Shari’ah Governance in Islamic Financial Services

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Shari’ah is considered as one of the core elements of Islamic finance without which the whole industry will be at stake. The integrity of any Islamic financial products very much depends on its compliance with the requirements of Shari’ah and any deficiency in this aspect will surely affect the market and the confidence of the stakeholders. Having said that, it is very important to ensure adequate framework is developed to preserve the Shari’ah integrity of Islamic financial products. Therefore, a comprehensive Shari’ah governance framework is vital if Islamic finance is to develop in line with the rapid development that is taking place in the market.

Shari’ah governance is very much related to the tremendous contribution that is made by the Shari’ah advisor in developing the market. Shari’ah advisors are considered as the clients’ advocate in ensuring that they get Shari’ah compliance and best services from Islamic finance institution. They hold a big responsibility of honoring the trust of the clients and assume the key role in safeguarding public confidence in Islamic finance systems and products. This propels further growth and acceptance of Islamic finance. Lately, many quarters have raised concerns that the Shari’ah advisory industry is not regulated except in certain jurisdictions with guidelines established by Central Banks. As an example, in Malaysia, Bank Negara Malaysia has developed a guideline for the Shari’ah Advisory services provided to the Islamic Financial Institutions. The guideline, called the Guideline on the Governance of Shari’ah Committee for Islamic Financial Institutions (BNM GPS 1), is intended to govern the Shari’ah Committees and decides on the Islamic principles which can be used by the individual banks Shari’ah committees in deciding any issues brought to them. This does not mean that the Shari’ah committees are disallowed to use other principles. The committees are encouraged to use all the principles envisaged in the Shari’ah and any new principles shall be endorsed by the central authority. This exercise to certain extent is able to standardize and harmonize the practice in Shari’ah advisory fraternity in Malaysia. In addition, it helps in ensuring the standard of Shari’ah decisions for the products and services offered are maintained.

The devising of BNM GPS 1 has strengthened the role of the Shari’ah advisors. It outlines all the important elements of Shari’ah advisory which includes the qualifications to become a Shari’ah advisor, their roles and responsibilities, the governance and reporting system, roles and responsibilities of Islamic finance institutions and other pertinent elements in Shari’ah advisory services.

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In order to ensure sufficient Shari’ah advisors are groomed to participate in the market development, BNM GPS 1 has restricted the engagement of an individual to only one financial institution within the same industry.

It is timely to think of and consider a professional body for Shari’ah advisors and there is strong justification and sufficient contemplation for every word said. As Islamic finance move on towards further growth and expansion, it requires some degree of certainty especially with its Shari’ah governance system so that confidence of the public is well preserved.

Therefore, it is proposed that a professional body or association for Shari’ah advisors is initiated to overlook the practices and conduct of Shari’ah advisors as being a profession that require public trust as well highest integrity and competence. Such body will organize and ensure the continuous professional development (CPD) programme for Shari’ah advisors, establishing an acceptable qualification of members and oversee the conduct of Shari’ah advisor. This body shall serve or maintain balance between public interest (or the industry) and its members. It can be considered as a non-governmental body (NGO) which may operate on the basis of Waqf or contribution from its members and Islamic finance institution. It may also be given mandate to issue professional certification to Shari’ah advisor to practice and determine its renewal by periodic review and screening as to ensure that the Shari’ah advisor holds and exercises, at all time, quality and best professional, educational and ethical conduct. In fact, the existence of such body in other professional arena such as the Bar Council, the Medical Association and others has assisted in ensuring the integrity of such professions is maintained. Hence, it is may be timely to think of and consider a professional body for Shari’ah advisors.