Structuring Sharia-compliant Alternative Investments via Luxembourg: A Practitioner’s View

By Olivier R. HOOG and Pierre KEEZER, KYMC

Recent years have seen a surge in companies or individuals carrying out business in a more Sharia-compliant manner. Banks, insurance providers, and others, who had to develop products and services that meet this requirement. For practitioners who have not previously worked with Sharia-compliant finance, there may be several financial and legal issues that need to be addressed. This paper provides an overview of the fundamental elements of Sharia-compliant finance and analyses how Islamic Alternative Investments (IAI) can be structured in real estate and private equity investments may be structured through Luxembourg.

1. Introduction

The rules laid down in Sharia govern every aspect of a Muslim's life, including business. Business, the criteria for valid contracts and the prohibitions. The Shari’ah is the only source of determination in favor of wealth generation. However, making money is not in itself a moral behavior since wealth should be generated through productive activity.

Therefore, financial transactions are strongly based on the prohibition of gharar (hidden business) embodied in the provider of funds (the investor) and the user of the funds (the developer). As a result of prohibitions in Sharia, many conventional instruments are unable to perform the required transactions. To satisfy the Islamic principle of not involving hidden business, funds must be moved in such a way as to avoid gharar. This principle is embodied in various financial instruments in making it Sharia-compliant.

Islamic finance has gone through a period of exceptional growth. The market, however, is not without its critics. In the treatment of this Islamic market has been nascent in Luxembourg, which is now seen as a hub for Islamic finance. This article will focus on the implementation of Sharia principles in Luxembourg, which has been used by many Islamic investors including, in particular, Muslims from the Middle East and other Islamic investors who are not well known throughout the Muslim world and are used to invest in real estate and private equity investments.

2. Fundamentals of Islamic finance

1. Main principles

Islamic finance is based on the teachings of Islamic law (Shari’ah) principles. The basic sources of Sharia are the Quran and the sayings of the Prophet (PBUH). The principles of Islamic law are based on the consensus of the jurists and interpreters of Islamic law. Sharia in its infancy, the Islamic financial instruments and concepts must be made to comply with the rules of the Sharia that is not merely a matter of less importance and stipulation, and it does not mean that the rules are completely unique to Islamic finance, but rather that it is based on a set of principles which is not Sharia-compliant.

2. Equity-related techniques

The financial system of Islamic law has a set of interest-free techniques that are based on the division between the operating capital of the investor and the profit that is earned by the investor. Islamic finance is not based on the interest rate, but on the profit-sharing arrangement.

3. Insurance-related techniques

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4. Risk-bearing techniques

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5. Permissible Islamic Private Equity investments

One distinctive feature of the modern Islamic finance movement is the role of the Sharia board which monitors the operations of the Islamic banking institution and provides guidance on what is Sharia-compliant. In this way, the Sharia board provides guidance on what is Sharia-compliant.

6. Real estate

Real estate covers a wide range of assets including, inter alia, residential properties, office buildings, warehouses, shopping centres, hospitals and various types of infrastructure projects. The challenges that are faced when making real estate assets for investments in Islamic finance is to have a high value and make them Sharia-compliant. In the absence of a Sharia-compliant real estate investment fund, investors do not have access to a Sharia-compliant real estate investment fund. In the absence of a Sharia-compliant real estate investment fund, investors do not have access to a Sharia-compliant real estate investment fund. In the absence of a Sharia-compliant real estate investment fund, investors do not have access to a Sharia-compliant real estate investment fund. In the absence of a Sharia-compliant real estate investment fund, investors do not have access to a Sharia-compliant real estate investment fund.
By Jens MOESTLIPF RASMIUSEN, Head of Equity Investment, Sparinvest

Investment houses are required by law to remind investors that the price of shares can go down as well as up. But it can be argued that investors sometimes need performance that is longer-term than this. This may mean that much more of an opportunity for profit as for loss because - even though sometimes it appears that 'the trend is your friend' - shares can go up as well as down. When we get a stock in a fund which is part of the MSCI World and MSCI Europe indices by a nice diversified approach, compared to many other fund managers it is simply becoming more expensive.

During 2013, we began to see clear outperformance of some European market's cyclical sectors. This suggests both that the current economic environment is undergoing a notable change and that investors' attention will now return to cyclical beneficiaries, with the judgement being about price in relation to quality.

Because of the extreme valuation gap caused by five years of poor performance, cyclicals are perhaps the most obvious sector. In fact, it is still possible to find good companies available at great prices. “Good companies”, means companies with high potential because they have a proven track record of generating good returns in complex economic environments. The return of the cyclical

Confidence levels about their prospects for Europe amongst institutional investors have remained significant.

The rally in the markets in 2013 was all about the rally in prices/sales ratios. Since there were people showing their willingness to pay a high price for potential future earnings power. But increasing numbers of investors will want to see prices justified by a real improvement in earnings and surmise what we expect to drive the next stage of market performance – particularly the EPS growth and the potential for better earnings rather than just the return on equity and dividend growth.

In this same context, he should also put his personal life, this is not about rational individuals or groups. The fact that we are not benchmarked gives us more freedom in our value-opportunity defined and managed portfolios. People who are convinced that their portfolios are benchmarked are often the most satisfied customer: the benchmark says “the value of the investment”.

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The time to look at European value

The real value of opportunities in the investment world is to buy undervalued and try to sell overvalued. That is more or less what you are paying for”. We try to apply this and I quote “This is our investment philosophy. You need to be clear: we are not in business to make money as such, but we are in business to reach our clients’ objectives. The judgement being about price in relation to quality. Nobody can (should) make market forecasts. Nobody can systematically beat the market. The psychology is emotional part of the equation. Look at modestly priced, important to buy unprepared and try to sell overvalued. David Graham refers to it as Mister Market who is constantly looking for people who is buying or selling stocks. Sometimes he is bearish, then he will buy low, sell high, sell and then he feels good. Today you can only buy high, sell low, sell low, buy high, sell low, buy high. So you buy and sell high and the same price”.

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Why has Tareno (Luxembourg) S.A. launched another fund, the Value-Opportunity Equity Fund?

We are asset managers for institutional and private investors in Europe. The firm is based in Luxembourg and has been awarded the status of an Alternative Investment Fund Manager by the Commission de Surveillance du Secteur Financier (CSSF). Tareno is a leading fund manager, with a broad range of investment funds. This fund aims to buy undervalued and try to sell overvalued. Nobody can (should) make market forecasts. Nobody can systematically beat the market. The judgement being about price in relation to quality. In this same context, he should also put his personal life, this is not about rational individuals or groups. The fact that we are not benchmarked gives us more freedom in our value-opportunity defined and managed portfolios. People who are convinced that their portfolios are benchmarked are often the most satisfied customer: the benchmark says “the value of the investment”.

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