in their Fatwas and fears that they would not approve a uniquely-designed product. He describes to them the status quo tendency as one which "wrongly forces the decision-maker to consider a prevailing practice as a reference point and other alternatives that vary from that baseline as inferior or undesirable". After establishing the premise, he continues, "the beauty of this unique Murabaha product is that it can be implemented in several unique ways as clearly evidenced in the way it is being used in different jurisdictions all over the world. Even though one type of implementation may differ from another implementation, all are deemed Shari'ah compliant. I, therefore, implore you to not be influenced by the status quo tendency and consider the Fatwas issued by scholars of other jurisdictions and approve the product".</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. 	<ul style="list-style-type: none"> • Framing tendency • Status quo tendency • Halo effect and reverse-Halo effect

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>17. The management submits another product derivation of a less than ideal mode of financing to the SSB for approval. The SSB complains and demands them to develop products that promote equity and not debt and hence to create a balance instead of fully relying on debt products. To this, the management responds, “Yes, we agree that IFIs should not promote debt and that too which encourages unjustified consumption, but what else can we realistically do? We have invested heavily—millions of dollars and thousands of work hours—towards implementing these products and achieving a competitive advantage. How can we just do away with them instantaneously? Besides, if equity-based products were commercially viable then other IFIs, bigger than us, would have already launched them. We cannot afford drastic changes in our business model. Let the other IFIs take the initiative and if they do well, we will surely follow”.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • SCD • PD 	<ul style="list-style-type: none"> • Framing tendency • Halo effect and reverse-Halo effect • Fundamental attribution error tendency
<p>18. If a product is approved by famous Shari’ah scholars, and is being practiced for a period of time by multiple IFIs, it often becomes a challenge for a new member of an IFI’s SSB to question it or even to suggest another alternative. When the new scholar challenged it and proposed a new alternative, which is more in line with Maqasid Al-Shari’ah, the SCD provided him research based on the Fatwas given by such senior scholars in respective IFIs, as well as, their published literary work on the issue. The new SSB member approves the existing product. This is partly because of the well-endowed reputation of those who approved it, and partly because of general status quo tendency. Moreover, the research presented by SCD is one-sided.</p>	<ul style="list-style-type: none"> • SSB • SCD 	<ul style="list-style-type: none"> • Status quo tendency • Confirming-evidence tendency • Halo effect and reverse-Halo effect
<p>19. A special SSB meeting is convened to discuss the latest developments in the local market. It was noted that the CSB established by the regulator has now allowed a product which was earlier not allowed due to certain controversies attached to it and due to practical difficulties in the implementation of Shari’ah compliance controls. Senior management, supported by the research from PD, is putting pressure on the SSB that since the CSB has allowed the product, the SSB must also approve it. The SSB believes that it is still better and safer for the IFI to not venture into this new product. The SSB also believes that the IFI’s control structure is not sufficiently robust to ensure that such a transaction will be properly implemented.</p>	<ul style="list-style-type: none"> • CSB • SSB • Sr. Mgmt. • PD 	<ul style="list-style-type: none"> • Confirming-evidence tendency • Halo effect and reverse-Halo effect

Examples	Related organs of governance / management	Psychological tendencies related to SDM
20. A Shari'ah scholar joins the SSB of an IFI as a member. Previously, he worked for a foreign Shari'ah consultancy firm where he set for himself a control checklist to complete before issuing any Fatwa. One of the checklist items was to state the circumstances / constraints under which he was issuing a Fatwa which he periodically revisited for any changes. On the first day of his new role, he finds that the Fatwas issued by the SSB do not follow any such criteria. Also, none of the Fatwas mentioned the basis of conclusion. He is not happy about the status quo but justifies it on the grounds that the other SSB members are reputable and senior scholars and hence their way of working cannot be wrong.	<ul style="list-style-type: none"> • SSB 	<ul style="list-style-type: none"> • Fundamental attribution error tendency • Halo effect and reverse-Halo effect • Overconfidence tendency
21. In an alternative scenario (to example 20), the same scholar tried to convince the other members of the SSB to follow the same checklist approach to ensure that a Fatwa is issued only after consciously deliberating on various aspects and adhering to certain procedures. The proposal was rejected as the other scholars thought that the way they have been working and making conclusions needed no improvement, as well as, a checklist style is needed for juniors and not for top level experts.	<ul style="list-style-type: none"> • SSB 	<ul style="list-style-type: none"> • Status quo tendency • Overconfidence tendency
22. The senior management of an IFI challenges the view of the SSB which did not approve a certain product. The management wants the product approved on the basis that it has been approved by the SSB of another IFI in the jurisdiction. Members of the other SSB are scholars that belong to a different school of thought.	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. 	<ul style="list-style-type: none"> • Confirming-evidence tendency • Halo effect and reverse-Halo effect
23. In the above example, the SSB disagrees with the CEO and concludes that in their view, the other SSB has taken the views from certain references within the classical Fiqh literature, and not the majority view, in order to support their view and approve the controversial product. The SSB concludes that the majority view of classical Fiqh, as well as, AAOIFI SSBs, do not allow such a product.	<ul style="list-style-type: none"> • SSB 	<ul style="list-style-type: none"> • Confirming-evidence tendency

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>24. The PD department of an IFI brings a controversial Tawarruq-based consumer finance product to the SSB for approval. The SSB initially rejects the idea stating that the AAOIFI SS does not prefer Tawarruq-based products for common retail and consumer finance and that Tawarruq should only be used for financing needs that cannot be addressed through other Islamic modes of finance. The justification provided by the management was that the IFI needed such product as customers will not buy other complicated products and would prefer to stay with conventional products if this Tawarruq-based product is not offered to them. It is better to bring them to Islamic finance, because, after all, Tawarruq is Shari'ah compliant, and hence avoids Riba. In addition, the CEO emphasises that the IFI will end up in losses as there are still unutilised funds for which no other product is available. It is therefore also a matter of necessity and public interest for the IFI's survival. The management makes these claims without any supporting consumer surveys or statistical data.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • PD 	<ul style="list-style-type: none"> • Exaggerated threat of financial loss tendency • Availability tendency • Fundamental attribution error tendency
<p>25. An IFI has high liquidity but there is not enough growth in financing assets. Owing to the absence of appropriate sovereign Sukuk and other Shari'ah compliant liquidity instruments, the management of the IFI wants to place the excess liquidity with conventional banks via Tawarruq. The product details are presented before the SSB along with the examples of similar products in different parts of the world. However, the fact that AAOIFI SSs do not allow such transactions is not disclosed. The management puts pressure on the SSB that not approving it will put the IFI in severe financial difficulties. It also mentions that the regulatory capital requirements for placement with conventional banks are near zero, while in case of Islamic financing transactions there is a significant capital requirement and hence will put the IFI under additional and unnecessary competitive pressure. The SSB approves the product without specifying any Shari'ah controls or placement limits. Later it is discovered that more than 60% of the deposits were placed with conventional banks under this product and some conventional banks were utilising the proceeds for non-Shari'ah compliant activities.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • SCD • PD 	<ul style="list-style-type: none"> • Framing tendency • Confirming-evidence tendency • Exaggerated threat of financial loss tendency • Fundamental attribution error tendency • Self-serving tendency

Examples	Related organs of governance / management	Psychological tendencies related to SDM
26. Shaikh Usman is a member of the SSB of an IFI. The SSB is presented with an issue by the SCD that apparently resembles a recent case that was handled by the Shaikh in his capacity as a member of the SSB of another IFI. He relies on his recent judgment considering the two cases are similar and gives the same Fatwa without going through the details and following the whole process that may have resulted in a different conclusion in the specific case of this product (as at times general conclusions do not suit the specific cases).	<ul style="list-style-type: none"> • SSB • SCD 	<ul style="list-style-type: none"> • Availability tendency
27. A matter of investment of excess liquidity with an Islamic mutual fund is presented before the SSB of an IFI. Shaikh Zaki who is a SSB member opposes the idea because he has had a personal experience whereby the women representatives of the fund appeared in attire that was deemed inappropriate by the Shaikh when he met the representative of such mutual fund. This view is taken without adequate analysis of the investment option.	<ul style="list-style-type: none"> • SSB 	<ul style="list-style-type: none"> • Halo effect and reverse-Halo effect
28. A senior scholar who is the chairman of the SSB of an IFI has a high degree of respect for the CEO of the IFI, a senior banker. The Shaikh respects the CEO as a fundamental force for the development of Islamic banking in the country – a fact everyone acknowledges. Whenever a product is presented by the CEO, the Shaikh approves it based on the trust he has for the CEO and does not check all the details with the same rigor that is his normal routine for such requests. In particular, whenever the CEO mentions that the product is necessary for the survival of the IFI and if the product is not approved, the IFI will suffer a big loss, the scholar believes him without further due diligence or questioning.	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • SCD • PD 	<ul style="list-style-type: none"> • Exaggerated threat of financial loss tendency • Halo effect and reverse-Halo effect

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>29. A young but learned Shari'ah scholar is the head of the SCD in an IFI. He spends several weeks critically evaluating arguments in favour of a transaction which he personally deemed impermissible. When his own research efforts fail, he seeks guidance from his teacher and mentor (who is also the chairman of the SSB of the same IFI and is the one who recommended him for this role). Given the shortage of time, the young scholar is only able to put forth one single argument and a partial response to what is a detailed reply from the SSB chairman which, in his estimation, was an off-track explanation of the point under discussion. Eventually, the young scholar mentally rationalises the transaction as permissible not because he is convinced, but because the chairman is in favour of it together with other senior scholars whose breadth and depth of knowledge he greatly admires. He argues to himself that they must know something which he does not.</p>	<ul style="list-style-type: none"> • SSB • SCD 	<ul style="list-style-type: none"> • Status quo tendency • Halo effect and reverse-Halo effect
<p>30. Shaikh Mohammed meets a neighbour every day during Fajr prayers. He does not know enough about him. However, being appointed as the head of SCD in a Takaful company, he comes to know that the said neighbour is head of PD in the same Takaful company. Knowing the neighbour's religious inclination and appearance, Shaikh Mohammed has a very good perception of him. The head of PD then brings a request to the SCD to approve a co-insurance transaction with a conventional insurance company in line with an approval by SSB several years earlier. PD claims that it is very important from a business perspective. Relying on the religious inclination and appearance of the head of PD, and his assurance that he will ensure Shari'ah compliance, Shaikh Mohammed approves the product without going through the details of its earlier approval and the validity of the rational in the current situation.</p>	<ul style="list-style-type: none"> • SCD • PD 	<ul style="list-style-type: none"> • Confirming-evidence tendency • Availability tendency • Halo effect and reverse-Halo effect

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>31. A Shari'ah scholar joins an IFI as a new member of its SSB. As per the tradition, the head of HR takes him for a round of introductions with the heads of various departments. HR first introduces to the CFO, a person who has been associated with the IFI for the last 15 years and has acquired multiple professional accountancy qualifications. He further informs the Shari'ah scholar that the CFO has studied under the illustrious and world-renowned Shari'ah scholar (who also happens to be the chairman of the IFI's SSB) and understands Shari'ah requirements applicable to the IFI better than some of the new scholars in the industry. Highly impressed with the CFO's resume and mannerisms, the new Shari'ah scholar exchanges greetings and engages him in small talk before parting ways. The next day, in an SSB meeting, the CFO begins explaining why a certain accounting treatment is permissible in Shari'ah. The talk is highly technical in content and riddled with jargon most scholars would not (and are not expected to) understand. However, since his sense of conviction in the argument is so strong, the new Shari'ah scholar immediately votes in favour of his argument without fully understanding the core idea.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. • SCD • PD 	<ul style="list-style-type: none"> • Halo effect and reverse-Halo effect
<p>32. An IFI is unfortunately reputed as notorious for its repeated failings in compliance with Shari'ah principles and rules. While the apparent real reason for the malpractices is the poor implementation of Fatwas issued by the SSB, the market participants generally hold the SSB of the IFI responsible. One of the scholars resign from the said SSB and joins the SSB of another IFI. During one of the SSB meetings, the new member points out a legitimate relaxation which could potentially overturn a longstanding Fatwa preventing the IFI from undertaking certain transactions. The colleagues, instead of critically evaluating the point on its merit, shrug it off and say that "our new friend wants to use the principles of necessity and public interest in all matters and in all the IFIs of the country" — even though the relaxation has its own legitimacy and is not due to such principles.</p>	<ul style="list-style-type: none"> • SSB 	<ul style="list-style-type: none"> • Fundamental attribution error tendency • Halo effect and reverse-Halo effect

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>33. The CEO of an IFI supporting a controversial financing project says to the SSB that he personally does not care about the financial impact on the IFI if the transaction is declared non-compliant. Other IFIs are doing this financing project and their SSBs are allowing it. He says that if we continue to promote a conflicting Fatwa in the market, it would have far more damaging consequences on the industry as the public would make a joke about how Shari'ah scholars cannot agree on anything. He pleads to the SSB to approve the product considering the rationale applied by other scholars in order to save the Islamic banking industry from reputational damage. The SSB, considering his sincerity for Shari'ah compliance, and to avoid a conflicting Fatwa, approves the product.</p>	<ul style="list-style-type: none"> • SSB • Sr. Mgmt. 	<ul style="list-style-type: none"> • Framing tendency • Halo effect and reverse-Halo effect • Status quo tendency
<p>34. Shaikh Farhan is an experienced Shari'ah scholar who heads the SCD of an IFI. He is highly respected in the IFI and the management thinks that if he approves something, the SSB will never have any objection to it. This has given him a significant advantage with regard to his job performance leading him to believe that he has a detailed understanding of an emerging topic in the IFI related to Shari'ah. He decides to not do further research about the topic and answers a question raised by the staff based on his existing knowledge, without further research or without referring the matter to the SSB. He knows that nobody within the IFI can challenge him on his answer.</p>	<ul style="list-style-type: none"> • SCD 	<ul style="list-style-type: none"> • Overconfidence tendency • Halo effect and reverse-Halo effect • Self-serving tendency
<p>35. Mr. Ahmed is a professional accountant in public practice, and is regarded as one of the most learned accountants and technical experts on accounting matters. A complex matter related to Takaful accounting is presented to him by the management of a Takaful company. He provides his expert opinion even though he is not an expert on Takaful and does not understand the core differences between Takaful and conventional insurance and the various models of Takaful. He does not perform additional research due to lack of time. The management relies on his opinion because of the reputation he enjoys. This results in an accounting treatment by the Takaful company which is not in line with AAOIFI FASs and also against the Shari'ah principles and rules.</p>	<ul style="list-style-type: none"> • External auditor / consultant • Sr. Mgmt. 	<ul style="list-style-type: none"> • Halo effect and reverse-Halo effect • Fundamental attribution error tendency • Overconfidence tendency

Examples	Related organs of governance / management	Psychological tendencies related to SDM
36. Mr. Omar is a relationship manager for a large customer of an IFI. Mr. Omar noted in the case of a Murabaha transaction that the date of confirmation of receipt of inventory by the customer was 10 days later than the date of the invoice and goods receipt note. There was a significant risk that the goods might have been already consumed before the confirmation (and hence, the Murabaha sale). If this had been identified in Shari'ah audit, he would have to face the consequences. To avoid this situation, he used his good relations with the customer and asked them to provide him with a revised goods receipt note dated the same as the confirmation of receipt. The file was audited by the internal Shari'ah audit, and the issue was not identified due to the change in the documents.	• Mgmt. / Employee	• Self-serving tendency
37. A Shari'ah scholar has recently passed the first level of the CFA programme which is regarded as one of the most prestigious professional qualifications in the world. Having passed the accounting modules in the CFA and MBA (specialising in HR) programmes, the Shari'ah scholar regards himself as an expert in Islamic finance accounting. During one of the SSB meetings in which the CFO of the IFI was presenting a case for the legitimacy of accounting treatment, the Shari'ah scholar was quick to vote in favour of it despite understanding merely a part of his argument and that too at surface level. He was further strengthened in his conviction since he had read about a similar case in an accountancy article a few weeks earlier.	• SSB	• Availability tendency • Overconfidence tendency
38. Mr. Ehsan, who is a junior Shari'ah scholar, and head of SCD of an IFI, claims in front of the SSB that he had asked the management to refrain from a transaction which was eventually considered impermissible by the SSB. However, he hides the fact that his conclusion was not grounded on the same Shari'ah principles and rules identified by the SSB.	• SCD	• Self-serving tendency

Examples	Related organs of governance / management	Psychological tendencies related to SDM
<p>39. Shaikh Imran, who is a member of the CSB established by a regulator, strongly supports in the CSB meeting a specific Shari'ah view in respect of a transaction. While he understands that the other view might also be strong and that from a regulatory perspective, the other view might be more relevant, he insists on his view because he has earlier given the same Fatwa in an IFI, where he is a member of SSB. Eventually, the CSB decides in line with his view. He claims in front of the respective IFI management that he got the view approved at CSB, and mentions that he is happy that he is not required to change his Fatwa for the IFI.</p>	<ul style="list-style-type: none"> • CSB • SSB 	<ul style="list-style-type: none"> • Self-serving tendency

Appendix C: Key aspects of Maqasid Al-Shari’ah relevant to SDM in the context of IFIs

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
Deen	1. Access to Shari’ah compliant goods / services	...of the Deen of an individual, through access to and consumption of Shari’ah compliant goods and services.	Providing Riba-free financial products.	<p>“O you who believe, do not devour each other’s property by false means, unless it is trade conducted with your mutual consent. Do not kill one another. Indeed, Allah has been Very-Merciful to you...” .²⁷</p> <p>“Allah destroys Riba and nourishes charities” .²⁸</p>
	2. Stakeholder rights	...of the Deen of all stakeholders of a business (such as shareholders, employees and customers, etc.), through the protection of their rights.	Establishing governance mechanisms and controls to safeguard stakeholders’ interests and prevent fraud, embezzlement or misuse.	<p>“Surely, Allah commands you to deliver trusts to those entitled to them, and that, when you judge between people, judge with justice. Surely, excellent is the exhortation Allah gives you. Surely, Allah is All-Hearing, All-Seeing...” .²⁹</p> <p>“and (success is attained) by those who honestly look after their trusts and covenant,” .³⁰</p> <p>“O you who believe, do not</p>

²⁶ Shaikh Mufti Taqi Usmani's English translation of Quranic verses are used in this standard.

²⁷ Al-Quran, An-Nisā:29

²⁸ Al-Quran, Al-Baqarah:276

²⁹ Al-Quran, An-Nisā:58

³⁰ Al-Quran, Al-Mu’minūn:8

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				betray the trust of Allah and the Messenger, and do not betray your mutual trusts... ”. ³¹
	3. Institution building	...of the Deen of an individual and society, through the establishment and utilisation of infrastructure facilities.	<p>Development of religious infrastructure involving Islamic institutions (e.g., Masjid), social institutions (e.g., hospitals and schools) and recreational institutions (e.g., parks), etc..The building of schools, universities and other centres of learning such as libraries and the like.</p> <p>The first thing that the Messenger of Allah (PBUH) did after Hijrah was build mosques, and it was a place of worship, leadership, education and judiciary. Then he built the market after that.</p>	<p>“In fact, the mosques of Allah are built-up only by those who believe in Allah and the Last Day and those who establish Salah and pay Zakah and who fear none but Allah. So, it is hoped that they are to be among those on the right path”. ³²</p> <p>It was narrated that Abu Usaid said that: the Messenger of Allah (PBUH) went to the market of Nabit, and looked at it, and said: “This is not a market for you”. Then we went to another market and looked at it, and said: “This is not a market for you”. Then he came back to this market and walked around in it then he said: “This is your market. It will always be your market and no duty will be levied on it”. (Do,if). ³³</p>

³¹ Al-Quran, Al-’Anfāl:27

³² Al-Quran, At-Tawbah:18

³³ Sunan Ibn Majah, Vol. 3, Book 12, Hadith 2233

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				It was narrated that Umar bin Khattab said "I heard the Messenger of Allah (PBUH) say: "Whoever builds a mosque in which the Name of Allah is mentioned, Allah will build a house for him in Paradise". ³⁴
	4. Enjoining what is right and forbidding what is wrong	...of the Deen of an individual, through enjoining right and eliminating evil.	The establishment of IFIs is significant towards the achievement of this objective in eliminating Riba and other impermissible and exploitative activities and promoting trade and Shari'ah compliant business activities. The existence of a Shari'ah governance framework, including an SSB, in an IFI is to achieve the same objective.	<p>"There has to be a group of people from among you who call towards the good, and bid the Fair and forbid the Unfair. And it is these who are successful".³⁵</p> <p>"Give the measure and weight in full, and do not make people short of their things".³⁶</p>
	5. Cooperation for all good deeds is required and assistance, help, support or cooperation for the bad deeds to be avoided	... of an individual or institution, shall play its part in the overall improvement in society by supporting the permissible activities and by not supporting sinful activities.	In principle, IFIs shall not cooperate with conventional financial institutions, except in the case of dire need or for activities which are permissible. They shall prefer cooperation, dealing with IFIs and the promotion of Shari'ah compliant transactions /	"Help each other in righteousness and piety, and do not help each other in sin and aggression". ³⁷

³⁴ Sunan Ibn Majah, Vol. 1, Book 4, Hadith 735

³⁵ Al-Quran, An-Nisā':104

³⁶ Al-Quran, Al-'A'rāf:85

³⁷ Al-Quran, Al-Mā'idah:2

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
			activities of other entities which are more aligned with Shari'ah and its objectives.	
	6. Avoiding Heela (as a source of deception)	.. of the Deen of an individual or an institution, through avoidance of impermissible and deceptive Heelas (ruses).	Using ruses and legal structures for achieving impermissible objectives and personal and worldly gains, by apparently and not in real sense, creating a so-called Shari'ah compliant structure / documentation.	<p>"They try to deceive Allah and those who believe, while they are not deceiving anyone except themselves, although they are unaware of it".³⁸</p> <p>"Surely, the hypocrites (try to) deceive Allah while He is the One who leaves them in deception".³⁹</p> <p>"Ask them about the town situated by the sea, when they used to transgress in the matter of Sabbath, when their fish came to them openly on the Sabbath, and did not come when they did not have Sabbath. In this way, We put them to a test, because they used to act sinfully".⁴⁰</p> <p>"The reward of deeds depends upon the intentions and every person will get the reward</p>

³⁸ Al-Quran, Al-Baqarah:9

³⁹ Al-Quran, An-Nisā':142

⁴⁰ Al-Quran, Al-A'raf:163

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				<p>according to what he has intended”.⁴¹</p> <p>“May Allah curse the Jews, for Allah made the fat (of animals) illegal for them, yet they melted the fat and sold it and ate its price”.⁴²</p> <p>“One should neither collect various portions (of the property) nor divide the property into various portions in order to avoid paying Zakat”.⁴³</p> <p>“If anyone cuts the lote-tree, Allah brings him headlong into Hell. Abu Dawud was asked about the meaning of this tradition. He said: This is a brief tradition. It means that if anyone cuts uselessly, unjustly and without any right a lote-tree under the shade of which travellers and beasts take shelter, Allah will bring him into Hell headlong”.⁴⁴</p>

⁴¹ Sahih al-Bukhari 1, Book 1, Hadith 1

⁴² Sahih al-Bukhari 2236, Book 34, Hadith 182

⁴³ Sahih al-Bukhari 6955, Book 90, Hadith 3

⁴⁴ Sunan Abi Dawud 5239, Book 43, Hadith 467

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				On the authority of Thawban, the freed slave of the Messenger he heard the messenger of Allah, say: "Whoever kills young or old, or burns date-palms, or cuts down a fruit-bearing tree, or slaughters a sheep for its skin, does not return with reward". ⁴⁵
Life	7. Right to information	...of the right of an individual, to seek the truth.	Ensuring the provision of relevant information to customers about the product or service so that they can make an informed decision.	<p>"He is not one of us who cheats".⁴⁶</p> <p>"The two parties to a transaction have the choice so long as they have not separated. If they are honest and open, their transaction will be blessed, but if they tell lies and conceal anything, the blessing of their transaction will be lost".⁴⁷</p>
	8. Freedom of association for achieving Shari'ah compliant objectives	...of the right of an individual, to form groups to do something jointly to achieve the desired Shari'ah compliant objectives.	<p>Formation of IFIs, doing Musharaka and collaboration business and doing Takaful.</p> <p>Permitting formation of labour unions, etc.</p>	<p>"There has to be a group of people from among you who call towards the good, and bid the Fair and forbid the Unfair. And it is these who are successful..."⁴⁸</p> <p>"...Help each other in righteousness</p>

⁴⁵ Musnad Ahamad, Hadith 22368

⁴⁶ Sunan Ibn Majah, Vol. 3, Book 12, Hadith 2224

⁴⁷ Sunan An-Nasa'i 4457, Vol. 5, Book 44, Hadith 4462

⁴⁸ Al-Quran, Al 'Imrān:104

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				<p>and piety, and do not help each other in sin and aggression".⁴⁹</p> <p>"I make a third with two partners as long as one of them does not cheat the other, but when he cheats him, I depart from them".⁵⁰</p> <p>He (Dawud) said: "He has certainly wronged you by demanding your ewe to be added to his ewe. Many partners oppress one another, except those who believe and do righteous deeds, and very few they are..."⁵¹</p>
	9. Avoiding self-inflicting of harm	...of the right of an individual or an institution, to avoid harming his own self intentionally	Eliminating anything that will harm humans e.g., production of Haram goods and services, tobacco, arms and ammunition.	"... do not put yourselves into destruction..." ⁵²
	10. Right to earn for self and dependents	... of the right of each individual, to try and earn Shari'ah compliant earnings for self, dependents and others.	Doing trade and providing services in line with Shari'ah.	"Then once the Salah is over, disperse in the land, and seek the grace of Allah, and remember Allah abundantly, so that you may be successful". ⁵³

⁴⁹ Al-Quran, Al-Mā'idah:2

⁵⁰ Sunan Abi Dawud, Book 22, Hadith 3377

⁵¹ Al-Quran, Sad:24

⁵² Al-Quran, Al-Baqarah:195

⁵³ Al-Quran, Al-Jumu'ah:10

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				<p>"I make a third with two partners as long as one of them does not cheat the other, but when he cheats him, I depart from them".⁵⁴</p> <p>Rafi' b. Khadij said God's Messenger (PBUH) was asked what type of earning was best and replied, "A man's work with his hand and every business transaction which is approved".⁵⁵</p> <p>"Of the dinar you spend as a contribution in Allah's path, or to set free a slave, or as a Sadaqah given to a needy, or to support your family, the one yielding the greatest reward is that which you spent on your family".⁵⁶</p>
Intellect	11. Provision of quality education	...of the intellect, through the provision of quality education which promotes critical thinking, objectivity and creativity.	IFIs shall consider playing their role in the provision of quality education in their respective jurisdictions, through different means, including commercial financing, as well as,	"Whoever takes a path upon which to obtain knowledge, Allah makes the path to Paradise easy for him". ⁵⁷

⁵⁴ Sunan Abi Dawud, Book 22, Hadith 3377

⁵⁵ Ahmad transmitted it. Mishkat al-Masabih, Hadith 2783

⁵⁶ Sahih Muslim 995, Book 12, Hadith 48

⁵⁷ Jami` at-Tirmidhi 2646, Vol. 5, Book 39, Hadith 2646

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
			social support aspects.	
	12. Promoting research and development and technical advancement	...of the intellect, by setting up research and development institutions and promoting a culture of innovation, creativity and entrepreneurship .	IFIs shall consider playing their role in the promotion of research and development and technological advancement in their respective jurisdictions, through different means, including commercial financing, as well as, social support aspects.	<p>“...We made pliable for him [David] iron, [commanding him]...”⁵⁸</p> <p>“Make full coats of mail and calculate [precisely] the links, and work [all of you] righteousness. Indeed I, of what you do, am Seeing”.⁵⁹</p> <p>“And we sent down iron in which there is strong power, and benefits for the people”.⁶⁰</p> <p>“And seek the (betterment of) the Ultimate Abode with what Allah has given to you, and do not neglect your share from this world, and do good as Allah did good to you, and do not seek to make mischief in the land. Surely, Allah does not like the mischief-makers”.⁶¹</p> <p>“He has subjugated for you whatever there is in the heavens and whatever there is in</p>

⁵⁸ Al-Quran, Saba':10

⁵⁹ Al-Quran, Sab':11

⁶⁰ Al-Quran, Al-Ḥadīd:25

⁶¹ Al-Quran, Al-Ŷaşaş:77

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				<p>the earth, all on His own. Surely in this there are signs for a people who reflect".⁶²</p> <p>"Say, Go about in the land and look how He has originated the creation. Then Allah will create the subsequent creation".⁶³</p> <p>"Say, Do (what you do); Allah will see your deed, as will the Messenger and the believers".⁶⁴</p>
	13. Raising awareness	...of the intellect, by making it aware of key issues in a range of disciplines for a well-rounded and balanced perspective on life and reality	Make all stakeholders (customers, employees and organs of governance) aware of the key differences between Islamic and conventional banking / finance, and the advantages of the former.	<p>"Invite (people) to the way of your Lord with wisdom and good counsel. And argue with them in the best of manners. Surely, your Lord knows best the one who deviates from His way, and He knows best the ones who are on the right path".⁶⁵</p>
	14. Asking the people who are knowledgeable	...of the intellect, by encouraging people to ask people who have gained expertise in specific areas of knowledge if	Establishing SSBs and appointing experts and consultants to advise on Shari'ah-related matters as well as other matters of	<p>"So, ask the people (having the knowledge) of the Reminder (the earlier Scriptures), if you do not know..."⁶⁶</p>

⁶² Al-Quran, Al-Jāthiyah:13

⁶³ Al-Quran, Al-'Ankabūt:20

⁶⁴ Al-Quran, At-Tawbah:105

⁶⁵ Al-Quran, An-Nahl:125

⁶⁶ Al-Quran, An-Nahl:43

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
		one does not know.	significance. SSBs shall also consult with the experts.	“When news concerning peace or fear comes to them, they go about spreading it. Had they referred it to the Messenger and to those having authority among them, the truth of the matter would have come to the knowledge of those of them who are able to investigate. But for Allah’s grace upon you, and mercy, you would have followed the Satan, save a few”. ⁶⁷
Progeny	15.Protecting orphans	...of the progeny of individuals, who have passed away.	Establish and provide financial support to orphanages as a social support, as well as, providing education finance to orphans.	“The best house among the Muslims is the house in which orphans are well treated. The worst house among the Muslims is the house in which orphans are ill-treated. I and the guardian of the orphan will be in the Garden like that,” indicating his two fingers. ⁶⁸
	16.Protecting natural resources	...of the progeny’s present and future life, by protecting natural resources, climate and the environment.	Not harming the environment in any way as a first step, and improving it by planting trees, preventing deforestation, keeping oceans clean and so on as	“He is the One who has created gardens, trellised and un-trellised, and date-palms and crops with a variety of edibles, and the olive and the pomegranate,

⁶⁷ Al-Quran, An-Nisā’:83

⁶⁸ Al-Adab Al-Mufrad 137, Book 7, Hadith 137

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
			the second step. IFIs, particularly those working in the agricultural and micro-finance sectors, need to play their role taking into consideration both the commercial avenues and social aspects.	<p>(some) similar to one another, and (some) dissimilar. Eat of its fruit when it bears fruits, and pay its due on the day of harvest, and do not be extravagant. Surely, Allah does not like the extravagant”.⁶⁹</p> <p>“If the Final Hour comes while you have a shoot of a plant in your hands and it is possible to plant it before the Hour comes, you should plant it”.⁷⁰</p> <p>The Messenger of Allah (PBUH) passed by Sa'd when he was performing ablution, and he said: “What is this extravagance?”. He said: “Can there be any extravagance in ablution?” He said: “Yes, even if you are on the bank of a flowing river”.⁷¹</p> <p>Abu Bakr as-Siddiq was sending armies to ash-Sham. He said to Yazid ibn Abi Sufyan who was the commander of one of the battalions...“I advise you ten things: Do not kill</p>

⁶⁹ Al-Quran, Al-'An'ām:141

⁷⁰ Al-Adab Al-Mufrad

⁷¹ Sunan Ibn Majah 425, Book 1, Hadith 159

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				women or children or an aged, infirm person. Do not cut down fruit-bearing trees. Do not destroy an inhabited place. Do not slaughter sheep or camels except for food. Do not burn bees and do not scatter them. Do not steal from the booty, and do not be cowardly". ⁷²
	17.Right to decency	...of the progeny, by preventing them from, inter alia, all acts of immorality, shamelessness, obscenity and vulgarity.	IFIs shall promote a decent culture in the internal work environment and shall avoid supporting or financing any institution, event or initiative which does not conform to these values.	"And tell the believing women that they must lower their gazes and guard their private parts, and must not expose their adornment, except that which appears thereof". ⁷³
	18.Multiplicity of offspring	...of the progeny, in terms of numbers.	Giving incentives for having more offspring. Not supporting birth control activities, without medical reasons.	"Marry women who are beloved (due to their good characteristics), prolific in bearing children, for I shall outnumber the Prophets by you on the Day of Resurrection". ⁷⁴
Wealth	19.Fulfilment of basic needs	...of the wealth of an individual, such that basic needs, at a minimum, are reasonably met (such as food, clothing, shelter, education,	Eliminating all forms of poverty shall be amongst the objectives of IFIs. There shall be specific social finance institutions serving primarily these objectives.	"If anyone relieves a Muslim believer from one of the hardships of this worldly life, Allah will relieve him of one of the hardships of the Day of

⁷² Muwatta Malik, Book 21, Hadith 971

⁷³ Al-Quran, An-Nūr:30-31

⁷⁴ Sahih Ibn Hibban, Hadith 4056

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
		healthcare and safety).		<p>Resurrection. If anyone makes it easy for the one who is indebted to him (while finding it difficult to repay), Allah will make it easy for him in this worldly life and in the Hereafter, and if anyone conceals the faults of a Muslim, Allah will conceal his faults in this world and in the Hereafter. Allah helps His slave as long as he helps his brother".⁷⁵</p> <p>"Righteousness is not (merely) that you turn your faces to the East and the West; but righteousness is that one believes in Allah and the Last Day and the angels and the Book and the Prophets, and gives wealth, despite (his) love for it, to relatives, and to orphans, the helpless, the wayfarer, and to those who ask, and (spends) in (freeing) slaves and observes the Salah (prayers) and pays Zakah..."⁷⁶</p>
	20.Promote real economy	...of the wealth of an individual, through the	Encouraging the manufacturing and trading sectors.	"The Prophet (PBUH) was asked, "What type of

⁷⁵ Sunan Abu Dawud, Hadith 4946

⁷⁶ Al-Quran, Al-Baqarah:177

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
		production of non-financial goods and services.		<p>earning is best?" He replied, "A man's work with his hand and every transaction which is free from cheating or deception".⁷⁷</p> <p>"If the Final Hour comes while you have a shoot of a plant in your hands and it is possible to plant it before the Hour comes, you should plant it".⁷⁸</p>
	21. Eliminate excessive debt	...of the wealth of an individual, through balanced use of debt and avoidance of excessive or unnecessary debt.	Discourage consumerism if it results in excessive debt. Any debt-based financing which is not correlated with a one-to-one economic activity should not be actively promoted. Encourage, as far as possible, equity-, risk- and reward-sharing financing. Moreover, it is also preferable to discourage deficit financing for the governments. Similarly, IFIs should avoid using debt-based products (e.g., Tawarruq) for obtaining financing / deposit-equivalents and put preference on investment-based modes.	<p>"The Prophet (PBUH) would not pray for a man who owed a debt. A deceased person was brought to him, and he said: 'Does he owe any debt?' They said: 'Yes, he owes two Dinars.' He said: 'Pray for your companion.' Abu Qatadah said: 'I will pay them, O Messenger of Allah, So he prayed for him'.⁷⁹</p>

⁷⁷ As-Sunanul Kubra Bayhaqi 5/263

⁷⁸ Al-Adab Al-Mufrad, Book 27, Hadith 479

⁷⁹ Sunan an-Nasa'i 1962, Vol. 3, Book 21, Hadith 1964

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
	22.Just pricing	...of the wealth of an individual, by ensuring that its creation is based on just pricing of products and services, entailing a fair profit margin and avoiding exorbitant profiteering.	Eliminate profiteering.	“None withholds goods till the price rises but a sinner”. ⁸⁰
	23.Just returns	...of the wealth of an individual, through just returns in proportionate to the level of risk undertaken by the stakeholders.	Provide just and sustainable returns to all stakeholders.	“Woe to the curtailers, who, when they measure something to receive from people, take it in full, and when they measure or weigh something to give it to them, give less than due”. ⁸¹
	24.Just sharing	...of the wealth of an individual and society, through just sharing of resources amongst parties. and society (as applicable).	Just allocation of remuneration between and within the executive management and non-executive staff and just allocation of profits amongst different stakeholders. Just allocation of assets according to their quality and returns amongst stakeholders.	“None of you will have faith till he wishes for his (Muslim) brother what he likes for himself”. ⁸²
	25.Equitable distribution of wealth via Zakah and Sadaqah	...of the wealth of an individual, redistribution of justice is achieved via Zakah and Sadaqah which is	Disbursement of Zakah and Sadaqah to their rightful recipients in the society as prescribed by Shari’ah.	“And be steadfast in Salah (prayer), and pay Zakah, and bow down with those who bow down...” ⁸³

⁸⁰ Sahih Muslim, Hadith 1605

⁸¹ Al-Quran, Al-Muṭaffifin:1-3

⁸² Sahih al-Bukhari 13, Vol. 1, Book 2, Hadith 13

⁸³ Al-Quran, Al-Baqarah:43

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
		paid by the qualified and competent individual to those who are in need.		
	26.Ban on hoarding of wealth	...of the wealth of an individual, hoarding of wealth and stopping their circulation in the economy is prohibited.	Hoarding of wealth unnecessarily is prohibited and the circulation of wealth is encouraged.	<p>“Those who withhold in miserliness what Allah has given them out of His grace should not take it as good for them. Instead, it is bad for them. They shall be forced, on the Doomsday, to put on what they withheld, as iron-collars round their necks. To Allah belongs the inheritance of the heavens and the earth. Allah is All-Aware of what you do...”⁸⁴</p> <p>“Whatever fai’ Allah has passed on to His Messenger from the people of the towns is for Allah and for the Messenger, and for the kinsmen and the orphans and the needy and the wayfarer, so that it may not circulate only between the rich among you...”⁸⁵</p>

⁸⁴ Al-Quran, Āl ‘Imrān:180

⁸⁵ Al-Quran, Al-Hashr:7

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
	27. Sustaining and utilising the resources wisely	...of the wealth of an individual and society, one must eliminate poverty and hunger by ensuring believing that Allah is the Sustainer and human's job is to conserve whatever is available	The existence of IFIs in the broader picture of the Islamic economic system includes their responsibility to play their due part in just and equitable resource utilisation amongst sectors of society, which in turn would help in eradication of poverty. There shall also be Islamic social finance institutions having this as a primary objective.	<p>"There is no creature on earth whose sustenance is not undertaken by Allah. He knows its permanent and its temporary place. Everything is in a clear book".⁸⁶</p> <p>"He has placed firm mountains in it (the earth) towering above it, and put blessings in it, and proportioned its foods therein, in four days, equal for those who ask".⁸⁷</p> <p>"We established you on earth, and created in it means of living for you".⁸⁸</p>
	28. Adopting moderation	...of wealth of an individual, excessive use and greediness is prohibited.	Encourage the use of resources, including one's wealth, moderately.	<p>"O you who believe, do not hold as unlawful the good things that Allah has made lawful for you, and do not transgress. Verily, Allah does not like the transgressors".⁸⁹</p> <p>"Surely, squanderers are brothers of Satan, and the Satan is very ungrateful to his Lord".⁹⁰</p>

⁸⁶ Al-Quran, Hūd:6

⁸⁷ Al-Quran, Fuṣṣilat:10

⁸⁸ Al-Quran, Al-'A'rāf:10

⁸⁹ Al-Quran, Al-Mā'idah:87

⁹⁰ Al-Quran, Al-Isra:27

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				<p>“O children of ‘Adam, take on your adornment at every mosque. Eat and drink and do not be extravagant. Surely, He does not like the extravagant”.⁹¹</p>
	29. Condemnation of monasticism and materialism	...of wealth of an individual, Islam does not promote total abandonment of worldly affairs, such as monkhood.	Adoption of a balanced way of life is encouraged. Pursuit for worldly benefits is encouraged, insofar as the same does not contradict with the preparation for the life hereafter.	<p>“O you who believe, do not hold as unlawful the good things that Allah has made lawful for you, and do not transgress. Verily, Allah does not like the transgressors...”⁹²</p> <p>“And seek the (betterment of) the Ultimate Abode with what Allah has given to you, and do not neglect your share from this world, and do good as Allah did good to you, and do not seek to make mischief in the land. Surely, Allah does not like the mischief-makers...”⁹³</p> <p>“O you who believe, when the call for Salah (prayer) is proclaimed on Friday, hasten for the remembrance of Allah, and leave</p>

⁹¹ Al-Quran, Al-A'raf:31

⁹² Al-Quran, Al-Mā'idah:87

⁹³ Al-Quran, Al-Āṣṣaṣ:77

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				off business. That is much better for you, if you but know". ⁹⁴
	30. Equity is promoted	...of wealth of an individual, is to promote justice and equity, rather than equality.	Encourage policies that promote justice, rather than equality.	"Is it they who allocate the mercy of your Lord? We have allocated among them their livelihood in the worldly life, and have raised some of them over others in ranks, so that some of them may put some others to work. And the mercy of your Lord is much better than what they accumulate..." ⁹⁵
	31. Prohibition of bribery	...of wealth of an individual, bribery is prohibited.	At no cost bribery or unjust enrichment of a person at the expense of another is tolerated.	"Do not eat up each other's property by false means, nor approach with it the authorities to eat up a portion of the property of the people sinfully, while you know (that you are unjust in doing so)". ⁹⁶ 'Abdullah bin 'Amr narrated: "The Messenger of Allah (PBUH) cursed the one who bribes and the one who takes a bribe". ⁹⁷
	32. Prohibition of trade in alcohol and gambling	...of wealth of an individual, trade in unlawful goods such as alcohol and making	Muslims are forbidden to deal with trade of alcohol and making money from gambling. IFI's	"They ask you about wine and gambling. Say, in both there is great sin, and some

⁹⁴ Al-Quran, Al-Jumu'ah:9

⁹⁵ Al-Quran, Az-Zukhruf:32

⁹⁶ Al-Quran, Al-Baqarah:188

⁹⁷ Jami` at-Tirmidhi 1337, Book 15, Hadith 17

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
		money from gambling is prohibited.	shall avoid having any transaction / investment in prohibited business / trade.	benefits for people. And their sin is greater than their benefit... And they ask you as to what they should spend. Say, the surplus... This is how Allah makes His verses clear to you, so that you may ponder”. ⁹⁸
	33. Prohibition of theft and robbery	...of wealth of an individual, the use of property which is obtained unlawfully from others is prohibited	Theft and robbery of people’s property are impermissible and punishable. Usurp, possessing somebody else’s property by force, etc. shall be avoided by IFIs in all situations.	“As for a man or a woman who commits theft, cut off the hands of both to punish them for what they earned, a deterrent punishment from Allah. Allah is Mighty, Wise”. ⁹⁹ “Do not eat up each other’s property by false means, nor approach with it the authorities to eat up a portion of the property of the people sinfully, while you know (that you are unjust in doing so)”. ¹⁰⁰
	34. Strong discouragement of begging	...of wealth of an individual, begging is prohibited as one should work in a Shari’ah compliant manner to earn money.	Policies to eliminate begging to be made and promote employment. There should be Islamic social finance initiatives by IFIs for this purpose.	“(Your charities should be preferably meant) for the needy who are confined in the way of Allah, unable to travel in the land. An ignorant person takes them as free

⁹⁸ Al-Quran, Al-Baqarah:219

⁹⁹ Al-Quran, Al-Mā'idah:389

¹⁰⁰ Al-Quran, Al-Jumu'ah:188

Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				<p>of need because of their abstinence. You know them by their appearance (from begging). They do not beg people importunately, and whatever good thing you spend, Allah is All-Aware of it”.¹⁰¹</p> <p>“A man keeps on asking others for something till he comes on the Day of Resurrection without any piece of flesh on his face...”¹⁰²</p> <p>“...no slave (of Allah) opens up a door to begging except that Allah opens a door for him to poverty...”¹⁰³</p>
	35.Prohibition of wrong measuring and weighing	...of wealth of an individual, to do deceitful actions in measuring and weighing is prohibited.	Institutions such as Hisbah are encouraged to be established to eliminate malpractices in business. IFIs shall ensure appropriate allocation for profits, etc..	“Woe to the curtailers who, when they measure something to receive from people, take it in full, and when they measure or weigh something to give it to them, give less than due. Do they not think that they have to be raised up on a Great Day, the Day when all the people will

¹⁰¹ Al-Quran, Al-Baqarah:273

¹⁰² Sahih al-Bukhari 1474, 1475, Book 24, Hadith 76

¹⁰³ Jami` at-Tirmidhi 2325, Book 36, Hadith 22

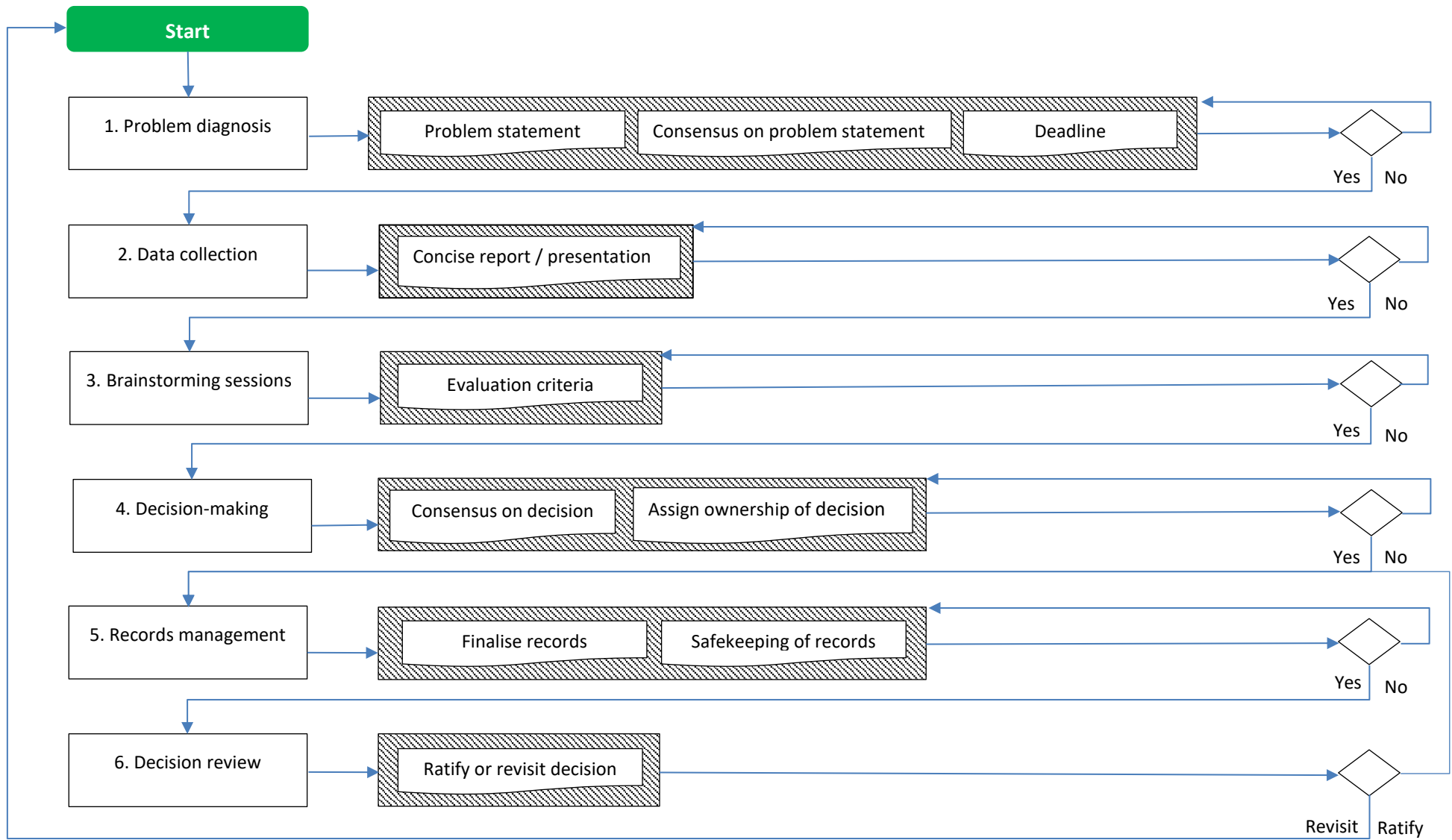
Maqasid	Illustrative dimensions	Description [empowerment and enrichment]	Illustrative example(s)	Supporting text ²⁶
				<p>stand before the Lord of the worlds?"¹⁰⁴</p> <p>"Observe the correct weight with fairness, and do not make weighing deficient"¹⁰⁵</p> <p>"And give full measure when you measure, and weigh with a straight balance. That is fair, and better at the end"¹⁰⁶</p>

¹⁰⁴Al-Quran, Al-Muṭaffifīn:1-6

¹⁰⁵Al-Quran, Ar-Rahman:9

¹⁰⁶Al-Quran, Al-Isra:35

Appendix D: Key stages for the SDM process



No.	Stage	Owner	Activities	Consideration (s)	Output (s)
1.	Problem diagnosis	IFI management and Head of Shari'ah compliance department	<ul style="list-style-type: none"> Confirm the given problem as a problem. Draft a problem statement mentioning the following at a minimum: <ol style="list-style-type: none"> the stakeholders being affected by the problem; all the perceived causes of the problem, especially the root-cause; and significance of the problem from Shari'ah and business perspectives. 	Be mindful of the psychological tendencies that may impair the problem statement, especially framing and anchoring tendencies.	<ul style="list-style-type: none"> Finalise a clearly defined and focused problem statement in writing. Achieve agreement of internal stakeholders on the problem statement. Set a realistic deadline for solving the problem.
2.	Data collection	IFI management and Head of Shari'ah compliance department	<ul style="list-style-type: none"> Identify those involved in the decision-making process and form a team. Collect and collate relevant data pertaining to the problem through primary and / or secondary sources. Ratify the problem statement against raw data and reconfirm all facts and figures. Clearly identify the context within which the problem is situated by analysing 	<ul style="list-style-type: none"> Be mindful of the psychological tendencies which may impair the data collection process, especially availability and anchoring tendencies. Ensure that multiple and varying points of views and perspectives are incorporated to a practical extent. Ensure that the data collected is accurate and complete to the 	<ul style="list-style-type: none"> Prepare a concise report / presentation including, inter alia, the following points: <ol style="list-style-type: none"> underlying assumptions, scope, sources and methodology of the data collection process; internal and external restrictions, limitations and challenges (which could be related to regulations, Shari'ah,

No.	Stage	Owner	Activities	Consideration (s)	Output (s)
			existing conditions and circumstances and differentiating it against the perceived ideal.	best of the team's knowledge and expertise.	business or IFI policies) that may affect the and analysis of the data; and c) existing solutions offered by other Shari'ah scholars / experts / IFIs on the given problem, at local and international levels.
3.	Brainstorming sessions	IFI management , Head of Shari'ah compliance department and members of the SSB	<ul style="list-style-type: none"> • Revisit and reconfirm the problem statement as legitimate. • Confirm that the data needed (both content-based and contextual) to solve the problem are available. If data quantity or quality is impaired, go back to stage 2. • Critically analyse and interpret the data. • Identify all possible solutions to the problem in writing while mentioning the pros and cons as well as the impact of each on relevant 	Be mindful of jurisprudential arbitrage, non-disciplinary Fatwa and relevant psychological tendencies that may impair the objectivity of the brainstorming sessions.	Finalise clearly defined evaluation criteria for the list of possible solutions. These may include, inter alia, at minimum, the following: a) compliance with applicable legal and regulatory requirements, Shari'ah principles and rules as prescribed by the SSB and CSB, applicable AAOIFI standards and IFI policies; b) promotion of Maqasid Al-Shari'ah, best practices of value-based financial intermediation such as those contained in the

No.	Stage	Owner	Activities	Consideration (s)	Output (s)
			<p>stakeholders to a practical extent.</p> <ul style="list-style-type: none"> Assign one member to play the role of a critic tasked with the responsibility to find faults and / or inconsistencies in the arguments raised, where possible and relevant (to mitigate the groupthink risk). 		<p>UN Principles of Responsible Investment and Banking, social impact and the broader interests of the industry and society; and</p> <p>c) completeness and suitability of the proposed list of solutions given the situation and their impact on relevant stakeholders and perspectives (Shari'ah, legal, accounting, risk, etc.).</p>
4.	Decision-making	Board of directors, Central Shari'ah board, Shari'ah supervisory board and senior management	<ul style="list-style-type: none"> Ratify the list of proposed solutions to the problem in the light of the problem statement. If the list is deemed impaired or weak, go back to stage 3. Critically analyse the list of proposed solutions against the established evaluation criteria and shortlist the best solutions. Rank the shortlisted solutions. Substantiate the perceived best 	<ul style="list-style-type: none"> Be mindful of the psychological tendencies which may impair the decision-making process, especially the overconfidence, availability and status quo tendencies. Ensure that the final decision fully meets the established evaluation criteria. 	<ul style="list-style-type: none"> Achieve consensus on the final decision and record any dissenting remarks made by any team member. Assign clear ownership of the decision to the team, where all resulting rewards and penalties associated with the implementation of the decision, goes to them.

No.	Stage	Owner	Activities	Consideration (s)	Output (s)
			solution with clear arguments in favour of it and arguments against those solutions which were not preferred.		
5.	Records management	Shari'ah compliance department	<ul style="list-style-type: none"> Collate all the documents developed, as well as, all the discussions that took place during the first four stages of the decision-making process. This would include, at a minimum, the problem statement, reports / presentations, names of team members and their assigned roles, minutes of meetings, the final decision and any dissenting remarks. The files should preferably be in electronic format and could be a combination of text, audio and / or video content. Seek verification of the records as accurate and complete by all stakeholders. 	Ensure the privacy, confidentiality and safety of the documents as per the IFI's policies and international best practices where possible.	<ul style="list-style-type: none"> Finalise all records and have them approved by the relevant stakeholders. Ensure the records are kept safely in multiple locations with multiple authorised personnel for a minimum of 7 years.
6.	Decision review	Head of Shari'ah compliance	<ul style="list-style-type: none"> Establish whether the original problem 	Be mindful of the the relevant psychological	Decide whether to continue ratifying the decision or to

No.	Stage	Owner	Activities	Consideration (s)	Output (s)
		department, internal Shari'ah audit, quality assurance	<p>was diagnosed accurately.</p> <ul style="list-style-type: none"> • Determine whether the solution offered solved the problem and to what extent. • Identify the challenges in the implementation of the decision, if any, along with recommendations for improvement. • Identify any material differences in the original and the prevailing conditions and circumstances, which could have an impact on the decision. 	tendencies and follow the decision review process.	suggest revisiting the decision considering the "Mechanism for revisiting a previous Fatwa" as stated in this standard.

Appendix E: Illustrative Procedures for proposing a new product to SSB

- E1. Generally speaking, product development follows the below mentioned illustrative steps for proposing a product to SSB:

Needs identification

- a. business escalates an issue to the product development team for resolution from a Shari'ah perspective. The product development team, which includes business experts and Shari'ah experts / scholars, analyses the Shari'ah basis and business viability of the issue;

Needs analysis: product identification

- b. once the need is identified, the product development team analyses products available in the IFI's product menu that can cater to the need. If a suitable product is available in the menu, then the same is proposed to the business. Where existing products are not suitable to cater to the need, the product development team performs research based on Islamic jurisprudence and AAOIFI standards for any variant of the available products which can be applied under the circumstances;
- c. if the above research does not fulfil the need's requirements, further research is performed to develop a new Shari'ah structure that can accommodate the business need, in line with Islamic jurisprudence and AAOIFI standards;

Shari'ah viability

- d. the structure is initially screened in consultation with the Shari'ah compliance department (and / or a delegate of the SSB, if so specified). The suitability of the product is discussed in all possible dimensions at this stage. If needed, the relevant business unit is also included in these discussions;

Business viability

- e. when consensus is achieved regarding the Shari'ah viability of the product, its business viability is reviewed. For this, the tentative solution is sent to the business unit for this purpose;
- f. if any concern(s) is highlighted by the business unit, the product development team will review the concern(s) and take advice from the SCD, where needed;

Legal viability

- g. when proposing a new product to the SSB, the legal viability should be considered because there are many legal hurdles or drivers in the product development process;

Research / product paper

- h. after the in-principle agreement on the proposed structure, the product development team will draft a product paper / research paper with all the deliberations performed during the

above process from the Shari'ah aspect. This paper is sent to the secretary of the SSB / Head of SCD for the SSB's approval; and

Format of obtaining the SSB approval for new / modified product

- i. the format shall include the following as a minimum requirement:

Background of the product / need

- i. the background shall cover a) business need / rationale for proposing a new product or modification of an existing product, b) concept and c) Shari'ah analysis;

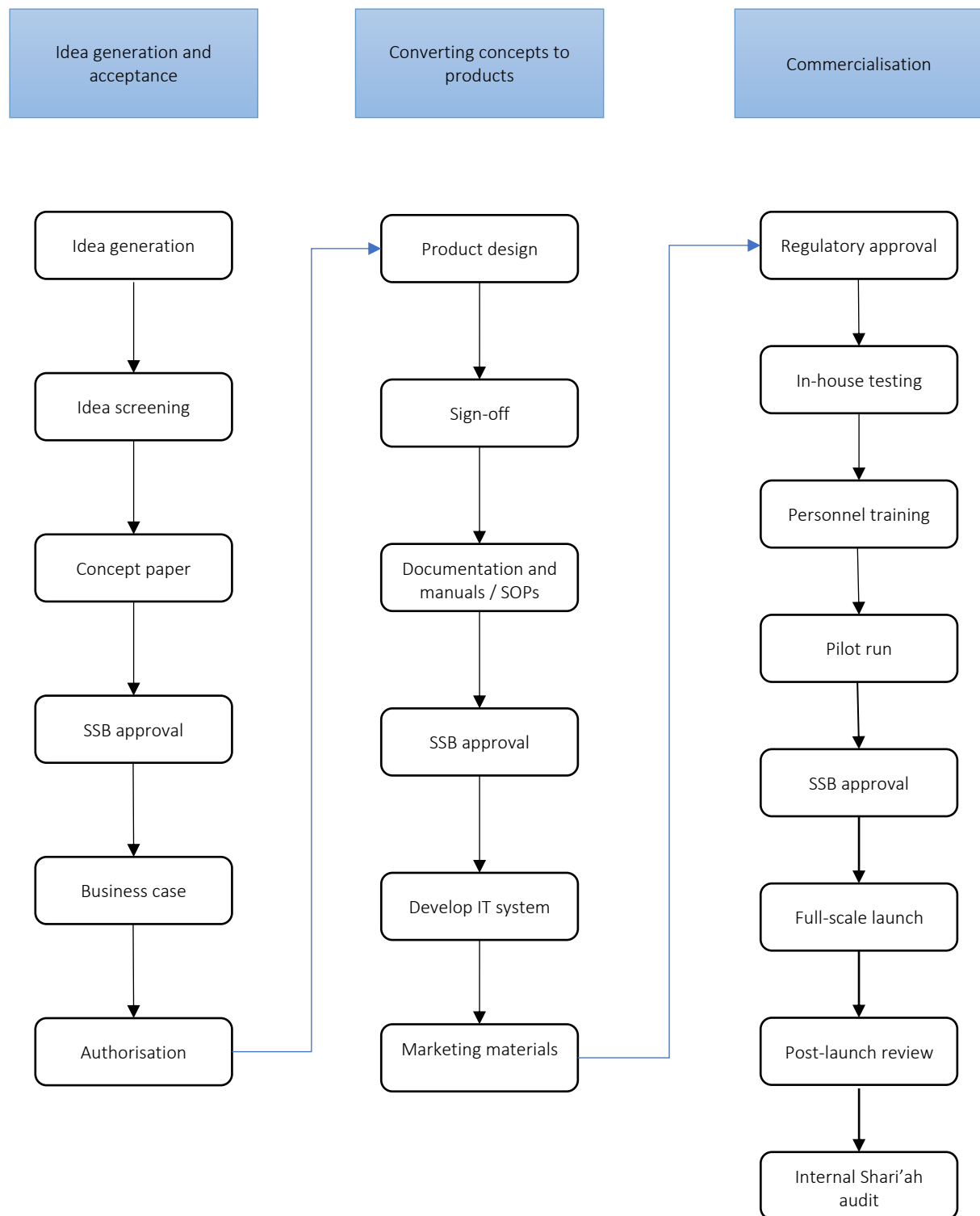
Product design

- ii. this shall include the following:
 - 1. type of product (asset or liability side product);
 - 2. nature of the product (type of financing);
 - 3. underlying Shari'ah contract(s) and structure;
 - 4. step-by-step process of the product (graphical process flow);
 - 5. financial structure (cash inflow and outflow);
 - 6. transaction recording and reporting for accounting purposes;
 - 7. IT mapping of the product / service in the IFI's core banking system;
 - 8. legal and compliance considerations;
 - 9. Shari'ah compliance controls; and
 - 10. brief of related documentation.

Rationale and basis of conclusion

- iii. adequate support in respect of the rationale and basis of conclusion, including, in particular, any references from the relevant AAOIFI Ss and related references from books of Fiqh should also be attached to support the proposition for SSB review.

Appendix F: Product development process flow¹⁰⁷



¹⁰⁷ Shari'ah approval includes the aspects of approval both in substance and form, and their uniformity.

Appendix G: Basis of conclusions

To be updated.

Appendix H: Brief history of the preparation of the standard

- H1 The working group's first meeting was held on 4 Dhul-Qa'dah 1440H, corresponding to 7 July 2019. The members discussed the preliminary study and provided feedback to improve its content.
- H2 The 12th meeting of AGEB was held on 7-8 Dhul-Qa'dah 1440H, corresponding to 10-11 July 2019, in Pakistan. The idea of a standard on SDM process, and an overview and certain key questions were discussed. The board agreed on the approach towards the standard and advised to commence the development of the standard.
- H3 The 2nd meeting of the working group was held on 4 Dhul-Qa'dah 1440H, corresponding to 23 July 2019. The revised and updated preliminary study was discussed based on the remarks and insights presented by the working group members in the previous meeting. The 3rd meeting of the working group was held on 6 Muharram 1441H, corresponding to 5 September 2019. The working group discussed the first draft of the exposure draft of the standard.
- H4 The 4th meeting of the working group was held on 23 Muharram 1441H, corresponding to 22 September 2019. The working group discussed the second draft of the exposure draft of the standard.
- H5 The 5th meeting of the working group was held on 1 Safar 1441H, corresponding to 30 September 2019. The working group discussed the revised draft of the exposure draft of the standard.
- H6 The 6th meeting of the working group was held on 24 Jumada II 1441H, corresponding to 19 February 2020, the 7th and 8th meetings of the working group were held on 7 Rajab 1441H, corresponding to 2 March 2020, and 18 Ramadan 1441H, corresponding to 11 May 2020, respectively. The working groups discussed the exposure draft of the standard.
- H7 The 9th meeting of the working group was held on 9 Shawwal 1441H, corresponding to 1 June 2020. The working group discussed examples of psychological tendencies, as well as, Maqasid Al-Shari'ah and Sustainable Development Goals.
- H8 The working group held several meetings to continue the discussion on the exposure draft. The meetings were held via video conferencing on 29 Muharram 1442H, corresponding to 17 September 2020, 26 Safar 1442H, corresponding to 13 October 2020, and 28 Safar 1442H, corresponding to 15 October 2020.
- H9 AGEB held its 18th meeting on 21 Rabi' II 1442H, corresponding to 19 November 2020 and its 19th meeting on 5-6 Jumada I 1442H, corresponding to 20-21 December 2020, via video conferencing and approved in principle the issuance of the exposure draft. The board directed the secretariat to make the necessary changes in light of the comments of the AGEB members and the discussion during the meeting. After due process, the exposure draft was issued on 4 Jumada I 1444H, corresponding to 28 December 2022.