



Shari`ah Compliance in Islamic Banking-Why and How?

By Ruma Khanam & Md Hafij Ullah

Islami Bank Bangladesh Limited, International Islamic University Chittagong, Bangladesh

Abstract- Shari`ah compliance is regarded as the foundation of the Islamic banking. Though Islamic banks give priority on Shari`ah compliance, a number of factors hinder Shari`ah compliance. Shari`ah knowledge, efforts and seriousness of the bank authorities and bank employees are the pre-requisites for complying Shari`ah appropriately. But it is observed that there are lack of Shari`ah knowledge, efforts and seriousness among bank authorities and bank employees. The present study demonstrates the importance of Shari`ah compliance in general and particularly in Islamic banking to make them aware and serious in complying Shari`ah. The reasons for Shari`ah compliance are divided into six, such as: Shari`ah compliance for better life in the earth, Shari`ah compliance for saving life, property and honor, Shari`ah compliance for better life after death, Shari`ah compliance for salvation from punishment in the earth, Shari`ah compliance for salvation from punishment after death and Needs for Shari`ah compliance in Islamic banking. The paper also direct the way how Shari`ah compliance is being carried out at the organizational level.

Keywords: shari`ah, compliance, islamic banking, qur'an, and sunnah.

GJMBR - C Classification : JEL Code : E50, E59



Strictly as per the compliance and regulations of:



Shari`ah Compliance in Islamic Banking-Why and How?

Ruma Khanam^α & Md Hafij Ullah^σ

Abstract- Shari`ah compliance is regarded as the foundation of the Islamic banking. Though Islamic banks give priority on Shari`ah compliance, a number of factors hinder Shari`ah compliance. Shari`ah knowledge, efforts and seriousness of the bank authorities and bank employees are the pre-requisites for complying Shari`ah appropriately. But it is observed that there are lack of Shari`ah knowledge, efforts and seriousness among bank authorities and bank employees. The present study demonstrates the importance of Shari`ah compliance in general and particularly in Islamic banking to make them aware and serious in complying Shari`ah. The reasons for Shari`ah compliance are divided into six, such as: Shari`ah compliance for better life in the earth, Shari`ah compliance for saving life, property and honor, Shari`ah compliance for better life after death, Shari`ah compliance for salvation from punishment in the earth, Shari`ah compliance for salvation from punishment after death and Needs for Shari`ah compliance in Islamic banking. The paper also direct the way how Shari`ah compliance is being carried out at the organizational level. The study differs from other study in analyzing the Shari`ah importance rigorously based on the main Shari`ah source, 'Qur'an' and 'Sunnah'. Finally, the paper concludes with the expectation that the bank authorities and employees would be more knowledgeable in Shari`ah and they will provide more efforts for complying Shari`ah so that the Islamic banks can provide Shari`ah compliant services to their customers.

Keywords: shari`ah, compliance, islamic banking, qur'an, and sunnah.

I. INTRODUCTION

Shari'ah is regarded as the foundation of Islamic banks (Ullah, 2014) and, hence, no Islamic bank can function without Shari'ah compliance because if anyone or any bank does not follow Islamic Shari'ah, he/she cannot be recognized as Muslim and that bank cannot be treated as Islamic bank (Al-Quran, 5:44). Therefore, Islamic banks provide first priority is Shari'ah compliance in performing all of their transactions (Ullah, 2014).

Though Shari`ah compliance should be the prime concern of the Islamic banks but Ullah (2014) found the poor efforts of higher authorities and employees for 100 per cent Shari'ah compliance. Though Government rules and regulations, interest-based economy, fatwa shopping, tempting or

influencing or invisible hand of management on the decision of Shari'ah Supervisory Board, different interpretation of existing Shari'ah rulings (Grais and Pellegrini, 2006; Ullah, 2012) and lack of specially-designed Shari'ah-complaint financial products (Koch and Stenberg, 2010) are impediments to Shari'ah compliance but Shari`ah knowledge of the bank authorities and employees is a vital pre-requisite.

Shari`ah knowledge among the employees are not as expected for accomplishing their duties efficiently. Ullah (2014) showed frustration regarding the findings on the knowledge of the executives on Shari'ah compliance and opined that higher authorities do not arrange sufficient programs for making employees more knowledgeable in Shari'ah. Iqbal, et al. (1998) also mentioned that many managers of Islamic banks are not very well trained in the use of Islamic modes of finance and unfortunately very little effort has been made to meet these requirements. Therefore, Ullah (2014) recommended that Islamic banks need to increase Shari'ah knowledge and commitment to Shari'ah compliance of the employees for increasing Allah fearing and adherence to the Islamic Shari'ah in personal, family, social and political life.

II. LITERATURE REVIEW

There are currently more than 475 Islamic financial institutions spread over 75 countries and well over 250 mutual funds that comply with Islamic principles (Malik, et al., 2011). Over the last couple of decades or so, Islamic banking and finance has grown into a full fledged system and has still been growing at an astonishing rate of 15-20 percent, i.e., it is doubling every 5 years (Malik, et al., 2011). The Islamic financial institutions are growing much faster than conventional banks because of the strong demand among consumers for products and services that comply with Shari`ah (Benaissa, et al., 2005). Similarly, Archer and Karim (2002) maintained that the major forces for the development of Islamic banking institutions is the growing sense of Islamic identity and religious consciousness among the peoples in Muslim countries.

In some cases, it is observed that Islamic banks cannot perfectly comply with Islamic Shari'ah due to due to lack of knowledge and seriousness of the employees (Ullah, 2014). But Islamic banks are Islamic because of performing their activities as per the guidelines of Islamic Shari'ah and basically the Shari'ah is the main

Author^α: Senior Officer, CDA Avenue Branch, Islami Bank Bangladesh Limited, Bangladesh. e-mail: ruma_hafij@yahoo.com

Author^σ: Associate Professor, International Islamic University Chittagong, Bangladesh and PhD Researcher, Macquarie University, Australia

guiding principles for directing all operations of Islamic banks (Siddiqi, 1983; Ahmad, 1984; Siddiqi, 1985; Khan and Mirakhor, 1986; Ahmad, 2000; Siddiqi, 2001). Chong and Liu (2009) also found that theoretically Islamic banking is profit-and-loss sharing (PLS) system but practically it is not very different from conventional banking. Similarly, Malik et al. (2011) argued that much of the financing offered by Islamic banks actually bear a closer semblance to debt instruments than to profit-and-loss sharing. Yus of and Fahmy (2008) observed that the most common argument against contemporary Islamic banking in Malaysia is that there is "no difference at all" without changing the name and documents and using "profit rate" in Islamic banking instead of interest rate.

Regarding impediments to Islamic Shari'ah compliance, the problem faced by the Islamic banking is the shortcoming of qualified professionals at all levels who have the knowledge of both conventional banking and Islamic laws (Malik et al., 2011; Grais and Pellegrini, 2006). Ahmad and Hassan (2007) identified another most important issue is the lack of a well-defined regulatory and supervisory framework for Islamic banks for their effective functioning in line with the tenets of Shari'ah. Hence, this paper is a noble attempt to highlight the importance of Shari'ah to the Islamic bankers and to guide a way to adopt in complying Islamic Shari'ah.

III. OBJECTIVES OF THE STUDY

The main objective of the study is to highlight the importance of Islamic Shari'ah compliance and to direct the ways how Shari'ah compliance is accomplished. The specific objectives of the study are enumerated as below:

- To demonstrate the importance of Islamic Shari'ah compliance in general.
- To highlight the importance of Shari'ah compliance in Islamic banking in particular.
- To direct the ways of accomplishing Shari'ah compliance in case of banks or other organizations in Bangladesh.

IV. METHODOLOGY OF THE STUDY

The methodology followed in this study is mainly of library work basically based on the study of the Holy Qur'an, Hadiths and related literatures written in conventional and Islamic perspective. That is, the study is a qualitative study that used only the secondary data.

V. ISLAMIC BANK

In 1978, OIC approved following definition of Islamic Bank, "Islamic Bank is a Financial Institution, whose statutes, rules and procedures expressly state its commitment to the principles of Islamic Shari'ah and to the banning of the receipt and payment of on any of its operations (Rahman, 2008)."

As defined, Islamic Banks aim to provide banking services that are in accordance with Islamic Principles and Shari'ah within the complete Islamic financial system, which in turn aims to bring the most benefit to society in terms of equity and prosperity, rather than focusing solely on creating maximum returns on capital (Zaher and Hassan, 2001). Islamic banks aim to achieve the socio-economic goals of the Islamic religion which are reaching full-employment, a high rate of economic growth, equitable distribution of wealth and income, socioeconomic justice, smooth mobilization of investments and savings while ensuring a fair return for all parties and finally emphasize the stability of money value (Hassan and Mervyn, 2007; Chapra, 1995).

VI. ISLAMIC SHARI'AH

Shari'ah is the Arabic word for Islamic law, also known as the Law of Allah. The term Shari'ah itself derives from the verb Shara'a, which according to Dictionary of the Holy Qur'an connects to the idea of 'spiritual law' (Al-Qur'an, 5:48) and 'system of divine law; way of belief and practice' (Al-Qur'an, 45:18) in the Qur'an (Omar, 2010). Shari'ah has certain laws which are regarded as divinely ordained, concrete and timeless for all relevant situations.

There are four sources of Islamic Shari'ah: (a) Interpretations of the Qur'an, (b) Interpretations of the Sunnah (Hadith), (c) Ijma, consensus amongst scholars (collective reasoning) and (d) Qiyas/Ijtihad analogical deduction (individual reasoning).

VII. SHARI'AH COMPLIANCE—WHY?

Shari'ah compliance means abide by all the rules and regulation of Qur'an and Sunnah and the person who completely follow Islam is a 'Muslim' (complete submission to Allah) and Allah (SWT) said "O you who believe, fear Allah as He should be feared and die not except in a state of Muslim" (Al-Qur'an, 3:102). Allah (SWT) accepts only one way of life that is Islam (Al-Qur'an, 3:19) and whosoever desires other than Islam as his way of life, that will never be accepted from him, and, in the hereafter, he is among those in abject loss (Al-Qur'an 3:85). Similarly, in another verse, Allah said "do they seek other than the Deen (the rules of life) of Allah? But to Him everything in the heavens and the earth has submitted, willingly and unwillingly, and to Him they will return" (Al-Qur'an 3:83).

Islam is a complete code of life (Al-Qur'an, 5:3; 6:154) because Allah (SWT) and Allah's messenger Prophet Mohammad (SAW) gave us guidelines regarding every aspect of human life to be dealt with (Al-Qur'an, 16:89). Allah (SWT) said, "This day, I have perfected your religion for you, completed My favor upon you, and have chosen for you Islam as your religion" (Al-Qur'an, 5:3). In different verses Allah (SWT) commanded to follow Islam (Al-Qur'an, 4:49; 5:44 & 48,

6:155; 7:3; 42:47; 72:14; 75:18) like 'Say: verily, I am commanded to be the first of those who submit themselves to Allah (as Muslim)' (Al-Qur'an, 6:14; 39:11-12; 42:47; 72:14). Allah (SWT) said "Take what the Messenger gives you and abstain from what he forbids you" (Al-Qur'an, 5:33) and the Messenger of Allah did not speak of (his own) desire, it is only a revelation revealed (Al-Qur'an, 53:3-4).

As per the Holy Qur'an, none can give order or command except Allah because Allah has created everything and Allah has the right to give law or command (Al-Qur'an, 7:54; 12:40). In the Holy Qur'an, Allah (SWT) said, "Say: True guidance is the guidance of Allah" (Al-Qur'an, 3:73) and "Whom Allah does guide, he is on the right path. Whom He rejects from His guidance, such are the persons who lose" (Al-Qur'an, 7:178). Allah (SWT) also said, "O you who believe! Enter perfectly in Islam (by obeying all the rules and regulations of Islamic religion) and follow not the footsteps of Shaitan (Satan). Verily, He is to you a plain enemy" (Al-Qur'an, 2:208) and "Say: my worship and my sacrifice and my living and my dying are for Allah, Lord of the Worlds. He hath no partner. And of this I have been commanded, and I am first of those who surrender (unto Him)." (Al-Qur'an, 6:162-163).

a) *Shari'ah compliance for better life in the earth*

The Shari'ah that Allah (SWT) was Himself going to provide to all human beings and nations at different times through a chain of his Messengers to guide them in living up to their mission as vicegerent of Allah and to manage their affairs in this world in a way which is in harmony with this mission (Al-Qur'an, 16:36; 40:78). Shari'ah helps provide the right direction to all human effort by injecting a meaning and purpose into life, and transforming individuals into better human beings through a change in their behavior, life-style, tastes, preferences, and attitude towards themselves as well as other human beings, resources and the environment (Chapra, 2008). The purpose of Shari'ah compliance is being happy in the earth and also in the life after death as Allah (SWT) taught us to pray as "Our Lord! Give us in this world that which is good and in the Hereafter that which is good, and save us from the torment of the fire!" (Al-Qur'an, 2:201).

Allah (SWT) declared the objectives of sending Muhammad (pbuh) as Messenger that to relieve mankind of the burdens and chains that have been imposed on them (Al-Qur'an, 7:157) and "We have sent you as a blessing for mankind" (Al-Qur'an, 21:107). The ultimate goal of all Islamic teachings is to be a blessing for mankind (Chapra, 2008) and this is the primary purpose for which the Prophet (pbuh) was sent to this world (Al-Qur'an, 21:107). Establishment of justice has, therefore, been the primary mission of all Allah's Messengers (Al-Qur'an, 57:25). In many verses of the Holy Qur'an, Allah (SWT) declared good messages for

the people who follow the guidelines and fear Him. Some of which are: "if the people of the towns had believed and had the Taqwa (piety), certainly We should have opened for them blessings from the heaven and the earth" (Al-Qur'an, 7:96); "if only they had acted according to the Taurat (Torah), Injeel (Gospel), and what has (now) been sent down to them from their Lord (the Qur'an), they would surely have gotten provision from above them and from underneath their feet" (Al-Qur'an, 5:66); "whosoever fears Allah and keeps his duty to Him, He will make a way for him to get out (from every difficulty) and He will provide him from (sources) he never could imagine and whosoever puts his trust in Allah, then He will suffice him" (Al-Qur'an, 65:2-3); and "Therefore, give good tidings to my servants who hear advice and follow the best thereof" (Al-Qur'an 39:17-18; 16:122; 12:56-57; 3:148; 16:89).

Human beings are the khalifahs or vicegerents of Allah (SWT) on earth (Al-Qur'an, 2:30) whose duty is to implement the responsibility of the Sender and to live up to the mandate given to them by their Creator and, thereby, not to pollute their nature and degrade themselves (Chapra, 2008). Justice cannot be ensured without faithfully observing the rules of behavior provided by Divine Guidance as Allah knows everything better for His creation. Without justice, as the Qur'an has clearly warned, there can be no peace of mind, (Al-Qur'an, 13:28) or peace in the world (Al-Qur'an, 6:82), which are both among the most important psychological needs of the human personality.

Gruber (2005) stated that "There are hundreds of articles in sociology, psychology, and medicine that overwhelmingly document the positive impact of religiosity on a wide variety of outcomes". Qur'an also proved this saying that verily, in the remembrance of Allah do hearts find rest (Al-Qur'an, 13:28). Many empirical studies have consistently found that high rates of religious commitment and activity are associated with mental health, reduced stress and increased life satisfaction (Ellison, 1993 and Iannaccon, 1998). Chapra (2008) said that if the human being utilize these resources and interact with each other in accordance with these rules, it may not only be possible to ensure the well-being of all humans but also to protect the environment, including animals, birds and insects.

b) *Shari'ah compliance for saving life, property and honor*

The Qur'an equates the unwarranted killing of even a single individual (irrespective of whether he/she is a Muslim or non-Muslim) with the killing of the whole of mankind, and the saving of a single life with the saving of the whole of mankind (Al-Qur'an, 5:32). This is but natural because the Islamic call for the respect of life and the brotherhood of mankind would be meaningless if the life of non-Muslims were not considered as sacred as that of Muslims. The Prophet (pbuh), also

pronounced in the address which he delivered during his farewell pilgrimage that: "Your lives, your property and your honor are as sacred as this Day of yours (Hajj), in this month of yours, in this city of yours" (Abu Daud, 2006, Hadith No. 1903).

Ghazali (1937), a prominent and highly respected reformer in the fifth century Hijrah, is specific about the requisites for real human well-being. He says: "The very objective of the Shari'ah is to promote the well-being of the people, which lies in safeguarding their faith (dīn), their self (nafs), their intellect ('aql), their posterity (nasl), and their wealth (māl). Whatever ensures the safeguard of these five serves public interest and is desirable and whatever hurts them is against public interest and its removal is desirable." The sayings of the Prophet (pbuh) also prove that Shari'ah compliance increases the honor of human being in the earth: "Do not beg anything from people" (Abu Dawud, 2006, Hadith No. 1642-1646), and "The hand that is above is better than that is below" (Sahih Muslim, 2002, Hadith No. 2254; Al-Adabul Mufrad, Hadith No. 196).

c) *Shari'ah compliance for better life after death*

Muslims always give emphasis on the reward of Allah (SWT) after death as Allah said that the life of this world is nothing but play and amusement (Al-Qur'an, 6:32) and verily, the reward of the Hereafter is better for those who believe and used to fear Allah and keep their duty to Him (by abstaining from all kinds of sins and evil deeds and performing all kinds of righteous good deeds) (Al-Qur'an, 4:162; 12:57; 29:64). Allah (SWT) said, "Those are Allah's bounds (Shari'ah), whosever obey Allah and His Messenger, He will admit him to gardens underneath which rivers flow, therein dwelling forever; that is the mighty triumph" (Al-Qur'an, 4: 13-14) and that home of the Hereafter (Paradise), We shall assign to those who rebel not against the truth with pride oppression in the land nor do mischief by committing crimes. Such is the Paradise which we shall give as an inheritance to those of Our slaves who have been Al-Muttaqun (the pious) (Al-Qur'an, 19:63) and the good end is for the Muttaqun (the pious) (Al-Qur'an, 28:83). In another place Allah (SWT) said regarding the pious that 'as for him who feared standing before his Lord, and restrained himself from impure evil desires and lusts; verily, Paradise will be his abode' (Al-Qur'an 79:40-41).

Allah (SWT) asked, 'Are you pleased with the life of this world rather than the Hereafter? But little is the enjoyment of the life of this world as compared to the Hereafter' (Al-Qur'an, 9:38) and indeed whosoever purifies himself shall achieve success but you prefer the life of this world although the Hereafter is better and more lasting and should be given more preference (Al-Qur'an, 87:14-17; 17:21). The people who obey Allah and His Messenger will be raised with those whom Allah blessed and good companions like Prophets, just men, martyrs and the righteous in Hereafter (Al-Qur'an, 4: 69-

70) and they will get mercy from Allah (Al-Qur'an, 3:132).

d) *Shari'ah compliance for salvation from punishment in the earth*

Shari'ah compliance is also important for salvation from the punishment because Allah (SWT) give punishment in the earth sometimes to warn and sometimes to exemplify for others. Allah (SWT) said, We will give them a taste of the minor punishment before the greater punishment, that they might turn back (i.e. to what is right) (Al-Qur'an, 32:21). In the Holy Qur'an, Allah (SWT) gave description of the generation of A'd, Tha' mud, Firaun, and Lut, etc. who were very strong but Allah destroyed all through different kinds of sever torment because of not following the Shari'ah what Allah provided to them (Al-Qur'an, 11:77-83; 89:6-14; 41:13-18; 51:41-45; 26:123-140 & 170-173).

As per Islamic Shari'ah, Muslims are bound to follow Islamic rules and regulations in each step of life but if they want to follow their own desire then they will fall in the punishment of Allah (SWT). As Allah said, whatever calamity befalls you, it is according to that which your own hands have earned - and Allah forgives much (Al-Qur'an, 42:30) and Whatever good comes to you is from Allah, and whatever evil comes to you is from yourself (Al-Qur'an, 4:79). In other places Allah warned us as 'if they do not answer your call, know that they only follow their own hawaa (desire), and who is more astray than the one who follows his own desire without guidance from Allah, and Allah does not guide those who oppress' (Al-Qur'an, 7:157; 5:77; 2:145; 28:50; 6:119).

Again, Allah (SWT) said, 'whosoever turns away from My reminder (teaching of Qur'an and Sunnah); verily, for him is a life of hardship' (Al-Qur'an, 20:124). Allah (SWT) instructed to save us from punishment as 'turn toward your Lord, and submit to Him before the punishment comes to you, and you are without help' (Al-Qur'an, 39:54). And finally Allah (SWT) gave guaranty that He save those who follow Islamic Shari'ah and fear Him saying that 'we saved those who believed and used to fear Allah, keep their duty to Him and avoid evil (Al-Qur'an, 41:18).

e) *Shari'ah compliance for salvation from punishment after death*

Akhi'rah (life after death) is the final stage where all the activities of human being would be judged for providing reward for Shari'ah compliance and punishment for Shari'ah non-compliance. Allah (SWT) said, 'the wretched will avoid the Shari'ah and for which they will enter the great fire (and will be made to taste its burning) where they will neither die (to be in rest) nor live (a good living)' (Al-Qur'an, 87:11-13); and 'whosoever disobey Allah, and His Messenger, and transgresses His bounds, him He will admit to a Fire, therein dwelling forever, and for him there awaits a humbling chastisement' (Al-Qur'an, 4: 13-14). In another verse

Allah (SWT) said, 'as for those who disbelieved and belied Our Ayat (proofs, evidences, verses, lessons, signs, revelations, Allah Messengers, Resurrection, etc.), and the meeting of the hereafter, such shall be brought forth to the torment (in the Hell-fire) (Al-Qur'an 30:16; 79:37-39). Again, Allah (SWT) said 'the torment of the Hereafter for the disbelievers and sinners is far more severe and more lasting (Al-Qur'an, 20:127) for which they will cry: 'O Malik (Keeper of Hell)! Let your Lord make an end of us but he will say: verily, you shall abide forever' (Al-Qur'an, 43:77).

After death, disbelievers (Whosoever desires the life of the world and its glitter) will repentance for their acts (Al-Qur'an, 25:27-29); all of their activities will go in vain and of no effect is that which they used to do (Al-Qur'an, 11:15-16; 7:147); they will be raised as blind (Al-Qur'an, 20:124); in the Hereafter they will be the greatest losers (Al-Qur'an, 27:4-5) and hence, Allah (SWT) instructed that 'say: I fear, if I disobey my Lord, the torment of a mighty day' (Al-Qur'an, 6:15; 39:13, 72:17).

f) *Shari'ah Compliance in banking—Why?*

Shari'ah compliance is important in case of banking mainly because of avoiding interest. As per Islamic Shari'ah, interest is to be avoided due to Shari'ah compliance for the following reasons:

i. *Allah Forbade Interest*

In Surah Baqarah, Allah forbade interest stating that Allah declared trading as Halal and interest as Haram (Al-Qur'an, 2:275). In Surah Al-Imran, Allah (SWT) said, O you who believe! Eat not usury doubled and multiplied, but fear Allah that you may be successful (Al-Qur'an, 3:130).

ii. *Interest is destroyable*

In Surah Baqarah, Allah said that Allah will destroy interest and will increase for Sadaqat (deeds of charity) (Al-Qur'an, 2:276). Moududi (2007) stated a Hadith referring to Ibne-Majah, Baihaki and Ahmad, where Allah's Messenger (pbuh) said that though the interest amount may be greater now but it is bound to reduce at last. As per the Hadith narrated by Abu Huraira ® stated in Bukhari, Muslim and Abu Daud, Allah's Messenger (pbuh) instructed to protect us from seven destructive issues which include usury (Annual Report of AIBL, 2010).

iii. *Avoiding interest is a sign of Belief (Iman) on Allah*

In Surah Baqarah, Allah (SWT) said, O you who believe, Be afraid of Allah and give up what remains (due to you) from usury (from now onwards), if you are really in believers (Al-Qur'an, 2:278).

iv. *Avoiding interest is a sign of Taqwa (Allah fearing)*

Allah said, O you who believe, Be afraid of Allah and give up what remains (due to you) from usury (from now onwards) (Al-Qur'an, 2:278). In Surah Al-Imran,

Allah (SWT) said, O you who believe! Eat not usury doubled and multiplied, but fear Allah that you may be successful (Al-Qur'an, 3:130).

v. *Taking interest is a serious punishable activity*

In Surah Baqarah, Allah (SWT) said, if you do not avoid interest, then take a notice of war from Allah and his Messenger (2:279). Ibne Abbas ® said that in the day of judgment the usurer will be asked to take preparation with arms to battle with Allah (SWT) and he again said the imams (leaders) of all times should take oath of avoiding interest, if they do not do it then the imam should kill them (Ibne Kathir, 2008, 755). Allah also state that whoever returns to interest after Allah's forbidden, they are the dwellers of the fire and in the day of judgment, the usurer will be as like as mad beaten by Satan (Al-Qur'an, 2:275). As per the Hadith narrated by Samur'albn Zundub ® where Allah's Messenger (pbuh) described a scenario of punishment giving to usurer hitting him with rocks while the usurer swimming helplessly in the river (Sahih Bukhari, 2003, Hadith No. 1955) and Hadith narrated by Abu Hurayrah ® stated that the belly of the usurer is full of snakes (Al-Tirmidhi, 2010, Hadith No. 2828).

vi. *All parties relating to interest equally cursed*

Jabir Bin Abdullah ® said that Allah's Messenger (pbuh) cursed the acceptor of interest and its payer, and the one who records it, and the witness; and he said they are all equal (Sahih Muslim, 2002, Hadith No. 3947; Abu Daud, 2006, Hadith No. 3300).

vii. *Taking interest is a reason of Allah's anger*

Abdullah IbnMasud ® has quoted a Hadith of Allah's Messenger (pbuh) as saying: Whenever adultery and usury become rampant in a community, it is inevitable that wrath of Allah will befall upon them (Annual Report of AIBL, 2010).

viii. *Usurer will not enter the heaven*

As per the Hadith narrated by Abu Huraira ® stated in Mustadarake Hakim, Allah's Messenger (pbuh) said that Allah as his unique right will not allow four categories of people to enter the heaven and also refrain them from taking taste of his bounties which include the usurer (Annual Report of AIBL, 2010).

ix. *Interest destroys previous accepted good acts*

In an Hadith Ayesha ® said that interest will destroy the benefits of previous accepted 'Jihad' (utmost trial of establishing Islam) though that 'Jihad' may be participated with Allah's Messenger (IbneKathir, 2008).

x. *Interest was compared with most disliking sins*

In the notes of Hadith No. 3947 of Sahih Muslim includes two more Hadiths giving reference to Ahmad, Ibne-Majah and Baihaki where it is stated that taking interest of a silver coin equivalent to doing thirty-six times 'Jina' (illegal intercourse) and in another one it is

stated that interest includes seventy types of sins of which the lowest one is to do illegal intercourse with own mother (Sahih Muslim, 2002).

On the other hand, Saleem (2008) identified few evil effect of interest like (a) evil effects on allocation of resources; (b) evil effects on production; (c) evil effects on distribution; and (d) expansion of artificial money and inflation. Rahman (2008) also discussed few reasons for which interest is to be avoided namely (i) Interest is injustice; (ii) Interest creates grievance; (iii) Interest creates misery and greedy; (iv) Interest destroy morality; (v) Interest reduces capital formation because of reducing profit of the producers; (vi) Interest reduces the investment of producers; (vii) Interest reduces the investment in risky and welfare sectors; (viii) Interest makes lenders idle; (ix) Interest increases unemployment; and (x) Interest increases inflation.

VIII. SHARI'AH COMPLIANCE - HOW?

a) *Pre-Requisites for Shari'ah Compliance*

Pre-requisites of complying Islamic Shari'ah in an organization are Government authorizations, mission, vision, objectives, policies, Act, rules-regulations, intention of owners and directors must be in the line with Islamic Shari'ah. Pre-requisites in the employees to comply Islamic Shari'ah are Iman (belief) on Oneness of Allah (SWT), Islam as the religion, Islamic knowledge, fearness of Allah (SWT), accountability, belief in life after death, and training on Shari'ah compliance.

b) *Shari'ah Supervisory Board*

The current understanding of a Shari'ah Board is defined by the Accounting and Auditing Organization of Islamic Financial Institutions (AAOIFI, 2003) in Bahrain. This body is built to standardize key practices of the industry. Their definition is as follows: "A Shari'ah supervisory board is an independent body of specialized jurists in fiqh al mu'amalat (Islamic commercial jurisprudence). However the Shari'ah supervisory board may include a member other than those specialized in fiqh al-mu'amalat but who should be an expert in the field of Islamic financial institutions and with knowledge of fiqh al-mu'amalat. The Shari'ah supervisory board is entrusted with the duty of directing, reviewing and supervising the activities of the Islamic financial institution to ensure that they are in compliance with Islamic Shari'ah rules and principles. The fatwas and rulings of the Board shall be binding on the Islamic financial institution." Presley, J.R. (n.d.) commented in the book 'Directory of Islamic Financial Institutions' "An Islamic Bank does not only have to have a board of directors but it also has to have a Shari'ah advisory board. This is most important where Islamic Banks operate in a society which does not fully apply Shari'ah laws. The board should possess a high degree of independence both internally & externally."

c) *Muraqib and their Qualifications*

Muraqibs are those experts of Shari'ah principles who supervise, visit and examine Shari'ah implementation position in Banks. Bangladesh Bank provided some specific guidelines regarding educational qualification, experience and exposure, track record, solvency and financial integrity and integrity, honesty and reputation of Muraqib. The qualifications regarding education, experience and exposure as stated by Bangladesh Bank are as below:

i. *Educational Qualification*

The member of 'Shari'ah Supervisory Committee' must have the following educational qualification: Kamil or Dawa or Post Graduate Degree in Islamic Studies, Arabic, Islamic Law, Islamic Economics or Islamic Banking with profound knowledge in Arabic language.

ii. *Experience and exposure*

The member of 'Shari'ah Supervisory Committee' must have the following experience and exposure:

- Must have at least 3 years-experience of teaching or research work in Islamic Jurisprudence/Islamic Law/Islamic Banking related subject;
- 3 years-experience as a Member of any 'Darullfta'/ Fatwa Board in giving Shari'ah rulings on Islamic trade and commerce/banking and financial matters, or
- Publication of 3 exclusive articles on Islamic trade and commerce, Islamic banking, Islamic Economics and Islamic Commercial Jurisprudence in any recognized journal or publication of 3 books on the same subjects.

d) *Activities of Shari'ah supervisory board/council*

Shari'ah supervisory board/council has to perform a lot of works. Some of the important activities are as follows: (i) Audit and inspection in field level; (ii) Arrangement of training and workshop; (iii) Issuance of circular/guidelines; (iv) Examination of various types of deeds; (v) Invention of new products; (vi) Opine on new products; (vii) To see the interest of organization/customers; (viii) Creation of awareness throws publication of books and journals, arranging seminar and customer gathering; (ix) Decision on Shari'ah/fatwah; (xi) Advising and recommendation; (xii) Supervision; (xiii) Representing in decision making forum; (xiv) Marking of ACR; (xv) Research activity; (xvi) Using of doubtful income in proper sector/welfare sector; (xvii) Satisfying clients' requirement on Shari'ah issues; (xviii) Approval of principles/guidelines; (xix) Meeting the need of asking of works force; and (xx) Dawah activities of Shari'ah.

IX. CONCLUSION

Shari'ah compliance is the most important duty of every Muslim and Islamic organization in their personal and social life. A Muslim will be aware about his duties only if he understands his responsibilities. One can abide by the duties also if he knows how to materialize it. The purpose of the present paper is to make the people understand the importance and the way to implement the Shari'ah in their life in general and more specifically in banking.

REFERENCES RÉFÉRENCES REFERENCIAS

- AAOIFI (2003), Accounting, Auditing and Governance Standards for Islamic Financial Institutions, AAOIFI, Manama, Bahrain, June-2003.
- Abu Daud (2006). Sahih Abu Daud (Hadith Compilation of the Prophet Muhammad (pbuh). Islamic Foundation Bangladesh, Dhaka-1207, August-2006.
- Ahmad, A.U.F. & Hassan, M.K. (2007). Regulation and performance of Islamic banking in Bangladesh. *Thunderbird International Business Review*, 49 (2), 251-277.
- Ahmad, K. (2000). Islamic finance and banking: the challenge and prospects. *Review of Islamic Economics*, 9 (1), 57-82.
- Ahmad, Z. (1984). Concept and Models of Islamic banking: An Assessment. In *Islamization of Banking*, Karachi.
- Al-AdabulMufrad. (2008). Compiled by Imam Abu Abdullah Muhammad Ibne Ismail Bukhari ®. Islamic Foundation Bangladesh, Agargaon, Dhaka-1207, September, 2008.
- Al-Tirmidhi.(2010). Hossain Al-Madani Prokashani, Hadith No. 2828, Vol. 5, 2nd Edition, August-2010, Dhaka, Bangladesh.
- Annual Report. (2010). Al-Arafah Islami Bank Limited. Available at: <http://www.al-arafahbank.com/Annual%20Report%202010.pdf> (Accessed on 15 August, 2011).
- Archer, S. and Karim, R.A.A. (2002). *Islamic Finance Innovation and Growth*: Euro-money Books and AAOIFI.
- Benaissa, N.E., Parekh, M.P. and Wiegand, M. (2005). A Growth Model for Islamic Banking. *The McKinsey Quarterly*.
- Chapra, M. U. (1995). Towards a Just Monetary System. Islamic Foundation UK.34-45 and 107-175.
- Chapra, M.U. (2008). The Islamic Vision of Development. *Thoughts on Economics*, 18 (3) (Special Issue).
- Chong, B.S. and Liu, M.H. (2009). Islamic banking: interest-free or interest-based? *Pacific-Basin Finance Journal*, Vol. 17 (1), 125-144. available at: <http://dx.doi.org/10.1016/j.pacfin> (accessed 12 March 2007).
- Ellison, C. (1993). Religion, the Life Stress Paradigm, and the Study of Depression. In Jeffrey Levin, ed., *Religion in Aging and Mental Health: Theoretical Foundations and Methodological Frontiers* (Thousand Oaks, CA: Sage). 78-121.
- Ghazali. Abu Hamid Muhammad al-, (1937), al-Mustasfā (Cairo: al Maktabah al- Tijariyyah al-Kubra, 1937).
- Grais, W. & Pellegrini, M. (2006). Corporate governance and Shari'ah compliance in institutions offering Islamic Financial Services. Working Paper 4054, November, World Bank Policy Research.
- Gruber, J. (2005). Religious Market Structure, Religious Participation, and Outcomes: Is Religion Good for You? NBER Working Paper 11377, May (Cambridge, MA: National Bureau of Economic Research).
- Hassan, M. K., Mervyn, K. L. (2007). Islamic Banking: An Introduction and Overview. In: *Handbook of Islamic Banking*, Edward Elgar Publishing Press, UK, pp. 1-17.
- Iannaccone, L. (1998). Introduction to the Economics of Religion. *Journal of Economic Literature*, September.1465-1496.
- Ibne Kathir. (2008). Tafsirlbne Kathir, 1st, 2nd and 3rd part, Hussain Al-Madani Prokashoni, Dhaka, Eighth Edition.
- Iqbal, M., Ahmad, A., & Khan, T. (1998). Challenges Facing Islamic Banking. Islamic Research and Training Institute, Islamic Development Bank, Occasional Paper No. 1, First Edition.
- Khan, M.S. & Mirakhor, A. (1986). The framework and practices of Islamic Banking. *Finance Development*, 3 (September), 32-36.
- Koch, C. & Stenberg, L. (2010). The EU and the GCC: Challenges and Prospects under the Swedish EU Presidency. Gulf Research Center, United Arab Emirates, Dubai.
- Malik, M.S., Malik, A. & Mustafa, W. (2011). Controversies that make Islamic banking controversial: an analysis of issues and challenges. *American Journal of Social and Management Sciences*, doi: 10.5251/ajsms.2011.2.1.41.46© 2011, Science Hu_, available at: www.scihub.org/AJSMS (accessed 17 October 2011).
- Moududi, S.A.A. (2007). *Sud-O-Adhunik Banking*, Adhunik Prokashani, Banglabazar, Dhaka-1100, Eighth Edition.
- Omar, A. M. (2010). Dictionary of Holy Qur'an, NOOR Foundation - International Inc., 13 DIGIT ISBN: 978-0-9632067-94, ISBN: 0963206796, Library of Congress Control No.: 2005298281, 2nd Edition, Reprinted in February 26, 2010.
- Presley, J.R. (n.d.). Directory of Islamic Financial Institutions. Retrieved from: www.routledge.com, November, 2011.
- Rahman, A.A.M.H. (2008). *Islami Banking*. Haque Printers, Arambag, Dhaka-1000.

Sahih Bukhari. (2003). Islamic Foundation Bangladesh, Dhaka-1207, March-2003, Hadith No. 1955, P. 23.

Sahih Muslim. (2002). Vol. III and V, Bangladesh Islamic Center, Dhaka-1000, First Edition, January 2002, p. 360.

Saleem, S. (2008). Role of Islamic Banks in Economic Development. February 25, P.11, <http://ssrn.com/abstract=989055>

Siddiqi, M.N. (1983). Issues in Islamic banking. The Islamic Foundation, Leicester.

Siddiqi, M.N. (1985). Partnership and profit-sharing in Islamic law. The Islamic Foundation, Leicester.

Siddiqui, S.H. (2001). Islamic banking: true modes of financing? New Horizon, May-June.

Ullah, M. H. (2014). Shari'ah compliance in Islamic Banking-An empirical study on selected Islamic banks in Bangladesh. International Journal of Islamic and Middle Eastern Finance and Management, 7 (2), 182-199.

Ullah, S. (2012). Fatwa Repositioning: the Hidden Struggle for Shar'a Compliance within Islamic Financial Institutions. Unpublished PhD Thesis, University of Southampton, UK.

Yusof, E. and Fahmy, E. (2008). Are Islamic banks in Malaysia really 'Islamic'? MPRA Paper No. 20901, available at: <http://mpa.ub.uni-muenchen.de/20901/> (accessed 23 February 2010).

Zaher, T. S. & Hassan, M. K. (2001). A Comparative Literature Survey of Islamic Finance and Banking. Financial Markets, Institutions and Instruments, 10 (4), 156-199.