

Growing demand for Islamic finance options in the US



THE US

By Aliredha Walji

Islamic finance, which is based on the principles of socially responsible investing, is seeing an increased demand to fulfill the needs of Muslims living in the US; however, activity in this space is still relatively small.

“The gross annual dollar value of retail Islamic financial transactions in the US is only approximately US\$4 billion, and most Muslims, constituting under 1% of the US population, continue to use conventional financing in their US banking transactions,” according to the article titled ‘Islamic Finance & Markets in the US’ by John H Vogel from Crowell & Moring.

One possible reason for this may be the regulatory environment within the US. Islamic financial institutions in the US are subject to the same strict standards as conventional institutions, and operate only at the state level; there are no national Islamic financial institutions in the US (ibid). “The principal challenge faced by Islamic finance service providers

in the US is therefore to offer products that comply with both Shariah and the applicable state and federal banking regulations,” according to the book, ‘The Islamic Finance and Markets Review — Edition 2: United States’, by Mona Dajani and Dong Whi Noh of Baker McKenzie.

Despite this, the accelerated growth of Islamic finance in the US could still be attained through standardization. Since scholarly interpretations regarding how to structure products within Islamic finance can vary, the growth of the industry has been limited. Practitioners therefore need to focus on common ground to develop viable solutions for the community’s benefit.

Standardization could also help pave the way for increased US participation in Sukuk, the Islamic equivalent to a bond and one of the main products Muslim investors look for to create a balance in their portfolios.

“While there have not been any listings of Sukuk on US stock exchanges, publicly held and private Islamic funds are active and offer, buy and trade securities that

are Shariah compliant,” according to Vogel’s article.

In addition, innovative products meant to create value will be sure to reap rewards. For those of us living in the US, it is evident that investment firms offering auto-investment solutions are making strides in using technology to bring Halal investing to the public and are facilitating investors’ ability to create investment accounts within minutes. Taking advantage of cutting-edge technology in such ways will help speed up the growth of Halal investing.

As more products are developed to meet the Muslim community’s needs, this will undoubtedly create competitive pressure among providers to not only create viable products that adhere to local state and federal guidelines, but also to the strict guidelines set forth by governing bodies such as AAOIFI if they wish to attract Muslim investors. (2)

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Istisnah Shariah endorsement process



MOROCCO

By Dr Ahmed Tahiri Jouti

The banking law n° 103-12 identified, in its third chapter dedicated to participation banks, six financing products: Murabahah, Ijarah, Mudarabah, Musharakah, Salam and Istisnah. Moreover, the law authorizes participation banks to develop new product ideas to submit to the Higher Council of Ulemas (the Council) to get the necessary approvals before their launch. In this context, Bank Assafa has already submitted the Wakalah Bi Istithmar contract to the Council and got the necessary approvals.

The first circular issued by the central bank in 2017 and approved by the Council related to the Shariah requirements for financing products — it covered five products only and excluded Istisnah for harmonization issues with the legal framework according to the central bank.

Generally, the Shariah endorsement process for products of the participation banks became clearer than at the beginning.

Indeed, for all the products and services identified in the banking law, a circular needs to be drafted and approved by the Council. Then, the contracts used in these products are submitted to the Council for a final Shariah approval before launching the offer.

Until June 2019, the Council has received and approved the contracts of the following products:

- Current accounts
- Cards
- Investment accounts
- Murabahah for housing
- Murabahah for Cars
- Murabahah for equipment (professional equipment and domestic equipment), and
- Wakalah Bi Istithmar.

This month, the central bank published in the Official Journal of the Kingdom of Morocco the circular related to the Shariah requirements governing Istisnah products after solving all the issues related to the legal harmonization. Nevertheless, before launching an Istisnah offer, participation banks have to wait for the final draft of the contracts to be approved by the Council.

It is worth noting that the ‘Dahir of obligations and contracts’ — the General Law in Morocco — defines the Istisnah characteristics and talks about Ijarah San’a.

The circular of the central bank gives more details about how Istisnah transactions can be executed when it comes to participation banks. (2)

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