

**FACTORS OF DIVERGENCE OF *SHARI'AH* SUPERVISORY OPINIONS AND  
ITS EFFECTS ON THE HARMONIZATION OF ISLAMIC BANKING  
PRODUCTS AND SERVICES**

**By**



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## ABSTRACT

Overall, the aims of this study are to examine the factors that create differences of opinions among *Shari'ah* supervisory bodies and the effects of their opinions on standardization and internationalization of Islamic banking products and services. The study used semi-structured in-depth interview where five respondents from the Middle East and Malaysia *Shari'ah* advisors participated in the interview sessions. The data were analyzed using manual techniques. The findings reveal that indeed, differences in educational background, various schools of thoughts, environment and culture in which *shariah* advisors operate, industrial will and legal requirements in different jurisdictions significantly create differences of opinions among *shariah* advisors on Islamic banking products and services. In addition, the findings also reveal that these differences in opinions among *Shari'ah* advisory bodies create confusions among public and bankers, and negatively affect standardization of Islamic banking products and cross-regions Islamic banking transactions and investment. Moreover, the findings also show that it is difficult for the industry to have Islamic-based products due to high competition from conventional counterpart, poor technology, legal constraints and lack of political will, globalization nature of banking transaction, low level of global awareness on Islamic banking products and issue of moral hazard. Finally yet importantly, the study found that there are possibility for convergence of opinions, standardization of Islamic banking products and services if Islamic countries establish a unified global international *Shari'ah* advisory council, set international basic requirements for Islamic *Shari'ah* advisors, established international Islamic banks research and development centre and increase training and educations of Islamic bankers. Therefore, this study has several implications to the bankers, policymakers and researchers. The policymakers should be able to resolve their political differences and set up unified international advisory council and international research and development center. The bankers should increase training and educations of the workforce as well improving their banking infrastructure to facilitate cross-border transactions.

**Keywords:** *Shari'ah* views, Islamic banking, products & services, standardization.

## ABSTRAK

Secara keseluruhannya, matlamat kajian ini adalah untuk mengkaji faktor-faktor yang mewujudkan perbezaan pendapat antara Shari'ah badan penyeliaan dan kesan pandangan atas piawaian dan antarabangsa bagi produk dan perkhidmatan perbankan Islam. Kajian yang menggunakan temubual mendalam separa berstruktur di mana lima responden dari Timur Tengah dan penasihat Syariah Malaysia telah mengambil bahagian dalam sesi temuduga ini. Data dianalisis menggunakan teknik-teknik manual. Hasil kajian menunjukkan bahawa sesungguhnya perbezaan latar belakang pendidikan, pelbagai aliran pemikiran, budaya dan suasana di mana penasihat syariah beroperasi, kehendak industri dan keperluan undang-undang dalam bidang kuasa yang berbeza dengan ketara membawa kepada perbezaan pendapat di kalangan penasihat syariah ke atas produk dan perkhidmatan perbankan Islam. Di samping itu, dapatan kajian juga menunjukkan bahawa perbezaan pendapat antara Badan Penasihat Syariah tersebut mewujudkan kekeliruan antara orang ramai dan bank-bank, dan memberikan kesan negatif terhadap penyeragaman produk perbankan Islam dan merentas rantau transaksi perbankan Islam dan pelaburan. Selain itu, dapatan kajian juga menunjukkan bahawa ia adalah sukar untuk industri yang mempunyai produk berasaskan Islam disebabkan oleh persaingan yang tinggi daripada konvensional, teknologi yang lemah, kekangan undang-undang dan kekurangan kesungguhan politik, sifat globalisasi transaksi perbankan, rendah tahap kesedaran global pada produk perbankan Islam dan isu bahaya moral. Akhirnya lagi penting, kajian mendapati bahawa terdapat kemungkinan pertembungan pendapat, piawaian bagi produk dan perkhidmatan jika negara-negara Islam menubuhkan kesatuan global Antarabangsa Majlis Penasihat Syariah, menetapkan keperluan asas antarabangsa bagi penasihat Syariah Islam, ditubuhkan penyelidikan antarabangsa bank Islam dan pusat pembangunan dan peningkatan latihan dan pendidikan daripada bank-bank Islam. Oleh itu, kajian ini mempunyai beberapa implikasi kepada bank-bank, penggubal dasar dan penyelidik. Pembuat dasar harus dapat menyelesaikan perbezaan politik mereka dan menubuhkan majlis penasihat bersatu antarabangsa dan pusat penyelidikan dan pembangunan antarabangsa. Pihak Bank perlu meningkatkan latihan dan pendidikan tenaga kerja serta meningkatkan infrastruktur perbankan mereka untuk memudahkan urusan niaga merentas sempadan.

**Kata kunci:** Pandangan Syariah, perbankan Islam, produk dan perkhidmatan, piawaian.

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## LIST OF ABBREVIATIONS

AAOIFI	Accounting and Auditing Organization for Islamic Financial Institutions
ARCF	Arbitration and Reconciliation Centre for Islamic Finance
BBA	<i>Bai Bithamin Ajil</i>
BCL	Banking Control Law
BIMB	Bank Islam Malaysia <i>Berhad</i>
BNM	Bank Negara Malaysia
BSN	Bank <i>Simpanan Nasional</i>
CIBAFI	General Council for Islamic Banks and Financial Institutions
CMA	Capital Market Authority
DIB	Dubai Islamic Bank
GCC	Gulf Cooperation Countries
IDB	Islamic Development Bank
IFIs	Islamic Financial Institutions
IFSA	Islamic Financial Services Act
IFSB	Islamic Financial Services Board
IIFA	International Islamic <i>Fiqh</i> Academy
IIFM	International Islamic Financial Market

IILMC	International Islamic Liquidity Management Corporation
IIRA	International Islamic Ratings Agency
IIUM	International Islamic University Malaysia
INCEIF	International Centre for Education in Islamic Finance
IRTI	Islamic Research & Training Institute
ISRA	International <i>Shari'ah</i> Research Academy for Islamic Finance
KFH	Kuwait Finance House
LMC	Liquidity Management Centre
OIC	Organization of Islamic Cooperation
P	Page number
Pr	Probe
Q	Question
SAC	<i>Shari'ah</i> Advisory Council
SAMA	Saudi Arabian Monetary Agency
SSB	<i>Shari'ah</i> supervisory board
UAE	United Arab Emirates
BLR	Base Lending Rate



### Transliteration table

Transliteration	Arabic letter
'a, 'i, 'u	أ, إ, ؤ
b	ب
t	ت, ث
th	ث
j	ج
h	ح
kh	خ
d	د
z	ذ
r	ر
z	ز
s	س
sh	ش
s	ص
d	ض
t	ط
z	ظ
e	ع
gh	غ
f	ف
q	ق
k	ك
l	ل
m	م
n	ن
h	ه
w	و
y	ي

# CHAPTER ONE

## INTRODUCTION

### 1.0 Background of the study

The Islamic laws (*Shariah*) are comprehensive and covered all aspects life including economic and financial activities. *Shari'ah* guides Muslims behavior and actions ( Abdul Aris et al, 2013). However, the absence of Islamic banking led Muslim customers to involve in conventional financial practices for centuries. This is due to the practical initiative of conventional banking before the establishment of Islamic Banking. While conventional banking products and services mostly focuses on interest, which is totally forbidden in Islam, Islamic banking is interest free. Therefore, Muslim countries attempted to develop their own Islamic financial system according to Islamic principles, or at least to create alternative financial system to avoid conventional practices, which ended with establishment of Islamic financial institutions especially Islamic banking (Malik, Malik, & Mustafa, 2011).

The first Islamic bank founded was Mit Ghamr bank, which was established in Egypt in 1963. The bank had adopted the concept of profit and loss sharing in performing its intermediary task of transmitting fund from surplus units to deficit units (Walker & Childs, 2015).

From 1970s and above, many Islamic financial institutions were established (Vayanos, et al. 2008). For instance, Dubai Islamic Bank (DIB) was formed in 1975 with new investment techniques, strategies and product development (Ahmad, 2008). Later on in 1980s Islamic banking reached South East Asian region when Bank Islam Malaysia Berhad in 1983 was established as a Malaysian's first national Islamic bank (Bimb, 2010). Then

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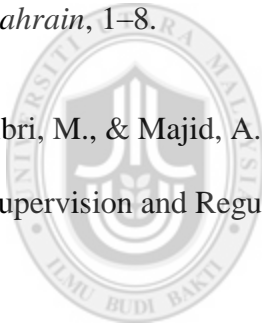
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