

[Exposure Draft (AGEB 4/2023) of the]  
AAOIFI Governance Standard (GS) \_\_  
**Shari'ah Supervisory Board: Functions and Operations**

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[ED of] AAOIFI Governance Standard (GS) \_\_\_\_ “Shari’ah Supervisory Board: Functions and Operations” is set out in paragraphs 1-84.

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.

## Preface

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- PR1 This standard is one of the outcomes of a comprehensive Shari’ah governance framework project, aimed at establishing the guiding principles and rules, as well as, best practices for a sound and effective Shari’ah governance framework for Islamic financial institutions (IFIs / the institutions).
- PR2 One of the unique organs of the Shari’ah governance framework is the Shari’ah supervisory board (SSB). The SSB, by fulfilling its mandate of overseeing the institution’s compliance with Shari’ah principles and rules, secures the trust and confidence of the stakeholders of the institution, including customers, investors and regulatory and supervisory authorities (RSAs).
- PR3 To ensure that the SSB fulfils its mandate in an effective and efficient manner, a standardised framework for the proper functioning and operations of the SSB is required. This is expected to ensure consistency and uniformity, as well as, independence and objectivity in the approach under which SSBs operate and function across different types of institutions, regardless of their geographical location, size, business model and the overall business environment.
- PR4 This standard describes certain requirements related to principle 6 “Shari’ah supervisory board (SSB)” as prescribed by [ED of] GS \_\_ “Shari’ah Governance Framework”.
- PR5 This standard, along with the [ED of] GS \_\_\_\_ “Shari’ah Supervisory Board: Appointment and Composition”, supersedes GS 1 “Shari’ah Supervisory Board: Appointment, Composition and Report”.

## Introduction

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### Overview

- IN1 This standard requires the Shari'ah supervisory board (SSB) of an Islamic financial institution (IFI / the institution) to function and operate under a standardised framework, aimed to achieve effective and efficient functioning in an independent and objective manner. The standard defines the roles, responsibilities and operational procedures of an SSB within an institution, the SSB's powers and authority and the need to establish a robust decision-making process. It also prescribes certain significant transparency and disclosure requirements related to SSBs.

### Rationale(s) for issuing this standard

- IN2 The AAOIFI Governance and Ethics Board (AGEB / the board) decided to revise certain AAOIFI Governance Standards (GSs) addressing the functions related to the SSB, as a part of a comprehensive Shari'ah governance framework. AGEB also considered certain gaps that existed in the guidance earlier provided by AAOIFI, during the preliminary study and stakeholder interactions, regarding the functions and operations of SSB, and hence, decided to provide necessary guidance through the issuance of this standard, in addition to aligning with certain existing requirements, particularly those related to the independence and objectivity of SSBs.

# **[Exposure Draft (AGEB 4/2023) of the]**

## **AAOIFI Governance Standard (GS) \_\_\_\_**

### **Shari’ah Supervisory Board: Functions and Operations**

#### **Objectives of the standard**

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1. The objectives of this standard include the following:
  - a. empowering the Shari’ah supervisory board (SSB) of an Islamic financial Institution (IFI / the institution) to effectively carry out its mandate in line with the requirements of relevant AAOIFI Governance Standards (GSs), enabling the SSB to achieve its objectives in an effective and efficient manner;
  - b. promoting consistency and uniformity in SSB operations and functions across various types of institutions, regardless of their geographical location or size;
  - c. promoting and maintaining independence and objectivity in SSB’s functions and operations; and
  - d. establishing responsibilities and accountability of SSB members in carrying out their respective functions.

#### **Scope**

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2. This standard applies to all IFIs, including Islamic windows, across all sectors. Regulatory and supervisory authorities (RSAs) may choose to apply this standard to other institutions in their jurisdictions as appropriate. This standard shall also be applied insofar as practicable by the institutions other than IFIs adopting AAOIFI GSs, including social finance institutions.
3. This standard shall also apply to all other institutions (including Waqf and other social finance institutions) following AAOIFI GSs and the SSBs established for Sukuk and other structures, as and to the extent, required by the relevant AAOIFI GSs.

#### **Relationship with other standard(s)**

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4. This standard shall be read, understood and applied in conjunction with [ED of] GS \_\_\_\_ “Shari’ah Governance Framework”, [ED of] GS \_\_\_\_ “Shari’ah Supervisory Board: Appointment and Composition”, [ED of] GS \_\_\_\_ “Shari’ah Supervisory Board: Review and Report” and GS 5 “Independence of Shari’ah Supervisory Board”.

## Definitions

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5. For the purpose of interpreting and applying this standard, the following short definitions are relevant:
- a. Fatwa<sup>1</sup> – is a Shari’ah opinion presented to a person who seeks it with regard to an incidence that has already occurred (the Fatwa incidence) or is expected to occur. It does not refer to answering queries pertaining to hypothetical incidences;
  - b. Independence – is an attitude of the mind which does not allow the viewpoints and conclusions of its possessor to become reliant on or subordinate to the influences and pressures of conflicting interests. It is achieved through organisational status and in an objective way (also see paragraph 5(f));
  - c. Islamic financial institutions (IFIs / the institutions)<sup>2</sup> – 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 Shari’ah principles and rules;
  - d. Maqasid Al-Shari’ah<sup>3</sup> – 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 preservation of their Deen, life, intellect, progeny and wealth and the prioritisation of necessities followed by needs followed by embellishments and complimentary matters;
  - e. Maqasid Al-Uqood<sup>4</sup> (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 negate the objectives of the Ijarah contract];
  - f. Objectivity – in the specific context of this standard, is an independent mental attitude which SSB members should maintain in performing their responsibilities in line with the requirements of relevant AAOIFI GSs. SSB members are not to subordinate their judgment on Shari’ah supervision matters to that of others. The principle of objectivity imposes obligations on SSB members to be fair, intellectually honest and free of conflict of interests (neutral);

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<sup>1</sup> [ED of] AAOIFI GS \_\_ “Syndicated Financing”

<sup>2</sup> AAOIFI GS 12 “Sukuk Governance”

<sup>3</sup> [ED of] AAOIFI GS \_\_ “Shari’ah Decision-Making Process”

<sup>4</sup> [ED of] AAOIFI GS \_\_ “Shari’ah Decision-Making Process”

- g. Shari’ah principles and rules<sup>5</sup> – comprise “the Shari’ah principles and rules defined by the following hierarchy, as appropriate:
  - i. the Shari’ah standards issued by Accounting and Auditing Organization 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 central Shari’ah board 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 Shari’ah supervisory board of the institution”;
- h. Shari’ah supervisory board (SSB) – is an independent body of specialised jurists in Fiqh Al-Muamalat (Islamic commercial jurisprudence). In addition, the SSB may preferably include advisors (referred to as “SSB advisors”) who are experts in areas such as finance, economics, accounting or law, and have reasonable knowledge of Shari’ah principles and rules. The SSB is entrusted with the duty of reviewing and supervising the activities of an institution in order to ensure that it operates in compliance with Shari’ah principles and rules. The Fatwas and rulings (related to Shari’ah matters) of the SSB are binding on the institution; and
- i. Those charged with governance (TCWG)<sup>6</sup> – in line with the International Ethics Standards Board for Accountants (IESBA) pronouncement, are “the person(s) or organisation(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process. For some entities in some jurisdictions, those charged with governance may include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager”.

## Functions, roles and responsibilities of an SSB

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### Authority and accountability

- 6. An SSB of an institution shall be vested with appropriate power and authority as may be necessary to perform its duties and responsibilities effectively.
- 7. The SSB shall issue Fatwas and rulings (related to Shari’ah matters) which shall be binding on the institution (insofar as aligned with the hierarchy of Shari’ah principles and rules (see paragraph 5(g)).
- 8. The SSB shall be responsible for the quality, accuracy and soundness of its decisions.
- 9. The SSB and its members should not be involved in any manner with regard to managerial decisions and operational responsibilities of the institution.

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<sup>5</sup> AAOIFI FAS 40 “Financial Reporting for Islamic Finance Windows”

<sup>6</sup> [ED of] AAOIFI GS \_\_ “Syndicated Financing”



## **Primary responsibility for supervision related to Shari’ah matters**

10. The SSB shall supervise the institution’s operations, transactions and processes to ensure compliance with Shari’ah principles and rules. Accordingly, the following shall apply:
  - a. all relevant documentation for products and services, including contracts, agreements, marketing and promotional materials or other legal and operational documentation used in the institution’s business transactions shall be approved by the SSB; and
  - b. all policies and procedures relating to the institution shall be reviewed and approved by the SSB, with regard to any Shari’ah compliance consideration.
11. The SSB shall establish a robust methodology to guide its decision-making process, in line with the requirements of relevant AAOIFI SS<sup>7</sup> and AAOIFI GS<sup>8</sup>. The SSB shall take into account relevant business realities / practices and related risks, as well as, consumer protection concerns in arriving at its decisions.

## **Specific responsibilities for significant functions**

12. The SSB shall approve the investment accounts (IAs) strategy and policy framework (as developed by the institution). The SSB shall fulfil its respective responsibilities in line with the IAs strategy and policy framework<sup>9</sup>. In particular, the SSB shall oversee the profit / loss calculation and distribution to the investment account holders (IAHs) and other participatory stakeholders.
13. The SSB shall review and approve the accounting treatment of products and services with regards to Shari’ah<sup>10</sup> principles and rules.
14. The SSB shall review and approve the institution’s annual Zakah calculations on behalf of the shareholders (and participatory stakeholders, if applicable).
15. The SSB shall specify the means of disposal of earnings that have been realised from sources or by means prohibited by Shari’ah principles and rules. The SSB shall also verify the correct use of such income for appropriate charitable causes. The SSB shall take measures to systematically reduce or eliminate the occurrence of such Shari’ah non-compliant income in the future.

## **Responsibilities with regard to the Shari’ah compliance and internal Shari’ah audit functions**

16. The SSB shall review the reports and observations of the Shari’ah compliance function, internal Shari’ah audit function and external Shari’ah audit (where applicable) and provide advice on such reports and observations, in line with the requirements of relevant AAOIFI GSs.

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<sup>7</sup> SS 29 “Stipulations and Ethics of Fatwa in the Institutional Framework”

<sup>8</sup> [ED of] GS \_\_\_\_ “Shari’ah Decision-Making Process”

<sup>9</sup> See [ED of] GS \_\_\_\_ “Governance and Management of Investment Accounts”

<sup>10</sup> It is expected that SSB while making such assessment shall consider the requirements of “AAOIFI Conceptual Framework for Financial Reporting”, particularly those contained in “Chapter 7: Shari’ah principles and rules used as a foundation for the conceptual framework”

17. The SSB shall provide input to the annual plans of internal Shari'ah audit (to be approved by the audit and governance committee), in line with the requirements of respective AAOIFI GS<sup>11</sup>.
18. The consent of the SSB shall be obtained for the appointment of the head of the Shari'ah compliance department. The SSB shall also be consulted on the appointment of the head of the internal Shari'ah audit department.
19. The SSB shall be consulted by the management to evaluate and assess, on an annual basis, the performance of the head of the Shari'ah compliance function and the head of the internal Shari'ah audit function. The appraisal of the Shari'ah related performance shall be conducted by the SSB.

### **Addressing Shari'ah non-compliances and escalation protocol**

20. If a case of Shari'ah non-compliance is identified within the institution, the SSB shall advise the management to undertake, at a minimum, the following steps:
  - a. corrective action, if the correction is feasible;
  - b. remedial action to deal with the consequences of Shari'ah non-compliance (if corrective action is not feasible); or
  - c. preventive measures to avoid recurrence of the same / similar issue in the future.
21. If the SSB has reason to believe that Shari'ah non-compliant activities are being carried out in a systematic manner within the institution, the SSB shall inform TCWG and suggest suitable measures to rectify the situation.
22. If Shari'ah non-compliant activities continue despite the above measures, or if TCWG fail to effectively address the concerns of the SSB, the SSB shall inform the relevant RSA and report such violations in its annual Shari'ah compliance report.

### **Operations of SSB**

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#### **SSB charter or terms of reference (TORs)**

23. An SSB charter (or TORs) shall be prepared by the institution and be approved by TCWG defining the scope of work for the SSB, in line with the requirements of this standard along with the requirements of relevant AAOIFI GSs.
24. A typical SSB charter shall include, at a minimum, the following:
  - a. purpose of the charter;
  - b. authorisation of the charter;
  - c. membership of the SSB;
  - d. composition of the SSB;

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<sup>11</sup> GS 11 "Internal Shari'ah Audit"

- e. chairman – roles and responsibilities;
  - f. secretary – roles and responsibilities;
  - g. term and remuneration of SSB members;
  - h. removal and / or replacement of an SSB member;
  - i. authority of the SSB;
  - j. responsibilities of the SSB;
  - k. meeting frequency and quorum;
  - l. voting and decisions;
  - m. amendments to the charter; and
  - n. relationship with TCWG and senior management.
25. The SSB may develop any additional Shari’ah-related terms of reference and procedures not covered in this standard.

### **SSB meetings**

26. In order to hold an SSB meeting, and for any decision to be taken, there shall be a proper quorum in which a majority of members shall be present.
27. The SSB shall meet frequently, but no less than four times a year, to fulfil its responsibility.
28. Each member of the SSB shall attend at least three-fourths (75%) of the meetings during a calendar year, including through video or conference calls. He cannot appoint another person to attend on his behalf.
29. All meetings shall be chaired by the SSB chairman and, in his absence, by the deputy chairman.
30. The agenda of the SSB meeting, along with sufficient details, shall be sent to the SSB members in advance, enabling them to come prepared to the meeting. The specific timelines for submission of the agenda and related background documents shall be set by the SSB in line with the relevant regulations (if any), but in no case less than one week prior to the meeting.
31. The SSB shall commit to and specify a reasonable maximum timeline, after the required information has been provided, for any and all issues presented before it for a decision. Such a timeline shall be agreed with the management as part of the operational procedures at the start of the SSB term.
32. The chairman, and in his absence the deputy chairman, is empowered to invite any relevant senior management personnel to attend an SSB meeting at the initiative of the SSB or the management.

### ***Minutes of SSB meetings***

33. The SSB shall ensure that the minutes of its meetings have necessary details of all the decisions made and / or Fatwas issued along with the detailed rationale (based on Fiqh or other relevant factors) and difference of opinion or dissenting note, if any. The minutes shall be signed by all the

SSB members who attended the meeting to confirm the matters addressed therein, no later than in the next meeting.

34. The secretary<sup>12</sup> to the SSB shall be responsible for recording the minutes of SSB meetings. Any differences of opinion or dissenting opinions among members of the SSB shall be duly documented and referred to in the minutes.
35. Any SSB approval taken through circulation shall be part of the minutes of the next SSB meeting.

### *SSB meeting with TCWG*

36. The SSB is strongly encouraged to meet with TCWG of the institution at least once a year to discuss issues related to Shari'ah compliance and governance. The SSB shall document its observations, concerns and suggestions to TCWG.

### **Documentation of SSB opinions / rulings / Fatwa**

37. The SSB shall ensure proper documentation of any opinion that it gives on Shari'ah-related issues and its basis of conclusion. These shall be maintained centrally for ready reference.
38. The SSB shall, at all times, make available all the Shari'ah rulings regarding products / services offered by the institution along with their bases (religious / jurisprudential evidence). The institution shall ensure that these rulings and their bases are made available on the institution's website.
39. The SSB shall define the key elements to be evaluated while reviewing and approving a product. Such key elements shall be used as the minimum guidelines / checklist by the Shari'ah compliance function while reviewing all new products and services, before presenting the product / service document to the SSB. This checklist shall include, at a minimum, key features of the product, processes, structure, documentation (including legal contracts), risk and compliance considerations, marketing collateral and other such necessary details as required to ensure proper business understanding. The views of the head of legal shall also be included.
40. The SSB shall advise on the Shari'ah compliance of a proposed product / service together with its appropriate basis of conclusion (such as Fiqh literature, evidence and reasoning).
41. The SSB shall adopt a specified process for changing, amending or revising any of its previously issued Shari'ah rulings and arrange for its dissemination to the relevant stakeholders.

### **Continuous professional development**

42. The senior management shall design and implement a continuous professional development programme for SSB members, in consultation with the SSB.
43. An SSB member is expected to continuously develop himself both in terms of Shari'ah knowledge and the understanding of business, financial, accounting, economic and legal developments relevant for the institution.

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<sup>12</sup> The function of the secretary to the SSB may be assigned to the head of Shari'ah compliance department, in line with the requirements of AAOIFI GS 9 "Shari'ah Compliance Function".

44. RSAs are encouraged to oversee that the training programme for SSB members is adequate and appropriately implemented.

### **Performance assessment**

45. An SSB shall conduct its annual performance assessment. For this purpose, evaluation criteria shall be developed for SSB members individually and for the SSB collectively (refer to Appendix B for the SSB performance assessment template), and the same shall be agreed with TCWG.
46. The institution may decide on a third-party assessment of the SSB's performance. In this case, the institution shall ensure that the assessment is objective, transparent and related to the accountability of the SSB and is not misused or abused by TCWG or senior management to unduly influence the SSB or to compromise its independence.
47. The SSB's performance assessment report shall be submitted by TCWG to the respective RSA on an annual basis (unless otherwise specified by the RSA).

### **SSB's coordination with the central Shari'ah board (CSB)**

48. The SSB shall cooperate and, where necessary, work in coordination with the CSB (if one exists in the jurisdiction) to achieve standardisation and harmonisation in Islamic product development.

### **Independent and objective conduct of SSB**

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#### **Maintaining independence of SSB<sup>13</sup>**

49. An SSB shall be independent, objective, competent and appropriately empowered to carry out its responsibilities. Necessary measures shall be taken to ensure that the SSB does not only work independently but is also seen to be independent by the stakeholders, including the general public.
50. No individual or group of individuals shall be allowed to dominate the SSB's decision making.
51. SSB members shall be truly independent. They shall be able to exercise independent judgment without undue influence or pressure (including time constraints), especially from TCWG and / or the management of the institution.
52. SSB members have a responsibility towards all stakeholders, who rely on the credibility and independence of the SSB while using the services of the institution. The stakeholders including IAHs, depositors, shareholders, investors, employees, governments and others (including public at large) also rely on the objectivity and integrity of SSB members to ensure Shari'ah compliance with regard to the activities of the institution.
53. SSB members shall always strive to uphold fairness and equity for all the stakeholders.

### **Financial and commercial independence of SSB**

54. The remuneration of SSB members shall not be conditional on or linked to their achieving certain results or the institution meeting certain financial targets.

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<sup>13</sup> To be read in conjunction with the requirements of GS 5 "Independence of Shari'ah Supervisory Board"

55. An SSB member, or any member of their immediate family (spouse and dependent children) or close family (parents, non-dependent children and siblings), can be the CEO or director or hold any other key management position of the institution or any of its related companies for the current or the last financial year. An SSB member cannot be an employee of the institution or any of its related companies in the current or the last financial year.
56. An SSB member, or any member of their immediate family (spouse and dependent children) or close family (parents, non-dependent children and siblings), can be a substantial shareholder (5% or as specified by the respective jurisdiction, or 10% of the net worth of the person, whichever is lower) of the institution or any of its subsidiaries / associates on whose SSB they serve. Such shareholding shall be duly disclosed in the annual report of the institution.
57. An SSB member, or any member of their immediate family (spouse and dependent children) or close family (parents, non-dependent children and siblings), can be a substantial shareholder (5% or as specified by the respective jurisdiction, or 10% of the net worth of the person, whichever is lower) of an organisation which the institution made or received from significant payments (as specified by the respective jurisdiction) in the current or immediate past financial year.
58. An SSB member of an institution, nor any member of their immediate family (spouse and dependent children) or close family (parents, non-dependent children and siblings), can be shareholders or employees of a company that provides the same institution with Shari'ah consultancy and / or Shari'ah audit services.
59. An SSB member can be a depositor / IAH of the institution or seek financing facilities from the institution in the normal course of business<sup>14</sup>. All such relationships shall be disclosed in the annual report of the institution.
60. An SSB member shall not have any relationship with the institution that could possibly interfere, or be reasonably perceived to interfere, with the exercise of their independent professional judgment.
61. SSB members shall continuously assess their relationship with the institution to identify any situation that may, or be reasonably perceived to, impair independence. They shall promptly resolve or report to the SSB such situations in which an issue of independence impairment is present or may reasonably be inferred and agree on an action plan to resolve it.

#### *Contingent fee and performance-based bonus*

62. An SSB member's remuneration for services should not be based on an arrangement whereby no fee will be charged unless a specified finding or result is obtained or when the fee is otherwise contingent upon the findings or results of such services. Similarly, such remuneration shall not include bonus / incentive pay related to the performance of the institution.

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<sup>14</sup> However, no special rates or preferential treatment shall be given to SSB members in such cases.

### *Acceptance of gifts and free services*

63. Acceptance of goods, undue hospitality and (free) services from an institution may, at times, be a threat to SSB independence. Acceptable goods or services are those that are within the normal courtesies of social life, beyond which any gifts or free services shall not be considered acceptable by SSB members.

### **Handling conflict of interest situations**

64. When faced with a potential and / or an actual issue of conflict of interest, concerned SSB members shall do the following to resolve the issue:
- a. disclose and document the issue;
  - b. review the issue internally within the SSB and take necessary steps to resolve it;
  - c. where there is a temporary conflict of interest, or a duty to another party, abstain from participating in the relevant discussion, decision or action; or
  - d. if the issue remains unresolved, or if it is of a permanent nature, the SSB member with the issue of conflict of interest shall resign and the general assembly of the institution shall be notified.

### **Maintaining objectivity**

65. The principle of objectivity imposes obligations on SSB members to be fair, intellectually honest and free of any conflict of interest.
66. Objectivity is an independent mental attitude which SSB members shall maintain in performing Shari'ah supervision. SSB members shall not subordinate their judgment on Shari'ah supervision matters to that of others.
67. Objectivity requires SSB members to perform Shari'ah supervision in such a manner that shows an honest belief in their work. The SSB shall avoid potential and actual situations that impair their ability to make objective and independent professional judgments.
68. TCWG of the institution shall devise a satisfactory mechanism for an annual check of SSB members for independence and conflict of interest.
69. Conflict of interest may arise, for example, when SSB members act contrary to their obligation and to their fiduciary duty towards the institution or if an SSB member exploits their position for personal and pecuniary benefit.

### **Maintaining confidentiality**

70. SSB members shall ensure that information obtained in the course of their duties is kept confidential.
71. Any confidential or sensitive information obtained by an SSB member while serving an institution shall not be used in ways that could be detrimental to that institution, particularly in ways that might give an advantage to its competitors.

72. The duty to observe confidentiality applies to all information with which members of the SSB are entrusted by the institution or which is brought to their attention during or at any time after the carrying out of their assignment. Confidentiality obligations do not end when a member of the SSB ceases to serve the institution or when a matter is completed or closed. Members of the SSB shall observe the same restrictions unless they have obtained express authorisation from the institution relieving them from such obligation.
73. Where an SSB member has a dissenting opinion on a Fatwa given by the SSB, he has the right to document the dissent as per policy, but shall not criticise such Fatwa publicly or use it to inflict reputational damage on the institution or its SSB.
74. In respect of multiple appointments, SSB members are required to observe confidentiality and avoid conflict of interest in carrying out their duties.

### **Integrity and ethical responsibility**

75. SSB members shall exercise appropriate discretion in decision-making by keeping in mind both the technical aspects of Shari'ah and the objectives of Shari'ah (Maqasid Al-Shari'ah), as well as, Maqasid Al-Uqood (see paragraph 5(e)). They shall pay attention to both the legal requirements and the ethical dimensions of their decisions.
76. SSB members, in addition to the requirements of this standard, shall follow the requirements of respective AAOIFI code of ethics<sup>15</sup>, as well as, the requirements of respective AAOIFI GS on the implementation of code of ethics<sup>16</sup>.

### **Accountability of SSB members**

77. SSB members are, and shall remain, individually responsible for their own work as members of the SSB (irrespective of any delegation<sup>17</sup> or reliance on other members of the SSB).

### **Transparency and disclosure**

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78. The requirements contained in paragraphs 79-82 related to transparency and disclosure, shall be applied in addition to any relevant requirements contained in relevant AAOIFI GSs<sup>18</sup>.

### **Transparency in respect of SSB report**

79. The SSB report, developed in line with the requirements of respective AAOIFI GS<sup>19</sup>, shall be published as part of the institution's annual report.
80. At least one SSB member (preferably the chairman) shall present the SSB report at the annual general meeting to the shareholders of the institution and respond to their queries about the state of Shari'ah compliance of the institution.

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<sup>15</sup> "AAOIFI Code of Ethics for Islamic Finance Professionals"

<sup>16</sup> GS 16 "Institutional Framework for the Implementation of Ethics"

<sup>17</sup> In respect of the limited delegation of authority by the SSB, see paragraphs 69-71 of [ED of] GS \_\_\_\_ "Shari'ah Decision-Making Process"

<sup>18</sup> Particularly, requirements of principle 14 related to transparency and disclosure as prescribed in [ED of] GS \_\_\_\_ "Shari'ah Governance Framework"

<sup>19</sup> [ED of] GS \_\_\_\_ "Shari'ah Supervisory Board: Review and Report"



## **Transparency in respect of SSB's Fatwas / pronouncements / resolutions**

81. An institution shall disclose Shari'ah pronouncements / resolutions issued by their SSB for the past 12 months, and which are related to its offered products and services, along with the rationales / bases of conclusion (jurisprudential or other) supporting these pronouncements / resolutions. An archive of such record shall always remain available for the preceding years.
82. It is important that these Shari'ah pronouncements / resolutions and the rationales supporting them are made in accurate, specific terms and in clear, simple and easy-to-understand language and form. An institution shall also make appropriate disclosure whenever its SSB departs from or revises any of its earlier Shari'ah pronouncements / resolutions, along with the reasoning for such departure or revision.

## **Disclosure of information related to SSB**

83. At a minimum, the institution shall disclose annually the following information in their annual reports with appropriate signposting:
- a. a statement on the governance arrangements, systems and controls employed by the institution to ensure Shari'ah compliance, how these meet applicable regulatory requirements or international standards, and if there is less than full compliance with these standards, an explanation of the reasons for non-compliance. In countries where this standard is followed, or where regulatory requirements on Shari'ah governance in institutions exist, a statement of compliance with these standards (and reasons for any non-compliance) shall be provided;
  - b. qualifications and areas of expertise of each SSB member;
  - c. appointment and change of SSB members during the financial year;
  - d. total remuneration paid to SSB members in aggregate during the year;
  - e. any material<sup>20</sup> financing or deposit relationship with the SSB members and whether any special or preferential rates were offered;
  - f. any conflict of interest situations;
  - g. number of SSB meetings held during the year and the attendance record of each SSB member at these meetings;
  - h. disclosure of the number and nature of Shari'ah non-compliance events during the period and how these were resolved (with reference to the applicable Shari'ah standards), including control measures to avoid recurrence of such events; and
  - i. trainings that have been attended by members of the SSB during the period.

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<sup>20</sup> Materiality for this purpose shall be determined by the respective RSA.

## **Effective date**

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84. This standard shall be effective on or after 1 July 2025. Earlier application is encouraged.

## Appendices

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### Appendix A: Adoption of the standard

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

#### Members of the board

1. Mr. 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. Ms. Ibtihal Al-Shamali
9. Dr. Mohammad Kabir Hassan
10. Mr. Mohammad Shoaib
11. Mr. Moosa Khoory
12. Mr. Muzammil Kasbati
13. Mr. Sohaib Umar
14. Mr. Wael Merza
15. Dr. Zahid ur Rehman Khokher

#### Reservation

The standard was approved unanimously.

### **Working group members**

1. Dr. Walid Hegazy (chairman)
2. Dr. Abdulbari Mashal
3. Mr. Abdulla AlMoqbel
4. Mr. Ebrahim Sidat
5. Mr. Farrukh Raza
6. Mr. Firas Hamdan
7. Mr. Sohaib Umar

### **Executive team**

1. Mr. Omar Mustafa Ansari (AAOIFI)
2. Ms. Zahra Jassim (AAOIFI)
3. Ms. Alyaa Adel (AAOIFI)
4. Mr. Farhan Noor (AAOIFI)
5. Ms. Merjan Abid (Consultant-researcher)

## **Appendix B: Illustrative SSB performance assessment template**

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- B1 The methodology for assessment of SSB's performance may include a combination of:
- a. administrative assessment by the management;
  - b. technical assessment by peers; and
  - c. technical assessment by the chairman.
- B2 Suitable weightages may be assigned to each of these components to come up with a combined score for each SSB member. The SSB's performance as a collective body is to be assessed, as well as, that of each of its members individually. This assessment is to be done with respect to four areas (others may be added if needed):
- a. values and ethics;
  - b. leadership and commitment;
  - c. independence and objectivity; and
  - d. knowledge and learning.
- B3 The following table provides an illustrative template containing the minimum parameters for the assessment of an SSB's performance.

## Collective assessment

	Values and ethics	Leadership and commitment	Independence and objectivity	Knowledge and learning
Did the SSB:				
a. consciously strive to adhere to the letter and spirit of the Shari'ah instead of taking a legalistic and technical approach to Shari'ah decision-making?	√			
b. demonstrate effective organisational accountability?		√		
c. communicate effectively with other organs of governance, including the board, the management and the auditors?		√		
d. properly identify and evaluate the organisation's exposure to Shari'ah non-compliance risk and reputational risk, and effectively communicate that risk information to appropriate bodies in the organisation?		√		√
e. demonstrate independence and objectivity in its working and decision-making?			√	
f. promote appropriate ethics and values within the organisation?	√			
g. promote continuous improvement of the organisation's Shari'ah control processes?		√		

## Individual assessment

	Values and ethics	Leadership and commitment	Independence and objectivity	Knowledge and learning
Did the individual member of the SSB:				
a. strive to adhere to the letter and spirit of the Shari'ah instead of relying primarily on legal and Shari'ah stratagems?	√			
b. attend at least 75% of the SSB meetings held during the past twelve months either in person or through video / conference call?		√		
c. devote sufficient time as needed in preparing for the meeting, including review of meeting papers?		√		
d. contribute, to the best of his ability, to enriching the discussion and deliberation of the issues raised in SSB meetings?		√		
e. demonstrate integrity and honesty?	√			
f. strive for continuous learning and self-improvement?				√
g. accept responsibility with due care and diligence?		√		
h. strive to be sensitive to cultural differences?				√
i. strive to be observant / aware of contextual factors before coming to a decision?				√
j. demonstrate awareness of psychological tendencies and consciously try to avoid them in his decisions?				√
k. exercise rational and logical reasoning?				√
l. demonstrate accepting criticism in a constructive and positive manner?		√		
m. demonstrate willingness to learn from others?				√
n. exercise independent professional judgment without being unduly influenced by others?		√	√	

	<b>Values and ethics</b>	<b>Leadership and commitment</b>	<b>Independence and objectivity</b>	<b>Knowledge and learning</b>
o. demonstrate respect for others' viewpoints while disagreeing with them?		√		
p. demonstrate the ability to change his position when presented with convincing facts contrary to his opinion?		√		
q. strive to be inquisitive (capable of asking intelligent and relevant questions)?		√		
r. maintain the confidentiality of information received during the course of his duties?	√			
s. demonstrate the spirit of teamwork and collaboration to achieve the common objectives of the SSB?		√		



## **Appendix C: Basis for conclusions**

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BC1 [To be updated later]

## Appendix D: Brief history of the preparation of the standard

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- H1 AAOIFI and Islamic Financial Services Board (IFSB) agreed to collaborate and cater to the growing needs of the global Islamic finance industry, in various areas of mutual interest. One of the significant collaboration efforts was in the area of standardisation and harmonisation of Shari’ah governance practices across the globe. The institutions collaborated to issue the exposure draft of “IFSB-AAOIFI Revised Shari’ah Governance Framework for Institutions Offering Islamic Financial Services” on 16 Ramadan 1444H, corresponding to 7 April 2022 after completing the due process.
- H2 Based on extensive feedback received from stakeholders and considering the mandates of each organisation, both the institutions mutually agreed to separately review and, where necessary, issue relevant guidance / standards on Shari’ah governance within their respective areas of focus.
- H3 AAOIFI Governance and Ethics Board (AGEB / the board) in its 32<sup>nd</sup> meeting on 12 Safar 1445H, corresponding to 28 August 2023, via video conferencing, approved the formation of a working group and the initiation of the development process of exposure drafts of six individual governance standards, primarily containing the requirements of the joint exposure draft, which were not covered elsewhere in the existing governance standards.
- H4 Following the board's approval, two working group meetings were held to discuss the draft standards on 25 Rabi’ II 1445H, corresponding to 9 November 2023 and 2 Jumada I 1445H, corresponding to 16 November 2023, respectively. The members of the working group agreed on conceptual issues and recommended the draft standards for the approval of AGEB.
- H5 AGEB held its 34<sup>th</sup> meeting on 13-14 Jumada I 1445H, corresponding to 27-28 November 2023 in Bahrain, and approved the issuance of exposure drafts of six governance standards, including this standard. The board directed the secretariat to incorporate the necessary changes in light of the comments of the AGEB members and the discussions during the meeting. The board further approved a fast track due process for finalisation and issuance of these standards duly taking into account the effort and stakeholders’ feedback already incorporated in these standards.
- H6 After incorporating the board’s comments and necessary changes, this exposure draft was issued on 12 Jumada II 1445H, corresponding to 25 December 2023.