Financial Services

Open to comparison: Islamic finance and IFRS

PricewaterhouseCoopers

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Introduction

As Islamic finance moves into the mainstream, a key challenge is identifying a suitably relevant and intelligible accounting framework that is comparable with conventional finance without tainting compliance with Shariah.

Once seen as a niche area, Islamic (or Shariah-compliant) finance has expanded rapidly over the past five years and is now an increasingly important element of the global economy. Modern Shariah-compliant products have come to cover the full spectrum of banking, capital markets, asset management and, more recently, insurance *(takaful)* business. Many of the growing number of companies being attracted to the Islamic finance sector are conventional institutions looking to tap into rising market demand, alternative investment opportunities and fresh sources of funding.

As the sector continues to grow, the question of how best to account for Islamic finance on an international basis is coming to the fore. This challenge is especially pressing for global groups with diverse international stakeholders and extensive financial reporting obligations, which need to align accounting for Islamic finance with the treatment of their conventional business. At the same time, the pursuit of alignment must not compromise Shariah principles.

So is it possible to bring Islamic finance into the mainstream accounting fold when its underlying principles often appear to be at odds with conventional finance, especially banking? In particular, conventional banking generally relies on a contractual liability to recover monies exchanged as loans and deposits, together with an interest margin for the lender. In contrast, Shariah-compliant banking requires an underlying physical asset or trading transaction and may at times be more akin to either profit sharing or an agency/investment management contract. However, while some aspects of Islamic finance are rooted in traditional economic arrangements, many of the more recent transactional developments are based on the equivalent conventional product with a wrapper to ensure Shariah compliance. The economic substance is therefore largely comparable, even if the legal form may diverge.

From an accounting perspective, we would thus argue that the differences between Islamic and conventional finance are not as significant as is often assumed.

As we discuss in the paper, we believe that International Financial Reporting Standards (IFRS) can properly reflect Islamic finance without compromising Shariah principles, as long as the framework is sensibly applied and supported by appropriate explanatory disclosure.

Written by PricewaterhouseCoopers experts from around the world, this is the fourth in a series of papers aimed at briefing mainstream financial services companies about opportunities and best practice within Islamic finance (www.pwc.com/islamicfinance).

Overview

- Using a common framework to account for Islamic and conventional products and transactions would enhance the transparency and international comparability of financial reporting for Islamic finance and hence provide an important boost for further investment in, and the development of, the sector.

- In our view, IFRS provides the most appropriate accounting framework for multinational companies engaged in Islamic finance. It also provides an appropriate option for organisations engaged solely in Islamic finance.

- There are a number of other possible accounting frameworks for Islamic finance, though they are mainly designed for institutions solely using Shariah-compliant financial instruments. In contrast, IFRS has the benefit of international recognition and usage, making it the most suitable framework for global institutions with Islamic and non-Islamic products and multinational stakeholders.

- The principles-based nature of IFRS makes it possible to recognise, measure and disclose the economic substance of Islamic finance without compromising Shariah principles.

IFRS and related local standards are being successfully applied to Islamic finance in a number of territories including Malaysia, the Middle East and the UK.

- IFRS focuses on the economic substance of a product or transaction rather than the legal form. Therefore, IFRS principles rather than the Islamic legal form will ultimately determine the accounting treatment.

- Conflicts between IFRS and Shariah principles are often more apparent than real. For example, where there is no quoted price to determine the fair value of a financial asset, IFRS requires the use of a discounted cash flow based on current interest rates to help estimate a proxy market value. However, no actual interest has been charged and therefore the Shariah prohibition of interest has not been contravened.

- Islamic banks may often use a Profit Equalisation Reserve (PER) to hold back profits in good times and use them to top up returns to depositors in leaner years. However, this can create valuation and recognition anomalies, including how to record the funds remaining after depositors have received their return and whether the residual money constitutes a hidden reserve. Institutions will need to examine the substance of the obligations relating to the PER to determine its accounting treatment.

- Although certain aspects of Islamic finance are seen by some commentators as difficult to account for under IFRS, evaluation of the rights/obligations and risks/rewards will generally determine the appropriate accounting treatment. These include:
  - In relation to a financial lease, establishing who owns/controls the underlying asset and the financial benefits derived from it;
  - If profits and losses from an investment fund are shared between the institution and its customer, establishing the level/nature of control and hence how the monies received should be recorded;
  - In relation to the underlying physical asset required under Islamic finance, establishing whether the investment is asset-backed (where the institution has the right to take possession in the event of a default on payment) or simply asset-based (generating a return).

- Islamic insurance *(takaful)* funds are often ring-fenced from other parts of the business. However, Shariah principles require providers to put aside money for a benevolent loan *(qardh)* to cover for potential shortfalls in the *takaful* fund and therefore they would usually need to consolidate the fund under IFRS.

- Additional disclosures will often be necessary when bringing Islamic finance into the IFRS fold, such as explaining the basis for an accounting treatment. From an Islamic perspective, they may also provide an outline of the framework for achieving Shariah compliance, explain how any potential conflicts with Shariah principles have been resolved and report aspects of accounting not covered in IFRS, such as *zakat* calculations.

PricewaterhouseCoopers' viewpoint

Although some commentators doubt whether IFRS and Islamic finance are compatible, we believe that IFRS can be appropriately applied to most Shariah-compliant products and transactions.

Many global financial institutions have adopted IFRS in recent years. The potential benefits of bringing Islamic finance into the IFRS fold would include ease of international and peer group comparisons and a high level of transparency for stakeholders as part of a reasonably comprehensive and well-understood accounting framework.

The IFRS framework is designed to recognise, measure and disclose any transaction, including many non-monetary transactions. The accounting treatment under IFRS will be determined by a combination of the contractual rights and obligations of the parties involved and the associated risks and rewards they face. Such contractual provisions and associated risks also arise in Islamic finance, though their actual nature may sometimes be different from conventional products.

For example, inter-bank loans are normally based on underlying commodity trades *(murabaha)* and the repurchase contracts used in Islamic finance may have different legal terms from their conventional counterparts.

These differences have led some commentators to assert that IFRS and Islamic finance are largely incompatible. In most cases, however, we have found that IFRS can provide an appropriate accounting treatment for Islamic finance products and transactions. The key to overcoming any apparent conflict or anomaly is sensible use of the ability — indeed the requirement — under IFRS to provide additional disclosure and explanation to enable users to gain a proper understanding of the financial statements.

Overcoming the barriers

What are the potential barriers cited by some commentators that would make it potentially difficult to apply IFRS to Islamic finance, how genuinely relevant are they and, where necessary, how can they be overcome?

Overcoming the barriers continued

Substance over form

A key tenet of IFRS is the concept of 'substance over form', whereby a transaction is measured and reported in accordance with its economic substance rather than its legal form. As Islamic finance transactions are legally underpinned by Shariah principles, it is sometimes argued that it would be inappropriate to apply substance over form to such transactions. However, there are widely divergent legal systems in operation across the more than 100 countries that have adopted, or plan to adopt, IFRS, be they Civil Law, Common Law or some alternative framework. It is therefore evident that IFRS is not tied to any particular legal code and that accounting and legal frameworks can operate side by side, even if they are sometimes at odds.

Indeed, the international scope of IFRS makes some conflict with national legal codes almost inevitable, but not insurmountable.

As such, although the relevant legal rights or obligations will be important in deciding how to apply IFRS principles to a particular transaction, the local law does not ultimately determine the accounting treatment. In the same way, Shariah principles will influence but not determine the accounting treatment of Islamic finance products and transactions under IFRS. Therefore, the legal underpinning of Shariah-compliant finance in no way rules out the validity of applying IFRS.

Time value of money within IFRS

Another key concept incorporated within IFRS is the time value of money or use of net present values. As the time value of money and discounting are generally calculated with reference to interest rates, they would appear to conflict with the outlawing of interest charges *(riba)* under Shariah law.

This issue is seen as particularly problematic as the net present values and the time value of money are fundamental to many of the IFRS requirements for financial instruments. For example, IAS 39 requires that a financial asset classified as a loan or asset held to maturity should bear interest at an 'effective' rate, taking into account all fees, discounts or premiums, in order to recognise the time value involved. However, Islamic banking in its current form does appear to accept the validity of future payments being higher than current payments to take account of permissible *(halal)* trading or sales profits in the case of the *murabaha* contract.

In the case of other financial assets, IAS 39 generally requires measurement at fair value, ideally based on a quoted price in an active market. However, in the absence of an active market, IAS 39 requires the use of techniques which involve net present values of cash flows discounted at appropriate rates of interest. However, is this really an interest charge? It does reflect the time value of money, but the overriding aim is to discern what the price would be if there was an active market for the product. The discount rate is merely a means to an end for accounting purposes to obtain an estimate of a price that is otherwise unclear, though such valuation techniques will be more relevant in dual economies where Islamic finance products are priced and benchmarked against their conventional counterparts.

A further common use of net present values under IFRS is the estimation of the net present value of the cash flows on receivables as part of an impairment calculation.

Once again, this is no more than a means to establishing a recovery value for the underlying asset and this is accepted by some Shariah scholars as not in itself contrary to Islamic law.

Finance leases

Leases are commonly used in Islamic finance as a way by which one party can pay another party for the right to use an asset and therefore there are similarities with operating leases in conventional business. Conventional banks have modified this type of transaction into a form of finance where the bank buys the asset and then leases it to the customer. The arrangement enables the bank to recoup its costs and earn a profit as though it had loaned the money to the customer, who is in turn able to acquire ownership of the asset at the end of the rental term. Under IFRS, such a contract is designated as a finance lease, as opposed to an operating lease, to reflect the fact that the inherent risks and rewards associated with the asset have been transferred to the lessee, who in substance is deemed to be the owner. As such, IFRS requires finance leases to be recorded by the lessor as a loan which earns interest, while the lessee records the asset in its balance sheet as though it is the owner.

Such leases are one of the instances where a seemingly incompatible accounting treatment need not affect the legal form of a Shariah-compliant contract. The conflict, if any, surrounds the presentation of the lease as a loan in apparent contravention of Islamic law and an ownership interest being recorded by the lessee. However, additional disclosures in the financial statements can make it clear that no such contravention actually exists.

Profit participation

Many depositors in Islamic banks will expect rates of return to be in line with conventional market rates. Islamic banks may therefore introduce a mechanism to make this possible. A typical instance relates to *mudharaba*, a common type of Islamic deposit agreement, whereby gains are shared, but capital losses are borne by the depositor. Although more common in investment management situations, it has been adapted to meet the needs of Islamic banks that want some form of floating rate funding.

The issue for banks under such an agreement is that when profits are low, the institution may feel obliged to forgo its own share of profit to ensure that the depositor receives a comparable market return, even if there is no legal compulsion to do so. This is sometimes referred to as ‘displaced commercial risk’. Such difficulties may be compounded by the fact that under the prevailing incurred loss impairment model, the payments will not reflect any subsequent losses from a possible future impairment and thus earlier depositors may receive unfairly high returns.

Overcoming the barriers continued

In some countries, Islamic banks address the issue described above by using a Profit Equalisation Reserve (PER) to hold back some of the excess over market profits and pay them out in leaner times.

However, the operation of such PERs raises contentious issues from an accounting perspective. Contractual obligations to pay depositors will clearly be liabilities of the institution. Even where there is no formalised agreement, it may be construed that there is a constructive obligation such that the PER would also be deemed to be a liability. However, if no accounting (contractual/constructive) liability is justified, then any surplus will be the profit of the institution. If the bank's share of any PER balance is included in the liability amount, then it could constitute a hidden reserve, which would not be acceptable under IFRS. Institutions will need to examine the substance of the obligations relating to the PER to determine its accounting treatment. Some would argue that these potential issues could best be avoided by ensuring that the deposit contract explicitly deals with such smoothing mechanisms.

The International Accounting Standards Board (IASB) plans to change the impairment model to an expected cash flow approach may well create a buffer that would reduce the volatility of profits and hence eliminate the need for a smoothing mechanism like PER.

Classification

A further issue of debate is the classification of products on the balance sheet that have characteristics of both debt and equity. An example is *mudharaba* deposits, where the profit-sharing arrangement may appear to be equity-like in nature as the depositor agrees to absorb the losses suffered by the bank. On the other hand, it may appear to be a liability as, in practice, many banks feel morally obliged to repay these deposits. In some cases, they may also absorb losses to ensure repayment when they have been deemed to be negligent. This negligence clause is included in the deposit agreement.

Under IFRS, the classification would be a liability given the substance of the transaction. There are some jurisdictions where such items are disclosed as neither debt nor equity but somewhere in between. It is interesting to note that most regulators have required such deposits to be classified as bank liabilities.

On-or off-balance sheet treatment

As highlighted earlier, the structure of many types of Islamic finance products is similar to an asset management contract. The institution will invest funds on behalf of a client in return for a fee or share of the profit and the resulting gains or losses are passed on to the customer. Examples of such arrangements include a restricted *mudharaba*, in which the institution is, in substance, acting as an agent for the customer. As such, it would not expect to record any liability (or equity) account for monies invested by the customer or any asset representing the underlying investments.

The situation may appear less clear cut where the customer invests funds on an unrestricted basis — so the institution can mingle the funds with its own for investment purposes — or where the gains or losses on the underlying investments are shared between the institution and its customers. In such cases, the IFRS accounting framework will determine through analysis of rights/obligations and risks/rewards where control resides and hence discern how the monies received and the related assets are accounted for.

If the institution's overall return is, in substance, a management fee then the assets and liabilities might represent a standalone off-balance sheet fund. If the institution is earning an investment return then the arrangement may in substance be closer to a joint venture. Whatever the structure, the relevant assets must be identifiable as the institution must be able to calculate the return due to its customers in each period.

Where the funds represent a separate vehicle, the institution will need to consider whether its interest is such that it represents control or a constructive obligation to pick up losses. If so, it should consolidate the fund.

Overcoming the barriers continued

Asset-backed versus asset-based

A fundamental principle of Shariah is that a physical asset or tradable commodity should underpin each transaction. As a result, Islamic finance transactions are often characterised as being either asset-based or asset-backed. In asset-based transactions, the return is linked to the underlying asset, as in the case of a lease earning rental income from a property. In asset-backed transactions, the counterparty has the right or obligation to take possession of the underlying asset, for example in the case of default. The contract terms will determine which type of arrangement is present. Once again, the accounting under IFRS will be based on a breakdown of the underlying rights and obligations.

Sukuk instruments are investment certificates that pay a return based on the performance of underlying asset(s). The asset(s) or the rights to the income from those asset(s) are often ring-fenced within a special purpose vehicle. In such cases, it is important that holders know whether the *sukuk* is asset-based or asset-backed, with the latter giving them legal rights over the underlying property in the event of a default on payments. The high profile East Cameron Gas *sukuk* was one of the first to be issued by a conventional corporate entity in a jurisdiction not accustomed to dealing with Shariah-compliant transactions, in this case the US. It subsequently became one of the first such *sukuk* to default when the underlying oil and gas assets failed to generate sufficient cash flows. Problems have since arisen because of confusion over whether the transaction was asset-based or asset-backed.

Takaful

A number of *takaful* providers have expressed concerns that some of the concepts embodied in IFRS 4 for insurers may not be appropriate given the different way the risks are shared in their operations. In our view, however, while the operational models may differ, the economic substance of risk sharing, which is the basis of IFRS 4, is still appropriate for *takaful* business. Although IFRS for insurance products is still evolving, the nature of *takaful* as transferring non-financial (and sometimes financial) risk means *takaful* contracts will generally meet the IFRS definition of either insurance contracts or financial instruments.

The first key accounting consideration is establishing whether there is legal separation between the *takaful* operator and the *takaful* fund if they are part of the same legal entity, as is generally the case.

This is crucial as it will determine whether the underwriting results of a *takaful* fund should be consolidated by the *takaful* operator. In virtually all jurisdictions, the *takaful* fund is not a separate legal entity from the *takaful* operator. Instead, some jurisdictions provide regulatory protection for the fund by requiring the *takaful* operator to ring-fence the fund from its other assets and liabilities.

However, the *takaful* operator retains responsibility for the assets and liabilities and, ultimately, an obligation to meet liabilities arising from the fund, including putting aside money for the provision of a benevolent loan *(qardh)* in the event of a shortfall. As a result, the operator will usually need to include the assets, liabilities and financial performance of the fund in its financial statements, despite the ring-fencing.

In preparing *takaful* accounts it is important to consider how the needs of stakeholders are likely to differ from those of a conventional insurance company. In particular, *takaful* policyholders have a direct interest in the underwriting performance of the fund. In contrast, conventional insurance policyholders are largely indifferent to underwriting performance unless it impinges on their financial security. Moreover, the shareholders of the *takaful* operator will also want to know how the *takaful* fund has performed in comparison to the company as a whole and how the fund and overall entity interact. Additional disclosures would help to meet these needs.

Need for additional disclosures

Certain aspects of the financial statements will be particularly relevant to users who want to assess the performance and direction of the company from an Islamic perspective. If material, this should include a description of the framework for achieving Shariah compliance in areas such as expert advice and audit. It may also include the reporting of the results of activities which are permitted *(halal)* or forbidden *(haram)* under Shariah. Such disclosure may well be different from a segmental analysis of business activities performed for IFRS purposes.

In addition, *zakat* is not a concept that is dealt with by accounting standards for conventional firms. Users who wish to have information to perform *zakat* calculations will also need additional disclosures.

However, it is important to note that IFRS does not prohibit entities from making additional voluntary disclosures in their financial statements, provided they are not misleading or do not conflict with the information required by IFRS standards. Indeed IFRS requires an entity to provide additional disclosure if compliance with IFRS alone is insufficient to enable users to understand the impact of transactions and events on the company's financial performance and position.

Applying IFRS in practice

Globally, Islamic financial institutions have demonstrated both a keen awareness and a strong acceptance of IFRS. Institutions in several of the Gulf Co-operation Council countries currently report under IFRS and there are further examples of IFRS being adopted in other territories.

In Malaysia, the accounting framework is based on IFRS and is adopted locally as the Malaysian Accounting Standards Board (MASB) Standards. Rather than issuing specific Islamic standards, the MASB provides technical releases to explain how best to accommodate Islamic transactions. Further guidance comes from the central bank. It is interesting to note that recent discussions between the Malaysian regulators and local Shariah advisers have confirmed that local financial reporting requirements do not generally conflict with Shariah.[1] Therefore IFRS applies unless there is a clear or explicit Shariah prohibition which, in the Malaysian experience, is very rare.

In Britain, legislation requires all companies to prepare their financial statements in accordance with either IFRS (as adopted by the EU) or UK GAAP. There are no distinct accounting requirements for Islamic finance or the institutions which follow Shariah principles. Nonetheless, a number of UK-based Islamic banks are able to meet their reporting obligations principally using IFRS.

[1] Statement of Principle 1 *Financial Reporting from an Islamic Perspective*, which was issued by the Malaysian Accounting Standards Board on 15.09.09.

Integrating Islamic finance with mainstream IFRS

Any transaction can be accounted for and reported within IFRS financial statements. In those cases where there are no specific IFRS requirements, then any treatment that does not conflict with the framework may be adopted.

However, where alternatives are possible, IFRS requires that their relevance and reliability are assessed to select the most appropriate option.

In turn, any Islamic finance transaction can be analysed to determine how it should be accounted for under IFRS. As we have seen when looking at some of the potential problem areas, IFRS recognition and measurement principles can invariably be applied without resorting to conflicting approaches. To the extent that IFRS determines presentation and disclosure, then IFRS should also be applied to this aspect of Islamic finance transactions.

However, the IFRS disclosure framework does not cover all the needs of stakeholders of Islamic finance institutions, for example in the case of *zakat*. It would therefore be helpful if there was additional guidance for IFRS preparers in two specific areas: first, guidance on the application of IFRS when accounting for Islamic finance instruments; and, secondly, guidance on the additional disclosures that should be made for the benefit of stakeholders seeking information on Shariah compliance.

The Asian Oceanian Standard Setters Group has set up a Working Group to liaise with the IASB on the application of IFRS to Islamic finance and we see this as an important step forward in bringing Islamic finance more clearly within the overall IFRS framework.

IFRS is far from being the only viable accounting framework; many countries have their own local accounting principles and other frameworks have been developed for specific purposes. A key example of the latter is the framework developed by the Bahrain-based Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI), which is targeted at those institutions solely using Shariah-compliant financial instruments. However, IFRS has the benefit of international recognition and usage, making it the most suitable framework for global institutions with multinational stakeholders.

How PricewaterhouseCoopers can help

This paper has explained why PricewaterhouseCoopers considers IFRS to be the appropriate accounting framework for global institutions seeking to operate in a Shariah-compliant way.

We have a wide range of specialists with experience of working with Islamic financial institutions and assisting companies with all aspects of interpreting and implementing IFRS. We offer the expertise and global resources of one of the world's largest accountancy professional services firms, with Islamic finance centres of excellence in Malaysia, the Middle East, Europe and the US. We can bring together specialists from our local offices and wider global network, depending on the needs of our clients and the particular project.

We have particular experience in helping clients move from local GAAP to IFRS, as well as delivering accounting advice on individual transactions, whether for the sponsoring institution or the end-user. For local reporting or as part of our transaction support work, our Islamic Finance team are able to assist in preparing or reviewing IFRS to local GAAP reconciliations (for example to the AAOIFI framework or US GAAP).

In the absence of clear guidance on the application of IFRS to specific transactions, we can advise on the selection of appropriate IFRS-compliant accounting policies.

Glossary

Halal: Anything that is allowed under Islamic law.

Haram: Anything that is prohibited under Islamic law.

Mudharaba: Customers place funds with the bank, which are invested in a variety of assets. Profits are shared between the bank and the customer. Contractually, losses are supposed to be borne by the customer alone, though for commercial reasons, banks are often unwilling to pass on the losses.

Murabaha: A form of financing often used to finance asset purchases or for consumer loans. The bank buys an item and then sells it to its client at a higher price with deferred repayment terms. The interest that would ordinarily be paid by the client in a conventional loan — and which would constitute the bank's profit — is replaced by the difference between the purchase and the sale price.

Qardh: A benevolent loan, which can be used to cover any potential shortfall in a takaful fund, in which no interest is charged.

Riba: The prohibition on the charging of interest.

Shariah: Islamic law.

Sukuk: Islamic equivalent of a bond, which entitles investors to a share of the profits earned by a pool of underlying transactions.

Takaful: The Islamic approach to insurance. Takaful schemes are structured as a charitable collective pool of funds based on the idea of mutual assistance.

Zakat: Is one of the five pillars of Islam. It represents obligatory "alms" and is based on an individual's wealth. Some Islamic institutions also pay zakat.

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