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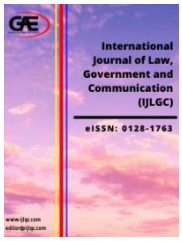

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THE ESTABLISHMENT OF THE *SHARĪᶜAH* ADVISORY COUNCIL OF CENTRAL BANK OF MALAYSIA: SPECIAL REFERENCE TO SECTION 51 OF CENTRAL BANK OF MALAYSIA ACT 2009 (ACT 701)

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Abstract:

Sharīᶜah Advisory Council which established under the aegis of the Central Bank of Malaysia (CBM), is designated as the highest authoritative body for the ascertainment of Sharīᶜah ruling in the matters of Islamic financial business. This apex advisory council is currently regulated by the Central Bank of Malaysia Act 2009. Hence the establishment of this council is pursuant to the statutory requirement. This article seeks to analyse the statutory requirement of Section 51 pertaining to the establishment of the Sharīᶜah Advisory Council of Central Bank of Malaysia. This is doctrinal legal research with the qualitative method. The primary data of statutory provisions were scrutinized by using the method of content analysis. The study found that there are several deficiencies of the provision in dealing with the establishment of Sharīᶜah Advisory Council pertaining to the legal interpretation, the legal basis for the establishment of Sharīᶜah Advisory Council, the procedures to be adopted and the position of the Sharīᶜah Advisory Council within Central Bank of Malaysia's Organization Structure. Finally, the article suggests several amendments be made by respective authorities in order to strengthen the legal aspect of the establishment of Sharīᶜah Advisory Council of Central Bank of Malaysia.

Keywords:

Islamic Banking; Islamic Finance. *Sharīᶜah* Advisory; *Sharīᶜah* Committee; *Sharīᶜah* Governance

Introduction

The *Sharīᶜah* Advisory Council (SAC) was founded by Central Bank of Malaysia (CBM) on 1st May 1997 parallel to the requirement of Banking and Financial Institutions Act 1989 (Act

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372) (BAFIA). At the initial stage, three objectives were set to be achieved by the SAC. The SAC plays a significant role as the highest authority to advise CBM on Islamic banking and *takāful* business in Malaysia. This body also has a function to co-ordinate *Sharīᶜah* issues on Islamic banking and financial business. Finally, this body has a responsibility to study and to evaluate *Sharīᶜah* aspects of new Islamic banking and financial facilities submitted by banking and financial institutions (Bank Negara Malaysia, 1999).

The establishment of the SAC as a central *Sharīᶜah* advisory body is consistent with the aim of the government to streamline and harmonize the *Sharīᶜah* interpretations among *Sharīᶜah* committees established by Islamic Financial Institutions (IFIs) (Abdull Mutalip, 2006; Wan Ahmad, 2006). Regarding the essential role of SAC, Rohana Yusuf J in the case of *Tan Sri Abdul Khalid Ibrahim v Bank Islam Malaysia Bhd & Another Case* [2010] 4 CLJ 388, states that:

> "[18] To my mind there is good reason for having this body. A ruling made by a body given legislative authority will provide certainty, which is a much needed element to ensure business efficacy in a commercial transaction. Taking cognisance that there will always be differences in views and opinions on the *Sharīᶜah*, particularly in the area of *muᶜāmalāt*, there will inevitably be varied opinions on the same subject. This is mainly due to the permissive nature of the religion of Islam in the area of *muᶜāmalāt*. Such permissive nature is evidenced in the definition of Islamic Banking Business in s. 2 of the Islamic Banking Act 1983 itself. Islamic Banking Business is defined to mean, banking business whose aims and operations do not involve any element which is not prohibited by the Religion of Islam. It is amply clear that this definition is premised on the doctrine of "what is not prohibited will be allowed". It must be in contemplation of the differences in these views and opinions in the area of *muᶜāmalāt* that the legislature deems it fit and necessary to designate the SAC to ascertain the acceptable *Sharīᶜah* position. In fact, it is well accepted that a legitimate and responsible Government under the doctrine of *siyāsah-al-Sharīᶜah* is allowed to choose, which amongst the conflicting views is to be adopted as a policy, so long as they do not depart from Quran and Islamic Injunction, for the benefits of the public or the *ummah*. The designation of the SAC is indeed in line with that principle in Islam."

Therefore, the establishment of the SAC as the ultimate authoritative body in the deliberation of *Sharīᶜah* rulings pertaining to Islamic financial business in this country is greatly important. Furthermore, the creation of this council is capable of strengthening the *Sharīᶜah* advisory framework in ensuring *Sharīᶜah* compliance of Islamic banking and financial business.

An Overview on Legislations Governing the *Sharīᶜah* Advisory Council

Since 1997, the SAC has been governed by several statutes beginning with BAFIA, Central Bank of Malaysia Act 1958 (Revised 1994) (Act 519) and Central Bank of Malaysia Act 2009 (Act 701) (CBMA). Pursuant to BAFIA, CBM was required to set up SAC which shall comprise of number of members and shall have such functions, powers and duties as may be decided by CBM to provide advice to the CBM on the *Sharīᶜah* issues pertaining to Islamic banking and financial business (Banking and Financial Institutions (Amendment) Act 1996 (Act A954), section 66) (Mohd Yasin, 2013). BAFIA has provided a significant legal provision for the establishment of the SAC.

In 2004, the governing of the SAC has been fully positioned under Act 519 with the amendment of Central Bank of Malaysia (Amendment) Act 2003 (Act A1213). Pursuant to the amendment,

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Act 519 has strengthened the function of the SAC. Such amendment also has provided the legal recognition to this council as the highest authoritative body on *Sharīᶜah* matters pertaining to Islamic banking and financial business (Act A1213, section 4) (Kunhibava, 2015; Miskam & Nasrul, 2013). At the same time, amendment has been made to paragraph 124(7)*(a)* of BAFIA. Pursuant to Banking and Financial Institutions (Amendment) Act 2003 (Act A1211), the SAC shall be referred to the SAC established under subsection 16B(1) of Act 519 (Act A1211, section 9).

In regulating SAC, the matters were prescribed under section 16B of Act 519. These including the establishment of this council, the procedures to be adopted, the functions to be carried out and the provisions on to the remuneration and allowances. The section also provided the matters related to the formation of the secretariat to the SAC. Other than that, Act 519 also prescribed pertaining to the requirement to CBM to consult the SAC; reference to the SAC for ruling from a court or arbitrator; request for consultation or reference for a ruling shall be submitted to the Secretariat; the effect of *Sharīᶜah* ruling issued by the SAC; and limitation to be appointed as member of the *Sharīᶜah* committee of IFIs.

Beginning 3rd September 2009, parallel with repealed of Act 519, the law regulating SAC is now under CBMA. Accordingly, several improvements have been made to the new statute particularly in governing the SAC. CBMA allocates the provisions in regulating SAC under Chapter 1 of Part VII (Islamic Financial Business). The following Table 1 summarizes the provisions of CBMA in governing the affairs of SAC.

Table 1: Provisions Relating to the SAC under CBMA

Sections	Provisions
Subsection 51 (1)	The Establishment of the SAC
Subsection 51(2)	The SAC's Procedure
Section 52	Functions of the SAC
Subsections 53(1) and (2)	Appointment of members to the SAC
Subsection 53(3)	Letter of appointment
Subsection 53(4)	Remuneration and allowances
Section 54	Secretariat to the SAC
Section 55	Requirement to the BNM and IFIs to consult the SAC
Section 56	Reference to the SAC for ruling from the court or arbitrator
Subsection 56(2)	Request for consultation or reference for a ruling shall be submitted to the Secretariat
Section 57	Effect of *Sharīᶜah* ruling made by the SAC
Section 58	The SAC ruling prevails

In a nutshell, there are three period of times the development of the law regulating the affairs of SAC. From 1997 to 2009, the SAC is regulated by three different statutes namely BAFIA (1997-2004), Act 519 (2004-2009) and CBMA (2009 onwards). The evolutionary process carried out by the Government has enhanced the legal framework of the SAC. We can see that the CBMA has provided more conducive legal provisions in governing the SAC as the highest authoritative body in the ascertainment of Islamic law pertaining to Islamic banking and

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financial business in Malaysia. Such improvement also has strengthened the legal framework of the SAC in this country.

The Establishment of *Sharīᶜah* Advisory Council

As previously stated, the establishment of the SAC on 1st May 1997 was parallel to the legal requirement of BAFIA. This was followed by the requirements imposed under Act 519. Currently, the establishment of the SAC is subject to the requirements of CBMA. In this section, the discussion focuses on the legal interpretation of the SAC, the legal basis for its establishment and the procedures to be adopted by the SAC as enshrined in the CBMA.

Legal Interpretation of the Sharīᶜah Advisory Council

The *Sharīᶜah* advisory board established under CBM is legally termed as "*Sharīᶜah* Advisory Council". CBMA defines the SAC as "the *Sharīᶜah* Advisory Council on Islamic Finance established under section 51" (CBMA, section 2(1)). Pursuant to this, the SAC now has a legal interpretation and is something good which is not found in Act 519. However, the interpretation seems too broad in defining the SAC as established pursuant to section 51 of CBMA.

Even though CBMA has specific provisions dealing with the SAC's affairs such as its functions, the appointment and procedures and other related matters which may describe the SAC on a whole, a specific definition of the SAC is still needed. This is significant in order to avoid any legal confusion that may arise in the future. Among the principal matters which should be included in the legal interpretation of the SAC is the nature of freedom in carrying out its functions, its status as the apex authority in Islamic financial business, the legal basis of establishment, the composition of members, the appointment of members, the functions and the legal effect of the SAC's decision.

In this respect, it would be better if CBMA provides more specific legal interpretation which reflects the important nature of the SAC as the highest body in the ascertainment of Islamic law or *Sharīᶜah* ruling for the purposes of Islamic banking and financial business in Malaysia (*Mohd Alias bin Ibrahim v RHB Bank Bhd & Anor* [2011] 3 MLJ 26; [2011] 4 CLJ 654). For instance, the SAC can be legally interpreted as, an independent body established under the law which shall be the authority for the ascertainment of Islamic law for the purposes of Islamic financial business, shall comprise of such number of members with the majority of members being qualified in *Sharīᶜah* and its appointment as specified by the law, shall have such functions as clarified by the law and the *Sharīᶜah* rulings issued by the SAC has a binding effect.

Legal Basis for the Establishment of the Sharīᶜah Advisory Council

Beginning 25th November 2009, the formation of the SAC is pursuant to section 51 of CBMA which stipulates that:

> "51. (1) The Bank may establish a Shariah Advisory Council on Islamic Finance which shall be the authority for the ascertainment of Islamic law for the purposes of Islamic financial business."

The above subsection explicitly authorizes CBM to establish the SAC on Islamic finance. Even though CBMA came into force effectively from 25th November 2009, it does not mean that

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CBM should form a new SAC. CBMA recognizes the continued establishment of the SAC and its members as appointed under subsection 16B(1) of Act 519 (CBMA, section 100*(f)*).

The above subsection also clarifies certain matters relating to the establishment of the SAC. This council is designated as the highest authority and final reference for the ascertainment of Islamic law in the matters relating to Islamic financial business (Hassan, Triyanta & Yusoff, 2011). This is consistent with its position as the national *Sharīᶜah* advisory board within the *Sharīᶜah* advisory framework and is higher than the *Sharīᶜah* advisory boards established by the IFIs. In addition, CBM and the IFIs are required to refer to the SAC on any *Sharīᶜah* issues relating to Islamic financial business (CBMA, section 55). Both the courts and arbitrators are required to refer to the SAC in deciding the *Sharīᶜah* issues arising in any Islamic finance disputes (CBMA, section 56).

Though the SAC is designated as the highest authority for the ascertainment of Islamic law for the purposes of Islamic financial business, SAC's jurisdiction is limited to the Islamic financial business pursuant to the laws enforced by CBM (CBMA, section 2(1)). The SAC does not have jurisdiction involving Islamic Capital Market which falls under the jurisdiction of the Securities Commission (SC) and also an Islamic financial business which falls under the jurisdiction of the Labuan Financial Services Authority (LFSA). In this regard, SC and LFSA have their own *Sharīᶜah* advisory board. The SAC of SC is established pursuant to section 316A of Capital Markets and Services Act 2007 (Act 671) (CMSA). Meanwhile the *Sharīᶜah* Supervisory Council of LFSA is established pursuant to section 7 of Labuan Islamic Financial Services and Securities Act 2010 (Act 705).

By limiting the jurisdiction of the SAC relating to Islamic financial business conducted by IFIs regulated by CBM, it enables the SAC members to concentrate only on Islamic financial business under surveillance of CBM. Indirectly, it enables the SAC members to enhance their expertise as well on such area. In spite of that, the law does not stop them from being appointed as the SAC members of SC and *Sharīᶜah* Supervisory Council of LFSA which require their expertise.

Additionally, subsection 51(1) also explicitly describes the function of the SAC which is to ascertain the Islamic law on *Sharīᶜah* matters pertaining to Islamic financial business as stipulated under section 52 of CBMA.

The Sharīᶜah Advisory Council's Procedures

Subsection 51(2) of CBMA stipulates that the SAC may determine its own procedures. The procedures intended by subsection 51(2) are referring to the procedures that will be used by the SAC in carrying out its functions as stipulate in subsection 52(1). In this regard, the SAC is given liberty to set its own operation procedures. Hence, the SAC has an advantage and flexibility to choose the suitable and ideal procedures that will be used in performing its functions.

Undoubtedly the SAC likely has its own procedures in deciding any *Sharīᶜah* issue brought before them. However, for the time being, there are no published standard procedures to be adopted by the SAC in discharging its functions (*Mohd Alias Ibrahim* v. *RHB Bank Bhd & Anor* [2011] 4 CLJ 654, paragraph 37). The same highlighted by Asni and Sulong (2018) where they found that the SAC does not submit clear rules and procedures in the issuance of shariah resolutions. This has resulted the decision being challenged in court.

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Due to the general nature of subsection 52(1), this provision should be used with caution to avoid any legal conflict arising from the procedures adopted by the SAC in the *Sharīᶜah* deliberation related to Islamic financial business. It would be good if there are written standard procedures to be adopted by the SAC on the following grounds:

(a) It will serve as a standard guideline for the SAC in the ascertainment of Islamic law on *Sharīᶜah* matters pertaining to the Islamic financial business brought before them;
(b) It will serve as guidance to the new member appointed to the SAC; and
(c) To avoid any misconceptions from the public against the procedures adopted by the SAC in the ascertainment of Islamic law pertaining to Islamic financial business.

Currently CBM has specified the standard operation procedures to be adopted by the *Sharīᶜah* advisory boards of the IFIs which include the frequency of meetings and attendance, the minimum quorum, the decision making, the chairman and reporting structure as stipulated in *Sharīᶜah* Governance Policy Document 2019. Since the SAC does not have any published standard procedures, it is recommended that CBM and Department of Islamic Banking and Takaful of CBM in particular, issue the published standard operation procedures for the SAC similar to the standard operation procedures to be applied by the *Sharīᶜah* advisory boards of the IFIs. Such operation procedures must specify the matters pertaining to the frequency of meetings, the attendance, the minimum quorum, the decision making, the chairman and reporting structure.

Apart from the above, another important aspect which need to be included in the SAC's operation procedures is the methodology of *Sharīᶜah* deliberation. The procedures should provide the standard methodology in deducing *Sharīᶜah* rulings from recognizing sources of Islamic law. It would be good if the operation procedures also clarify the authorities of *madhāhib* (Islamic schools of thought) to be followed in deciding *Sharīᶜah* issues.

Referring to the *Sharīᶜah* resolutions issued by the SAC, it showed that the SAC should not arbitrarily issue a *Sharīᶜah* resolution on the issue brought before them. The decision made by SAC is based on the recognized *Sharīᶜah* sources especially the *Qurā'nic* verses, the *hadīth* (Prophetic traditions) of the Prophet Muḥammad S.A.W. and the relevant views of Muslim jurists. Indirectly it represents the methodology adopted by SAC in *Sharīᶜah* deliberation.

For example, in dealing with question on the termination of *Ijārah* contract. In this regard, the SAC in its 29th meeting dated 25th September 2002, has resolved that an *ijārah* contract may be terminated if the leased asset does not function and loses its usufruct, the contracting parties do not fulfilled the terms and conditions of the contract or both contracting parties mutually agree to terminate the contract. In issuing the resolution, the SAC has considered the following grounds:

(a) The subject matter of an *ijārah* contract is the usufruct of the leased asset and if the asset loses its usufruct, the *ijārah* contract may be terminated.

(b) Based on the principle of freedom to contract, both contracting parties are free to stipulate any mutually agreed contractual terms and conditions. Therefore, the *ijārah* contract may be terminated if any of the contracting parties does not satisfy

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the agreed terms and conditions. This is in line with the following *hadīth* (Prophetic traditions) of the Prophet Muḥammad S.A.W:

إنما البيع عن تراض

Verily, the contract of sale is based on mutual consent

المسلمون على شروطهم إلا شرطا أحل حراما أو حرم حلالا

The Muslims are bound by their (agreed) conditions except the condition that permits what is forbidden or forbids what is permissible.

(c) The *ijārah* contract is a binding contract that requires mutual agreement of both parties for its termination.

In deducing the *Sharīᶜah* deliberation in the above issue, it can be seen that, the SAC has referred to the opinion of al-Imām al-Syāṭibī, al-Imām Ibn Qudāmah as well as the *hadīth* (Prophetic traditions) of the Prophet Muḥammad S.A.W. It seems that the SAC in deciding the *Sharīᶜah* issue does not rely on a single opinion and does not restrict to a specific *madhhab* (Islamic school of thought). In the above example, reference has been made to the opinion of al-Imām al-Syāṭibī from Malikī's school of thought and al-Imām Ibn Qudāmah from Ḥanbalī's school of thought.

Another example is relating to the application of *Baiᶜ ᶜĪnah* contract. On 8th July 1997, the SAC has resolved that the issuance of Negotiable Islamic Debt Certificate based on *Baiᶜ ᶜĪnah* concept is permissible. In deciding its permissibility, the SAC has referred to verse 275 of *sūrat al-Baqarah,* the opinion of some Syafiᶜī's scholars and a few from the Ḥanafī's scholars, such as Imām Abū Yūsuf, the opinion of Imām al-Syafiᶜī as stated in his book, *al-Umm*, and also the opinion of Imām al-Subkī.

Pertaining the application of *Baiᶜ ᶜĪnah* in the Islamic Interbank Money Market, the SAC, on 12th December 1998 has resolved that such transaction is permissible upon its fulfilment of the following conditions:

(a) *Baiᶜ ᶜĪnah* transaction shall follow the methods accepted by Syafiᶜī's school of thought; and
(b) The transacted goods shall be non-*ribāwī* items.

In order to standardize the practice of *Baiᶜ ᶜĪnah* as a valid contract, SAC in its 16th meeting dated 11th November 2000 and 82nd meeting dated 17th February 2009, has resolved that a valid *Baiᶜ ᶜĪnah* contract shall fulfil the following conditions:

(a) Consisting of two clear and separate contracts, namely, a purchase contract and a sale contract;
(b) No stipulated condition in the contract to repurchase the asset;
(c) Both contracts are concluded at different times;
(d) The sequence of each contract is correct, whereby, the first sale contract shall be completely executed before the conclusion of the second sale contract; and
(e) Transfer of ownership of the asset and a valid possession (*qabd*) of the asset in accordance with *Sharīᶜah* and current business practice (*ᶜurf tijārī*).

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It is however can be seen that several resolutions are made by the SAC and supported with a general principle. For example, in determining whether the concept of assignment of liabilities as provided under the Hire Purchase Act 1967 is applicable in vehicle financing based on the contract of *Al-Ijārah Thumma Al-Baiᶜ*. In this regard, the SAC, in its 7th meeting dated 29 October 1998, has resolved that vehicle financing based on *Al-Ijarah Thumma Al-Bai'* (AITAB) may apply the concept of assignment of liabilities as provided under the Hire Purchase Act 1967. Such resolution is made based on the following basis:

> "The assignment of rights or liabilities does not contradict the *Sharīᶜah* as Islam recognises transfer of rights and liabilities based on mutual agreement by the parties. In the context of vehicle financing based on AITAB, if a lessee decides to discontinue the lease, he may transfer his rights and liabilities to another party who will continue the lease and will ultimately purchase the asset from the Islamic financial institution."

Currently, in relation to reference to Islamic law schools of thought, the matters are included in the statutes governing Islamic law in Malaysia to be adopted by the state's *Fatwā* Committee. For example, section 39 of Act 505 stipulates that:

> **"Authorities to be followed**
>
> 39. (1) In issuing any *fatwa* under section 34, or certifying any opinion under section 38, the Mufti shall ordinarily follow the accepted views *(qaul muktamad)* of the *Mazhab Syafie.*
>
> (2) If the Mufti considers that following the *qaul muktamad* of the *Mazhab Syafie* will lead to a situation which is repugnant to public interest, the Mufti may follow the *qaul muktamad* of the *Mazhab Hanafi*, *Maliki* or *Hanbali.*
>
> (3) If the Mufti considers that none of the *qaul muktamad* of the four *Mazhabs* may be followed without leading to a situation which is repugnant to public interest, the Mufti may then resolve the question according to his own judgment without being bound by the *qaul muktamad* of any of the four *Mazhabs*."

Accordingly, based on the above section, with some modification, such rules may be applied by the SAC in issuing *Sharīᶜah* decision. For instance:

(a) In issuing *Sharīᶜah* ruling on Islamic financial business, the SAC shall ordinarily follow the *qawl muᶜtamad* (accepted views) of the *Madhhab Shafiᶜī* (*Shafiᶜī* school of thought) based on the *Al-Qur'ān*, *Ḥadīth* (Prophetic traditions), *Ijmāᶜ ᶜUlamā'* (consensus of the Islamic scholars) and *Qiyās* (juristic analogy);

(b) If the SAC considers that by following the *qawl muᶜtamad* (accepted views) of the *Shafiᶜī Madhhab* (*Shafiᶜī* school of thought) will lead to a situation which is repugnant to public interest, the SAC may follow the *qawl muᶜtamad* (accepted views) of the *Ḥanafī Madhhab* (*Ḥanafī* school of thought), *Malikī Madhhab* (*Malikī* school of thought) or *Ḥanbalī Madhhab* (*Ḥanbalī* school of thought);

(c) If the SAC considers that none of the *qawl muᶜtamad* (accepted views) of the four *madhāḥib* (Islamic schools of thought) may be followed without leading to a situation which is repugnant to public interest, the *Sharīᶜah* ruling may be decided according to its own judgment without being bound by the *qawl muᶜtamad* (accepted views) of any of the four *madhāḥib* (Islamic schools of thought).

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Other examples can be seen in section 26 of *Mufti* and *Fatwa* (Kedah Darul Aman) Enactment 2008 (Enactment No. 6 of 2008); section 54 of the Administration of Islamic Law (Johor) Enactment 2003 (Enactment No. 16 of 2003); and section 54 of the Administration of Islamic Law (Selangor) Enactment 2003 (Enactment No. 1 of 2003).

To sum up, it is highly desirable for the SAC to have published written operation procedures comprising the above matters. The existence of such procedures will increase the credibility of the SAC as the highest authority in the ascertainment of Islamic law pertaining to Islamic financial business in Malaysia.

The Position of the Sharīᶜah Advisory Council within Central Bank of Malaysia's Organization Structure

The other noteworthy point is related to the position of the SAC within the CBM's organization structure. The SAC is established by CBM (CBMA, section 51(1)) and the members are appointed by the Yang di-Pertuan Agung (CBMA, section 53(1)). Since the SAC is placed under the aegis of CBM, two questions need to be answered. Firstly, to whom the SAC is responsible? Secondly, where is the position of the SAC within the CBM's organizational structure?

The above questions are raised due to CBMA is silent in this regard. CBMA does not clarify the method of reporting structure of the SAC and to whom they shall be responsible in discharging their duties. Besides, the SAC is not place under the CBM's organization structure (Bank Negara Malaysia, 2012). CBMA only states that the Board of Directors (hereinafter referred to as "BoD") of CBM oversees the management and operations of CBM (CBMA, section 14(2)), does it reflecting that the SAC shall report directly to the BoD?

Similarly, relating to the position of the SAC within the CBM's organizational structure. SAC has oversight powers on Islamic financial business carrying out by CBM. Furthermore, the SAC has a function to advise the CBM on any *Sharīᶜah* issue relating to Islamic financial business, the activities or transactions of the CBM (CBMA, section 52(1)*(b)*). Hence, where is the suitable position of the SAC under the CBM's organizational structure? Or should not be included in the CBM's organizational structure?

Another issue to be scrutinize also a pertaining to the independent of SAC in discharging their duties and responsibilities. The SAC members are appointed by the Yang di-Pertuan Agung. However, they are established by CBM. Hence, to what extend their independence status in carrying out duties and responsibilities? Perhaps further research will be carried out to answer this particular question.

Conclusion

Based on the above discussion, the study found that CBMA has specific provisions in dealing with the establishment of SAC. Section 51 provides stipulation on the legal basis for the establishment of the SAC and its jurisdiction as the authority in the ascertainment of Islamic law pertaining to Islamic financial business. The SAC is authorized to determine its own procedures. However as previously discussed, several clarifications still need to be done by respective authoritative body.

In order to strengthen such provision in dealing with the establishment of SAC, improvements should be made to the following legal aspects: (a) More specific legal interpretation of the SAC

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should be given which may describe the important nature of the SAC; (b) Standard operation procedures to be adopted by the SAC in discharging its functions should be created; (c) The position of the SAC in the CBM's organizational structure should be specified; and finally (d) The reporting structure of SAC should be specified.

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