

## The Role, Independence and Effectiveness of the *Shari'ah* Board in Islamic Banks of Bangladesh

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### ABSTRACT

*The most important characteristic of Islamic banking is to maintain its products and services in accordance with the principles of Shari'ah. Several studies have identified that adherence to Shari'ah principles is the primary factor influencing the selection of Islamic banking. To maintain, oversee, and review the Shari'ah compliance of banking activities, every Islamic bank is required to have a Shari'ah Board with adequate functional authority. The Shari'ah Board is essential for ensuring the governance and credibility of an Islamic bank. Although the Board is expected to perform a significant authoritative governance function, several studies have found that the governance function, independence, and role of the Shari'ah Board may not be satisfactory or effective enough. In addition, a significant number of studies have identified the dilemmas facing Islamic banks regarding the Shari'ah Board's independence, function, and role. There is also a scarcity of empirical evidence on the governance function of the Shari'ah Board. Moreover, the need for a well-defined standard in this regard has been perceived. Some Islamic banking regulatory institutions, particularly the Accounting and Auditing Organization for Islamic Financial Services (AAOIFI) and the Islamic Financial Services Board (IFSB), have established standards and guidelines regarding the governance function, independence, and role of the Shari'ah Board. In light of these circumstances, this paper aims to examine the governance function of the Shari'ah Board of Islamic banks in Bangladesh and assess its independence and effectiveness in comparison to the standards established by the AAOIFI and IFSB. As a model, this empirical study selects Islami Bank Bangladesh Limited (IBBL), the country's first and largest Islamic bank. This study employed quantitative research methodology. Primary data have been collected through a questionnaire survey from members of the Shari'ah Board of IBBL. The standards and guidelines issued by AAOIFI and IFSB have been used as benchmarks in formulating the questions. This study evaluated the effectiveness of the Shari'ah governance mechanism of Islamic banks in the country and provided policy recommendations for its development, contributing to the sustainability and credibility of the industry.*

*Keywords: Islamic Banking; Shari'ah Board; AAOIFI; Bangladesh; IBBL*

### INTRODUCTION

Islamic banking is the system which conducts banking activities following the principles of *Shari'ah* (Anam, Mohamad and Yahaya 2022). With 17% annual growth rate which is two to three times more quickly than the growth of traditional banks (Yueh 2014), Islamic banking has been mainstreamed within the global financial system. *Shari'ah* compliance is the single most crucial factor, according to several studies, which attracts the clients towards Islamic banking. Accordingly, *Shari'ah* compliance of the products and services of Islamic banks has been seen as an essential governance

instrument to guarantee the legitimacy and viability of an Islamic bank (Shafie et al. 2020; Kazak and Alim 2022). For the purpose, every Islamic bank is supposed to have a *Shari'ah* Board (SB). No new product would have been introduced until they are approved by the Board (Yuneline 2022). Having a SB, not only ensures the *Shari'ah* compliance, but also enhances the credibility of Islamic bank and bolsters its Islamic credentials. Thus, SB becomes a crucial component of the Islamic bank's governance structure. Despite the high anticipation that the SB is being entrusted with high authoritative governance function, several studies (such as Khan 2007; Kahf 2002) identified that the power, governance function

and role of SB are not satisfactory and effective enough. In addition, a good number of studies (for example, Khan 2007; Siddiqi 2007; Rammal 2006; Grais and Pellegrini 2006; Iqbal et al. 1998; Karim 1996) discovered that many Islamic banks in different countries of the world are facing dilemmas with respect to the SB's power, role, independence and its association with financial reporting. There has been a significant gap of empirical study and evidence in the existing literature that identifies the role, independence and effectiveness of the SB in the Islamic banking sector of Bangladesh. Moreover, the need of a well-defined standard in this regard has been perceived. Standards for the formation, governance function, independence, and role of SB have been formulated by some Islamic banking regulatory institutions, particularly, Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI) and Islamic Financial Services Board (IFSB). These standards have widely been accepted by the stakeholders of Islamic banking industry worldwide.

With these circumstances, this paper aims at ascertaining the composition, governance function and role of SB of Islamic banks and evaluating its effectiveness in the context Bangladesh compared to the standards developed by the AAOIFI and IFSB. This study will also identify the impediments of *Shari'ah* governance mechanism and offer policy recommendations to make it an effective institution. This research has been structured into five spans as section-two describes the theory and literature, section-three includes the data and methodology, and section-four explains the empirical evidences and section-five explains the conclusion and policy directions. Consistent with the objective of the study, relevant AAOIFI and IFSB standards have also been discussed. As a sample model, this empirical study selects Islami Bank Bangladesh Limited (IBBL), the first and biggest Islamic bank in the country. It undoubtedly contributes to the existing literature by providing in-depth empirical data relating to all concerned parties involved in the *Shari'ah* governance function as well as other stakeholders, making it stand out beyond the apparent comprehension of the issues investigated by confirming its dedication to *Shari'ah* compliance and legitimacy.

## SHARI'AH BOARD AND ITS STANDARDIZATION

The SB of an Islamic bank is a religious oversight body entrusted with guaranteeing that the bank's products and services comply with *Shari'ah* law. The greatest distinguishing characteristic of an Islamic bank is the inclusion of an SB in the governance structure. The main rule for social activities under *Shari'ah* law is that "everything is permitted except for those explicitly forbidden by *Shari'ah*" (Kamali 1989: 20). Even the members of same SB have divergent views on the same issue. There has been a lack of uniform standard for acceptable Islamic banking products as well as SB. As a result, many Boards are being composed of incompetent members with inadequate functional power that hinder the Islamic banks. The demand for distinctive standards of Islamic banking products and governance issues has developed with the expansion of the Islamic banking sector. Some international regulatory organizations have taken the initiative to harmonize essential standards and the most widely accepted standards that are formulated by the AAOIFI and IFSB. Though Islamic banks are not required to follow the requirements, but the majority of them have linked their legislation with the AAOIFI and IFSB norms, as have many financial regulatory bodies throughout the world.

## CHARACTERISTICS OF SHARI'AH BOARD

Every Islamic bank should have a SB obligatorily (Iqbal and Mirakhor 2011) to administer *Shari'ah* governance mechanism. It is basically characterized with three distinctive features: the qualification of its members and their appointment, its functional power and independence and the executing nature of its decisions (Iqbal and Mirakhor 2011).

## QUALIFICATIONS OF THE MEMBERS OF SHARI'AH BOARD

The relevant Islamic bank's articles of organization will often contain a clear specification of the requirements, appointment process, and duties of the SB (Briston and El-Ashker 1986). While Siddiqi (2007) asserted that the *Shari'ah* experts' education

does not equip them to assess Islamic banking products in a way that goes beyond *Shari'ah*'s formalities, some studies, such as Arbouna (2007) asserted that the members of SB should be limited within the scholars of *Shari'ah*. Siddiqi (2007) and numerous other studies (such as Gambling et al. 1993; Grais and Pellegrini 2006; Ghayad 2008; and Laldin 2008) have argued in favor of having *Shari'ah* academics on the SB in addition to experts in accounting, finance, economics, and law. International Association of Islamic Banks (IAIB) suggested, "SB is formed of a number of members chosen from among Jurists and men of Islamic Jurisprudence and of comparative law who have conviction and firm belief in the idea of Islamic Banks" (El-Nagar 1980: 20). A SB with a variety of qualifications would contribute to better Islamic financial monitoring (Ghayad 2008). In order to distinguish Islamic banking from conventional banking and to advance the industry, many modern Islamic banks look for different skills from Islamic scholars, such as experience in the banking sector, fluency in the Arabic and English languages, and the ability to work in harmony with the *Shari'ah* and legal aspects of financing (Laldin 2008; Jusoh et. al. 2013). A better *Shari'ah* judgment would undoubtedly be made and the banking governance would move more quickly if such an SB received good collaboration from all stakeholders inside the bank (Laldin 2008). Regardless of their educational level, SB members should be honorable people who uphold high moral standards and values like honesty, dependability, responsibility, and accountability (Laldin 2008a). They are frequently people who hold important positions in society and are well-respected (Ghayad 2008).

AAOIFI standard suggests that "SB is an independent body of specialized jurists in *Fiqh-al-Mua'malat* (Islamic commercial jurisprudence). However, the Board may include a member other than those specialized in *Fiqh-al-Mua'malat*, but who should be an expert in the field of Islamic financial institutions and with knowledge of *Fiqh-al-Mua'malat*" (AAOIFI 2010: 4). Experts in business, economics, law, accounting, and other fields may also be included (AAOIFI 2010: 4). AAOIFI and IFSB both recommend that there should be "fit and proper" criteria for the appointment of a member of SB (AAOIFI 2010b: 58; IFSB 2006: 12). IFSB offers a comprehensive standard on the qualification criteria for SB member. It says:

"a. Academic Qualifications:

To have a bachelor's degree in the sciences of *Shari'ah*, including *Fiqh al-Muamalat*;

To demonstrate an adequate understanding of finance and Islamic finance in particular;

To have strong skills in the philosophy of Islamic law (*Usul al-Fiqh*);

To have good knowledge of written Arabic; and be able to converse in English.

b. Experience and Exposure: To have an understanding of *Shari'ah* principles applicable to Islamic banking activities; and Legal and regulatory framework applicable to the functions of SB.

Preferably, a member who has at least three years' experience of making *Shari'ah* resolutions, or at least four years' post-qualification experience in teaching or research in Islamic finance, should be appointed as Chairman.

c. Track Record: He/she must have a respectable character and be of good conduct, particularly in terms of honesty, integrity and reputation in his/her professional business and financial dealings" (IFSB 2009: 30).

#### APPOINTMENT AND COMPOSITION OF *SHARI'AH* BOARD

Several literatures (such as Karim 1990; Rammal 2006; Laldin 2008) promoted the approach of appointment of SB member by the shareholders. This strategy is thought to protect SB's integrity and address any potential conflicts of interest relating to SB's position in overseeing bank management concurrently with that of the Board of Directors (BoD) (Laldin 2008). Although there are many different practices, the one that is most frequently used is the nomination of an SB member by the shareholders on the advice of the BoD. IAIB recommends that "(a) they are appointed by the general assembly; (b) the general assembly fixes their remunerations; (c) the legitimate control body has the same means and jurisdictions as the auditors of accounts; (d) and they must not be working as personnel in the bank." (El-Nagar 1980: 20). Due to the paucity of adequate competent *Shari'ah* scholars, sometimes a scholar holds membership in different SBs simultaneously. This multiple placement could affect the quality of Board as the tasks could be huge and the time spent could be limited (Grais and Pellegrini 2006; Alhabshi and Bakar 2008).

AAOIFI standard says that "a SB member should be appointed by the shareholders in their annual general meeting upon the recommendation of the BoD taking into consideration the local legislation and regulations" (AAOIFI 2010: 4). A SB member may be appointed by the BoD but only with the approval of shareholders. Only the shareholders have been seen as the ideal party to appoint SB member

(AAOIFI 2010: 4-5; IFSB 2009: 30). It further says "SB shall consist of at least three members. The Board may seek the service of consultants who have expertise in business, economics, law, accounting and others. The Board should not include Directors or significant shareholders" (AAOIFI 2010: 4-5). Regarding dismissal, AAOIFI suggests, "dismissal of a member shall require a recommendation by the BoD and be subject to the approval of shareholders in a general meeting" (AAOIFI 2010: 5). AAOIFI and IFSB both prefer that the individual bank has right to choose the number of members depending on its capacity and services required, but should not be less than three. As there is shortage of competent scholars, AAOIFI and IFSB standards support the idea of multiple membership of a scholar, but not hindering the individual organizations' duty.

#### INDEPENDENCE OF SHARI'AH BOARD

The SB should be granted sufficient authority to carry out its duties on its own, in order to make it actually effective. The SB must be autonomous in order to avoid any conflicts of interest, and its members must not hold management positions or have significant financial interests in the organization (Algaoud and Lewis 2007: 21-37). The integrity of SB members should also be considered from an ethical standpoint, as *Shari'ah* scholars are expected to uphold their moral convictions and Islamic teachings while carrying out their duties. For an independent function, they should be immune from pressure from the banks' management or the influence of economic interests. (Karim 1990). The SB must not be "subject to instruction by management, BoD and shareholders" (Iqbal and Mirakhor 2011). Absence of complete 'terms of reference' in this regard can hinder the independence of SB. When fulfilling their tasks, the Board should have access to the bank's records and financial statements (Tomkins and Karim 1987; Rammal 2006). These independence standards are obviously essential for the SB to fulfill its job and responsibilities completely and honestly.

In their criteria, the AAOIFI and IFSB both highlighted the functional independence of SB. The problem of independence was taken into consideration by AAOIFI and IFSB while formulating the criteria on the appointment and composition of the SB. For instance, it was suggested that the SB members shouldn't hold managerial positions, shouldn't be related to key executives, and shouldn't own a sizable portion of the bank. According to IFSB,

"the professionalism and independence of *Shari'ah* scholars must be upheld with the highest respect" (2006: 25). It further said "each Islamic Financial Institution must ensure that the SB has clear terms of reference regarding its mandate and responsibility and well-defined operating procedures and lines of reporting" (IFSB 2009: 9). All these are to support the SB to perform its duties independently. Furthermore, IFSB developed a separate standard dealing with the independence of SB. It says:

"The SB should play a strong and independent oversight role, with adequate capability to exercise objective judgment on *Shari'ah*-related matters. No individual or group of individuals shall be allowed to dominate the SB's decision-making. Its members must not only be able to exercise independent judgment without undue influence or duress, especially from the management of the Institutions offering Islamic Financial Services (IIFS), but also be seen to be truly independent. In this respect, it would be desirable for an IIFS to formalize the independence of SB and its members by recognizing the SB's roles and mandate" (IFSB 2009: 15-16).

AAOIFI has also developed a specific standard entitled "Independence of *Shari'ah* Supervisory Board", which exclusively deals with the independence issues. It says:

"The importance of the independence of *Shari'ah* Supervisory Board (SSB) members emanates from its role in:

- a. Enhancing the public confidence in the Islamic Financial Institution (IFI).
- b. Achieving its fundamental objectives.
- c. SSB members have a responsibility to the public who rely on the services provided by them that require independence.

Objectivity: Objectivity is an independent mental attitude which SSB members should maintain in performing *Shari'ah* supervision. SSB members are not to subordinate their judgment on *Shari'ah* supervision matters to that of others.

- a. SSB members should not be employee of the same IFI.
- b. They should not be involved in any managerial or operational responsibilities of the IFI.
- c. The preceding period should be not less than three years" (AAOIFI 2010c: 44-45).

It further says that "SSB members should be free of any interest which might be regarded as being incompatible with independence and objectivity" (AAOIFI 2010c: 47). AAOIFI (2010c: 47-48) also gave a few examples of factors that can limit the independence of SB, including: financial ties; interpersonal and familial relationships; fees; contingency fees; performance-related bonuses; goods and services; real and threatened legal action; and a protracted engagement with IFI.



### THE ROLE OF *SHARI'AH* BOARD

A SB's primary responsibility is to make sure that the bank's processes, goods, and services adhere to *Shari'ah* standards (Jaffer 2005). It is in charge of regulating Islamic banks' complete business operations and ensuring *Shari'ah* compliance, including examining their products and services (Millar and Anwar 2008: 164; Rahman 2010: 77). The SB's duties traditionally include advising the BoD on *Shari'ah*-related issues, developing Islamic banking products, investigating the operations of Islamic banks, figuring out how to calculate and pay Zakat, and outlining *Shari'ah* compliance in the *Shari'ah* report (Briston and El-Ashker 1986; Rahman 2010: 77–78). Briston and El-Ashker (1986) further categorized SB's role into two: advisory and review. Most of the later studies more or less used this categorization. Iqbal (2001) classified it into constitutive and operative function. Constitutive function (ex-ante) refers to the idea that before starting the operation of an Islamic bank, SB has to endorse the *Shari'ah* conformity of all products and services. Operative function (ex-post) refers to the role of SB after inaugurating the operation of an Islamic bank, which is divided into advisory and review roles.

#### ADVISORY ROLE OF *SHARI'AH* BOARD

Advisory role of SB encompasses a number of issues such as: advising to design operational procedures, corporate strategies, to ensure good organizational reputation etc. (Briston and El-Ashker 1986; Ahmed 2006; Alhabshi and Bakar 2008). SB should be able to give suggestions to modify any product's proposed structure in order to make it workable and *Shari'ah*-compliant. They need to complete the sample contracts and documentation for the various funding options (Ayub 2007: 363). Some earlier decisions of SB might be inapplicable and in that case the Board can play corrective role by issuing a new *Shari'ah* decision (Siddiqi 2007). SB should also respond to any query regarding the operation or product of Islamic bank asked by the community (Banaga et al. 1994). It is also anticipated that it would be actively involved in creating Islamic banking services and products. (Karim 1996; Laldin 2008a).

AAOIFI and IFSB explained the advisory role of SB in numerous standards. 'Advising the BoD on *Shari'ah*-related topics' is one of the main responsibilities of the SB, as the IFSB suggests

(IFSB 2009:23). According to AAOIFI, "the SB is entrusted with the duty of directing, reviewing, and supervising the IFI's activities to ensure that they are in compliance with the *Shari'ah* principles" (AAOIFI 2010: 4). AAOIFI's "Governance Standards for Islamic Financial Institutions No. 2: *Shari'ah* Review", which is specifically designed to explain the review role of SB, indicates the further scope of advisory role played by SB. It says that "SB shall assist (the management) by providing guidance, advice, and training relating to compliance with the *Shari'ah*" (AAOIFI 2010a: 14). IFSB has also offered similar recommendations. It says:

"As *Shari'ah* compliance is central in assuring the integrity and credibility of IIFS, and is one of the ultimate responsibilities of the BOD, the Board needs to establish a mechanism that can be mobilized swiftly and efficiently to obtain rulings from *Shari'ah* scholars and monitor *Shari'ah* compliance. The mechanism shall cover:

- a. both ex-ante and ex-post aspects of all financial transactions; and
- b. Operations of the IIFS" (IFSB 2006: 11).

Thus, the Board plays diverse advisory role to ensure *Shari'ah* compliance of an Islamic bank.

#### REVIEW ROLE OF *SHARI'AH* BOARD

Reviewing the *Shari'ah* conformity of Islamic banks' products and services is SB's most important responsibility. It involves a variety of activities and calls for participation from numerous parties. Review role can be categorized into Product reviews and institutional reviews. Product reviews examine banking products at every stage of their creation, including conceptualization, design, documentation, testing, implementation, and compliance. According to Alhabshi and Bakar (2008), an institution evaluation includes examining a bank's management, transaction, and financial records. SB should also strive for innovating new products, determining formula for profit distribution, validating and developing financial contracts, documentations and transactions (Siddiqi 2007). The Board has to "vet all new contracts, audit new contracts, approve new products and overseas the collection and distribution of Zakat" (Algaoud and Lewis 2007). It offers guidance on allocating profits or costs among stockholders and account holders, and it is concerned with how to dispose of earnings that do not follow *Shari'ah* (Iqbal and Mirakhor 2011). The Board should get effective assistance from all parties involved (such as the BoD, management,

Shari'ah officials, audit committee, etc.) and access to all financial data and documentations in order to carry out the review process effectively (Briston and El-Ashker 1986; Tomkins and Karim 1987). A yearly *Shari'ah* report detailing the bank's compliance difficulties and *Shari'ah* evaluation is also the responsibility of the Board. It provides the stakeholders with a respectable degree of comfort about the ethics of the bank.

AAOIFI's "Governance Standards for Islamic Financial Institutions No. 2: *Shari'ah* Review" explicitly deals with the review role of SB. The issues concerning *Shari'ah* report has been classified in the "Governance Standards for Islamic Financial Institutions No. 1: *Shari'ah* Supervisory Board: Appointment, Composition and Report". Additionally, the "Governance Standards for Islamic Financial Institutions No. 3: Internal *Shari'ah* Review" addresses concerns with regard to the SB's internal assessment. A number of IFSB standards such as "IFSB-3: Guiding Principles on Corporate Governance for Institutions Offering Islamic Financial Services", "IFSB-5: Key Elements in the Supervisory Review Process of Institutions Offering Islamic Financial Services", "IFSB-10: Guiding Principles on *Shari'ah* Governance Systems for Institutions Offering Islamic Financial Services", "IFSB-16: Revised Guideline on Key Elements in the Supervisory Review Process of Institutions Offering Islamic Financial Services" focused on several issues concerning the review role of SB. AAOIFI defines *Shari'ah* review as:

"an examination of the extent of an IFI's compliance, in all its activities, with the *Shari'ah*. This examination includes contracts, agreements, policies, products, transactions, memorandum and articles of association, financial statements, reports, circulars, etc.

The objective of a *Shari'ah* review is to ensure that the activities of an IFI do not contravene the *Shari'ah*. The SB shall have complete and unhindered access to all records, transactions, and information of the IFI." (AAOIFI 2010a: 14).

IFSB categorically describes the review role of SB:

"Reviewing and endorsing *Shari'ah* -related policies and guidelines. For this purpose, the IIFS should also have a *Shari'ah* Process Manual. Endorsing and validating relevant documentation for new products and services. Overseeing the computation and distribution of Zakat and any other fund to be channeled to charity" (IFSB 2009: 23).

AAOIFI divides *Shari'ah* review procedure into three stages:

1. Planning review procedure;
2. Executing review procedure;
3. Documenting conclusions and reports.

*Shari'ah* review shall be planned to execute effectively. It shall cover all activities, products, and locations (AAOIFI 2010a: 15).

The Board must compile its findings and write a report that will be read at the bank's annual general meeting (AAOIFI 2010a: 16). IFSB explains reporting of SB as:

"SB shall produce its reports in the form of: a fact-finding report; (an ex-ante) report in relation to product design and development; (an ex-post) internal *Shari'ah* review report; and an annual *Shari'ah* compliance report" (IFSB 2009: 25).

The report should attest to the Board's flawless execution of its duties and review work. It should also confirm that the transactions, dealings, contracts and documentations, sources of earning, profit allocation, charging of losses etc. have been complied with the *Shari'ah* principles. The report should attest to the sources, zakat calculation, uses of zakat, and charity fund's adherence to *Shari'ah*. The report should also highlight any instances where the Board has determined that the management has disregarded any *Shari'ah* principles or directives issued by the SB. The yearly report must include the report as well as any Fatwas, decisions, and directives made by the SB (AAOIFI 2010: 5-8). For internal *Shari'ah* review, AAOIFI and IFSB specifies several issues in details (AAOIFI, 2010d: 22-26; IFSB 2009: 3-4).

## METHODOLOGY OF THE STUDY

This study followed the quantitative method of research strategy and used data from primary and secondary sources. The members of SB of IBBL have completed a questionnaire survey in order to get the primary data. The purpose of the questionnaire, which was created to address issues of *Shari'ah* governance, was to elicit responses from respondents regarding the role, independence, and effectiveness of SB of IBBL. The AAOIFI and IFSB standards and recommendations were utilized as a basis in developing the questions. The questionnaire

has four sections encompassing four different themes, while each section has several questions: encompassing the themes: (1) the respondent's demographic details; (2) the role of the *Shari'ah* Board; (3) the accountability and independence of the *Shari'ah* Board; and (4) the nature of the *Shari'ah* review. On a five-point Likert scale (i.e. strongly disagree, disagree, uncertain, agree and strongly agree), the respondents were asked to rate their agreement. But, in table presentation, strongly agree and agree categories were merged into one and equally strongly disagree and disagree were also merged into one category. Parallel with the questionnaire survey, a descriptive analysis of the research questions has been used to obtain the research objectives. To analyze and interpret the collected data, statistical packages have been used.

### ANALYSIS OF THE SURVEY

The purpose of the questionnaire survey was to gather comments from the SB members on three

topics relating to the governance function of the SB of IBBL: (1) its role; (2) accountability and independence; and (3) the nature of *Shari'ah* review.

### PROFILE OF THE RESPONDENTS

The characteristics of the SB members reflect their excellence, distinction, and independence in their roles. For the appointment of a member of SB, the AAOIFI, IFSB, and Bangladesh Bank provided "fit and proper" standards. The examination of the background and profile of the SB members has been provided in the discussion that follows.

### GENDER AND AGE RANGE

There is no female member in the SB of IBBL. Among six respondents, the age of three ranges between 55-64, one between 45-54 and two 65 and above. Following Table shows the analysis.

TABLE 1. Gender and Age Range of SB members

Member of <i>Shari'ah</i> Board	Age Range				
	25-34	35-44	45-54	55-64	65 and above
Male	0	0	1	3	2
Female	0	0	0	0	0
Total			1	3	2

### EXPERIENCE OF *SHARI'AH* BOARD MEMBERS

The analysis of respondents' experiences in the Islamic banking sector is presented in Table 2 below. It was discovered that 2 people have 0–5 years of experience, 2 have 6–10 years, 1 has 11–15

years, and another person has 16 years or more of experience working in the Islamic banking sector. Despite the fact that IBBL is a 36-year-old bank, 66.6% of the respondents have 0 to 10 years of experience.

TABLE 2. Experience of SB members in Islamic Banking Industry

0-5 years		6-10 years		11-15 years		16 years and above		Total	
No.	%	No.	%	No.	%	No.	%	No.	%
2	33.3	2	33.3	1	16.6	1	16.6	6	100

### TRAINING RECEIVED BY THE *SHARI'AH* BOARD MEMBERS

The education and training of SB members is one factor that could be utilized to gauge the success of *Shari'ah* governance. As was discussed earlier,

AAOIFI, IFSB, and Bangladesh Bank all advocate a particular level of competency for SB members in order to ensure its effectiveness. The findings on the subjects of the respondents' training are shown in the Table 3 below.

TABLE 3. Training Received by the SB members

Field of Training	No.	%
<i>Shari'ah</i>	5	83.3
<i>Fiqh Al-Mua'malat</i>	6	100
Management		
Accounting and Finance	1	16.6
Economics		
Law		

It was discovered that 83.3% of respondents combined their knowledge of *Shari'ah* with *Fiqh Al-Mua'malat*, and that all respondents claimed to have knowledge of *Fiqh Al-Mua'malat*. Only 16.6% specialized in Accounting and Finance together with *Fiqh Al-Mua'malat*.

#### THE ROLE OF SHARI'AH BOARD

This study constructed a seven-part questionnaire based on the AAOIFI and IFSB standards and prior literature in order to analyze the function of SB of IBBL. First, the standards used by the SB; second, scope and role of the SB; third, role of SB in designing

corporate objectives; fourth, involvement of SB in developing Islamic banking products and services; fifth, its involvement in accounting issues; sixth, relevant parties that assist *Shari'ah* governance function; and finally, commitment of SB of IBBL.

#### STANDARDS AND GUIDELINES USED BY THE SHARI'AH BOARD

The SB members were asked to rate their agreement with the standards adopted by AAOIFI, IFSB, and Bangladesh Bank. In the Table 4 below, the results are highlighted.

TABLE 4. Analysis Showing the Standards Used by SB

Standardization Institution	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
AAOIFI					6	100	5	1
IFSB					6	100	5	1
Bangladesh Bank					6	100	5	1

All of the respondents indicated that both standards of AAOIFI and IFSB are used by the SB of IBBL but not obligatorily, on the other hand, the guidelines of Bangladesh Bank are used mandatorily. Following the requirements of the AAOIFI and the IFSB is totally voluntary; in contrast, all Islamic banks in Bangladesh, including IBBL, are required to obey the regulations of the Bangladesh Bank.

#### THE SCOPE AND ROLE OF SHARI'AH BOARD

The most important aspect of this study is determining the scope and function of SB by providing the respondents with some indicators derived from AAOIFI and IFSB standards. The Table below summarizes the analysis of the results.



TABLE 5. Analysis Showing the Scope and Role of SB of IBBL

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Advise the Board of Directors on <i>Shari'ah</i> matters	3	50			3	50	3.0	3
Assist other parties on <i>Shari'ah</i> matters	5	83.3	1	16.6			1.3	5
Advise the <i>Shari'ah</i> Department officer on the scope of <i>Shari'ah</i> review					6	100	5	1
Provide training to the <i>Shari'ah</i> Department officers to ensure effective <i>Shari'ah</i> review	1	16.6			5	83.3	4.5	2
Report to Bangladesh Bank on <i>Shari'ah</i> matters	5	83.3			1	16.6	1.5	4
Prepare the <i>Shari'ah</i> compliance manual to be used in the Islamic bank					6	100	5	1
Endorse <i>Shari'ah</i> compliance manual prepared by the management of the bank	5	83.3			1	16.6	1.5	4
Audit the activities of bank to confirm the implementation of <i>Shari'ah</i> compliance manual					6	100	5	1

According to the table, the majority of respondents agreed that the SB of IBBL had taken on a variety of advising roles related to *Shari'ah*. It demonstrates that the respondents unanimously agreed that the top three tasks—advising the *Shari'ah* department officer, creating a *Shari'ah* compliance manual, and auditing the bank's activities to ensure its implementation—were ranked first (mean score of 5). While advising the BoD on *Shari'ah* matters came in third (mean score of 3.0), with 50% of respondents in agreement, and providing training to the *Shari'ah* officers came in second (mean score of 4.5). It is clear that the SB of IBBL successfully carries out its four advisory responsibilities, namely, counseling the *Shari'ah* department officer, creating a *Shari'ah* compliance manual, reviewing the bank's operations, and training the *Shari'ah* department

officers. 50% of respondents disagreed that it is a matter of concern when asked to “advise the BoD” in the survey. The majority of people disagree with the other three, which are to assist other parties, report to Bangladesh Bank, and support the management's manual on *Shari'ah* compliance. It is found that SB could not advise the BoD as much as expected. It has no scope to report to Bangladesh Bank, if anything is found contradict to the *Shari'ah* principles.

#### INVOLVEMENT OF *SHARI'AH* BOARD IN DESIGNING CORPORATE OBJECTIVES

This study looked at SB's involvement in designing the business goals of IBBL. According to the survey, every response can be classified as disagreeing, as indicated in the accompanying Table.

TABLE 6. Analysis Showing Involvement of SB in Corporate Objectives

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
The bank's mission	6	100					1.8	1
The bank's vision	6	100					1.8	1
The bank's goals	6	100					1.8	1
The bank's objectives	6	100					1.8	1
The bank's corporate brand value	6	100					1.8	1
The bank's long-term strategic direction	6	100					1.8	1

It is clear that everyone who responded was against SB's involvement in designing the corporate objectives of IBBL. In contrast, these are mostly developed by the BoD without involvement from SB members. Despite the fact that AAOIFI and IFSB standards recommended giving the SB members' opinion priority when *Shari'ah*-related matters and strategic issues like the corporate objectives are developed. This suggests that SB's position is typically restricted to the traditional role related to product and service only.

#### INVOLVEMENT OF *SHARI'AH* BOARD IN DEVELOPING BANKING PRODUCTS AND SERVICES

The development of Islamic banking products and services is a crucial aspect of SB's function. To assess the Board's engagement in this job, the members were asked to rate their level of agreement with respect to key development stages. The following Table displays the findings.

TABLE 7. SB's Involvement in Developing Islamic Banking Products

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Conception level					6	100	4.8	1
Design level					6	100	4.5	3
Pricing level	5	83.3			1	16.6	2.0	7
Legal documentation level	5	83.3			1	16.6	2.6	6
Testing level					6	100	4.8	2
Marketing level	5	83.3			1	16.6	2.8	5
Implementation level					6	100	4.1	4
Review level					6	100	4.8	1

The Table shows that there are various developmental stages that seem to be given importance by SB with agreement of all of the respondents. These include developments at conceptual level, design level, testing level, implementation level and review level with 4.8, 4.5, 4.8, 4.1 and 4.8 mean scores respectively. None of the respondents disagreed with these five stages of development and as such, received full commitment by the SB. On the other hand, majority of the respondents disagreed the involvement of SB in the development of Islamic banking products at pricing level, legal documentation level and marketing level with 2.0, 2.6, and 2.8 mean scores respectively. Concerns about SB's neglect are raised by evidence of disagreement on these stages. Alternatively, these results seem to suggest that management, not SB, is in charge of carrying out these steps. The majority of SB members have training in *Shari'ah*, according to earlier research, hence SB members might want to free themselves of these technical duties and delegate them to the secretariat. The data in Table 9, which showed that SB was found to obtain high

help from banks' management, boards of directors, and *Shari'ah* department, confirm this. Additionally, this outcome supports past results that SB members typically stick to their conventional roles, focusing primarily on defining *Shari'ah* concepts and reviewing them, rather than addressing more technical issues like price, marketing, or designing. However, after determining the *Shari'ah* concepts, the designing and pricing phases are vital. The product should be designed following the *Shari'ah* concept, while equally important is to ensure that these products should not impose unreasonable pricing.

#### INVOLVEMENT OF *SHARI'AH* BOARD IN ACCOUNTING ISSUES

Issues pertaining to the accounting components of the bank are part of SB's responsibilities. In this regard, respondents were asked if they approved of SB's involvement in significant accounting concerns pertaining to bank operations. The table below presents the results.

TABLE 8. Analysis Showing Involvement of SB in Accounting Issues

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Determining the formula for profit distribution					6	100	4.6	1
Approving the calculation and distribution of <i>Zakat</i>					6	100	4.6	1
Approving the accounting policy to be applied					6	100	4.6	1
Validating documentation used in Islamic financing contracts					6	100	4.6	1
Validating the Islamic banking transaction records					6	100	4.6	1
Issuing the <i>Shari'ah</i> compliance report of the bank					6	100	4.6	1
Endorsing the annual report prepared by the bank management					6	100	4.6	1

It is evident from the table that the involvement of SB has been found in every accounting issue with similar mean score of 4.6. Accounting issues relating to profit distribution and *Zakat* calculation have direct relation with the *Shari'ah*. Board's involvement in these issues guarantees that the bank is performing these important Islamic practices on behalf of the stakeholders. Approval of accounting policy by SB indicates that it consists with the principles of *Shari'ah*. Validating the documentation on financing contracts and transaction record are very vital. It ensures that the terms and conditions of contracts and transactions are stipulated in accordance with *Shari'ah* rules. Issuing *Shari'ah*

compliance report by the Board and endorsing annual report provide assurance of the ethicality of Islamic banking operations.

#### RELEVANT PARTIES ASSISTING THE *SHARI'AH* BOARD

To perform its responsibility, SB needs assistance from a variety of sources. As a result, the respondents were asked to express their support for the relevant individuals who, in their perspective, assist them fulfill their obligations under SB. Here is a summary of the findings.

TABLE 9. Analysis Showing the Relevant Parties Assisting SB

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
<i>Shari'ah</i> Department					6	100	5.0	1
Audit Department	1	16.6	4	66.6	1	16.6	3.0	3
Internal auditor	1	16.6	4	66.6	1	16.6	3.0	3
External auditor	1	16.6	4	66.6	1	16.6	3.0	3
Board of Directors					6	100	4.0	2
The management					6	100	4.0	2
Consultants					6	100	4.0	2

With a mean score of 5.0, it is discovered that the *Shari'ah* department offers the Board the most support. The 2<sup>nd</sup> highest assistance comes from the BoD, management, and consultants with an equal mean value of 4.0. Interestingly, majority of respondents expressed uncertainty in regard to the assistance from audit department, internal and external auditors with mean value of 3.0. The support from *Shari'ah* department, management and BoD is vital for SB to perform its role. Given how important the *Shari'ah* department's support has been shown to be, the department's size may

be a good indicator of how well the *Shari'ah* governance system is working. The effectiveness of the *Shari'ah* governance system is anticipated to increase with the size of the *Shari'ah* department. As it is thought that a lack of support from the BoD can undermine *Shari'ah* governance's effectiveness, the support of the BoD also demonstrates that it is effective. To prevent the *Shari'ah* rulings from being influenced by an excessive dependence on these parties, it is crucial for SB to establish a line regarding their participation in SB. The findings revealed that respondents weren't clear if they

would get assistance from the audit department, internal auditor, or external auditor. It demonstrates that the *Shari'ah* governance role only seems to be supported by internal parties that have a direct contact with the SB.

#### COMMITMENT OF *SHARI'AH* BOARD MEMBERS

This research evaluates the SB members' commitment to strengthening *Shari'ah* governance of IBBL based on the standards of AAOIFI and IFSB. The table below presents an analysis of the findings.

TABLE 10. Analysis Showing Commitment of SB Members

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Publishing the <i>Shari'ah</i> resolutions & rulings of <i>Shari'ah</i> Board and the mechanism of <i>Shari'ah</i> compliance to the public					6	100	5.0	1
Actively engaging in innovating the Islamic banking products and services through discussion with the management, accountants, lawyers and other concerned parties					6	100	5.0	1
Actively engaging in workshops and meetings with the <i>Ulama</i> of <i>Fiqh al-Mua'malat</i> to have intensive discussion about the <i>Shari'ah</i> resolutions and banking innovations			5	83.3	1	16.6	3.1	4
Adequately analyzing whether Islamic banking products & services would be beneficial to the <i>Ummah</i> before they are launched					6	100	4.0	3
Enhancing <i>Shari'ah</i> review skill by attending appropriate trainings and workshops			5	83.3	1	16.6	3.1	4
Responding to any question pertaining to pronouncements and resolutions issued by the <i>Shari'ah</i> Board					6	100	4.8	2

Although there are some indications of doubt, it is clear that the majority of respondents supported the SB members' commitment to improving the *Shari'ah* governance of IBBL. With a mean score of 5.0, all of the respondents firmly agreed with their dedication to making *Shari'ah* decisions and judgments public as well as their involvement in developing new Islamic banking services and products. They also agreed in responding to any question (mean value of 4.83) and in analyzing public benefits of products and services (mean value of 4.00). Meanwhile, majority of the respondents expressed uncertainty about the workshop with the *Ulama* to promote consistency and innovation of Islamic banking and their attendance in trainings to enhance *Shari'ah* review skill (mean value of 3.1). It indicates that there is lack of communication with the *Ulama* and skill development of SB members. Modern Islamic banking has been facing challenges regarding the shortage of competent *Shari'ah* scholars. It strongly suggests that the SB members should enhance their skill in *Fiqh al-Mua'malat* together with modern banking knowledge. However, the result indicates a positive role of SB in analyzing the national benefits

of products and services. SB also plays a positive role in innovating Islamic banking products.

#### ACCOUNTABILITY AND INDEPENDENCE OF THE *SHARI'AH* BOARD

This study analyzes the accountability and independence of SB of IBBL dividing into four subsections. The first two cover the factors influencing SB's accountability and independence. The next section discusses the pertinent parties that SB members are held accountable to. The final one discusses the manner of the SB member's nomination and the specified authority.

##### FACTORS INFLUENCING ACCOUNTABILITY

The respondents were asked to provide comment on the concerns surrounding the responsibility of SB members by ranking the significance of five key elements that are thought to have an impact on that accountability, from extremely unimportant (1) to very important (5). The results are analyzed in Table below.



TABLE 11. Importance of Factors Influencing Accountability of SB Members'

Factors Influencing Accountability of the <i>Shari'ah</i> Board members	Unimportant		Uncertain		Important		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Ethical values					6	100	5.0	1
Scholarly background					6	100	5.0	1
Reputation					6	100	5.0	1
Stakeholders' reliance on <i>Shari'ah</i> Board					6	100	5.0	1
<i>Shari'ah</i> Board's responsibility					6	100	5.0	1
Legal framework of <i>Shari'ah</i> Board					6	100	5.0	1

With an identical mean value of 5.0, each responder offered comments on each element in the "very important" category. All of the variables described as affecting SB members' accountability are, therefore, considered pertinent and significant. The first three factors i.e., the SB member's ethical values, scholarly background, and reputation represent the personal integrity of members. The last three factors, i.e., stakeholders' reliance on the SB, the responsibility of SB and its legal framework could be considered as related to fiduciary duties of

SB. Hence, the fiduciary duties along with personal integrity are equally important to influence the accountability of SB members.

#### FACTORS INFLUENCING INDEPENDENCE

This study looks into the variables that respondents felt had a significant impact on SB members' independence. An analysis of the results may be seen in the Table below.

TABLE 12. Importance of the Factors Influencing Independence of SB Members

	Unimportant		Uncertain		Important		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Clearly defined responsibilities					6	100	4.8	1
Perceived high ethical status					6	100	4.1	2
Scholarly background					6	100	4.0	3
Adequate mandated power			3	50	3	50	3.5	5
Top management's participation in the <i>Shari'ah</i> Board meeting					6	100	4.0	3
The remuneration received	6	100					2.0	6
Involvement of <i>Shari'ah</i> Board member in other industry			1	16.6	5	83.3	3.8	4

In the above Table, there are four factors that are indicated as important by all of the respondents. It suggests that they are essential in determining SB's independence and that if they are missing, SB may not be independent. According to relevance, the following are listed in order: the SB's clearly defined responsibilities (mean value of 4.8), the perception of the SB members' strong ethical standing (mean value of 4.1), their scholarly background, and senior management's attendance at the SB meeting (mean value of 4.0). The clearly defined scope of

responsibilities would serve as a "term of reference" for SB in performing its role and specifying its accountability. Perceived high ethical status and scholarly background of SB members, which are ranked 2<sup>nd</sup> and 3<sup>rd</sup>, emphasized the importance of personal integrity in the independent role of SB. Top management's participation in the SB meeting was similarly perceived as important by all. This is may be for synergy that could result from such meetings. Membership in multiple SB at a time (mean value of 3.8) has also been identified as

important factor by majority. Due to a lack of qualified academics, *Shari'ah* scholars are members of various organizations. A number of academic studies (such as Antonio and Rusydiana (2010), Grais and Pellegrini (2006), and Alhabshi and Bakar (2008) hypothesized that it would impair the independence and quality of *Shari'ah* reviews. But, the evidence derived from this study doesn't support this idea; rather it influences the independence of SB members positively. This conclusion emphasizes the necessity for the sector to create more skilled *Shari'ah* scholars. The compensation received by SB members was thought to be the least significant issue by everyone; therefore it could not compromise SB's

independence. The findings show an uncertainty regarding the factor 'adequate legal power mandated to the SB' which is ranked 5<sup>th</sup> with a mean value of 3.5. It means, there is a lack in mandating adequate legal power to the SB of IBBL by the authority to carry out its duties independently.

#### RELEVANT PARTIES TO WHICH *SHARI'AH* BOARD IS ACCOUNTABLE

Regarding their opinions of SB's accountability, the respondents were asked to rate the importance of the named parties. The Table below displays the findings analysis.

TABLE 13. Analysis Showing the Parties to whom *Shari'ah* Board is Accountable

	Unimportant		Uncertain		Important		Total	
	No.	%	No.	%	No.	%	Mean	Rank
The Shareholder			1	16.6	5	83.3	4.6	2
The Client					6	100	4.8	1
Board of Directors	1	16.6	4	66.6	1	16.6	3.0	3
Public			1	16.6	5	83.3	4.6	2
Bangladesh Bank			1	16.6	5	83.3	4.6	2

It is evident that the client scored the highest mean value (4.8) as indicated important by all of the respondents. The public scored 2<sup>nd</sup> highest mean value (4.6). The client and public are both the end users. Even if their functional accountability to these two parties is less than it is to other parties, SB members have an ethical obligation to uphold the public's and clients' trust in the operations of Islamic banks. With a mean score of 4.6, the next two stakeholders are shareholders and Bangladesh Bank. The appointment and compensation of SB members, as well as the approval of the *Shari'ah* report, were advised to be approved by the shareholders by AAOIFI and IFSB. On the other hand, Bangladesh Bank is the supreme regulatory authority of banking industry in the country. The relationship between the Bangladesh Bank and the regulators may be characterized as one of great perceived importance. Interestingly, the result

discovered uncertainty regarding the Board's accountability to the BoD. This finding is in line with Table 5's findings, which showed that 50% of respondents thought that the Board lacks the power to advise the BoD. The seeming decreased direct functional link between the SB and BoD may be the cause of the observed diminished emphasis assigned to the BoD.

#### NATURE OF APPOINTMENT AND MANDATED AUTHORITY OF *SHARI'AH* BOARD

The relevance of the appointment procedure and the legal authority of the SB of IBBL were two topics with which the respondents were asked to state how much they agreed with or disagreed with certain important elements. Following Table displays the analyses of the findings.

TABLE 14. Nature of Appointment and Mandated Authority of SB

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Appointment of <i>Shari'ah</i> Board member is based on 'fit and proper' criteria					6	100	4.8	1
No conflict of interest on the appointment of <i>Shari'ah</i> Board members					6	100	4.5	2
<i>Shari'ah</i> Board members are subject to certain assessment by the Islamic bank					6	100	4.1	3
Adequate power has been mandated to the <i>Shari'ah</i> Board	1	16.6			5	83.3	4.5	2
Existence of reporting channel for any conflict between <i>Shari'ah</i> Board and Board of Directors or the management	6	100					2.0	4
Proper segregation of duties of the <i>Shari'ah</i> Board			1	16.6	5	83.3	4.5	2

All of the respondents unanimously agreed (mean score 4.8) that a 'fit and proper' criteria has been maintained for appointing a member of SB in IBBL. This is consistent with the guidelines of AAOIFI, IFSB and Bangladesh Bank. The majority of the literature suggests that it should include experts in accounting, finance, law, and other related subjects in addition to *Fiqh al-Mua'malat*. The results show that IBBL is effectively using such a crucial appointment mechanism. In response to the subsequent question, every respondent (mean score 4.5) concurred that the appointment of an SB member is free from any conflicts of interest, such as being a sizable shareholder or having a close relationship with a bank employee. Similar to this, every responder indicated (mean score 4.1) that they concurred with the existence of a bank-based performance evaluation of SB members. It suggests that SB members are subject to performance reviews. Such a check and balance system's presence would guarantee SB's usefulness. 83.3% of those polled said they agreed with the statement that the SB should have sufficient authority, while 16.6% disagreed. About the existence of a reporting channel for SB in the event of any conflict between the SB and BoD or management, all of the respondents disagreed. Such reporting mechanism is believed to enhance the independence and effective

function of SB as put forward by IFSB. Its absence could affect it negatively. According to several research, the efficiency of SBs is hampered by the improper segmentation of SBs' responsibilities for product endorsement and compliance review. The majority of responders showed their agreement with this. Therefore, it can be claimed that there are no overlaps in SBs' responsibilities that endanger its independence.

#### NATURE OF *SHARI'AH* REVIEW BY *SHARI'AH* BOARD

The evaluation of *Shari'ah* conformity is one of SB's key responsibilities. Through an examination of the structure and application of the review process, this paper investigates the problems with *Shari'ah* review.

#### STRUCTURE OF *SHARI'AH* REVIEW

The respondents to this survey were asked to identify whether they agreed with many fundamental aspects of the *Shari'ah* review structure. An analysis of the findings is provided in the table below.

TABLE 15. Analysis Showing the Shari'ah Review Structure

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Shari'ah Board is the sole authority of Shari'ah review					6	100	5.0	1
Shari'ah Board is prescribed the appropriate operative procedures on its role and function	5	83.3	1	16.6			2.1	4
Shari'ah Board comprises various experts					6	100	4.8	2
Existence of effective communication channels to deliberate Shari'ah review issues					6	100	4.8	2
Adequate, and appropriate guidelines have been issued by Bangladesh Bank	1	16.6			5	83.3	3.6	3

The Table demonstrates that every respondent firmly agreed that SB is the only authority of the IBBL's Shari'ah review system. By verifying Shari'ah compliance, it indubitably ensures the legitimacy of the bank. The majority of respondents (mean score 2.1) disagreed that the SB has been given the proper operational instructions to carry out its duty and function in response to the following question. Islamic banks were required by AAOIFI and IFSB guidelines to create a Shari'ah compliance handbook that should cover operational SB procedures. But the findings indicate that IBBL has lacked in producing an appropriate operative procedure for Shari'ah review and thus, it can hamper its effective role. All of the respondents concurred that the Board is made up of a variety of specialists and that it follows the AAOIFI and IFSB principles. All of the respondents agreed that there is an efficient method for discussing Shari'ah review issues. It is a crucial instrument for SB to consider Shari'ah considerations regarding bank activities. The unanimous decision demonstrates

IBBL's dedication to this cause. In response to the last question, 83.3% of respondents concurred that Bangladesh Bank's rules are appropriate for use in the Islamic banking sector. Despite the majority of respondents agreeing, the rules are insufficient according to the mean score (3.6). This information casts doubt on Bangladesh Bank's function, particularly in light of a previous finding (Table 13) that placed Bangladesh Bank as the second-most significant party to which SB was believed to be accountable. It can lead to a communication breakdown between the various stakeholders involved in Bangladesh's whole Islamic banking sector's Shari'ah governance system.

#### IMPLEMENTATION OF SHARI'AH REVIEW

The application of Shari'ah review by the SB is a further aspect examined in this study. The analysis of the results is shown in the Table below.

TABLE 16. Analysis Showing the Features on Implementation of Shari'ah Review

	Disagree		Uncertain		Agree		Total	
	No.	%	No.	%	No.	%	Mean	Rank
Shari'ah Board has full authority to stop bank from non-Shari'ah compliant transactions			4	66.6	2	33.3	3.3	3
Shari'ah Board has been given ample time in their decision making and review process					6	100	4.8	2
Shari'ah Board gets professional support to perform its function					6	100	5.0	1
Shari'ah Board has access to relevant, adequate and timely information					6	100	4.8	2
Working part-time does not hinder the effective Shari'ah review process	1	16.6	4	66.6	1	16.6	3.0	4
Existence of active communication among Shari'ah Board, management & Bangladesh Bank					6	100	4.8	2



Only 33.3% of respondents agreed that the SB has full jurisdiction to prevent banks from engaging in non-*Shari'ah* compliant transactions, according to the Table, while 66.6% expressed ambiguity. It indicates that the respondents did not perceive SB as the sole authority in this regard. In other words, even if the bank was known to be involving in non-*Shari'ah* compliant transactions, SB has no authority to stop it. This reveals that SB has a serious lack of independence and appears to be under the direction of other parties. All of the respondents agreed that the SB is given adequate time and professional support such as on legal, accounting and finance aspects, to perform its role. Such support is essential to gain clarity on all aspects of the bank's operations. It affirms the existence of effective communication between all parties involved in the bank's interdependence. Additionally, every respondent concurred that SB has immediate access to pertinent information. Such accessibility demonstrates the openness of the bank's business practices. Most of the respondents were unsure about whether SB members worked part-time or not. Finally, all of the respondents agreed that there is active communication and consultation among the SB, management and Bangladesh Bank. It indicates that the communication among these three related parties is at expected level.

### CONCLUSION

The findings of this study indicate that the SB of IBBL mostly performs traditional advisory role such as advising the *Shari'ah* department officers, preparing *Shari'ah* compliance manual, auditing the activities of bank, and advising the BoD. But, it has no significant contribution in determining bank's strategic issues. In regard to the development of Islamic banking, the Boards involvement seems to be limited to the conceptual, designing, implementation and review stages; but not the technical aspects. On the other hand, SBs' involvement in accounting related issues such was found significant. Additionally, a positive attitude towards consistency of Islamic banking products and services was evident. SB is frequent in publishing *Shari'ah* resolutions and responding to queries. This study reveals that personal integrity and fiduciary duties are simultaneously important in determining the accountability and independence of SB. IBBL has been maintaining 'fit and proper' criteria to appoint a SB member and their performances are assessed

by the bank. On the other hand, there seem to be some flaws in SBs' mandated authority. The Board has not been given adequate power to undertake its duties independently. It has no power to stop the bank from undertaking non-*Shari'ah* compliant transactions. There is no reporting channel for any possible conflict between the SB and BoD or management. It was found that the SB is the sole authority for *Shari'ah* review function, but it has not been prescribed appropriate operative procedures. There is also lack of adequate guidelines issued by Bangladesh Bank. Despite these deficiencies, SB gets professional support, ample time and direct access to information for *Shari'ah* review and undertaking its duties.

Upon the above discussion and findings, this study recommends that the Islamic banking guidelines issued by Bangladesh Bank should be comprehensive and complete based on the AAOIFI and IFSB standards. It is similarly important to monitor its strict implementation to develop the confidence of stakeholders. IBBL should frame a complete 'term of reference' for SB to run the *Shari'ah* governance function effectively. The 'term of reference' should clearly define the scope of responsibilities and mechanism of accountability. The Board should be mandated with adequate legal power to perform its duty independently. There should also be a complete *Shari'ah* compliance manual for SB. AAOIFI and/or IFSB standards could be adopted mandatorily. It will place the industry at global standard level and uniqueness of policies that will contribute to its consistency.

The 'fit and proper' qualification criterion for appointing a member of SB should properly be maintained. It should be composed of various experts of concerned disciplines. There should be an effective mechanism for SB to offer its advice to the BoD on *Shari'ah* matters. If anything is found contradict to *Shari'ah* principles, and could not be resolved by the management, or any conflict arises between the SB and management/ BoD, there should be a channel for SB to report to Bangladesh Bank.

The role of SB should not only be confined to traditional role, but should encompass the accounting, strategic and technical issues such as designing the corporate objectives and pricing the products and services. SB should have effective support from all the concerned parties such as *Shari'ah* department, management, BoD, Audit department etc. Similarly, there should be a line regarding their involvement so that the *Shari'ah* decisions are not be influenced by

the parties because of over reliance on them. There should be an active communication among the SB, management of the bank and Bangladesh Bank to ensure effective *Shari'ah* compliance.

*Shari'ah* compliance report and annual report of the bank should clearly uncover all the *Shari'ah* issues as suggested by AAOIFI and IFSB. *Shari'ah* pronouncements and resolutions should be made public and any query should be addressed. The regulatory authorities and stakeholders should initiate to produce competent *Shari'ah* scholars, while SB should initiate programs to develop knowledge and skill of its members.

#### AUTHORS' CONTRIBUTIONS

Dr. Md. Thowhidul Islam is the sole contributor for this article.

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