

Global Islamic finance holds steady in uncertain times

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The IFSB reported in its annual report that the global Islamic financial services industry continued to slow down in 2016. Despite this, it reported that the industry had assets of approximately US\$1.9 trillion, a similar value to the previous year. Significant regulatory advances in 2017 and planned developments next year could lead to an increase in Shariah compliant activity throughout 2018 and beyond, although the impact of challenges such as Brexit and the Dana Gas dispute remains to be seen.

Review of 2017

The UK government invoked Article 50 of the Treaty on European Union in March and Brexit negotiations are underway. The impact of Brexit on the UK's dominant position in Islamic finance is unknown, although commentators have pointed out that challengers such as Luxembourg have a long way to go if they are to compete with the UK's hold on the market. The pound sterling has still not recovered since the result of the referendum in June 2016 which has been good news for investors in the still-attractive UK market.

In terms of regulation, Kenya finally signed its Finance Bill 2017 into law in June. Among other things, the bill removes stamp duty on Shariah compliant products including Sukuk, leading to cheaper Islamic finance products for Kenyan investors and businesses. In addition, the Stamp Duty Act will come into effect on the 1st January 2018, under which stamp duty will only be charged on the initial transfer of property ownership, removing the obligation to pay stamp duty twice in some asset-backed Shariah transactions. This regulatory reform may lead to a rise in Shariah compliant activity in Kenya, and we may see the Kenyan government issuing Sukuk in 2018.

In September, the Financial Services Authority of Indonesia, or known as Otoritas Jasa Keuangan, published draft guidelines on the liquidation and insolvency of insurance operators, Takaful companies, reinsurers and re-Takaful operators, a market that is well established in the country.

AAOIFI, which has more than 200 members from 45 countries, has to date issued 99 standards covering a range of Islamic financial transactions and products. In February, it launched a Shariah standards e-learning platform in a bid for its standards to be

accessible to a wider audience. At the time of launching the 99th standard (on Murabahah and other deferred payment sales) in September, the chairman of the AAOIFI Accounting Board emphasized the organization's plans to issue more standards in 2017, with the final meeting of the year due to be held in December.

Preview of 2018

Looking ahead, the Astana International Financial Center (AIFC), a financial free zone to be located in Astana, Kazakhstan, is planned to open at the beginning of 2018. It is hoped that the AIFC will act as a financial hub for countries throughout Asia, the Middle East and Europe. The AIFC has already led to closer collaboration between Kazakhstan and Malaysia which announced in May that a special committee will be set up between the two jurisdictions to promote economic cooperation, focusing on areas such as Islamic finance and Halal development.

Meanwhile, the Dana Gas proceedings, involving a US\$700 million global Sukuk facility which Dana Gas claims is no longer Shariah compliant, reached London's High Court in September. The proceedings were, however, adjourned until the 12th October 2017 after some of Dana Gas's shareholders obtained an injunction from a UAE court preventing some parties from taking part, leading to one of the prosecutors in the case accusing the energy company of "deliberately frustrating" the process.

UK High Court Judge George Leggatt on the 13th November 2017 said that he will issue judgment on Dana Gas's case soon and will not further adjourn the trial. At the time of writing, no judgment had been made yet. The outcome of the dispute is eagerly awaited — this is one of the first Shariah-structured transactions to be heard in an English court and investors are concerned that a ruling in favor of Dana Gas could pave the way for other issuers of Sukuk to seek to re-issue their bonds on less favorable terms.

It is hoped that global Shariah compliant activity will increase through 2018, when the impact of developments such as the AIFC and new regulations in Kenya, aimed at making Islamic transactions easier to carry out, will be seen.

Conclusion

In an unpredictable environment, the global Islamic finance industry remains steady. The significant regulatory advances that have taken place in 2017 should have a positive impact on the industry moving forward. Coupled with the planned developments across the globe and the widely anticipated outcome of the Dana Gas case, 2018 will prove to be an interesting year as the impact of 2017's developments continue to unfold.

Shakeel Adli is a partner and the head of Islamic finance at international law firm CMS. He can be contacted at shakeel.adli@cms-cmno.com. Paula Wilson, an associate in the same law firm, assisted in the drafting of this report.

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