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macro trends and issues. This is what the Q Report is all about, providing you with reflective and thought-provoking articles that can impact all of us in our work and daily lives.

Articles in this inaugural issue revolve around wealth management in ASEAN and Asia Pacific – this is no coincidence. We are designating 2013 as “Labuan International Business and Financial Centre (Labuan IBFC) Wealth Management Year”.

Since the promulgation of Labuan IBFC’s raft of new laws in 2010, we have now a comprehensive suite of legal structures to accommodate the most demanding of Ultra High Net Worth Individuals and High Net Worth Individuals and their managers. Our ambition to position Labuan IBFC as the domicile of choice for wealth management assets is supported by the fact that, for the first time ever, since modern times anyway, Asia Pacific is home to the largest number of HNWIs in the world.

We are honoured and fortunate to have received contributions from highly eminent personages, The Hon. Dato’ Seri Mustapa Mohamed, Minister of International Trade and Industry, Malaysia; the former Minister of Finance of Thailand, H.E. Mr. Korn Chatikavanij, who was voted "Finance Minister of the Year 2010" for both global and Asia Pacific regions by the Banker magazine of the Financial Times and Monsieur Pascal Saint Amans, Head of Tax Practice, OECD, Paris, France.

This inaugural issue is equally honoured to have received the invaluable support of a number of policy and decision-makers within the region. I can only say, thank you, thank you, thank you. I am confident that the words contained herein will leave you to ponder on our way forward, in the development of the Asian wealth management industry and as well as on the development of ASEAN and Asia Pacific as one of the world’s strongest and most sustainable economic growth areas.

I share with my fellow countrymen, and my ASEAN and Asia Pacific brothers and sisters, a most fortunate of circumstances – to be in the position not only to enjoy the benefits of robust economic growth but also equally, if not more so, being able to contribute to the improvement of the well-being and prosperity of this God-blessed region. Thank you.
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The Malaysian economy today is focused on innovation and knowledge to drive growth.

The role of the Ministry of International Trade and Industry (MITI) in enhancing Malaysia as a global producer of high quality goods and services as well as a key investment destination in ASEAN and Asia Pacific is continuously challenged. New strategies and approaches have to be adopted to gain market access for Malaysia’s exports, fiscal and non-fiscal incentives to sustain and attract investments, especially high quality, knowledge based and value-added investments.

The role and the function of the Ministry has also expanded over the years. There are now seven key agencies placed under the purview of the Ministry, namely Malaysian External Trade Development Corporation (MATRADE), Malaysian Investment Development Authority (MIDA), Malaysian Productivity Centre (MPC), Small and Medium Enterprise Corporation (SMECORP), Malaysia Halal Development Corporation (HDC), MIDF and SME Bank.
The progressive liberalisation of the economy and investor friendly policies over the last three decades have contributed immensely in building a strong industrial base and the country becoming a favoured destination for investors from a number of countries, namely Japan, the US, EU, Korea and many others. The Industrial Master Plans and the various National Development Plans have enabled Malaysia to clearly strengthen the economy and its industrial base by establishing clear economic policies.

These efforts and policies have propelled Malaysia to become a fast emerging and developing economy. The Malaysian economy today is focused on innovation and knowledge to drive growth.

Malaysia’s external trade continued to be sustained and total trade for the first eight months of 2012, expanded by 4.2% to RM868.8 billion compared with the corresponding period in 2011. Exports rose by 1.5% to RM465.29 billion while imports grew by 7.4% to RM403.5 billion. Trade with EU and the US declined but Malaysia’s trade with ASEAN, Japan and China continued to be sustained.

Foreign direct investments (FDI) into Malaysia remain steady. FDI inflows in 2011 recorded the highest level in the last six years as it surged to USD11.9 billion in 2011 compared to USD9.1 billion in 2010 and USD1.4 billion in 2009. The manufacturing and the services sector contributed to 44.6% and 35% of total FDI, respectively. In 2011, total investments approved in the economy amounted to RM154.6 billion of which foreign investments constituted RM68.1 billion or 44% of total investments. The total investments approved exceeded the average annual investment target of RM115 billion set under the Tenth Malaysia Plan (10MP) by 34.4%.

In the first half of 2012, realised private investments (measured in terms of Gross Fixed Capital Formation – GFCC) totalled RM62.4 billion, an increase of 22.4% as compared with RM51 billion recorded in the corresponding period in 2011. It is important to note that Malaysia’s realised private investments in the first half of 2012 is already 66% of the total private investments recorded in 2011 (RM94.9 billion). In terms of investment target, the solid performance in the first six months indicates that Malaysia has achieved 55% of the private investment target of RM113 billion set for 2012.

The focused approach taken in promoting the various economic corridors is also bearing fruits. For example, total committed investments into Iskandar Malaysia alone since its launching in 2006 to June 2012 totalled RM95.45 billion. The total investments approved exceeded the average annual investment target of RM115 billion set under the Tenth Malaysia Plan (10MP) by 34.4%.

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The focused approach taken in promoting the various economic corridors is also bearing fruits. For example, total committed investments into Iskandar Malaysia alone since its launching in 2006 to June 2012 totalled RM95.45 billion, of which 43 per cent has been realised. Iskandar Malaysia has been able to attract iconic projects such as LEGO-LAND, Raffles University and Marlborough University.

Malaysia is fully committed to work with her...
neighbours to realise the ASEAN Economic Community (AEC). The AEC is an important selling point for Malaysia and the other ASEAN countries to attract investments into the region. Collectively, the region has a combined GDP of USD2.2 trillion and a growing middle income population. The grouping accounts for 25% of Malaysia’s trade. We will continue to be an active participant in ASEAN initiatives. Also as a grouping, ASEAN has become more dynamic in its global economic engagement by pursuing free trade agreements with major trading partners and is now in the process of creating a huge Regional Comprehensive Economic Partnership involving ASEAN and 6 FTA partners, namely China, Japan, Korea, India, Australia and New Zealand. In this context, MITI has been tasked to be the national coordinator for the implementation of the ASEAN Economic Community.

While market opportunities abound, the challenge lies in our ability to withstand the competition as new entrants emerge in the global trading arena. Malaysia has managed to maintain its position in the marketplace and our selling point has been the quality, reliability and consistency of our supply. Moving forward the emphasis will increasingly be placed on creativity and innovation to better position Malaysia as a leading trading nation. Greater emphasis is now given to the promotion and development of Halal products. Many dedicated Halal industrial parks have been established.

The World

Bank acknowledges that Malaysia is among the top ten reformers within the APEC region that made the most progress toward the frontier in regulatory practices.


He was appointed Senator in 1991 and served as a Member of Parliament (MP) for the Jeli Parliamentary Constituency in Kelantan between April 1995 and November 1999 and again from March 2004 up until now. He returned for a third term as MP for Jeli in March 2008. He has been a member of the United Malays National Organisation (UMNO) Supreme Council since 1993. He was the Kelantan UMNO Liaison and Barisan Nasional Chief from 2000 to 2004 and was chosen again to lead the party in the state in 2009.

Dato’ Sri Mustapa Mohamed

The World

Bank acknowledges that Malaysia is among the top ten reformers within the APEC region that made the most progress toward the frontier in regulatory practices.
He holds a first-class degree in economics from the University of Melbourne and a Master’s degree from Boston University. Before entering politics, he began his career in the Malaysian Government in a number of capacities in the Ministry of Finance and the National Institute of Public Administration.

Academic awards bestowed to Dato’ Sri Mustapa in recognition of his contributions to public service include an Honorary Doctorate of Commerce from the University of Melbourne (1997), and an Honorary Degree of Law by the University of Nottingham (2003). Dato’ Sri Mustapa also went through the Lee Kuan Yew Exchange Fellowship Programme in January 2002. He was awarded an Honorary Fellowship to the National Institute of Public Administration in 1997 and as a Fellow of the Financial Services Institute of Australia (FINSIA) in 2006.

Dato’ Sri Mustapa is married to Datin Khamarzan Ahmed Meah and has 4 children. He is the author of eight books on the Malaysian economy and national politics.

To address the sustainability of economic growth, Malaysia needs to deploy new strategies to further promote domestic investments. The new strategies that are being pursued hopefully will assist Malaysia to make the quantum leap required in driving the national investment agenda in transforming the economy. The following new strategies will be pursued to meet the challenges and to transform the domestic investment landscape:

- creating Malaysian conglomerates by identifying potential companies to provide the necessary support;
- harnessing and leveraging on outsourcing opportunities created by MNCs operating in Malaysia;
- enhancing the current incentive schemes, to assist Malaysian-owned companies to scale-up;
- intensifying technology acquisition and development by Malaysian-owned companies;
- providing support to Malaysian-owned companies for complying with international standards/certifications in targeted industries such as aerospace, medical devices and solar; and
- encourage small Malaysian service providers to merge into larger entities.

The initiatives taken by MITI are in line with the overall efforts by the Malaysian government in introducing reforms to enhance the competitiveness of the economy and
transform Malaysia into a high income country by 2020 through the national transformation programme. The economic transformation programme emphasis is to promote domestic investments (DI) while continuing to adopt FDI policies which are investment friendly. One hundred and one initiatives with combined investments of over RM200 billion have been announced since October 2010. We will be realising the fruits of these initiatives in the coming years.

The efforts taken by the Government to further liberalise and enhance competitiveness has been acknowledged by investors, regional and international institutions. The “Doing Business” Report by World Bank released in October 2012 listed Malaysia as the 12th most competitive economy in the world for doing business. This ranking places Malaysia ahead of economies like Sweden, Taiwan, Germany, Japan and Switzerland. It is pleasing to note that it ranks Malaysia 4th in the world in the category of ‘protecting investors’ and 1st position, together with South Africa and the United Kingdom, in the category of “ease of getting credit”. The World Bank acknowledges that Malaysia is among the top ten reformers within the APEC region that made the most progress toward the frontier in regulatory practices.

All these progress and positive developments augur well for Malaysia as a preferred investment and production centre in ASEAN. To date, Malaysia has performed remarkably well in the ASEAN scorecard adhering to 88 per cent of all initiatives in our collective pursuit to establish the ASEAN Economic Community by 2015.

As Corporate Malaysia establishes itself within the fast growing newly-emerging ASEAN economies, the need to raise substantial amounts of capital in a timely and efficient manner will become a critical factor for success.

Up to June 2012, Malaysian Sukuks raised RM420 billion in capital. Increasingly too, raising capital through Islamic Finance structures is no longer an ethical choice, it is chosen purely on commercial considerations and is no longer exclusive to Muslim-linked entities, eg. Emery Oleochemicals, International Finance Corporation, AEON Credit Services, KNM Group etc.

In the near term, raising non-ringgit capital will be increasingly important. Hence, the role of Labuan International Business and Financial Centre needs to be enhanced to meet the challenges. Regulatory infrastructure, financial systems and most importantly, human capital needs to be able to cater for the size and sophistication of cross-border finance. The current infrastructure of Labuan IBFC lays the foundation for Malaysia’s and the region’s aspirations. I have every confidence that the Labuan IBFC will rise to the challenge!

In conclusion, a balanced view of Malaysia’s and the region’s challenges will be of crucial importance in indirectly engaging the investing community. I have no doubt that a balanced and informative view of this region will lead others to the obvious conclusion, ASEAN/Asia Pacific is the place to be in the 21st century and Malaysia will be at its forefront!
TAX POLICY IN A TURBULENT WORLD

Transparency and international co-operation are now a part of the fabric of the new global financial system, and nowhere is this more the case than in the area of tax administration. The financial crisis of 2008 and the resulting need to garner all scarce resources for the welfare of their citizens have made tax compliance a top priority for Governments. In a global marketplace, taxpayers increasingly have far-flung interests, earn income from a variety of sources and conduct business transactions with counterparties in multiple jurisdictions. The delivery of financial services across borders is commonplace where a decade ago it was exotic. In this environment, tax administrations have an increasing need for timely and accurate information from outside their own jurisdiction in order to properly administer their domestic laws in respect of their own taxpayers. This is not a passing fad. Just as taxpayers have become more global, so must tax administrations. In this respect international co-operation is essential.
forms of international tax co-operation including automatic exchange of information. Automatic exchange of information involves the systematic and periodic transmission of "bulk" taxpayer information by the source country to the residence country concerning various categories of income (e.g. dividends, interest, royalties, salaries, pensions, etc).

Interest by governments in automatic exchange of information is growing and this is demonstrated at the international level, including at the EU, the OECD and the G20 where automatic exchange is high on the agenda. In addition NGOs have argued for many years that automatic exchange is required to effectively combat tax evasion, especially if developing countries are going to be in a position to benefit from the new transparent environment.

The OECD has been active in facilitating automatic exchange for many years to support those interested in this form of exchange. The work has ranged from creating the legal framework for such exchanges to developing technical standards and seeking to improve automatic exchange at a practical level. Further, the OECD and the Council of Europe recently revised the Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention) which provides a basis for automatic exchange. It is now open to all countries and it has over 50 countries that have either signed the Multilateral Convention or signed a letter of intention to sign the Convention. As the number of signatories to the Multilateral Convention increases, this instrument provides a platform for widespread adoption and use of automatic exchange for those countries that wish to take advantage of automatic exchange.

In addition to the OECD’s work on automatic exchange of information, recent developments around FATCA which requires reporting of US customers of financial institutions all over the world - may facilitate the use of automatic exchange and help to provide a platform for multilateral co-operation.

The trend of requiring residence country reporting is likely to continue as governments continue to seek to improve existing tools to ensure compliance with their domestic taxation laws. As a result, the development of a common model for automatic exchange, including the development of reporting and due diligence standards for financial institutions is supported by governments and business alike. A common approach will avoid a proliferation of different models and reduce the costs for both governments and business.

The OECD acknowledges the importance of common standards and stands ready to support the efforts of governments wishing to develop a common model of reporting and due diligence standards. Improving tax compliance is in the best interests of governments, businesses, and taxpayers and supports fairness and equity for everyone by working towards ensuring that no one is able to hide their income and assets and avoid their responsibility to pay the taxes that are legitimately due.

In addition, governments must ensure that business bears its fair share of the tax burden. There is an increasing
perception that countries lose substantial revenue because of aggressive schemes aimed at eroding the taxable base or at shifting profits to locations where they are subject to more favourable tax treatment. While many of these strategies can be entirely legal the results of these strategies put a spotlight on the tax system and require reflection by policy makers and other stakeholders. The debate over Base Erosion and Profit Shifting (BEPS) is high on the international agenda and that of several OECD and non-OECD countries. The G20 Leaders and Finance Ministers have recently acknowledged the need to prevent base erosion and profit shifting and have welcomed the work by the OECD in this area.

"Tax transparency is rightly considered a pillar of a sound global financial system."

For many years the OECD has promoted a policy of improved international tax co-operation between governments to avoid double taxation of cross-border profits, ensure a fair allocation of taxing rights, prevent the introduction of harmful tax practices and counter tax evasion and avoidance. However some tax rules are still grounded in an economic environment characterised by fixed assets, plant and machinery and a lower degree of economic integration across borders, rather than today’s environment where much of the profit lies in risk taking and intangibles. International tax policies must therefore be reviewed in light of the current business environment. The OECD is currently implementing an integrated and
holistic approach to address BEPS. The stage is set for meaningful improvements of the concrete tools the OECD already has to address this problem: tax policy analyses, tax treaties, transfer pricing, aggressive tax planning and harmful tax practices. What is at stake is the integrity of the corporate income tax. The issue is challenging but the OECD is ready to tackle the issue head on.


Tax transparency is rightly considered a pillar of a sound global financial system. The G20 insist on it, but they do not speak for a minority. The 117 members of the Global Forum on Transparency and Exchange of Information for Tax Purposes all insist on it. The Global Forum is the group responsible for making sure that all jurisdictions commit to and implement the same high standards in international tax co-operation with regard to exchange of tax information and its large and growing membership reflect the fact that tax transparency is no longer just a nice idea, it is a concrete fact. This is affecting the way governments legislate, the way financial service providers do business and the way taxpayers organise their affairs.

Since the Global Forum was restructured in 2009 following the G20 meeting in London, it has put in place a system of peer reviews that applies to all of its members as well as any non-members that are considered relevant to its work. The peer reviews look at the legal framework in place to ensure effective exchange of tax information between jurisdictions and they look at how well the system works in practice. Secrecy is no longer acceptable. If there are problems in a jurisdiction with knowing who owns a company or who the beneficiary of a trust is, then the peer reviews will show that. If there are problems with obtaining information, including bank information, then the peer reviews will show that. If a jurisdiction takes too long to answer requests from its partners or is under-resourced, the peer reviews will show that as well. Till now 88 peer reviews have been completed by the Global Forum, and the recommendations made by it have resulted in far reaching changes by the jurisdictions to ensure there are no legal or practical barriers to effective exchange. Malaysia, which is a member of the Peer review Group of the Global Forum, has undergone the first step in this process and has come out well, but with some work to do. Its ability to exchange information in practice will be evaluated in 2013.

The membership of the Forum spans a complete range of economies including major industrialised nations, emerging economies, financial centres, and developing countries. This diversity is reflected in its working bodies such as the Steering Group and the Peer Review Group and there is extensive engagement by the members in its peer reviews including by way of providing inputs, independent assessors and participation in its meeting. To understand how entrenched the concept of transparency is, look at the composition of the Global Forum’s Steering Group — it includes the United States and the United Kingdom, Singapore and Switzerland, but also Kenya and the United Arab Emirates. The Peer Review Group also includes varied membership of 30 jurisdictions including Samoa, Jersey, US, France, Germany, India, China, and the Cayman Islands. This is a very diverse group, and it is a rare achievement that, despite this diversity, there is clear and unambiguous agreement on what the international standard for co-operation in tax matters is. This agreement is the foundation on which the Global Forum has been built.

The result so far has been remarkable. Many countries have already changed their laws to address recommendations made by the Global Forum. Tax amnesty programmes put in place by some countries to supplement these efforts have been successful and governments have been more and more active in their efforts to collect revenue through international enforcement initiatives.

Eventually, the Global Forum will rate each of its members in terms of overall compliance and everyone will be able to see where a country stands in the process towards increased compliance. But the point of this initiative is not to name and shame. The point is to ensure that the international standards
to which all members have committed are actually implemented. But clearly the world does not stand still, nor should governments or taxpayers be content with merely a simple set of report cards. The true test of whether transparency and co-operation are working is whether governments are getting the information that they need, when they need it, so that everyone who owes tax pays their fair share. For individuals and businesses, more transparency and international co-operation means that business models and ways of operating which relied on secrecy are no longer viable. The world is changing, business is changing, and the idea of what good co-operation in tax matters means will inevitably undergo its own transformation.

Where all these efforts end up is difficult to predict, and all those involved, including policy-makers, financial service providers and taxpayers, are well advised to keep a close watch on events as they develop. History has shown us that consensus builds slowly, but once it is achieved the results follow very swiftly.

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1 Article 26 of the OECD Model Tax Convention is commonly relied on as the basis for the automatic exchange of information. The OECD has also developed a model memorandum of understanding regarding the automatic exchange of information.

2 The Foreign Account Tax Compliance Act (FATCA) rules were enacted by the U.S. Congress in 2010, with the objective of combating the use of offshore accounts and entities to evade U.S. tax.
GO ASEAN!

When I was the Minister of Finance for Thailand, one of the most interesting and rewarding tasks was the opportunity to work with fellow finance ministers from the region. Thailand was Chair of ASEAN in my first year as Minister and I was fortunate to have had the support of some of the most distinguished financiers in the world working with me. These included, not least, the current Prime Minister of Malaysia (Dato’ Sri Haji Mohammad Najib bin Tun Haji Abdul Razak), the current Managing Director of the World Bank Group (Sri Mulyani Indrawati) and the current Deputy Prime Minister of Singapore (Tharman Shanmugaratnam).

We were all clear in vision and purpose that, whilst we may continue to do well as individual countries, we would never fully realise our full regional potential unless we worked together as one. The facts are well known, combined our population would, at over 600 million people, rank 3rd in the world. Our combined GDP would rank 6th. Our Capital Markets would have a combined Market Capitalisation of over USD1.5 trillion, making it impossible to ignore by the global investing community. Indeed, our combined foreign reserves of AAA reflects our competitiveness as well as our stability and sustainability.

Aside from the obvious facts, we all acknowledged also the strength derived from our diversity. ASEAN as a whole is very diverse in terms of our competence. Singapore its financial services, Indonesia its commodities whilst Philippines and Thailand have strong tourist sectors and very strong also in food and agriculture. Malaysia is a global player in products ranging from Palm Oil to Electronics, while no one would doubt that two of the most exciting growth opportunities in the world today are within ASEAN, being Vietnam and Myanmar.
It is true that there are many challenges to Asia as a whole and ASEAN specifically. Recent very heated and public disagreements on territory and security issues within the region highlights the lack of institutional framework to manage a process of dialogue. It is no longer possible for the region to rely on its Pax Americana to provide stability; realistically, the rise of China as a global super power means that this would not be tenable. Even disputes within ASEAN itself, such as the Thai-Cambodian border disagreements, were not soluble through the existing frameworks. We need new ideas and a fresh approach. The idea of smaller Asian states nimby playing the United States off against China is not an option designed to create the trust and stability the region needs.

If nothing else, ASEAN throughout its history has been practical. It now needs to acknowledge some truths. Its member countries are some of the most trade oriented nations in the world. We are thus as a group at least as committed to the idea of globalisation than any other national groupings. We thus also need to learn how to work together to protect and promote our interests on the global stage, as well as to combine to ensure efficient and optimum employment of our resources.

For Thailand, for example, this means creating linkages with our neighbours in order to ensure logistical efficiencies. An example of this is the decision by successive governments to favour supporting the Myanmar deep-sea port project at Dawei rather than waste further time trying to identify suitable sites on own shores. Land transportation will, at the first stage, be made to link Dawei with Laem Chabang and then Danang ports. In a wider context, I suspect that even Singapore no longer sees the development of a port on the western shore of ASEAN as a threat to its traditional role. In truth, Singapore has come a long way in the past 20-30 years, and now is a source of financing for such a project, while internally generating its growth from not only as a trade facilitator, but also as a financial and tourism powerhouse.

**ASEAN**

Yet, when ASEAN was first created, issues related to regional security were uppermost in the minds of leaders. Later, issues related to trade became more important. Latterly, financial integration came to the fore, and now as we look forward to the ASEAN Economic Community in 2015, we can expect closer links on all economic fronts.

ASEAN Finance Ministers are mandated to work very closely with each other. The fact that we faced extreme external crisis back in 2009/10 when I took the ministerial job in Thailand gave extra impetus for closer cooperation. Indeed, if it was obvious back in 1997 with the financial crisis that closer integration was required, it became a priority now that we faced a global economic slowdown.

ASEAN leaders understood the obvious; individually even the largest of the ASEAN members would find it hard to get their voices heard. Combined, however, with a population of over 600 million, the GDP of ASEAN is USD2 trillion. Indeed, a very good example of this is the fact that we have had informal invitations to participate as an observer at all G20 meetings since London, in 2010. This invitation came via Prime Minister Abhisit Vejjajiva in his capacity as the Asian Chair for that year. We were able to combine with Indonesia, who was a member in her own right, to make our voices heard on key issues such as global trade, at a critical time for the world's economy.

Yet the challenge for ASEAN goes well beyond that related directly to the economy. The Thai Development Research Institute (TDRI) recently summarised that there are in fact, four main challenges, beyond that of economic integration and the issue mentioned earlier of regional security. These are Population Demographics; Health, Education and Literacy; Employment, Poverty and Inequality; and Institutional Development.

Aging society as an issue will have serious consequences for ASEAN. The outperformance in economic growth compared with the rest of the world has been as much to do with the large pool of labour as with any other factor. The challenge ASEAN will now face is how to move up the economic productivity chain. It also faces the issue of how to ensure that its elders receive adequate pensions and healthcare.

Indeed, ensuring adequate healthcare for all its citizens will be a major
Korn Chatikavanij is currently Shadow Deputy Prime Minister of Thailand, Deputy Leader of the Democrat Party Thailand and Member of Parliament. Korn served as Finance Minister of the Kingdom of Thailand from 2008 to 2011. Previously, he was president and chairman of JP Morgan Securities (Thailand) from 2000-2004.

Much of Korn Chatikavanij’s career was spent in the finance sector since his early age at SG Warburg, London. He then co-founded JF Thanakom Securities with Jardine Fleming and was its president for 11 years. After the merger of Jardine Fleming and JP Morgan, he became president and subsequently chairman of JP Morgan Securities (Thailand). He left to run for Bangkok Member of Parliament in October 2004.

In December 2009, Korn Chatikavanij received “Global Finance Minister of the Year 2010” and “Asia-Pacific Finance Minister of the Year 2010” awards from the Banker (an affiliated publication of the Financial Times).

Korn Chatikavanij graduated with BA (Hons) in Philosophy, Politics and Economics (PPE) from St. John’s College, University of Oxford.
A child when reaching the age of 21 comes of age and assumes the responsibilities of adulthood. In November 2012, the 21st ASEAN Summit was held in Phnom Penh, Cambodia. The subsequent East Asia Summit saw the participation of President Barack Obama, Prime Minister Manmohan Singh, Premier Wen Jiabao, Prime Minister Julia Gillard, the President of South Korea and Prime Ministers of Japan, Russia and New Zealand plus the 10 Asean leaders. Does this 21st ASEAN Summit mark ASEAN's coming of age despite ASEAN being more than 45 years old now?

“Whilst the key focus of ASEAN has been economic, there are also other non-traditional challenges facing ASEAN which needs to be addressed as well.”

— Korn Chatikavanij
ASEAN has travelled a long road. It has achieved several milestones but also faced numerous challenges over the past few decades. In terms of institution building, ASEAN has achieved a lot but at the same time, some felt the ASEAN consensus or the ASEAN Way has somewhat made ASEAN only moving forward on decisions based on the lowest common denominators which means hard but tough decisions are not taken or postponed for a lack of consensus. Moving forward, should ASEAN retain this model of decision-making to achieve ASEAN consensus before decisions are taken? The ASEAN consensus has enabled ASEAN to agree on easy decisions only. Moving forward perhaps greater discussions and brainstorming should be held to look at other models of decision making in ASEAN. Would the 10 minus one approach be the best way forward for ASEAN which means 9 out of 10 countries can mean a new consensus for ASEAN or will a two thirds majority decision be a better way forward for ASEAN? This is a serious question for ASEAN to ponder on.

Nevertheless ASEAN has achieved several key milestones. The adoption of the ASEAN Charter in 2007, the roadmap to ASEAN community in 2009, the adoption of the ASEAN Connectivity Master Plan in 2010, the establishment of the ASEAN Intergovernmental Commission on Human Rights and the Regional Comprehensive Economic Partnership proposal adopted at the ASEAN Leaders Summit in Phnom Penh are key milestones for ASEAN. These milestones albeit slowly and steadily show the resilience of ASEAN. These are major building blocks to move ASEAN forward. There are three key pillars in ASEAN community building - the ASEAN Economic Community, the ASEAN Political and Security Community and the ASEAN Social and Cultural Community.

The ASEAN Connectivity Master Plan was developed by a 10 member High Level Task Force on Connectivity of which I was given the honour of representing Malaysia. The ASEAN Master Plan on Connectivity will enhance regional economic integration and address development gaps in ASEAN. It will also make ASEAN more attractive to its dialogue partners and foreign investors. The Master Plan on ASEAN Connectivity has three key pillars:

1. **Physical Connectivity** focusing on infrastructure development covering transport, energy and communications. Transport connectivity includes air, maritime, road and rail connectivity.

2. **Institutional Connectivity** includes the need to further remove cross border barriers, trade facilitation and investment liberalisation.

3. **People Connectivity** covers measures to promote greater flow of people between the ASEAN countries as well as education and tourism.

One of the key challenges for ASEAN to move forward is to ensure there is a greater sense of ASEAN consciousness among the people of ASEAN especially the younger generation. ASEAN needs to give this sense of ASEAN identity to the younger generation of ASEAN. The younger people of ASEAN must have hope in the future of ASEAN, that ASEAN means a better future for them. They need to think ASEAN in the same way as people in Europe think of themselves as Europeans.

Prime Minister Dato’ Sri Mohd Najib in his keynote address to the ASEAN Leadership Forum organised by ASEAN Strategy & Leadership Institute in Phnom Penh stressed three key points. Firstly, to invest more in our young people as they are the future of ASEAN. Second, to invest in human capital development and third, to invest more in creativity and innovation. Malaysia will assume the chairmanship of ASEAN in 2015 and Prime Minister Dato’ Sri Najib will be able to steer the ASEAN Summit and East Asia Summit as the chair of ASEAN in 2015. The year 2015 is significant for ASEAN as that is the year when the ASEAN Economic Community will come into reality. Whilst the key focus of Asean has been economic, there are also other non-traditional challenges facing ASEAN which need to be addressed as well.

There are several key non-traditional challenges facing ASEAN such as energy security, climate change, food security, environmental protection, natural disasters, transboundary crimes, infectious disease control as well as the emergence of an ASEAN civil society. Increasingly, these
challenges must be addressed and there is a need for a greater tripartite partnership for this to happen i.e. government, business and civil society coming together to address these challenges. The private sector in ASEAN can collaborate more with the governments of the ASEAN countries in addressing these challenges. ASEAN also needs to do more to protect human rights.

Nevertheless the economic future of ASEAN remains bright. The combined GDP of ASEAN is larger than Russia and Brazil combined by 2020. ASEAN GDP today is USD2 trillion and is expected to be USD10 trillion by 2030. Hence there is tremendous potential in ASEAN and enormous opportunities for the private sector. There must be greater private sector participation in ASEAN particularly in the various sectoral working groups. We need to work together to unleash the potential of ASEAN and the creativity and excellence of our people. Together we can build a sustainable and prosperous future for ASEAN.

There must be greater political will to implement expeditiously the various priority measures agreed upon. The Asia Development Bank has projected that by 2015 Asia can account for about half of global GDP and HSBC has projected that by 2050 among the 50 largest economies in the world are from Asia with several ASEAN countries in this list: China, India, Japan, Korea, Indonesia, Philippines, Malaysia, Thailand and Vietnam. ASEAN must build on its success stories and enhance its competitiveness to realise the full potential of ASEAN and to make ASEAN a more prosperous, peaceful and stable region providing a better quality of life for its 600 million people.

The RCEP or Regional Comprehensive Economic Partnership is an ASEAN led initiative to link
ASEAN with the countries it has FTAs with – China, Japan, Korea, India, Australia and New Zealand and create the world’s largest FTA. The RCEP will group 3 billion people with a combined GDP of USD17 trillion and account for 40% of world trade. The ASEAN leaders’ decision in Phnom Penh to commence negotiations on RCEP from early 2013 will be one of the biggest economic challenges facing ASEAN. Its accomplishments will open up vast opportunities for ASEAN and its private sector.

If we are to push the envelope to transform ASEAN into a more dynamic and relevant organisation for the 21st century, we should think of radical and bold ideas. How about an ASEAN parliament that can initially comprise say 20 representatives from each of the 10 legislatures before a transition period to have direct elections and universal suffrage? What about an ASEAN court for human rights to better protect human rights? What about ASEAN banks or ASEAN multinational corporations with shareholders and employees drawn from all 10 member countries? What about an ASEAN newspaper and TV channel or an ASEAN university or ASEAN Schools of Excellence in all member countries? Let us boldly debate new mechanisms to further transform ASEAN moving forward.

In conclusion, moving forward ASEAN needs to enhance regional governance, make ASEAN more relevant to the younger generation, engage more effectively with the private sector, academic community and civil society and implement all plans and strategies agreed upon to achieve the ASEAN Economic Community. ASEAN has moved from adopting a CHARTER to creating a sense of COMMUNITY, pushing for ASEAN CONNECTIVITY and ensuring ASEAN CENTRALITY to make ASEAN the central factor in regional East Asia architecture, in short the 4 ‘C’ s of ASEAN. Let me add another 2 ‘C’ s for ASEAN - greater intra ASEAN private sector COLLABORATION and better COMMUNICATION to share ASEAN’s success stories to the rest of the world. Finally, ASEAN should also give priority to the 4 ‘I’ s - more effective and speedier INTEGRATION, addressing regional IMBALANCES and income inequality, promoting INNOVATION and strengthening INTEGRITY and good governance. To paraphrase President John Kennedy, we the citizens of ASEAN should ask not what ASEAN can do for you but what you can do for ASEAN.
The time may have come to turn being an FI director into a profession.

ARE THE DAYS OF THE TALENTED AMATEUR DIRECTOR OVER IN FINANCIAL SERVICES?
The concept of the independent director in Anglo-Saxon corporate governance is based on the talented amateur who has:

1. Assurances that there is a clear separation of the roles of the board and management – “Boards govern and direct management manages”;
2. An adequate understanding of the technical aspects of decisions, relying on access to third party expert advice when needed, with protection afforded by the “business judgment” rule;
3. A single-minded fiduciary duty to the shareholders;
4. The time required to master the issues at hand;
5. Independent means and is therefore easily able to resign if necessary.

I argue that each of these fundamental assumptions are being challenged by the current realities faced by directors of financial institutions (FIs) and that the time may have come to turn being an FI director into a profession.

Blurring of the boundaries

Even though most codes of corporate governance state explicitly there is a clear separation of roles between the board and management, the law is more ambivalent. In both Malaysia and Australia the Companies Acts state that boards “direct and manage”, presumably to allow boards to intervene when a company is in a state of terminal disarray or when the CEO has been terminated and there is no immediate replacement. This ambiguity is useful for politicians and the media because it permits them to shout “where was the board?” when things go wrong, even if they are clearly not things a board can get involved in without second-guessing management.

In the court of public opinion there is no such fine distinction when things go wrong. Take the case of Marcus Agius, the non-executive Chairman of Barclays, when he was being cross-examined by the UK Treasury Committee looking into Barclays’ LIBOR fixing, shown by the following exchange:

Michael Fallon: “If you were concerned, as you have just told us, that the bank’s funding position should not be misinterpreted, and you were concerned about that, why weren’t you involved with Mr Diamond in telling your staff to get involved with the regulatory authorities as a matter of urgency?”

Marcus Agius: “For two reasons. One is I know there were many conversations, not all of which would have been reported to me. Separately because, for the avoidance of doubt – and maybe I should have made the point earlier – there is of course a distinction between what the board does and what the executive does. The executive is there to run the bank. The board does not run the bank. I stayed unusually connected with the senior management because of my concerns, but I did not make any executive decisions. That was not my job.”

Michael Fallon: “The question is: what does it say about your senior management team that in the end an instruction to manipulate LIBOR was not questioned?”

Marcus Agius: “You are seeking to put me in
Mr Del Missier’s shoes, which I do not think is right.”

Michael Fallon: “But you have overall responsibility for the culture of the bank. That is why you have resigned. Is there not something odd about the culture of the bank that nobody actually questioned this kind of instruction?”

Directors are accountable and are expected to know how management is implementing what they have been authorised to do; they cannot hide behind the separation of roles.

**Need to understand the technicalities**

There are two more reasons why the boundaries are blurring. The first comes from the setting of CEO KPIs and remuneration. The Remuneration Committee and the Risk Committee must understand the long-term implications of the KPIs they agree with CEOs, as well the likely impact of remuneration on how CEOs will behave. This demands an increasingly granular level of technical understanding of the strategic choices being made, their impact on the risk profile and appetite of the organisation, not just during the CEO’s tenure, but long after as well. That in turn requires a very high level of technical understanding of how the business works, its drivers of value and the riskiness of the choices made both in terms of products offered, lines of business, concentration risk in customers and industries served, as well as in terms of differing time horizons.

The fact that banks in the UK are now having to pay fines of more than £10 billion for mis-selling PPI products with boards reviewing how to incentivise sales forces shows that boards need to challenge the philosophies, structures and consequences of commission-based pay-plans on bank culture and customer retention at a detailed level. At least three major global banks have announced they are raising the importance of reputation risk in the way senior people are paid. Once again, boards will have to really understand the dynamics of the HR policies they oversee and the unintended consequences of whatever system they introduce, because clever, unscrupulous people will always succeed in “gaming the system”. The Nomination and Remuneration Committees will have to get involved in modelling possible outcomes and knowing personally the key players so they can trust them to do what was intended.

The recent Centro decision in Australia puts the spotlight firmly on accounting standards and conventions, requiring individual directors to

- Read, understand and consider the contents of financial statements before approving them;
- Understand the basis on which the financial statements have been prepared and to satisfy themselves in relation to the accuracy of those financial statements;
- Be familiar with fundamentals of the business and have requisite financial literacy to understand basic accounting conventions—even when recently changed.

This last point means that individual directors must understand the impact of IFRS changes on their banks, even when they are not qualified accountants – something even auditors find difficult.

**“FI directors are held to a higher standard than directors of other public-listed companies.”**
Can directors still rely on expert opinions?
In the past, directors could rely on expert third party opinions to protect them from the charge of dereliction of the duty of care. Two recent Australian court decisions may have changed that: the James Hardie and Centro cases. Both find that relying on expert third party opinion is not enough, and in the case of the James Hardie ruling, the directors were held to a higher standard of care for failing to ensure the minutes were 100 per cent accurate, down to literally a one word difference in a press release months after the original minutes were approved.

Directors are now being asked to get a second opinion on a second opinion, perhaps because of the poor performance of rating agencies in assigning AAA ratings to what were, in fact, junk mortgage-backed securities in the subprime crisis.

Reconciling dual fiduciary duties
Directors of FIs uniquely have a dual fiduciary duty: to the shareholders as well as to depositors (for banks) and policy-holders (for insurers). What was already a demanding duty has now become much more difficult. Depositors and policy-holders are interested in stability and a guaranteed return – they seek to be protected from the downsides of systemic risk and volatility. Shareholders, on the other hand, are interested in the upside, looking for maximum ROE and growth or else in shorting the stock; so some will welcome volatility, possibly creating between them systemic risk. How are directors supposed to reconcile such different perspectives without a detailed understanding of the asset-liability portfolio of the bank, the effects of leverage and liquidity on VAR and whether the risk measures are adequate to cope with “Black Swan” events? As if that is

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“Directors are accountable and are expected to know how management is implementing what they have been authorised to do.”

not difficult enough, the speed with which the balance sheet can grow through leverage and collapse through a run on the bank makes it infinitely more challenging for a non-banker to understand.

Time needed to discharge the duty of care

The Walker Report made it clear that to discharge the duty of care properly, independent directors need to spend between 30 and 38 days a year per directorship. This means that a director can have no more than five directorships (as recommended in the Malaysian Code on Corporate Governance 2012). Directors who are appointed to boards of FIs as a reward for past service elsewhere must realise they cannot just sit back and relax; they have a heavy responsibility and workload to oversee the future direction of the bank and ensure it creates sustainable value for shareholders and depositors.

Financial Independence

If directors are to spend the time needed to master the technicalities at the level of granularity suggested in this article, they need to be trained properly and paid accordingly to a) reflect the opportunity cost of their time; b) to acquire the necessary technical skills to fulfil their role; and c) to reflect the very real risks they face should anything go wrong. The resulting dilemma is that once they are properly paid, they are likely no longer to be financially independent; making it harder for them to resign when that is what is needed.

Is professionalising FI directors the answer?

FI directors are held to a higher standard than directors of other public listed companies because of

1. The systemic risk their organisations pose to society;
2. The need for a much greater level of detailed technical understanding, where products and services offered are often difficult to understand;
3. Resulting strategic and systemic risks which are often not clear even to the originators of financial innovation (vide Long Term Capital Management);
4. The dual fiduciary duty to depositors and shareholders with potentially conflicting interests;
5. The time needed to master the complexities if they are to discharge the duty of care.

In these circumstances it may be unrealistic to expect a talented amateur to give the right amount of time and attention to master the intricacies of the business to fulfil the duties of care and commitment.

It is perhaps no accident that the toughest court decisions regarding directors come from Australia where the Australian Institute of Company Directors (AICD) has a professional qualification for becoming and remaining a chartered director. Canada, New Zealand, South Africa, Switzerland and the UK also have professional qualifications for directors. Perhaps it is time to create a professional qualification specifically for FI directors, given the higher standards they must meet because of the greater complexity and systemic risks they face in fulfilling their roles and responsibilities.
One relatively new area of operations of the industry is wealth management.
Introduction

While there is no agreed upon definition of wealth management, it is usually associated with private banking that serves the financial needs of the relatively wealthy. This is apparent in the definition of wealth management by Maude (2006:1) who defines it as ‘financial services provided to wealthy clients, mainly individuals and their families’. Mindel and Sleight (2010) identify four key goals of wealth management: investments and wealth accumulation, retirement and retirement income, wealth and lifestyle protection and transferring wealth. Achieving these goals would require appropriate range of products and services. Specifically, products for investments and wealth accumulation would include core banking products, lending products and a menu of financial and non-financial assets. Similarly, retirement income is ensured by using a variety of investment vehicles and pension schemes. Wealth and lifestyle can be protected by different types of insurance products such as property, health and life insurance/assurance. Finally, inheritance and estate planning are used to transfer wealth to achieve desired distributive goals.

Different client segments would have diverse risk-return preferences and wealth management objectives. Their needs can be satisfied by the wealth management service providers in advisory or discretionary forms (Maude 2006). In the former, the wealth manager gives advice to clients on how to achieve their wealth-related goals by using different instruments and the clients make their own decisions. In a discretionary mandate, the service provider not only advises the clients but also actively manages their wealth. Given the brief introduction, this short paper presents the goals of wealth management from an Islamic perspective and the instruments that can be used to achieve these goals.

Islamic Wealth Management: Goals and Instruments

Though Islamic banking started its operations in the 1970s to provide Shariah-compliant services to Muslims, the industry has since then expanded and diversified to become a global phenomenon offering various products and services to both Muslim and non-Muslim clients. One relatively new area of operations of the industry is wealth management. Determining the Islamic perspective of wealth management would require understanding the goals and principles of Shariah.

The overall goal of an Islamic financial system is to realise the objectives of Islamic law (maqasid al-Shariah) (Siddiqi 2006). Other than fulfilling the legal injunctions related to transactions in Islamic finance, maqasid at a broader level would imply inclusion of social dimensions. The financial sector can achieve the social goals by not only avoiding activities that are exploitative and harmful to the society, but also engaging in ones that promote social welfare (Grais and Pellegrini 2006a).

The specific goals of maqasid at the micro-level are to safeguard the faith, self, intellect, posterity, and wealth (Chapra 2008 and Ibn Ashur 2006). Accordingly, the objective of Islamic commercial law would be to protect and enhance one or several of these goals. Commercial transactions are sanctified and encouraged as these enhance and support wealth and progeny (Hallaq 2004). Given these overall goals of Shariah, Islamic wealth management would entail strategies and mechanisms to protect and develop wealth for
different segments of the population and provide a sound framework for transferring it in a Shariah-compliant manner. The Islamic instruments that can be used to meet the different wealth management goals are presented next.

Investments and Wealth Accumulation

The basic financial services provided by the financial sector are the core banking products that include different types of deposits, credit cards, etc. While bank accounts are traditional means of saving, there are several other opportunities available for investments and accumulating wealth. Key among these investment vehicles are a variety of funds available that can be classified as traditional and alternative investments. Traditional conventional funds include investments in common stock, bond, money market and balanced portfolios. Categories of asset classes in alternative investments include real estate/infrastructure, commodities, private equity funds and some newly established hedge funds. Whereas Islamic funds covering the traditional asset classes have expanded in many countries, in some jurisdictions the alternative funds are also being offered. In July 2011, assets managed by Islamic funds are estimated to be USD77 billion spread among 717 investments schemes (Eurekahedge 2011).

Retirement Planning and Schemes

Closely linked to wealth accumulation, the second goal of wealth management is to offer services related to retirement planning. Pension systems existed historically in the Islamic world with the first one introduced by Umar bin Khattab in the 7th century (Manjoo 2012). These schemes provided annual stipend to individuals from the baitul mal and also from waqf. Contemporary Shariah-compliant retirement schemes, however, are relatively new. Present-day pension schemes invest in a pool of investment vehicles that can provide diverse risk-return combinations to satisfy the preferences of clients. Contributions for retirement can be made through personal, company or public pension schemes. An individual may have one or a combination of these schemes to plan and prepare for retirement.

Wealth and Lifestyle Protection

A key instrument of wealth and lifestyle protection is using different insurance services. The OIC Fiqh Academy in a resolution 9 (9/2) 1985 declared conventional insurance to be prohibited due to uncertainty (gharar) in the object of sale and outcome of the contract. The Islamic alternative, takaful, using principles of ta’awun (mutual assistance) and tabarru’ (gift or donation) are operating under the mudarabah (partnership) and wakala (agency) based models. The industry has since grown providing protection against various types of risks to clients.

There are two main types of takaful, general and family. While the former provides short-term protection against accidents and losses of property, the latter provides saving opportunities and long-term protection arising from death or disability. The types of products under family takaful would entail Shariah-compliant schemes providing investment opportunities and products to clients. The Islamic pension schemes would participate in a combination of Shariah-compliant traditional and alternative asset classes identified above to provide a desired income stream to the retirees. One example of a private pension scheme is Discretionary Portfolio Service (DPS) offered by Islamic Bank of Britain that provides clients access to different Shariah-compliant investment portfolios. These investment portfolios can be held within Self-Invested Personal Pension (SIPP) in a tax efficient manner.
have become diverse providing a variety of products that can be used for wealth and lifestyle protection. The products under family takaful include investment-linked family takaful, mortgage takaful, hospitalisation takaful, group medical takaful and group takaful (Orange 2008). The global takaful industry grew at the rate of 19% in 2010 and total contributions are expected to reach USD12 billion in 2012 (Ernst & Young 2012).

Transferring Wealth

An important goal of Islamic wealth management is to preserve and plan for transference of wealth to progeny in a Shariah-compliant manner. While the distribution of wealth among the heirs will be determined by Islamic inheritance law, there may be a need for inheritance/estate planning to avoid unplanned problems and ensure transfer of assets in an orderly manner. One way to do this, particularly in countries that have non-Islamic inheritance laws (such as the UK), is to use wills to guarantee the distribution of wealth according to the principles of Shariah.

Another instrument used for inheritance planning during contemporary times is a trust. Trusts can be used for different reasons such as protection of assets from irresponsible and squandering heirs, ensuring management and distribution of income according to the wishes of the trustor and Islamic inheritance law, and protection from claims and liability after the death of the trustor.

An important issue related to inheritance is the creation of waqf from the wealth of a deceased. According to Islamic inheritance law, a person has the right to donate a third of one’s wealth. As historically waqf provided many social goods and enhanced welfare, the creation of waqf can potentially help in fulfilling the social goal of Islamic wealth management. Thus, an integral component of Islamic wealth management relating to transferring wealth would be to provide advice and facilitate the creation and management of waqf. Inheritance and estate planning is relatively new for the Islamic financial sector with very few institutions offering these services. Amanah Raya Berhad based in Malaysia is one of the few institutions providing Shariah-compliant wealth transference services.

The Way Forward

Though Islamic finance is a relatively new industry, its growth in its short history has been impressive. However, there is a general perception that the industry is focussed on legal compliance and is not fulfilling the maqasid. One implication of fulfilling the maqasid in wealth management is that all sections of the population should have access to services to enhance and protect their wealth and leave assets for their progeny. Thus, unlike conventional wealth management that focuses on the relatively well-off, Islamic wealth management would be expected to serve the people from all income groups.

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Unlike conventional wealth management that focuses on the relatively well-off, Islamic wealth management would be expected to serve the needs of people from all income groups.

‘Professor Habib Ahmed

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needs of people from all income groups.

To meet the wealth management needs of all sections of the population would require coming up with innovative and efficient Shariah-compliant solutions and instruments. While this will require investment in research and development, some of the solutions may be simple requiring small changes in the features of a product. For instance, the minimum subscription rates of mutual funds determine the target client group for the product. A large minimum subscription (say USD10,000 or more) would imply that the funds are targeted towards the wealthier clientele. The same product can be made available to a wider client base by simply lowering the subscription rate to reasonable levels. A good example of an investment product that is accessible to people with meagre means is the Amana Mutual funds in the USA. With a minimum subscription requirement of USD250 only, the funds can fulfil the investment needs for a large section of the population.

The paper shows that while the Islamic financial sector has developed various instruments to meet the goals of wealth accumulation and wealth/lifestyle protection, the development of Shariah-compliant pension schemes and wealth transference services are still in their infancy. One way in which these two goals can be realised is to integrate waqf in Islamic wealth management. By facilitating the creation of waqf through wealth transfer services, a part of the resulting endowments can be potentially used to provide for the pensions to the elderly with poorer means (as was done historically). Consequently, encouragement and development of waqf will be one of the key instruments for fulfilling the maqasid al Shariah in an Islamic wealth management framework.

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COMMERCIAL AIRCRAFT: THE NEW BUZZ WITHIN THE ISLAMIC FINANCE COMMUNITY

This article discusses how Islamic Finance is being deployed to finance the acquisition of Airliners (such as Boeing and Airbus aircraft) that are placed under long-term leases. This High Yielding Alternative Investment Class is the new buzz within the Islamic Finance community.
As a result of the Global Financial Crisis and Eurocrisis, conventional aircraft financing sources have dried up for now. But with its long-term predictable income, growth forecasts and suitability for Islamic Financing, an immense market opportunity now exists for savvy Islamic Finance investors.

Islamic finance is growing fast. Over the next decade, the Islamic Capital Markets is expected to sustain double-digit growth to almost USD1 trillion in 2020 with CAGR of 10.6%. In 2000, there were RM39.6 billion in Sukuk issues. In 2010 it had grown to RM 294 billion and the Malaysian Securities Commission expects further growth to a staggering RM1331.5 billion by 2020.

The Sukuk market has been quite resilient during recent instability in global financial markets which is making conventional bond issues difficult. The resilience is a result of the Islamic investors remaining cash rich; partly due to limited supply of Sukuk; and partly since Sukuk investors tend to hold the bonds until maturity, reducing the chance of big swings in secondary market prices triggered by shorter-term speculators bailing out of positions.

No matter what the reason, Aircraft Lessors are now turning to Islamic financing to support their aircraft acquisitions and those lessors backed by Islamic Finance are growing at astronomical rates.

The aircraft leasing industry is relatively new, with the first aircraft lease recorded in the 70’s. Now, around 40% of the world’s aircrafts are leased. According to Boeing, 35% of the USD4.5 trillion in new aircraft deliveries over the next 20 years will be delivered to Asia – which is the global number 1 hotspot for aviation growth.

Couple this immense market opportunity with the emergence of Labuan as one of the most competitive jurisdictions in the Asia Pacific region – along with aircrafts’ compatibility with Islamic Financing methods - and you have the making of the next explosive growth industry.

Despite its recent rapid rise in popularity, Islamic financing for aircraft transactions have been around for a while, here’s just a sample of some large Islamic Finance transactions:

In 2005, Emirates issued a USD550 million Sukuk bond and repaid it in full during June 2012.

In 2008, Etihad won airfinance journal’s deal of the year for an Airbus A340-600 purchase from Airbus supported by Islamic finance. (circa USD140 million)

In November 2009, GE sold USD500 million in Sukuk against existing aircraft.

In July 2010, Nomura sold USD100 million in Sukuk against existing aircraft.

In June 2012, the Malaysian Finance Ministry sold RM5.3 billion of Islamic bonds to finance 6 x Airbus A380s and 2 x Airbus A330s for lease to Malaysian Airlines.

In June 2012, Malaysian Airlines sold RM1 billion of Islamic bonds.

In September 2012, Malaysian Airlines sold a further RM500 million of Islamic Bonds.

In October 2012, Turkish Airlines is well progressed in a multi billion Sukuk issue to finance the purchase of aircraft to double its fleet over the next 10 years.
“Islamic Financing

as a method of acquiring commercial aircraft is the fastest growing financing method in the industry, and it’s growing exponentially.”

Alafco, the aircraft leasing arm of Kuwait Finance House, employs Islamic Finance techniques to acquire their aircraft fleet. It is one of the fastest growing aircraft leasing companies in the world. In 2011, it had 105 firm orders with Boeing and Airbus – the second largest order book of all lessors on the planet.

Media reports are commonplace describing Dubai’s Emirates airline investigation of Islamic Financing to fund their aircraft deliveries in the wake of the Eurozone Crisis. Malaysian Airlines is at the forefront of innovation in the Islamic Capital Markets when they were the first ever corporate issuer of a Perpetual Sukuk in June this year. The RM 2.5 billion programme was fully subscribed, with the first subscriber at RM1 billion.

The proof is irrefutable. Islamic Financing as a method of acquiring commercial aircraft is the fastest growing financing method in the industry, and it’s growing exponentially.

The power houses of the Asian banking sector are on a mission to internationalise Islamic Financing. In Bank Negara Malaysia’s Financial Sector Blueprint 2011-2020, the key recommendations regarding Internationalisation of Islamic Finance are as follows:

Increase the diversity of players in the domestic Islamic financial industry to support a wider range of financial products and services that serves the best interest of Malaysia.

Support the growth of the Islamic fund and wealth management industry in collaboration with relevant authorities.

Enhance the dynamics of the Islamic money, foreign exchange and capital markets.

Increase market efficiency by facilitating the use of standard documents and agreements among financial market players.

Promote active participation in issuance and trading of Sukuk.

So the stage is set. The timing is right, the place is Labuan and investments in Commercial Aircraft as an alternative asset class is rapidly growing.

But there are some restrictions. Islamic finance must comply with various requirements of the Shariah including the prohibition on Riba (which includes interest). And there are some major transactional structure differences between financing leased aircraft with Conventional Finance vs Islamic Finance. The end result however, is the same, that is, the lessee ends up with the right to quiet enjoyment of the aircraft for the agreed period and the economic responsibility of the asset is passed to the lessee for the lease term.

Under conventional financing methods, the lessee pays a monthly rental fee in advance plus, it also pays Maintenance Reserve payments to compensate the lessor for the maintenance utility consumed by the lessee. But to achieve compliance with Shariah, the transaction must be structured differently so
that the lessor remains responsible for major and structural maintenance, hull and equipment and ownership taxes. But airlines are in the business of operating aircraft and they must have a maintenance capability. Conversely the financier/lessor is not normally in the business of operating or maintaining aircraft, so it is common for the lessor to appoint the airline/lessee as its service agent to complete and fund for those expenses.

The lessor as principal must repay those costs to the Lessee/service agent, and the rental payments are increased accordingly. But, these payment obligations and the extra rent are offset against each other and this effectively passes the economic responsibility of the aircraft to the lessee.

Risk Mitigation. To protect the Islamic financier from the inherent risks that come with ownership of a financed asset, a Special Purpose Vehicle (SPV) can hold the aircraft subject to a Mudaraba (an investment management agreement) and the SPV becomes the Mudarib (the investment manager) and the financier becomes the Rabb-ul-maal.

Under the Mudaraba financing model, the investors pass their funds to the Mudarib for it to use in accordance with the investment plan. The Mudarib must have a share of profits (which can be small) and will not be responsible for losses unless caused by its negligence or default. While the legal nature of a Mudaraba must be tested under local law, interposing the Mudarib as the lessor and legal owner of the aircraft can create some distance between the Islamic financiers and ownership risks.

Dean Argent

Dean Argent is the co-founder of Aircraft Fleet Capital – an aircraft lessor and aviation asset manager based in Australia and Labuan. They are actively seeking funding partners to help finance the acquisition of commercial aircraft under long term leases.

Go to www.aircraftfleetcapital.com for more information.
Features Of Islamic Financing Of Commercial Aircraft

Diversification of funding sources. Until recently, Islamic Financing has not been considered a mainstream alternative to conventional finance. Coupled with conventional-style documentation, bankable governing law, the ability to combine with conventional funding sources and a new market has opened up.

Sukuk Holders are Investors not Creditors. The relationship of Sukuk holders to issuer is that of investor, not creditor. The Sukuk holders are joint owners of trust assets, being aircraft (subject to leases), the lease revenues and lease rights. They exercise their rights as owners through a Sukuk agent, who has the authority to enforce lease rights, and can be compelled to do so by relevant proportion of Sukuk holders.

The Sukuk holders’ rights against the Issuer are limited in recourse to the trust assets – normally being the aircraft itself. The complexity of each transaction is dictated by the investor/rating requirements. For example rating agencies such as Standard Poor’s, Moody’s, Fitch apply conventional rating criteria, to which Shariah compliance is not relevant. This allows minimal reliance of the performance of Ijara because the rating agency is more likely to focus on other issues such as level of over - collateralisation, bankruptcy protection, quality of the asset and its liquidity.

Under Islamic Financing arrangements, the standard ingredients include Aircraft Management and Remarketing Agreements, removal of the lessor from other transactions for bankruptcy remoteness and establishment of the lessor in a tax-friendly jurisdiction.

“**The timing**

is right, the place is Labuan and investments in Commercial Aircraft as an alternative asset class is rapidly growing.”

Aircraft lessors’ requirement for Islamic Funding seems likely to outstrip conventional funding sources available due to huge aircraft orders and need for specialised appetite for regional risk. The recent run of innovative Islamic aircraft financings have helped develop Islamic aircraft financing technology, while non-airline sukuks and airline bonds have established investor appetite for this asset class.

If you are seeking long-term predictable returns – without correlation to the equities markets – then investing commercial aircraft using Islamic Financing could be right for you.

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Go to www.aircraftfleetcapital.com for more information.
1. Policy Blindness and People’s Welfare

After 250 years of unbridled pursuit of laissez faire, cross-border free trade via open economy theories and unbridled capitalism over the last four decades, a watershed appears to have been reached at the start of the 21-st century. Mercantilism of the 18-19th centuries gave way to an open economy model of freer trade in goods and services. The last 40 years saw the dismantling of barriers to financial trades as well. These moves have led to unbridled private pursuit of wealth creation supposedly meant to lead to greater human welfare. Despite the creation of wealth, the dismantling of laws since the Reagan-Thatcher brand of capitalism took root, the wealth inequality has gone to the level existing some 180 years ago: see The Economist (October, 2012). Wealth
inequality has started to widen since the 1980s to a level which is reversing a fair degree of prosperity of the middle-class as once shared in all countries that had worked to reduce inequality.

There is a worldwide movement to prevent the so-called naked pursuit of wealth to arrest the proliferation of ideas that focus on merely wealth maximisation and the belief that there will be trickle-down effect. The idea of wealth maximisation itself was propagated by Coase (1960), and it was Kenneth Arrow (1964) who built this as part of the Theory of the Firm in the 1950s, when the idea got the attention of the regulators and politicians ever since. Wealth maximisation has become a mantra for managing the resources of the world in favour of the ones who hold power. Simultaneously the power of the workers started to wane with the active pursuit of globalisation, which enabled job displacement to low-wage locations. Labour unions often placed reasonable demands for the welfare of the working classes through living wage demands. Once the active pursuit of wealth maximisation idea on the part of the people lent the power took regulatory weight, it used the globalisation mechanism to move firms around the world in pursuit of wealth, and the power of the labour movements waned. It is documented in the annual digest of economics data that membership of the labour movement has declined from the highs of nearly 40% of employed workforce to a mere 17% in 2010.

Naked capitalism now becomes entrenched with no counterbalancing power groups so that wealth holders could demand dismantling of barriers to creating more wealth. For a time, the unbridled borrowing power of governments kept some level of welfare support by more borrowing until the debt burden has now become so great that the working classes are asked to retire later, sacrifice part of the pension, take wage cuts (Greece, Malta, Spain and Portugal) harming the glue that hold societies together. Hence the idea of using the borrowing power of the state to get some level of balancing of the welfare deficit will soon disappear. The result is further widening of income of the wealthy and the poor.

Given this background to the current state of affairs, we examine some ideas from Islamic wealth management and waqf concepts to see if there are some ways in which human welfare is better managed on a community-action level without the visible hands of the government. To do this, we first examine the concept of Islamic wealth management, and then provide some discussion on how waqf assets already in place in all Islamic countries could be mobilised to meet the needs of communities for sustainable economic development as well as fairer ways of looking after the needs of the lower class of societies.

2. Faith-Based Policy for Human Welfare

Let us turn our attention to an Islamic practice on welfare for over 1400 years. Education, health and old-age care have been taken care of by the simple principle of each believer voluntarily giving each year an amount equal to 2.5% of income earned in working periods as alms (zakat) to finance the welfare burden. This is a useful concept to bring back in the management of fiscal policy.

Finally, the role of personal bequest by wealthy people to serve the future generational needs has been the waqf concept of endowing part of the wealth of a person or organisation to be used in perpetuity for education, training, religious and welfare acts in Islamic societies for centuries. Waqf has been propagated as a voluntary religious act for management of one’s wealth before leaving this earth. Waqf has been the main instrument in funding the management of prayer places in Islam without having to ask the rulers for funds for fear the rulers would want deviations of Islamic practices to be introduced. Waqf assets endowed to the mosques are used over centuries to gain income to support the community activities (feeding the poor, paying and housing the prayer leader, meeting food needs at times of famines and wars, etc,) all of which are centred around the mosque. The government is not involved except in regulating the proper control of the waqf assets for the intended purposes as trusts.

3. Wealth and its Manifold Features in Islam

Wealth, though earned by efforts, is believed to be owned by as well as come from Almighty Allah SWT. Humans are provided with wealth to serve the family and community
“Humans are provided with wealth to serve the family and community needs.”

needs. Wealth is owned by the Omnipresent, and is given to humans for the purpose of establishing good deeds to be done on earth. Humans are just the vicegerents entrusted with the responsibility to manage the given wealth and account as to how the humans used the wealth. On the Day of Judgment, one needs to account as to how much good the wealth was able to do for family and community. This is clearly explained in the Quran:

“To Allah belongs the heritage of the heavens and the earth; and Allah is well-acquainted with all that ye do” (Qur’an 3:180),

“And He has subjected to you, as from Him, all that is in the heavens and on earth: behold, in that are signs indeed for those who reflect” (Qur’an 45:13).

The wealth management in Islam is strictly guided by the dictates of Shariah (Quran and the Sunnah), and comprises the (i) process of wealth generation, (ii) accumulation, (iii) protection, (iv) purification and (v) distribution. Islamic wealth creation has a broader meaning starting from venture capital to working capital finance to diminishing musharaka (ownership-based assets) lending. Even debt forgiveness is encouraged as an act of devotion to God, etc. Since resources have already been created by the Creator, man only uses the resources to generate products of value that are transformed as wealth.

Thus, wealth generation is related to the production process, the act of recovering the capital asset, and then receiving a reward as profits. Production is encouraged as long as the production has society-promoting aspects and avoid aspects that are harmful to society (gambling, prostitution, intoxicants, consumption of unclean food, etc.). Thus, in both real and financial assets, the process of wealth creation is from the use of assets (land, labour and accumulated wealth as capital) that are owned by God in order to create the wealth for the benefit of family and the community in which the family is a component. This is true of real and capital assets.

The wealth accumulation involves the placement of wealth in investment objects (such as equity securities, debt securities, private equity, banking products, takaful products, etc.) as long as such use of wealth help avoid harmful economic/financial products. A hallmark of all these activities is that the process of wealth creation must not involve non-permissible investments (the no-go zones of gambling, drugs and harmful products such as pork meat for consumption). Such wealth so created is not tainted as it is compliant with the Shariah guidelines. By compliance is meant that all aspects of the process and the final output of the process avoids explicit and implicit harm to man and society via major violations of legal prohibitions.

4. Human Welfare Depends on Investment, Zakat, and Waqf

Wealth protection relates to efforts towards preserving the value of the wealth owned through productive and useful investments. The process of generating wealth may involve non-Shariah compliant elements knowingly or unknowingly. For this reason there is a need to purify wealth that is done through
compulsory alms (Zakat) at 2.5% of wealth created in a year and voluntary contribution (Waqf) if a person wishes to benefit generations to come. Compulsory purification (zakat) is the third of the five pillars of Islam; it is compulsory for all Muslims irrespective of age or gender, except those who are classified as beneficiaries (prophets and their families are forbidden to benefit from such alms). As for the voluntary purification (waqf), the Quran explains that:

"By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth God knoweth it well" (Qur'an 3:92).

Wealth distribution requires the concept of egalitarianism and society-focused income distribution which has strong inroads into fiscal policy planning as per Islamic principles. The wealth distribution includes the use of private wealth for faraidh (law of inheritance), expenditures for the collective benefit of society (education, health and economic needs of the poor), voluntary bequests (waqf) and helping the needy (sadaqah) starting with the family members in need first. The Quran clearly states that the accumulated wealth must be spent or distributed for the benefit of others:

“They who accumulate gold and silver and spend it not in the way of God, unto them give tidings of a painful doom. On the day when it will (all) be heated in the fire of hell, and their foreheads and their flanks and their backs will be branded therewith (and it will be said unto them): Here is that which ye accumulated for yourselves. Now taste of what ye used to accumulate” (Qur'an 9:35).

The distribution of wealth is necessary to ensure that the wealth will circulate in the economy for the benefit of society. If 2.5% is compulsorily distributed, then if one neglects to increase the wealth without investing in community-benefitting investments, the wealth will be gone in 40 years. That is the reason why there are exhortations to invest the wealth to benefit community, to produce useful goods and services to benefit man and society. Investing the capital to create more wealth leads to more charity (zakat) and more employment of the community of humans so that no one needs to be unemployed if all wealth is recirculated. Modern economic concept of output-to-input ratio clearly extolls the multiplier effect of money as capital put to work as production.

Modern economic studies of production has established a norm that money capital accounts for about two-thirds of income produced, while adding additional labour accounts for some 30% of wealth. The remaining 3% gain is due to economic efficiency, meaning smarter ways of doing things with technological innovations: there is a whole body of economic idea of production efficiency (starting from the Cobb-Douglas’s Nobel prize winning idea) that has shown the power of production to create wealth. Fuller employment is the result of reinvestment or spending of the people who do not have capital. Wages that are earned from creation of employment through reinvestment enables families to spend, which in turn spurs more production, more employment leading to more wealth creation.

Thus, Zakat and Waqf are two instruments that are people based so that governments need not bloat its fiscal burden through welfare demanding debt taking. The obedience of moral man to a clearly-society friendly exhortation to give alms creates conditions that take care of common demands for basic welfare without resorting to government. The purpose of the government then becomes law and order (meaning regulating) how peace and prosperity could co-exist.

5. Waqf as a Tool for Capital Management

Waqf is a voluntary bequest in Malaysia. It is an endowment created in the form of property or usufruct of a cash investment for charitable purpose in perpetuity to benefit the society as a whole or for specific segment of
society in need. Waqf, if managed and administered properly, will not only contribute to economic growth (i.e. reducing government expenditure on education, health and other social services and increasing employment) but also help in better distribution of wealth. Though waqf is not specifically mentioned in the Qur’an, the concept of wealth redistribution is amply mentioned (2:215, 264, 270, 280). There is also the authentic Prophet’s statement on the good of the institution of waqf:

“Abu Hurairah reported Allah’s messenger as saying: When a man dies, all his acts come to an end, but three: recurring charity, or knowledge (by which people benefit), or a pious offspring, who prays for him” (Sahih Muslim).

The combination of the deeds mentioned in this hadith explains the very essence of Islamic waqfs: the recurring charity that will last beyond the founder will benefit society, and the management to be entrusted to a pious offspring that will ensure proper management and prayers from the offspring (Cizakca, 2000).

Waqf, a form of continuous charity (sadaqah jariyah), is created by donating an asset (property or cash) that produces benefits/revenues for a targeted objective on an infinite basis. Ahmed (2004) categorised waqfs as religious and philanthropic. Waqfs may be for general purpose to benefit the society at large (usually for socio-economic relief to the needy and the poor, as it is encouraged for rich people) such as schools, hospitals, mosques, to provide utilities, or could be very specific in objective like a scientific project, or building an irrigation infrastructure for designated farms in specific places or for taking care of the needs of specified individuals till their death.

Through a deed, the founder (waqif) determines the objectives for which the waqf can be used and the modes of distributing its fruits, services and revenues. The founder determines the waqf management and process of succession of managers allowed to impose any restrictions or qualifications he/she likes on his/her waqf. Most waqfs are perpetual and very often so emphasised in the waqf deeds. While the cash waqf dates back to as early as the turn of first century of Hijrah, (i.e. 671 AD) most waqfs established are real estate based.

In Malaysia, there are property based (both movable and immovable) waqfs and cash waqfs though the former has a longer history. Cash waqfs currently exist in Johor and the Federal Territory in the form of cash funds and bank accounts (Nuraini, 1991). The revenues of the state Religious Departments are partially from waqf revenues from investments (25%) in the Islamic Bank Malaysia and the Takaful Co. The returns generated by the Islamic bank belongs to the religious department and used for the benefit of the Muslim community.

There is no federal law subjecting all waqfs to the same rules and regulations and therefore each state has its own laws on this institution. The lack of a coherent system to manage waqfs is the direct consequence of the British colonisers, who introduced laws that fragmented the private land holdings (so the colonisers could purchase the land later to form plantations). The Malays responded by forming family waqfs that inhibited the British attempts to purchase the land and created great
hostility to the waqfs leading to introduction of new laws that made the family waqfs null and void. Alhabshi (1998) explains the colonial rule reduced the role of Islam from a way of life to just a religious belief and took charge of everything except matters pertaining to religion and culture that were given to the sultans.

The Malay Muslims responded by building and maintaining mosques through the waqfs and making these mosques as centres of resistance, and consequently most waqfs were established for building mosques and cemeteries and rarely for economically productive purposes (i.e. education or plantations). However, at the end of their rule, the British initiated a process of massive centralisation that resulted in transfer of ownership of all waqf properties by making the Council of Islamic Religion (or the Majlis) as the sole trustee of all waqf properties (irrespective whether it is a family waqf or charitable waqfs). The Majlis has its own set of problems to properly administer the waqf properties.

Kamaruddin Ngah (1992) explains that the states had a common set of problems; there were no clear objectives and functions of the administrators, the organisational structure is inefficient, waqf officers are not properly trained, there is a lack of concrete plans and actions to develop waqf properties and lack of financial support to implement waqf projects. Mohd Zain (1997) explains further that there are also other problems relating to procedures as in some states waqf, which cannot encompass more than one-third of the property, and whenever there are illegal settlements in the waqf lands, there is little cooperation between the trustee, the Majlis and the authorities and this hinders the development of the properties.

One potential use of waqfs in Malaysia is to

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One potential use of waqfs in Malaysia is to facilitate the development of the Small and Medium Enterprise sector. Small and medium enterprises (SME) are vital for economic growth, employment and social stability. SMEs currently contribute to more than 30% of GDP. Despite their economic importance, they face financing constraints from conventional collateral-based financing. Conventional financial institutions perceive small and medium enterprises as risky and they usually demand either collateral or some form of guarantee before they provide the required financing, which in most cases the SMEs lack.

As an alternative, it is proposed that they could be financed based on profit and loss sharing mode that will help to share the risk. However, conventional financial institutions are reluctant to adopt this alternative financing mode for reasons of costs and lack of transparency. Cash waqfs could be utilized either directly as a form of group financing or indirectly where the returns from investment from the cash are used to finance SMEs. For example, waqf funds could be used to extend credit of small amounts at a reasonable rate of profit sharing ratio.

The other alternative is to provide on lease (so perpetuity aspect is preserved) waqf land for development by small and medium enterprises with financing provided in terms of loans without any physical collateral. The social collateral is introduced by forming...
groups and loan repayment by the group is the collective responsibility of all the members in the group. Members in the group monitor the activities of each other and peer pressure induces the repayment of the loan. This format of peer monitoring resolves the problem of asymmetric information and reduces transaction costs of monitoring (Morduch 1999).

The type of financing provided for SMEs will depend on the type of economic activities they are engaged in such as production, trading, or services such as transportation or supplying equipment, seeds and fertilisers. For example, in trading, the murabaha (profit-and fee-based shared loan) or ijarah (leasing) types of financing could be suitable. Profit sharing mode of financing could also be used but this mode has the disadvantage of entrepreneurs under reporting the profits and it is difficult to get assessment on financial information for verification. Any form of monitoring will incur extra costs. Qard Hasan loans to operators of waqf lands (where only the service charges are imposed and the original principal to be repaid during a stipulated time) could also help to mitigate the issue of developing waqf lands in a productive manner.

The federal and state governments need to oversee the proper development and management of waqf properties by, among others, having a proper governance structure accountable to the beneficiaries. Even if the waqfs properties are managed by the private sector, it is the role of the government’s relevant agencies to ensure the protection of the endowment and the operations are conducted in compliance with the deed (Alexander, 2006).

6. Conclusion

Globalisation and unbridled pursuit of profits under today’s capitalism has brought so much wealth creation in modern societies. But the lack of mechanism to ensure a fairer distribution of wealth in the face of unbridled acquisition of wealth has led to some degree of inequality of wealth distribution, making few very rich people at the expense of the vast majority. Statistics suggest that the top 5% of the households in most wealthy countries (there are few exceptions such as France, Germany, etc) hold nearly 50% of the wealth created.

The current financial, economic debt crises, political and economic instability on a global scale are partly due to the consequences of this inequality and the widening gap between the rich and the poor. This paper brings forth in brief the possibility of bringing order to this chaos through the active pursuit by the rulers of the two important concepts of Islamic wealth management and waqf with proper guidelines and enforcement. The current state of leaving these matters as self-managed ideas would not lead to amelioration of the conditions. In fact 70% of the poor are found in the 56 majority Muslim countries, which means that these twin ideas that could have been grasped by the rulers to meliorate such poverty is not being seized upon as acceptable reforms.

There are many aspects to Islamic wealth management, which includes the generation, the accumulation, the protection, purification and distribution of wealth to circulate it in the economy for the benefit of society in general. After a brief on the first four aspects, the paper presented how the issue of distribution of wealth could address the inequality of wealth distribution. The potential users of the waqf system should be seized upon to develop a plan to use the dormant assets to expand economic activities at the local level, beyond the mosque management.
The two authors are working as professor of finance respectively at the Bond University and the INCEIF University. Their co-authored studies on Islamic finance have appeared in leading journals and in several books published internationally. They wish to thank their peers for sharing their ideas on Islamic finance, and like to register their gratitude for sharing ideas that are found in this paper.

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Wealth is not merely a financial or economic factor; it is also a socio-political factor as it also translates into power.

Introduction

Wealth management involves integrated financial services incorporating financial planning as well as portfolio management as part of comprehensive advisory and management of a client’s wealth. High Net Worth Individuals (HNWIs), business owners – big and small, and families can benefit from wealth management service by engaging qualified specialists to assist with relevant services. Wealth management (WM) presupposes existence of wealth, with a bias toward those with high net worth. Effective employment of wealth management strategies also generally requires that the client has significant net worth.
What is essentially distinctive about Islamic Wealth Management (IWM)? The new discipline of Islamic finance is primarily focused on Shariah-compliance, which strictly means that it is legalistically distinctive due to adherence to certain prohibitions (e.g., riba – commonly equated with interest in a blanket manner; gharar – excessive risk and uncertainty; maysir – gambling; and a few things that are prohibited on their own, such as pork, intoxicant, pornography, etc.). IWM has emerged as part of Islamic finance and broadly shares the features, underlying principles, advantages as well as limitations. Except the legalistic distinctions, just as Islamic finance is broadly based on conventional finance to the extent that currently it can hardly function without embracing or depending on interest-based tools, such as LIBOR as a benchmark, IWM also faces similar limitations and constraints.

In this essay we focus on IWM from a not-so-common perspective. While the emergence and growth of Islamic finance is a remarkable development, it is yet significantly delinked from some of the important Islamic principles, a core one of which is laid out in the Qur’ān as following: “… it (i.e., wealth) may not (merely) make a circuit between the wealthy among you …”

Here we explore some of the relevant implications of this key Qur’ānic verse for IWM.

Islam is against kanz (accumulation leading to highly skewed concentration)

While the Prophet Muhammad was alive, a portion of the wealth generated or acquired by society was assigned to his authority, earmarked to be utilised to mitigate the common tendency toward concentration of wealth among a few and wealth circulating among those privileged few. Unfortunately, the full and relevant implication of this verse has not been adequately understood, acknowledged and benefited from in much of the period since the first few decades of the post-Prophetic era. While modern societies and economies have modulated toward the relevant, but delimited role of the government to address the issues and challenges of development and inequalities so that society broadly can benefit from the economic activities, the real and fundamental value and principle underlying this verse is yet to be duly and adequately embraced.

In light of this verse, it is the collective responsibility of society as well as every member of society, including and particularly the wealthy and privileged to proactively work toward a system where wealth does not experience unhealthy, unjust and highly skewed concentration. Beyond the responsibility of the government or the public to fix or mitigate the problem of concentration of wealth, the rich also has a heavy burden on their shoulders, if they are believers, that they are not merely amassing wealth, but that they do so within the broader objective of this fundamental Islamic economic principle.

"Conventional WM seems to reflect a zero-sum perspective, where for some to win it seems that others have to lose."

1 The author is the Head of the Centre for Islamic Finance, Bahrain Institute of Banking and Finance (BIBF). This is a condensed version of the original paper: “Islamic Wealth Management and the Pursuit of Positive-Sum Solutions”. For the full version, please contact the author at farooqm59@gmail.com.

2 59/18-Hashr/7
This principle, among a few others, is not merely for WM to be IWM, but also finance to be Islamic finance, or banking to be Islamic banking, or economy to be Islamic economy. Conventional WM seems to reflect a zero-sum perspective, where for some to win it seems that others have to lose. Thus, subject to some specific assumptions, as it is argued in this paper, we can view the existing and growing highly skewed concentration of wealth from a zero-sum perspective where gains for a very small segment are accompanied by losses or no gains of the overwhelming majority. While WM is more serious than any “game” as in zero-sum game, what is important here is to embrace the quest for non-zero-sum solutions, which can also be described as win-win solutions.

How do the rich remain rich and become richer and also the ultra-rich become even richer? Does the approach reflect a zero-sum or positive-sum perspective? Do approaches and strategies of the wealth managers reflect zero-sum or positive-sum solutions? Unfortunately, there are good reasons to make the case that they generally seek solutions that are either zero-sum or without any sensitivity toward the impact on the broader society. In another word, there seems to be a fundamental lack of interest in seeking win-win solutions in conventional wealth management. Let’s try to understand the current situation and trend in the context of the most important economic power of our time, USA.

According to a US study by the Centre on Budget and Policy Priorities, “between 1979 and 2007, average income after taxes in the top 1 percent of the distribution rose 277 percent, meaning that it nearly quadrupled. That compares with increases of about 40 percent in the middle 60 percent of the distribution and 18 percent in the bottom fifth.” The issue to better understand is where the gain of the top 1% or top 20% comes from. The study also shows that federal tax and transfers have little impact on the concentration of income, what else might be possible ways to reduce the concentration?

**Wealth is more concentrated than income**

As wealth accumulation is related to income, it is noteworthy that while there is concentration in income as well, the concentration in wealth is much more significant. Taking a snapshot in 2007, top 1% had 21% of income, but 35% of wealth, while bottom 90% had 53% of income, but 27% of wealth. Thus, it is another area of inquiry to identify the dynamics of how such concentration of income and wealth develops and why the concentration is much greater in wealth than in income. In a recent work, Nobel Laureate Joseph Stiglitz has exposed the reality, “The top 1 percent of Americans gained 93 percent of the additional income created in the country in 2010, as compared with 2009.”

In 1955, there were approximately 100,000 millionaires [in 2002 dollars] in USA, which grew to approximately 1,500,000, a 15-fold increase in less than four decades. The story then changed not to proliferation of millionaires, but billionaires. Understanding the millionaires as well as ultra-HNWIs is a key aspect of understanding the dynamics of concentration of wealth.
According to the Statistical Abstracts of the United States 2012, percentage of those below poverty line grew from 13 in 1980 to 14.3 in 2009, while those below 125 percent of the poverty level grew from 18.1 to 18.7 percent. The global portrait of the wealthy and the related concentration are not much different.

The Poverty Trend in contrast

As the rich have become richer and a larger number of individuals now belong to the millionaire and billionaire club, the trend in poverty in contrast is worth looking into. Notably, a larger number of people have risen above the poverty line. However, their rise and the very large number that failed to do so raise important issues about the concentration of wealth.

For 40+ million people in poverty in America alone, according to Credit Swiss’ Global Wealth Report 2012, the prosperity of the past three decades during which there has been the largest number of billionaires and millionaires added to the economy, their pool either has been largely untouched or may even have grown.

Inequality as an important cause of, or at least a key impediment to, alleviation of poverty is not adequately discussed. Contemporary research should focus on this aspect more closely. If it can be analytically and empirically established that a modern, conventional economic and financial system basically seeks or is comfortable with zero-sum solutions and the pattern of concentration of wealth is an indicator of the zero-sum approach, then it is relevant to take a fresh look at it holistically, much beyond just WM. However, since the scope of this essay is narrow, pertaining to WM, if the conventional WM can be viewed as seeking zero-sum solutions, what can be said about IWM?

Islamic wealth management as an appendage of conventional wealth management

First of all, not all the HNWI Muslim investors are interested in putting all their eggs in one basket, i.e., the Shariah-compliant basket.

Secondly, Islamic Finance Industry (IFI) in general is still primarily a prohibition-driven industry. IFI has successfully come up with legalistically-distinctive alternatives to its conventional counterpart. However, this success is also without any link either to the Islamic imperatives or the broader socio-economic objectives (maqasid).

Thirdly, there are some limitations on the technical aspects, including tools and products. For example, short-selling is generally not considered permissible. Derivatives are also generally off-limit. However, that does not mean that the industry has faithfully and diligently avoided these aspects.

Lastly, there is original sin. Those who were the original source for funding this industry were probably already in serious and fundamental violation of the Qur’anic verse 59/al-Hashr/7 that the wealth should not circulate among the wealthy few. Also, taking interest in Islamic finance by these original backers may not necessarily have been to somehow address the implication of the imperative of that Qur’anic teaching.

Especially taking into consideration the last aspect, it is important to assess how much different IWM to date is from its conventional counterpart. Is Islamic finance in general and
IWM in particular development-relevant or development-neutral? Do they have positive implication for the broader goals of the economy and society, such as poverty alleviation, reduced inequality and concentration of wealth, widely shared and higher standard of living, greater job creation or employment effect? Or, are they basically neutral regarding the status quo, or possibly making it even worse by facilitating the rich becoming super-rich and super-rich becoming ultra-rich and so on as part of seeking zero-sum solutions?

Notably, IFI and as its part IWM in most countries operate in a handicapped, dual-system environment where Islamic and conventional co-exist and compete. Shariah experts and regulators allowing conventional banks to offer Islamic windows have made the environment more constrained for genuine growth of Islamic finance, as the IFIs are under constant pressure to match both the performance and the services of their conventional counterparts. In some GCC countries, attracting deposits through prizes and raffles (lotteries) obscures the reality as to how much of the deposit is seeking Islamic financial outlets because of the commitment to Islamic imperatives and how much of it is simply diversifying their eggs into multiple baskets to get a chance for these “shariah-compliant” prizes.

Furthermore, the industry operates mostly without having an economy that also embraces the underlying Islamic principles. Under such constraints, is a positive-sum approach at all realistic?

Transforming WM, seeking positive-sum solutions

Whose motivation and aspiration should it be
to see that our wealth acquisition, accumulation and management should not just meet legalistic Islamic criteria, but that also the wealth owners should be concerned whether their success and achievement will meet approval and approbation from God? In this context we will focus on that particular verse in the Qur’an stating the principle that the wealth "may not (merely) make a circuit between the wealthy among you." In the Islamic way of life even the matters of law is based on taqwa (God-consciousness). Thus, to be a Muslim or a believer is to live an akhirah (afterlife)-bound life. As in 59:7, God specifically reminds us of his strictness in punishment in regard to those wealthy who either seek or are unconcerned about concentration of wealth, the wealthy should consider it an imperative to not only desist from pursuing further concentration of wealth, but also to be persistent and creative in ways to reverse the existing concentration, and even go beyond to see that prosperity and wealth are widely shared.

Is a positive-sum approach realistic?

Well, a positive-sum approach might not be realistic in a conventional system and with a conventional mind-set. The same would be true about IWM if it merely is an appendage to its conventional counterpart, except legalistically. How then can the idea of a positive-sum approach be advocated and facilitated? Realistically, unless wealthy people embrace the idea that a positive-sum is good not just for the society, but also for themselves, it is difficult to see them standing on one leg to rush to this approach. That’s where the religious perspective of Islam becomes relevant, especially if we are talking about “Islamic” wealth management.

Let’s take the case of an UHNW client interested in IWM and a manager/advisor, individual or institution, serving such a client. A positive-sum approach would not fly, if there is no demand from the client’s side. If the client appreciates the Islamic perspective on a positive-sum approach and solution and embraces the Qur’an’s anti-kanz (anti-concentration) guidance, then he himself would be asking what can he do, what options are there available, what creative and constructive ways can be found to seek profit and become wealthy, while the wealth and prosperity are widely shared. He would then be expecting the wealth managers and advisors to help him achieve his IWM goals with a positive-sum approach.

Parallel to the demand for a positive-sum approach to wealth management ideas, the managers/advisors also have to do their homework to present suitable ideas, products and avenues of investments that would help the clients become wealthy within the framework of the Qur’anic guidance. This would be similar to what Fong and Low has suggested as a guardianship role of the wealth management industry.

Of course, those who are already wealthy are endowed with blessings that they should use to achieve broader Islamic objectives. This means that for a positive-sum approach, the real story is not in finance, or for that matter in Islamic “finance”. Rather it is in the broader economy. Another word, if the economic system and its working are not conducive to broader participation, the desired outcomes cannot be expected to be achieved in the financial arena. However, wealth is not merely a financial or economic factor; it is also a socio-political factor as it also translates into power. Often HNW people have not just high net worth, but also high levels of power and leverage. So, what can a HNW or wealthy person emphasise and what are the things that can be done to facilitate the wealth creation and accumulation process to be positive-sum and more equitable?

While there has been recognition of the problem of concentration of wealth in the economic literature, that this is probably a fundamental cause of and impediment to poverty alleviation and equitable development has not received the deserving attention. Thus, someone seeking ready made, tested, effective solutions for reversing concentration might find the situation frustrating, and approaching any asset manager/advisor might elicit frowns, if not worse. Yet, if a HNW or UHNW client seriously embraces the principle that concentration of wealth among a few is undesirable and for Muslims is a serious sin, the client not only can push for suitable ideas, but also facilitate as well as patronise exploration of new ideas, ways and solutions.

Among the few things that Islamic wealth management needs to appreciate are the following:
The Swiss Fiduciary Group with an Asian flavour

Excellence in services is our core value.

We are a leading independent multi-jurisdictional service provider with a network of offices in key financial centres. Our international presence means we can use our consistent brand and suite of services to provide knowledgeable, world-class service in the most complex, cross-border transactions.

True to our roots, we are dedicated to providing professional and innovative service to our clients and to building long-term relationships.

In today’s challenging markets the quality of client relationships matters more than ever and our depth of knowledge and experience enables us to adapt quickly to this rapidly changing environment.

Our team in Labuan with many years of experience in this location looks forward to being of service to you with regard to setting up Labuan companies and other entities, providing accounting services and applying for licenses for leasing, insurance or other activities.

www.alpadis-group.com
ZI Labuan Trust Company Limited

Leading provider of international financial services, including the establishment of offshore companies, trusts and foundations.

ZI Labuan Trust Company Limited (ZILTCO) has been in operation in the Labuan International Business and Financial Centre (Labuan IBFC) since 1996.

As one of the pioneers in this jurisdiction, we are thoroughly familiar with how Labuan can work for you and your business.

OUR SERVICES

- Incorporation and registration of Labuan entities
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- Private wealth management
- Licence applications
- Tax planning services
- Accounting services
- Registration of ships on the Malaysian International Shipping Registry (MISR)

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Australia • Cambodia • Indonesia • Malaysia • Singapore • Thailand • Vietnam
a. Real economy
The ongoing global financial crisis has been significantly impacted by financialisation, where financial leverage tends to dominate the equity capital market and the financial markets tend to eclipse the real sector of the conventional industrial economy. The true measure of an economy’s production and consumption is reflected in the real sector. Instead of focusing on or emphasising funds or private equity managers that serve more as intermediaries, the people with wealth should find entrepreneurial channels that add to productive economic activities. This may include the role through venture capital but not merely as a vehicle for wealth accumulation, but to foster the real economy. In this context, a HNW client would be asking potential managers/advisors for recommendations that are more closely linked with the real economy.

b. Job creation
A corollary to avoiding wealth accumulation from the froth of financialisation, HNW and UHNW individuals can emphasise investments that are tied to job creation. Such individuals would be seeking opportunities and asking for advice where they can have the maximum impact on job creation – creation of good paying jobs that help people come out of poverty and then gradually make transition to the middle class. This requires a fundamental shift of paradigm about what the businesses in general and corporations are for. As Robert Lusch has argued about the purpose of business/corporation: “The fundamental purpose of the corporation is not wealth creation. It is job creation and collaborating with all stakeholders (including the customer) to co-create value.”

c. Spreading asset/capital ownership
The countries that have experienced significant development and accumulation of wealth have also done so parallel to the broader population rising above poverty and enjoying a higher standard of living. In the process not only the middle class has expanded as the largest class, but also the asset/capital ownership has spread widely. Islamic perspective on wealth cannot focus on merely wealth accumulation and management without finding ways to spread asset/capital ownership.

d. Emphasis on going public
Another aspect of spreading asset/wealth ownership is to turn private businesses into public securities. Private equities are great avenues for enhancing one’s wealth accumulation, but it is also conducive to more skewed concentration. Those who seek wealth without adding to wealth concentration should emphasise turning their privately held companies into public securities for participation of the broader investing public.

The bottom line is that if the HNW clients are interested in “Islamic” wealth management, they need to recognise that currently the market does not offer much opportunity for fulfilling the Qur’an’s anti-kanz expectations. However, once they themselves take it seriously, they have the economic and political leverage to create options that would better meet the Islamic expectations, while pursuing wealth accumulation and addressing wealth management.

Conclusion
This essay is neither intended to nor has the

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Often HNW people have not just high net worth, but also high levels of power and leverage.

Scope to provide answers to all the relevant questions. Its main purpose is to provoke and redirect our thinking and research toward some key issues affecting fundamental economic realities of life. Since our perspective is Islamic, this essay underscores the principle that to be “Islamic,” wealth management must not be contented with merely zero-sum solutions, perspective or attitude (i.e., “I win, you lose”). There is a corollary to this attitude that has similar impact and that is, “I win, what happens to you does not matter.” From Islamic perspective, this cannot underlie IWM. The value parameters and strategies of IWM must be distinguished from the conventional zero-sum approach, so that the growth and enhancement of wealth are broad-based, and instead of relegating all the responsibilities of ensuring fairness in economy and finance to the government and public authorities, anything Islamic must have built-in commitment and approach to transform the activities in the framework of positive-sum solutions. A positive-sum approach does not necessarily mean impoverishing the wealthy through taxes and transfers or their charity/philanthropy after becoming rich, super-rich or ultra-rich. Rather, more creative and committed approaches should be undertaken by individual and institutions to make the prosperity systematically broad-based. It is not just an Islamic imperative, but also that it is very much possible and thus there is no excuse in perpetuating wealth management that seeks zero-sum solutions or is unconcerned about positive-sum solutions. Barring this, call it Shariah-compliant, call it halal, but not “Islamic” wealth management, because being Islamic is not just about permissibility and legalities, but also about imperatives and broader goals (maqasid).
To live is to encounter “risk” since we cannot know the future.
A Risky World?

Risk is everywhere around us. To live is to encounter “risk” since we cannot know the future – even the next few minutes. Most people understand an uncertain future as “negative” and uncontrollable, yet others differ and so grasp that also there is “opportunity and promise” embedded in that risky future.

From a typical downside perspective, risk points to “the possibility of loss occurring” which involves the probability (or likelihood) and the impact (or severity). Depending upon that person’s risk tolerance (i.e. appetite to accept risk), there are four (4) courses of action:

1) avoid the occurrence of potential loss

2) control the impact should the risk happen

3) mitigate the risk by sharing using insurance coverage or

4) reach out to seize risk as an opportunity and hope for gain.

This article focuses on the 3rd such option.

Fortunately, one need not take on these risks alone – risk sharing among members of a group or community is an age-old practice by early tribes in North Africa, Arabia, Greece, Babylon and elsewhere. It can be asserted that there are no striking differences between Islamic and non-Islamic human perspectives on risk. The sheer size and scope of modern day insurance globally is a testament that people everywhere seek methods of mitigating and hedging risks that impact their daily life.

Universally, Muslims are urged to depend wholeheartedly (“tawakkul”) upon God (“Allah-swt”) in all aspects of human endeavour yet guidance from Holy Quran and hadith make clear that each person possesses an instinct of self-preservation and a duty as well to take appropriate precautions—i.e. actions to manage the uncertainty and risks associated with their future. Some references to this point are:

“...let them pray with you taking all precautions and bearing arms...but there is no sin on you if you put away your arms because of the inconvenience of rain or because you are ill, but take every precaution for yourselves.”
An-Nisa V. 4.102

“If you all depend on Allah with due reliance, He would certainly give you provision as He gives it to the birds who go forth hungry in the morning and return with full bellies at dusk.”
Hadith ~Al-Tirmidhi by Umar bin Khattab (rah)

“If you all depend on Allah with due reliance, He would certainly give you provision as He gives it to the birds who go forth hungry in the morning and return with full bellies at dusk.”
Quran Al Maidah V. 5:2-3

“...let them pray with you taking all precautions and bearing arms...but there is no sin on you if you put away your arms because of the inconvenience of rain or because you are ill, but take every precaution for yourselves.”
An-Nisa V. 4.102

“And put all your trust [in the God], if you truly are believers.”
Quran Al Maidah V.5:2-3

“...let them pray with you taking all precautions and bearing arms...but there is no sin on you if you put away your arms because of the inconvenience of rain or because you are ill, but take every precaution for yourselves.”
An-Nisa V. 4.102

Many types of risks can be shared (or transferred) using insurance, especially in those circumstances where the magnitude of the impact of the risk occurrence is outside the control of the individual or where the financial consequences to that person might become disastrous. Risk is the reason insurance exists. Without risk, there would be no need for insurance.

While it may be impossible to measure risk in exact terms, yet its impact on an individual(s) is usually quantified in monetary terms and traditionally is measured in terms of a sum of monetary loss.

Wealth accumulation leads on to wealth protection

As individuals grow through life stages and mature, commonly they accumulate wealth in various forms:

• Savings-bank CDs accounts
• Private investment plans (and Takaful)
• Business ownership
• Jewellery, art, rare coins, collectibles
• Real estate and properties
• Inheritance
• Other—winnings, inventions, books, patents, etc.
which are all subject to uncertainty and a risk of loss or damage. This gives rise to a perceived need for preservation of capital and risk protection in the form of insurance, or for Muslims - Takaful, the Islamic alternative to conventional insurance. Actions taken to accumulate this wealth, in an Islamic context, must seek to avoid all “haram” or prohibited activities and also use only Shariah-sanctioned legal structures and agreements which adhere to profit-loss and risk-reward principles. Hence, guaranteed returns on investment are shunned. Because one strives consciously to accumulate wealth that is “halal” in all aspects, then one should seek likewise to protect assets and wealth in a like “halal” manner. The approved mechanism for risk protection consistent with Islamic values and Shariah guidance is called “Takaful.”

Wealth preservation using Takaful aims to:

• Safeguard wealth against financial risks and threats

• Protect assets and physical property against unpredictable occurrences and potential loss, and

• Safeguard personal health and energy against hardships from illness, prolonged sickness, injury or disability, or death

For Muslims, the preferred tools for such risk protection is a two-sided Takaful relationship: i) the individual contributes to a pool of funds for collective risk sharing and mutual assistance to those members struck with misfortune, and ii) the same individual can benefit from charitable donations and assistance in the event s/he suffers a covered loss.

It is noteworthy that Takaful enables an individual to purify his/her wealth and assets (not unlike the Islamic values obtained in Zakat contributions) that are to be preserved by making the donation/contribution (tabbarru) to the collective Takaful risk pool. In one gesture, the individual promotes piety and self-sacrifice while also reinforcing collective sharing of burdens across the community, and thereby promotes solidarity and greater humaneness.

What are trends in Takaful Risk Protection today?

Takaful was first established in the 2nd year of Hijrah (7th century) in the fledgling Islamic community of Medinah, Saudi Arabia. This approved system of collective risk protection was a combination of pre-Islamic tribal practices and principles set forth in the first Charter of Medinah. Presumably, Takaful flourished for some 700+ years, then fell into disuse. Its revival in Sudan in 1979 means that Takaful mechanisms were dormant for some 665 years at least and its current practices are barely 32 years young. This is most certainly a young, aspiring industry.

From a sample of 163 Takaful players, one can observe that 70% have been in business less than 7 years, while only 9% (14) are older than 16 years and 8% (13) have longevity beyond 26 years. Therefore, it is no wonder that today’s Muslim communities worldwide are neglectful, or even ignorant, of the virtues and practices of Takaful as the re-discovery process is just beginning to unfold worldwide. Many articles and books elsewhere eloquently describe Takaful, its models, types of investments, governance, etc. so this will not be repeated herein. Rather, this article seeks to draw connections between Islamic wealth and risk management.
According to data from Alpen Capital/Sarasin, E&Y World Takaful Report 2012 and the author’s research, globally there are about 236 primary Takaful Operators and Retakafuls in 30 countries which conducted USD8.3 billion dollars in Takaful business (2010e). Some 68% of premiums were written in GCC region and 23% in the Asian region. The industry forecast is for annualised growth of 25% (vs. 5-6% for conventional insurance) through to 2015 to realise an estimated USD25 billion in gross written premiums globally. Life/Family Takaful represents 12% roughly of GCC region total premium business while nearly 50% in the Asian region. Life/Takaful density is expected to rise from USD51 dollars/per capita in the GCC region (2011) to USD114 dollars/per capita.

The Table above indicates that the regional savings rate in Middle East is high – almost 50% higher than the global average in 2009 – yet the apparent adoption of Takaful Family risk protection as a savings tool is well below the Asian standard and world average. This suggests an aversion to insurance mechanisms as respected savings instruments as well as a lack of public outreach and education by Islamic institutions on the relative virtues and benefits of Takaful.

Reports from Merrill Lynch/Cap Gemini, Booz & Co, Alpen/Sarasin regarding wealth financial assets classification and asset mix describe a clear preference by households and High Net Worth Individuals (HNWI), since the global financial crisis originating in 2008, to have 30% to 40% in bankable assets (i.e., liquid or tradable), 20% to upwards of 30% in real estate and properties, and the remainder in non-bankable assets such as jewellery, cars, art and collectibles. Bankable assets include equities, hedge funds, sukuk, money market funds and the like. These reportings do not specify if Takaful Savings plans and risk protection plans are included in bankable assets.

<table>
<thead>
<tr>
<th></th>
<th>World’s Average</th>
<th>Kuwait</th>
<th>Qatar</th>
<th>Saudi Arabia</th>
<th>UAE</th>
<th>Malaysia/SE Asia</th>
<th>USA/EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Av. Private / Household Consumption</td>
<td>60%</td>
<td>34%</td>
<td>17%</td>
<td>35%</td>
<td>48%</td>
<td>+44%</td>
<td>Range is 90% to 120%</td>
</tr>
<tr>
<td>Av. National Savings</td>
<td>22%</td>
<td>46%</td>
<td>49%</td>
<td>38%</td>
<td>31%</td>
<td></td>
<td>Range is 25% to 32%</td>
</tr>
<tr>
<td>Premium as % of Savings &amp; Risk Protection est.</td>
<td>-45%</td>
<td>20%</td>
<td>15%</td>
<td>22%</td>
<td>15%</td>
<td>+50% to 55%</td>
<td>+50%</td>
</tr>
<tr>
<td>Premium as % of Per Capita Income</td>
<td>4%</td>
<td>2.2%</td>
<td>1.8%</td>
<td>1.3%</td>
<td>2.4%</td>
<td>5.6%</td>
<td>+10%</td>
</tr>
</tbody>
</table>

1 See author’s article: Primary Roots of Takaful, published Premium magazine, May 2012.
2 Author’s research.
3 For example see: “Alignment of Takaful and Corporate Governance”, author Dr. O. Fisher (2011) or What’s Takaful- A Guide to Islamic Insurance, BISC Group Lebanon 2010.
4 Source is adapted from Alpen Capital Report GCC Insurance Sector, Aug 2011.
More specifically, the breakdown is as follows for 2012 est. vs. 2007:

<table>
<thead>
<tr>
<th>Investments</th>
<th>2012 est.</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Investments</td>
<td>8%</td>
<td>9%</td>
</tr>
<tr>
<td>(PE, hedge funds, structured products, currencies, commodities)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash/Deposits</td>
<td>10%</td>
<td>17%</td>
</tr>
<tr>
<td>Real Estate</td>
<td>15%</td>
<td>14%</td>
</tr>
<tr>
<td>Fixed income</td>
<td>29%</td>
<td>27%</td>
</tr>
<tr>
<td>Equities</td>
<td>38%</td>
<td>33%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

From the Table above, HNWI investors globally have shifted cash/deposits into Equities and Fixed Income bankable assets and securities over the past 5 years. To the extent that money/asset managers are insurance companies, then these investments should have pushed up growth in the insurance/Takaful industry. A question arises: could Takaful players have done better in capturing these investment flows because global Takaful premiums are less than 1/10 of 1% of global insurance premiums of USD4.3 trillion dollars—a meager share indeed?

Challenges to Growth

Industry pundits have said that the barriers to growth in the Takaful sector include: lack of Shariah uniformity, poor record of innovation, weak public awareness and limited educational outreach, limited corporate governance and weak technical underwriting and risk management, slow embrace of financial ratings, etc. Although there are many challenges confronting Takaful companies and Islamic financial planning institutions yet, in general, four (4) stand out for mention here.

Observation One: Demographics for emerging markets – especially for MENA and SE Asia regions – clearly show that the age breakdown of the populations are skewed towards population under the age of 31. The aging population of North America has only 10% under age 31, whereas Middle East has 21% and SE Asia (ex Japan) 41% as compared to the world’s average of 17%. Therefore, Takaful operators and Islamic banks must cater to the youthful savers and those under age 31 as they amass their wealth and seek adequate levels and types of risk protections. Here the rate of innovation in products, features and delivery channels will be key to growing Takaful market share.

Observation Two: Limited scope of Islamic-compliant investment instruments and securities that are underlying the savings/pension wealth-building plans must be addressed urgently. There is a double-whammy here: individuals cannot be offered a proper spread of risks in types of Islamic investment tied to Takaful, nor in extended range of tenors to arrive at a prudent investment/asset mix in their portfolios. In addition, the Takaful and ReTakaful players have only limited securities to invest in, which compounds their troubles in matching institutional assets/liabilities as well as balancing their solvency risks, both are critical elements from a regulator’s vantage point. To wit, until this industry-wide issue is redressed, Takaful-ReTakaful players are likely to face competitive disadvantages and lower financial ratings versus conventional insurers due to gaps in such offerings.

6 Note that roughly 45% of global premiums are Life products, or USD1.94 trillion.
7 CapGemini ML, IBID p. 23.
Observation Three: as demonstrated above the demographic engine of young populations across the globe foretells potentially spectacular growth for Islamic financial services and Takaful risk protection plans. However, inexorably it seems that a pervasive culture of consumer spending and conspicuous consumption grips the youth today. Thus, the industry challenge is to promote financial literacy and, more generally, a positive habit of savings. By encouraging the millions of young people under age 31 to build up reservoirs of savings and other financial wealth assets, then the pathway lies open for deployment into instruments managed by insurers, Takaful players and Islamic banks provided that such wealth-building options are Shariah-compliant and easily understood by the intended clients.

Observation Four: scarcity of talent remains a constraint on growth. Here the breadth of the challenge lies not only in skilled underwriters and risk managers knowledgeable about Takaful and Shariah issues, but also with training and deploying of sales people and customer service professionals (who must now be licensed or certified in many jurisdictions) in sufficient numbers to explore and cultivate the local untapped segments of clients.

Conclusion

Despite a lingering global financial and economic crisis, prudent savers and savvy investors are finding ways to accumulate wealth consistent with Islamic Shariah rules. As private wealth builds up, concerns turn to preservation of capital and protection of assets, financial securities and real property. The companion to Islamicly generated wealth is Takaful - a method of mutual and collective risk sharing. Takaful is just as effective as conventional risk protection, however, Takaful also emphasises ethical business dealings, mutual assistance, self-sustaining operations and community values.

Dr. Omar Fisher

Dr. Omar Fisher is the founder and manager of the first Islamic Leasing company (1992) in USA, the first Takaful company (1997) in USA, the first Family Takaful company (2000) in Saudi Arabia, and the first regional Takaful company (2007) launched with HQ in Bahrain. Currently, Dr. Fisher is a Mentor at the Dubai Silicon Oasis Founders Incubator in Dubai and Associate Professor at the HULT International Business School (Dubai) in Islamic Finance and Risk Management. Dr. Fisher has authored or edited three books on Takaful- one as an eBook on Takaful basics to be released in Q1 2013. His numerous articles on Islamic finance, takaful, project finance and social enterprise networking have appeared in Premium and Middle East Insurance magazines, Euromoney books and similar respected publications. He may be contacted through www.khidr.ae.

The proliferation in numbers of Takaful operators – now exceeding 230 globally – into more than 30 countries is a clear testament of rising native demand and a resurgence of Islamic faith. Nonetheless, if Takaful is to excel as a risk management tool, then Takaful players must drive product and distribution innovation, enhance transparency and corporate governance practices and broaden its appeal to youth and small savers (via micro-takaful) as well as devise long-term retirement, waqf and legacy plans for high net worth individuals.
FAMILY BUSINESS (AND WEALTH) FOR GENERATIONS: WHO NEEDS TO BE AT THE TABLE?

Around the globe the statistics are grim: fewer than 10 out of one hundred family businesses (or wealth) survive until the third generation. Also challenging is the universal proverb “shirtsleeves to shirtsleeves in three generations.” Proactive best practices can improve the odds. Working with at least two generations “at the table” is the key to success.

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“The two generations must work together and help each other to achieve meaningful success for each generation.”

Successful entrepreneur founders (and wealth creators) have usually built a business from their own hard work. When the time comes to have a new generation take over the control, the founder often has serious doubts. The next generation may also have serious doubts. If there is no proactive attention the results are inevitably very risky.

Case #1: A father who founded a large construction business was too busy working to build the business to spend much time with his family (although he would always say that he was doing it all for them). He assumed his oldest son would take it over when he passed away, but he did not include that son in any of the business operations or finances. He kept his plans to himself. When he died, a younger son and two sisters objected to all of the decisions the oldest son planned to make. They ended up suing him. They won in court. The business was ruined, and the oldest brother and his siblings never spoke to each other again.

Case #2: A father who founded a large transportation business was also very busy building the business, but he paid a lot of attention to his four children. When they were little, he took them all to the office, to help out in different simple ways. As they grew older, he shared more and more information with them. He worked with a lawyer to leave his ownership in a way that would be for the good of all of the children—and he and the lawyer reviewed the plan with all of the children before it was signed, giving them a chance to make changes. When the father passed away the adult children all understood and agreed with the plan. They worked in harmony and the business prospered.

What are the proactive steps that can make such a difference? In my article on “The Next Generation: Improving the Odds,” I focused on three key issues, which are still the critical issues. First, the founder often believes that the next generation is just not capable (or not interested). Second, the next generation may not be well prepared. Third, and most important, the next generation is usually not included in the planning for the future continuation of the business (or family wealth).

1. The Next Generation is not capable?

On the first issue, successful entrepreneurs and wealth creators know they are proven to be capable, by definition. The public even goes so far as to refer to them as ‘self-made’. They often had to struggle to succeed, and credit their own hard work and sound judgment as the factors that lifted them out of poor conditions.

They become used to shaping their future and controlling their business. Continuing success reinforces that they are wise to rely on their own judgment. Eventually, though, there will be a generational transition. The founder will not be there forever.

The entrepreneurs who are convinced that their children are not capable (who were seldom given much of an opportunity to prove otherwise) prefer not to do any planning, but if they do any planning they focus on ways that they can put in strong controls.

They like the idea of “ruling from the grave.” By using a trust, for example, they can think of the Trustee as their continuing alter ego. That could be a long-term trust, controlled by a trusted advisor. That could instead be a private trust company, in turn controlled by a trusted advisor. In some jurisdictions that may be a family foundation, again controlled by a trusted advisor.

If it is possible to give the ownership and/or control to third parties (the alter ego), the belief that the children are not capable (or not interested) becomes a self-fulfilling prophesy. They will need to ask for money whenever they need it. They will have no opportunity to manage, invest or risk large sums. They will become dependent (and often resentful) adults. In the family business, or in managing the family wealth, they will have no role.

The odds are high that someday a disgruntled child (often spurred on by a spouse) will resort to litigation. The trust or foundation can always be attacked, on numerous grounds. The result is usually a disaster, for the business and for the family.

2. The Next Generation is not ready?

The second issue is that the next
FAMILY BUSINESS (AND WEALTH) FOR GENERATIONS: WHO NEEDS TO BE AT THE TABLE?

generation is not prepared. They may be capable in theory, but at the time they just do not know enough; in fact they are not (ever) seen as “ready”. Thus the focus is on educating the next generation. The proliferation of next generation programmes gives the impression that a ‘quick fix’ might be possible. Global financial firms offer weekend ‘boot camps’ for the next generation to become prepared to handle large businesses and/or large family wealth. But two days or two weeks are simply not enough.

The preparation of a child to participate in the management of a family business, or to be a wise owner of other family wealth, is an ongoing, life-long process. In the Cargill company, one of the largest privately-owned firms in the world, the fifth and sixth generation have long-term, internal company educational programmes, including site visits, for the purpose of training them to be wise owners, even though they are not involved in management.

The founders look at the next generation and do not see the hard work ethic that they had when they created and grew the business. The next generation, who have been raised in an environment of wealth, do not have the same motivation as the founders had.

This is a global issue. Somehow, the allure of being involved with the family business needs to inspire the children, if there is to be next generation involvement. The author of Le Petit Prince gives great advice for these families:

‘If you want to build a ship, don’t herd people together to collect wood and don’t assign them tasks and work, but rather teach them to long for the endless immensity of the sea.’

Barbara R. Hauser, M.A., J.D., TEP

Ms. Hauser has been advising wealthy global families for more than 25 years. She has worked as a private client lawyer in leading law firms (including a stage in a Paris notaire firm and a stage in a Tokyo law firm), as a law professor (comparative legal systems, tax, and international estate planning), as an executive at financial institutions and currently as a global independent family advisor. She has worked with a number of influential families in Europe, the United States, Asia and the Gulf Region.

Ms. Hauser has counseled families on all aspects of generational wealth planning: trusts, foundations, family holding companies, family offices, family constitutions and family councils. She enjoys her role as a completely independent advisor, working directly with the entire family. They appreciate her ability to coordinate their professional advisors and to ensure that the family’s specific wishes are reflected in the relevant documents. They especially value her skills at bringing together two generations facing a transition in ownership and leadership.
In the family business setting, this means bringing them to the operations all during their childhood, showing them the products, introducing them to customers and suppliers. They need to see the excitement and the challenge of building or expanding a business, to develop a longing for that engagement of their energies. They will also see the pride.

Many families have developed rotating board positions for younger family members. This applies to operating businesses, family charitable foundations and family office boards. A related focus is on passing on the founder’s values (or legacy) to the next generation.

3. The Next Generation has not been included “at the table” in planning for the future?

The common failure to include the next generation in the planning is, in my view, the most critical element of all. It is rare to see the next generation given a place “at the table” for the planning. The next generation is not usually included at all in the transition planning. If this can be changed, the odds of continued success for the family business (and the family wealth) should increase dramatically.

A family constitution project can provide an excellent opportunity for full participation by both generations. This is actually a way for the family to create a governance system that they will follow for future generations. Those who are going to become subject to it (the next generation) should participate in forming (and changing) it.

When the next generation is actively involved in the creation of the future family rules, that
will govern the business and the family, they will also have an opportunity to create a system in which they would be satisfied to play any particular role (like those who plan while behind the Veil of Ignorance used by John Rawls, in his Theory of Justice).

The next generation, and each subsequent one, can have the opportunity to shape its collective vision for the future. In working together on the family constitution, a process that could take several years, depending on the number of family members, the next generation can develop a framework for problem-solving. This ability to face challenges will offer the flexibility needed to face changing circumstances. Even the best business founder cannot predict the future needs of the business and/or of the family.

Flexibility achieved through a participatory process will strengthen the future of the family business (and family wealth). An IMD study suggests that the actual policies a family includes in its constitution are not nearly as important as how the rules are developed to fit the family and their business.

This substantial two-generation project will show the self-awareness of the family, how the family views the rules and adapts them, the procedure for adopting the constitution and any other policies, and the very important creative capacity of the family to reconcile conflicting needs and interests of family members and the business. Participation by the next generation is not at the exclusion of the older generation. Each generation must have a genuine respect for, and interest in, the views of the other generation.

To be successful, the two generations must work together and help each other to achieve meaningful success for each generation. They must both be committed to the success of the larger goal: the continuation of the family business (or family wealth).

When each next generation participates in the governance system they have the ability to adapt it, and when each next generation has developed a longing for continued success, each generation can create its own dream, and its own vision. Again this will be most successful if the two generations respect each other during this process.

Two areas where this is taking place now are the Gulf Region and Asia, where the next generation has been encouraged to go outside for education in the United Kingdom and the United States. As one elder statesman says:

‘When youngsters come back... they are enthusiastic, and in their eagerness believe that they have fantastic new ideas. However, it’s important that the older generation sits down with them to share the objectives and visions of the family.”

Encouraging both generations to participate in a transition process that includes hallmarks of patience, collaboration, respect and flexibility, can dramatically improve the odds of success for family businesses and family wealth, to continue for many generations.

ISLAMIC ESTATE PLANNING

Is it possible for a Muslim to make a will or must he or she rely completely on the mechanics of Faraid (the Islamic law of inheritance) upon his or her death? How do you, for example, ensure that your adopted child is cared for long after you are gone? What is the position of a jointly acquired property during the subsistence of a valid marriage when one of the spouses dies? Who has overall control over a Muslim’s estate? Can a convert provide for his or her non-Muslim family? What, if any, are the legal and Syariah requirements for managing a deceased's estate?

As a Muslim, the above questions are but some of the many possible scenarios or issues that may trouble us at some point in time, especially if he has property (or even debts, for that matter) and realistically anticipates that death is inevitable. Being prepared means more than just attending to the spiritual departure and the consequences that follow immediately thereafter. Equally important, if not more so, is the provision for loved ones left behind in this temporal world, for one should ever be mindful of the advice of the Prophet, as narrated by Sa’d bin Abu Waqqas, that leaving everything to charity is not necessarily commendable in Islam.

“It is better for you,” said the Prophet, “to leave your inheritors wealthy than to leave them poor begging others, and whatever you spend for Allah’s sake will be considered a charitable deed even the handful of food you put in your wife’s mouth.”

This is the essence of Islamic Estate Planning (IEP), which is to provide such
assistance to those in need, to help give advice generally, to plan for several possible contingencies in relation to your assets vis-à-vis the available beneficiaries and to see above everything else, to the execution of what has been instructed by the testator (upon his or her departure) pertaining to the same, though within the ambit and scope of such instructions and naturally, within the constraints of the Shariah as practised and recognised in Malaysia.

IEP is seen as a noble service, helping Muslims become aware of their responsibilities to their families and helping to preserve harmony by avoiding dispute.

As a matter of fact, IEP is no different to most of the services provided by other financial planning groups such as banks and insurance companies, with perhaps the exception that it focuses exclusively on estate planning (as its name suggests) and is for Muslims only.

Thus, IEP will help you prepare, for example, the necessary documentation which will clarify the position of your existing assets and what is to be done with them upon your death or to see how your children (adopted or otherwise) is to be cared for, or even ensuring that your non-Muslim family (if you are a

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for you,’ said the Prophet, ‘to leave your inheritors wealthy than to leave them poor begging others.’”

Jasmin Jamaluddin

Jasmin Jamaluddin is currently the General Manager of as-Salihin Trustee Berhad, a trust company incorporated under the Trust Companies 1965 and registered under the Trust Companies 1949. as-Salihin provides Islamic Estate Planning services such as Wasiat writing services, Estate Administration, Trusteeship and Harta Sepencarian Declaration.

Jasmin read law at the University of Buckingham in England and thereafter was called to the English Bar at the Honourable Society of Lincoln’s Inn in 1994. She was called to the Malaysian Bar in 1995 and began her career as a practising lawyer in the legal firm of Salleh Abas, Yaacob & Sofiah where her area of specialty was Probate and Administration.

In 1999 she joined the legal firm of Ariff & Co. and in addition to continuation of matters related to Probate and Administration, she was also involved in the drafting of numerous conveyancing, corporate loan documentations (including those under Islamic concept), setting up of foundation and shipping agreements.

During her practise, she was involved with administration of deceaseds’ estates with properties both in Malaysia and abroad.
convert) is taken care of and not just your Islamic brethren.

The possible scenarios involving IEP are perhaps endless and will vary from person to person. Different individuals with distinct needs require differing approaches. Be that as it may, we can safely say without proper planning, one risks the pitfalls of uncertainty and the acrimony of inheritance-related sibling disputes. At the very least, IEP may help foster better relationships between surviving family members.

A Muslim may well leave everything to the mechanics of Faraid but it must be remembered that Faraid, despite its divinely operative status, will only address a class of beneficiaries in accordance with the Faraid rules which only takes effect upon death and not otherwise. The existence of Faraid does not mean that a person entitled under it can obtain his entitlement under a deceased estate immediately upon the occurrence of the death of the deceased person. Many steps must be taken before a beneficiary of an estate can enjoy the fruits of his inheritance.

By planning (writing a wasiat), a person can choose a trusted person or entity as an Executor for the purpose of administering his estate.
leaves for the hereafter.

If a person wishes to go beyond the realms of division in accordance with the Faraid rules, Shariah-compliant customised planning needs to be done.

Whichever IEP company a Muslim goes to, it is hoped that through expert advice and service, the natural burden associated with having to plan and provide for loved ones can be professionally shared with a licensed entity specifically established for such a purpose.

No Muslim, irrespective of wealth or status, should underestimate the need to discuss IEP-related issues, for no one can ever be too prepared, especially where death is concerned. The fate of surviving loved ones, to a large extent, is dependent on the calculated and informed decisions made during a person’s lifetime. Regret is not an option.

If one needs a stronger reason, other than practical ones for IEP, the following reminder from the Prophet (peace and blessings be upon him) as recorded by At-Tirmithi might be compelling enough:

“A human being’s feet will not depart from before his Lord on the day of Resurrection until he is questioned about five things:

1. His lifetime – how did he consume it?

2. His youth and body – how did he utilise them?

3. His wealth – how did he earn it?

4. His wealth – how did he spend it?

5. And what did he do in regard to what he knew?

Thus, make haste to fulfil what Allah and His Prophet (peace and blessings be upon him) have prescribed in the best possible manner, for its compliance is indeed an act of worship.
Islamic investment wealth management funds allow Islamic investors to invest in funds structured through Shariah-compliant contracts. The funds invest in shares or units of Shariah-compliant assets.

Increasingly, Islamic funds have been authorised by a variety of international regulators and listed on international exchanges. This has provided Islamic wealth management with a growing global audience with mainstream financial institutions providing Islamic investment funds.
Characteristics of an Islamic Fund

In many respects, the structural characteristics of a Shariah-compliant fund will not differ from those of a conventional investment fund. For example, the choice of legal structure for the investment vehicle and the choice of jurisdiction will still be driven by considerations such as: (i) a flexible, cost-efficient regulatory framework, particularly with regard to the need to obtain approvals from supervisory authorities and possibly seek a stock exchange listing; and (ii) a favourable tax regime.

A primary feature of an Islamic fund is an independent Shariah board of three to five Shariah scholars. This board will establish compliance parameters for the fund, usually prior to the establishment of the fund and before any assets are acquired. The Shariah board will also be responsible for publishing an annual statement which sets out how the fund has complied with Shariah. The statutory documents of the fund need to clearly set out the roles and responsibilities of both the Shariah board and the fund manager to avoid any potential conflicts of interest, which is an area of particular concern to international regulators.

Islamic Stock Screening

In order for an investment fund to be Shariah compliant, the stock of the company in question must be screened to ensure that the potential investment is suitable under Islam. Under Shariah law, the ownership of shares in a company is considered a proportionate share of that company’s business and assets with the result that Islamic investors cannot own a company that is involved in any haram activity. Investors will seek guidance from the fund’s Shariah board on the permissibility of an investment or business venture.

In order to increase access to the financial markets for Islamic investors, a group of leading Shariah scholars developed a series of screening criteria which aimed to identify the non-Shariah-compliant elements of a company and impose means of avoiding or dealing with them in a manner consistent with Shariah principles. Through this screening process, Shariah-compliant investors can therefore invest in companies which fulfil these screening criteria.

The screening criteria are applied at the time of the investment decision and during the subsequent ongoing monitoring process by the Shariah board to ensure that the company remains Shariah-compliant during the investment period.

There has been significant debate as to the interpretation and application of the screening criteria which will often vary on a case-by-case basis. However, there are two basic screening processes which are applied to companies with the potential to form part of an Islamic investment portfolio.

The first "Industry Screen" examines the underlying business of the company and is intended to eliminate any haram businesses which are contrary to the principles of Shariah. Such businesses include conventional banking, insurance, alcohol, pork related products, non-compliant food production, gambling, certain tobacco production, pornography and weapons manufacturing. It is not sufficient for the holding company alone to be compliant with the industry screen, all of the subsidiaries also need to comply.

Once this initial screen is passed, the "Financial Screen" is used to determine the extent of a company's non-Shariah compliant financial behaviour. This presents a significant challenge as there are very few companies operating in the current global market that are completely Shariah compliant. As a result, the majority of Islamic scholars agree to use certain financial ratios in order to determine whether a company is financially Shariah compliant. While these ratios vary based on a specific Shariah board’s discretion, a commonly used standard developed by the Securities Commission of Malaysia and the Accounting and Auditing Organisation of Islamic Financial Institutions ("AAOIFI") is as follows:

- Total interest and income from non-Shariah compliant activities must be less than 5% of the total revenue of the company.
- Both conventional debt and cash and interest bearing deposits must be less than 30% of the total market capitalisation.
By utilising the total market capitalisation figure the entire value of the company (including intangible assets) can be considered enabling more companies to be Shariah compliant. Any of the company’s income derived from non-Shariah compliant activity can be purified by donating the income to charity.

Management of Risk

Shariah requires parties to be fair, just and ethical in their dealings with one another and for the balance of risk (and its accompanying rewards) to be fairly apportioned. The aim is to prevent a party with a stronger bargaining position from exploiting another party who is less able to negotiate fair and equal terms for a transaction.

There is increasing focus on ensuring that the level of risk is commensurate with the risk the client is willing and able to accept. Whilst Islamic principles require the acceptance of risk to justify the earning of a reward, the concept of maisir (speculation) forbids speculation (risk taking) that is akin to gambling.

As a result, one of the primary difficulties for Islamic fund managers is providing an investment fund that minimises the potential risk to the investor. Unlike mainstream funds that can hedge their risk by diversifying the portfolio of investments, Islamic funds are severely restricted to investments that pass the screening criteria. Traditional derivatives instruments, such as futures, are generally not permitted. There has been a recent trend for permitted options that can hedge the risk of equity, commodity and currencies. However, the primary method of managing risk is in the form of capital protected equity structures. These require the investor to use a small portion of the overall portfolio as a down payment (Arbun) for a basket of shares which
will be delivered at a forward date. The disadvantage of this structure is that it reduces the short-term liquidity of the investment and requires the investor to relinquish redemption frequency.

**Recent Developments**

Islamic funds will face increasing challenges, particularly when diversifying to non-Islamic jurisdictions. Recent regulatory developments in Europe (such as the incoming Alternative Investment Fund Managers directive) will impose further restrictions on fund managers.

Many of the tenets of Islam already lend themselves to compliance with the latest European regulations. The risk-reward profile of Shariah-compliant investment funds is mirrored in the increased focus of European regulators on suitability of products provided by wealth managers to their clients. There is a clear obligation on the wealth manager who makes a personal recommendation or exercises its discretion to trade to ensure that the recommendation or trade is suitable for a client. This obligation flows from the mainstream principles to act in the best interest of clients and to treat them fairly.

Islamic fund managers are substantially more restricted in their ability to exercise discretion on behalf of their investors and have to satisfy the additional investor requirement of linking investments to moral objectives. While there has been limited research done on whether Shariah principles actually hinder the performance of Islamic funds recent academic studies have concluded that Islamic funds perform similarly (if not better) than their mainstream counterparts with extensive screening actually serving to prevent losses.

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Monica Sah rejoined Clifford Chance in 2011 as a Partner in the International Financial Markets Group, specialising in financial markets law and regulation. Previously, she was a Managing Director at Morgan Stanley and Head of Legal for International Wealth Management (Asia, EMEA and Australia). Monica has extensive experience on advising on the full range of legal and regulatory issues for wealth managers including: corporate reorganisations and M&A transactions relating to international wealth management institutions; legal and regulatory issues on maintaining a multi product and jurisdictional wealth management platform for ultra high net worth clients, product development, platform expansions, transaction structuring, jurisdictional expansion, enforcement of collateral arrangements on insolvency and client assets segregation issues; the impact of regulatory reform measures on existing operations and policy and procedures, including the impact of Retail Distribution Review and FSA Suitability Review; governance and supervisory arrangements at board, senior management and Infrastructure levels; and recovery and resolution planning and implications of ring fencing retail operations.
MALAYSIA'S ISLAMIC WEALTH MANAGEMENT: STILL ON THE FAST TRACK TO GROWTH?

As the number of high net worth individuals (HNWIs) in Malaysia grows, so too will the need for wealth management services.
What is Islamic Wealth Management (IWM)? IWM is the process of creating and building wealth, and preserving or protecting the same, in accordance with Shariah principles. The distribution of the accumulated wealth is also part of IWM.

The process involves the creation of wealth through (inter alia) a business, profession or trade and/or savings with financial institutions, the investment of the wealth created to generate returns, the protection of wealth through risk management, takaful and trusts, and the distribution of wealth through gifts (hibah), wills and trusts. The range of activities comprises financial analysis, Shariah-compliant asset and securities selection, investment planning and ongoing monitoring of investments, as well as estate planning, tax planning and retirement planning.

As the number of high net worth individuals (HNWIs) in Malaysia grows, so too will the need for wealth management services. Increasingly, both Muslim and non-Muslim investors are interested to invest surplus funds in a Shariah-compliant manner, thus strengthening demand for IWM.

This is recognised in the FINANCIAL SECTOR BLUEPRINT 2011–2020 (Blueprint) issued by Bank Negara Malaysia (BNM):

"To cater to the rising affluence, the enabling environment for wealth management will be enhanced to support the provision of more comprehensive and sophisticated wealth management financial product offerings."!

Financial advisory services will become increasingly crucial in the planning and arrangement of the financial affairs of the affluent. However, the path ahead is not without challenges.

"Islamic capital market has tremendous potential for further growth, driven among others by product innovation and development.

LIMITED ASSETS & LACK OF DIVERSITY

- The main challenge for IWM is Shariah-compliant asset and securities selection.
- When there are limited assets and lack of diversity, finding investment opportunities becomes a challenge.
- Steps have been taken to address this issue by various authorities and bodies.
- For example, Bursa Malaysia Securities Berhad (Bursa Malaysia) publishes a list of Shariah-compliant listed securities, which is updated twice a year. As at 25 May 2012, 825 securities are classified as Shariah-compliant. They represent 89% of securities listed on Bursa Malaysia.ii
- Bursa Malaysia has also launched two indices to track the performance of Shariah-compliant securities – the FTSE Bursa Malaysia EMAS Shariah Index (FBM EMAS Shariah) and FTSE Bursa Malaysia Hijrah Shariah Index (FBM Hijrah Shariah). They are designed for the
creation of structured products, index tracking funds and exchange traded funds (ETFs) or as a performance benchmark.

- Sukuk are a popular investment, but are not for the short-term investor. Of the Sukuk issues approved by the Securities Commission (SC) in 2010, there was no short-term notes/commercial papers (CPs) and only eight (8) CPs/medium term notes (MTNs) programmes with an issue size of RM12.135 million. The other issues approved were MTNs and bonds with an aggregate issue size of RM26.193 million.

- For investors to have more choices in their investments, there is a need to have diverse issuers, and issuances with differing terms, e.g. different tenors, different yields and different structures using different underlying Shariah principles.

- The recent introduction of the framework for retail Sukuk will enhance IWM by allowing retail investors such as HNWIs to have access to a wider range of investment products. At the same time, issuers will have access to a larger pool of investors, which is a win-win situation.

DEVELOPING CONCEPTS INTO VIABLE PRODUCTS

- As HNWIs become more sophisticated, they will seek and demand a more comprehensive range of financial services and product offerings to better manage their wealth.

MALAYSIA'S ISLAMIC WEALTH MANAGEMENT: STILL ON THE FAST TRACK TO GROWTH?

“Product innovation is critical for the development of IWM.”

- Wealth management essentially requires a range of high quality investment products from multiple asset classes ranging from equity, fixed income assets, real estate, Sukuk, etc. for better risk management, but it is not easy to achieve a truly diversified portfolio.

- There is a need to develop Islamic products and not just adapt conventional products. Product innovation is critical for the development of IWM. However, this will require research and development, and thus time and effort.

- The establishment of the International Shariah Research Academy for Islamic Finance (ISRA) will promote the necessary innovation.

LIMITED PRODUCT DEVELOPMENT IN ISLAMIC ESTATE PLANNING

- Islamic estate planning involves two major instruments, the first being an irrevocable gift during a lifetime. This can be personal or in the form of Waqf. Waqf means the permanent dedication by a Muslim of any property for any purpose recognised by Shariah as religious, pious or charitable.
The second is by way of a will, allowing for a maximum of one-third (1/3) of the estate to be passed on to any designated charitable purpose or any designated person.

By way of comparison, in addition to the irrevocable gift and the will (which for non-Muslims has no limit on the distributable assets), a non-Muslim can establish a variety of trusts, such as living trusts, family trusts, education trusts, etc.

There is a need to develop similar Shariah-compliant structures, to allow a Muslim to provide for his family in the desired manner.

**DEVELOPMENT OF HUMAN CAPITAL**

"It is estimated that the financial sector would need an additional workforce of 56,000 by 2020 (2010: 144,000) to fulfil the talent demands in critical areas such as risk management, wealth management, Islamic finance and investment advisory services. While existing programmes and institutions such as the Asian Institute of Finance, the Institute of Bankers Malaysia, Financial Sector Talent Enrichment Programme and ICLIF Leadership and Governance Centre would continue to provide high-quality training to meet the growing needs of the financial industry, a Financial Sector Talent Council will be established to provide strategic direction for the holistic talent development in the financial sector."

The development of IWM requires that the investors be informed about the available products, and how these products work, so that the investors can decide whether the products meet their needs and which product is more appropriate.

This requires educated financial advisers and planners who are able not only to analyse the needs of the investors, but are also able to determine the products which would address these needs, and to explain the workings of these products to the investors.

The International Centre For Education In Islamic Finance (INCEIF) is part of the Government’s initiative to further strengthen the country’s position as an international Islamic finance centre. It provides three (3) academic programmes: Chartered Islamic Finance Professional (CIFP), Masters in Islamic Finance, and PhD in Islamic Finance. The flagship programme is the CIFP which is a professional qualification aimed for practitioners in the Islamic financial services industry. The objective of all three (3) programmes is to produce high calibre professionals for the global Islamic financial services industry.

**INTERPRETATIONS & MISCONCEPTION**

In terms of product offerings, different interpretations on certain Shariah related matters still pose challenges, because products that are based on a particular school of thought may not be fully accepted by other scholars.

In Malaysia, the centralised decision-making at the Shariah AdvisoryCouncils of BNM and SC provides
consistency and certainty in Shariah rulings and interpretation that enable industry players to operate on a common Shariah platform. The binding effect of rulings by the Shariah Advisory Councils of BNM and SC addresses the issue of uncertainty in respect of dispute resolution on contracts and transactions based on Shariah.

- However, for clients from other markets, regions and jurisdictions in which different Shariah interpretations may be applicable, such differences may require that certain features of product offerings be modified.

- Another challenge in IWM is the misconception that it is exclusively for Muslims. This is being addressed through education and awareness programmes.

- The truth is that since the features of the products grant social justice to mankind, IWM actually suits the needs of both Muslims as well as non-Muslims. IWM is not dissimilar to socially responsible investment, i.e. any investment strategy which seeks to consider both financial return and social good.

**CONCLUSION**

The Blueprint envisions that the financial landscape in 2020 will be characterised by, inter alia, the enhanced role of the Labuan International Business and Financial Centre (LIBFC) as a premier integrated business and financial centre, with financial institutions focused on wealth management, captive insurance, reinsurance and leasing business.

In order to support the growth of the IWM industry, BNM will support the establishment of relevant vehicles for asset and wealth management such as asset managers, trust companies, family offices and foundations in Malaysia, including in the LIBFC.

To quote Zainal Izlan Zainal Abidin, Executive Director, Islamic Capital Market, SC at KLIFF 2011:

"Islamic capital market has tremendous potential for further growth, driven among others by product innovation and development, as well as expansion of markets and investor base on one hand, and further strengthening of the supporting infrastructure, thus generating greater level of confidence, on the other. The effectiveness of these growth drivers, nevertheless, is premised on the industry achieving further internationalisation that is well-entrenched and sustainable.

Further internationalisation of Islamic capital market, in turn, requires concerted and conscientious efforts and collaboration among the interested parties across the various jurisdictions to create an enabling environment within which cross-border transactions can truly flourish. It is therefore incumbent upon all of us, as stakeholders in the Islamic finance industry in general, and Islamic capital market in particular, to make our respective contributions towards realisation of this common objective."
Hoh Kiat Ching’s portfolio includes corporate and retail banking documentation as well as advisory work, corporate debt restructuring, project financing, capital market financing, ship financing, purchase of aircraft, and general conveyancing matters.

In the area of Islamic Finance, Kiat Ching has been involved in project financing under Shariah principles for major infrastructure and concession projects, including project financing for the construction of power plants and the expansion of palm-oil refineries.

Kiat Ching has also advised on and been involved in the incorporation, take-over, merger and restructuring of companies, the formation of joint ventures and privatisation exercises (including the privatisation of a Malaysian utility company). Recent cross-border transactions include the simultaneous voluntary take-over of two Malaysian public-listed companies by a foreign corporation, the acquisition of a substantial stake in a Singaporean public-listed company by a Malaysian public-listed entity, and the acquisition of a substantial stake in a major Malaysian bank by a foreign financial institution.

Kiat Ching together with Jal Othman (Head, Islamic Finance Practice) contributed a chapter on the regulatory framework for Sukuk issuances to the Malaysian Sukuk Market Handbook published by RAM Rating Services Berhad as a guidebook to the Malaysian Islamic capital market.

Jal Othman heads the Islamic Finance practice in Shook Lin & Bok, one of the oldest and largest law firms in Malaysia. Jal was instrumental in setting up the Islamic Finance practice and continues to chart the course of this practice area within the Firm. His task includes setting the policy direction for the incremental development of this area of practice within the Firm and developing a structured research and development unit to promote an effective continuing legal education scheme within the Firm. Jal heads a team of approximately 20 lawyers advising on Islamic finance deals.

Leveraging on 16 years of experience as a banking and finance lawyer, Jal guides and leads his team in the retail, mezzanine and tier one financing deals, both for onshore and cross border clients. His portfolio of work includes advising on a wide range of sukuk issuances for financing power plants in Malaysia and China, vessel construction, project financing for the automotive industry, the textile and garment industry, the downstream and upstream palm oil industry, advising on Islamic structured products and Islamic syndicated financing.
THE FAMILY OFFICE

The Chinese have a dire saying: ‘fu bu guo san dai’, meaning ‘wealth never lasts more than three generations’. Preserving wealth and succession planning are regarded as significant motivations for setting up family offices. Only a family office can provide a genuine holistic solution that is tailor-made to a family’s business, wealth, personal and corporate needs.

As private wealth continues to spread and grow throughout Asia, there is a growing trend among Ultra High Net Worth Individuals (UHNWIs, as they are called) to create a family office consisting of dedicated full-time staff (often professionals) to handle and manage their wealth and private affairs. As will be discussed further below, the range of activities of a family office can be as wide as concierge services to orchestrating the most complex of financial transactions and running the family business.

It can be said that a family office is like a private bank serving only one client, i.e. the family. Just as private banks tailor a portfolio for a client, a family office can be built around the individual and very specific needs of the UHNWI and his family. It could, for example, carry out any or all of the following: administer the entities which house the businesses and private holdings of the family; provide tax and succession planning; legal advice; management of investment portfolios and real estate holdings; act as a trustee; supervise the businesses of the family; or pursue philanthropic objectives. In short,
The Portcullis TrustNet Group is Asia’s biggest independent group of trust companies, serving high net worth individuals, family offices, philanthropies, banks, investment managers and advisers. The group was founded in 1984 in Singapore. Since then, it has expanded through Asia and other major offshore jurisdictions, in particular with the acquisition of the TrustNet Group of companies in 2004.

With offices in Singapore, Hong Kong, Beijing, Tianjin, Taipei, Kuala Lumpur, Labuan, Samoa, Cook Islands, British Virgin Islands, Mauritius, Seychelles, Cayman Islands and New Zealand, the Portcullis TrustNet Group provides a one-stop service through its team of lawyers, accountants and tax specialists; trust, foundation and company administrators and fiduciaries.

Our experience, local knowledge and network of connections give us an advantage in providing Multi Family Office services to high net worth individuals, families, philanthropies, private banks, investment managers and advisers.

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There is also a virtual family office (VFO), in which a private bank or other institution, such as a trust company, provides the services of a family office but through its institution so that the family office exists “virtually” within a larger organisation. The family can rely on a team of experienced professionals managing the functions of a family office, providing the necessary infrastructure and expertise on a whole range of legal, financial, tax and fiduciary issues while taking into account the private issues of the family.

In Asia the concept of the family office has not reached a high level of awareness among the HNWIs which probably explains why the use of family offices is not yet as prevalent as in the developed markets such as the U.S. and Europe where the use of family offices is well established for generations; for example the Rockefellers and the Carnegies who hired full-time professionals to manage their enormous wealth.

However, the concept of the family office in Asia is not new. The Mitsui family of Japan, for instance, had in place a family office structure that helped preserved the family fortune for almost 3 centuries. Governance, in the form of a family constitution which clearly articulated the vision and guiding principles of the Mitsui family, was established in 1722 and the entire business of the Mitsui family was under the control of a single family council. Guided by the founder’s advice to “employ men of great abilities” the family businesses flourished generation after generation. Three hundred years later, Sokubei Mitsui’s descendents were as rich as the Rockefellers.

In Asia, a hybrid model is possible. In this hybrid model, some of the
functions of the family office stay within the family (or trusted long-time associates) while other functions are outsourced such as investment and trust services, accounting, concierge or other backroom functions. A family office acts as an integrator of these services for the satisfaction of the family’s needs. This model is ideal in a situation where an older patriarch of the family realises he can no longer perform all of his wealth management “in-house” yet is unwilling to allow outside professionals to have access to proprietary information. The patriarch will often deal separately with bankers, asset managers, lawyers and licensed trust companies with whom he has long established relationships.

The family office may be structured in several ways. A common and simple structure is a limited liability company or similar entity which may act as the trustee of an umbrella master trust with sub-trusts, with each sub-trust representing groups within a family. The family office can thus become an asset holding company that owns the businesses of the family and other investments through various legal structures. Other corporate vehicles include the Protected Cell Company (“PCC”), which will enable the building of individual asset allocations across a variety of asset classes tailored to specific groups within the family while at the same time preserving the independence of each cell.

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“As the world grows more complicated and the needs of families, and their wealth, grow and also become more complex, there will be an increasing need to “professionalise” these informal arrangements, including employing “men of great abilities”.

In a rapidly globalising world, the needs of wealthy families, especially in Asia, are also globalising. But as the world grows more complicated and the needs of families, and their wealth, grow and also become more complex, there will be an increasing need to “professionalise” these informal arrangements, including employing “men of great abilities”. The family office can provide the most flexible, responsive and tailor-made solution to the family’s financial, corporate and personal needs.
TALENT DEVELOPMENT IN ISLAMIC WEALTH MANAGEMENT

“Today’s wealth management clients are very demanding and play a more active role.”
We continue to feel proud and rather over the moon that Islamic banking is growing by 15-20% year on year for over a decade. This has certainly made huge media-inroads but realistically speaking we are victims of our own success. Have we really focused on a comprehensive technical and all dimensional research to assess the market potentials, gaps and how to address these challenges in a systematic and comprehensive manner? The answer is a “BIG NO”. We have created our own small windows of convenience and there are a few who keep changing hats and move from one end to the other. There are a few true committed practitioners, investors and Shariah scholars who are holistically and sincerely dedicated to the cause. We need many more. The most pressing challenge that I see is “access to different asset classes” – it’s limited to equity in terms of listed instruments etc. And there are investors who are only interested in listed instruments and market confidence is built through historical performance with a minimum track record of ten years. And as a consequence most of the Islamic wealth management is being done by joining hands with existing asset managers and this is creating a huge barrier in further developing the talent in-house within Islamic Financial Institutions / Islamic Wealth Management (IWM).

The first question that we need to ask ourselves is “Who is wealth management for? It’s not for the poor person; it’s for the rich and ultra-rich. What sort of talent and organisations do they look for?”.

Let’s go back a few years and study the strong global economic and financial growth of the 80s and 90s when wealth managers supposedly relished the market success without much
actions or initiatives from their side. But then the boom does not last forever and deficiencies, no real distinctive and clear strategy exposed them during the 2000-2002 crisis. So the crux of the matter is to build up the real talent that not only takes care of the clients’ wealth but it also enhances the value for the organisation for foreseeable future. The challenge even grows bigger when we talk about the new phenomenon of Islamic wealth management with all those unique restrictive thresholds.

The clients are becoming increasingly sophisticated and knowledgeable and the practitioners have to go an extra mile to ensure they are well equipped to win back the rather shaky confidence of the customers. The most recent economic crisis has left deep scars and it can only be erased with practical steps to demonstrate that the right talent is nurtured and maintained to serve the clients.

The current insufficient and rather limited arrangements will definitely hinder efforts to develop the ability and motivation to develop and cultivate the talent in wealth management. The focus and alignment need to be pretty much the same as we see in the conventional wealth management. The careful rational perspective in selection, training, coaching and cajoling the talent will certainly excel at all levels of knowledge transfer and application process.

The process of talent development starts with the process of attracting, selecting, training, developing and promoting employees through an organised system. Managers who focus on developing talent in-house ensure their employees have the tools and resources they need to perform well, receive proper compensation and transition to leadership roles. Internally developed organic leaders are valuable assets because over time they would have developed the necessary core competencies.

Effective communication between managers and employees is also very important, specifically about the skills and knowledge that align with company goals and thus also extending the true benefits to customers alike.

These timely and proactive approaches by management increase the probability employees will be more valuable in the future while improving the likelihood that the IWM firm will retain the talent it needs in the wealth management areas.

These stated approaches and thinking will certainly create a passion and commitment to managing wealth and managing clients’ funds much better, through effective investment strategies with the aim of not only protecting the capital but growth as well.

Today’s wealth management clients are very demanding and play a more active role. They seek advice more frequently, know more about financial techniques and keen to get involved in the management of their wealth. As a result, Islamic banks must deliver client-centric value proposition if they are to keep increasingly critical clients from crossing over to the competition. A well thought-out value-based approach allows wealth managers to reach clients by valuing them more. This is only achieved when the organisation has the right talent in place that has the relevant expertise in financial engineering and not just the degrees from distinguished institutions.

The Islamic wealth management industry has to take a more long-term view in training staff who are able to address the differing needs of clients. Currently the talent pool has been limited in part because of the rapid growth of the Islamic Finance sector, and also because the wealth industry within Islamic finance is relatively immature. There is definitely a skills shortage that will further go into crisis if timely prudent actions are not taken.

As the focus on wealth management is increasing there is significant demand for people to provide quality advice and support. In my opinion the home-grown or the organic talent is always the best option as they understand the organisation’s culture better and are able to service and retain the clients much better on a long term basis.
Talent development is a business discipline that identifies and nurtures above average people to run and build a business. Periodical assessment of ‘Talent scorecard’ is a key to ensure that the organization has invested in the right individuals where substantial investments of time and effort have been made to serve the clients. Moreover the regular monitoring of talent development and its performance helps in measuring the strategic (longer-term) and operational (shorter-term) talent activity.

Islamic wealth management must have its corporate talent strategy clearly articulated as to how the business should equip itself with the right management and key talent to succeed.

The key areas in terms of talent strategy that must be religiously focused on are:-

- Understand the talent requirements of the business
- Take into account the projected future business requirements and what type of talent pool it will require
- Critical examination of the current talent development approach and the extent to which it is likely to meet the future needs of the organisation
- Steps on development and continuous development processes

Talent development is key to adding value to business through high quality decisions around recruitment, placement and development of talent. The well thought-out measures will definitely increase the skills in delivering much better value to the clients and the market as a whole.

Apart from exploring the individual’s aspirations to become a better wealth manager the IWM firm MUST focus on its customers’ specific wealth management needs and address them in a manner that customers are married to the institution for life.

The talent development strategy is key in articulating the personnel capabilities, skills and competencies required to ensure a sustainable, effective, successful Islamic wealth management entity.
WEALTH-X REPORT

ASIA'S FAMILY OFFICES: CREATING NEW DYNASTIES

According to Wealth-X's World Ultra Wealth Report (WUWR) 2012-2013, the world's Ultra High Net Worth (UHNW) population of 187,830 individuals – those with a net worth of at least USD30 million – has amassed a combined fortune of USD25.8 trillion. While the UHNW population grew by 0.6%, combined wealth shrank by 1.8% during the same period. Such trends were primarily driven by volatile equity markets.

Within the next five years, growth for the Asian ultra wealthy population and their combined wealth looks set to continue that trend. This spells immense potential for multi-family offices (MFOs), advisors to family offices and private banks, as Asia's ultra wealthy create dynasties and legacies.

Wealth-X’s analysis shows that Asia is home to 42,895 UHNW individuals with a total fortune of USD6.3 trillion. In the next five years, Asia's ultra wealthy population is expected to grow at an annual rate of 5.4% and their wealth is projected to increase by 7.9% annually; this exceeds the annual global UHNW population growth rate of 3.9% and wealth growth rate of 5.5%.
Despite booming wealth in the region, the number of family offices in Asia lags those in more mature markets in the West.

Initial barriers

Despite booming wealth in the region, the number of family offices in Asia lags those in more mature markets in the West, namely North America and Europe.

Most of the super rich in the region have an entrepreneurial background and have amassed their wealth through family-run businesses. Such UHNW individuals are accustomed to being in control and making their own decisions. Asian UHNW individuals tend to value their privacy and want to maintain control and management of assets within the family.

For many of the ultra wealthy in Asia, the distinction between family office and family business is often blurred, with the primary wealth creation and management vehicle acting as a corporate structure containing a number of operating businesses. The structure has been built up over time as the patriarchs or matriarchs expand their business empire through acquisition and organic business growth. Asia is now at a tipping point, as aging business owners look to pass on their legacy and the next generation show a reluctance to take on the family business empire, preferring to pursue their own business interests and careers.

As Asian business owners start the wealth transition process, there is expected to be significant demand for advisors to set up and support Single Family Offices and MFOs.

Due to the costs of running an SFO, it is generally considered viable for a family with at least USD100 million in net assets. The multi-family office concept is becoming increasingly popular as it spreads the cost over multiple families, creating the necessary scale and provides opportunity to co-invest with other families. Under such an arrangement, families share infrastructure while still being able to enjoy customised services that are tailored to their needs, which are guided by a specific philosophy unique to each family.

Family offices provide a variety of services, including asset management, tax planning, legal advice and concierge services. Concierge services range from the booking of event tickets to arranging education for the client’s children.

<table>
<thead>
<tr>
<th>ASIAN UHNW</th>
<th>2012</th>
<th>2021</th>
<th>2012</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Worth</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>USD 1 billion+</td>
<td>490</td>
<td>480</td>
<td>1,425</td>
<td>1,420</td>
</tr>
<tr>
<td>USD 750 million to USD 999 million</td>
<td>165</td>
<td>190</td>
<td>160</td>
<td>185</td>
</tr>
<tr>
<td>USD 500 million to USD 749 million</td>
<td>1,050</td>
<td>900</td>
<td>600</td>
<td>505</td>
</tr>
<tr>
<td>USD 250 million to USD 499 million</td>
<td>2,395</td>
<td>2,200</td>
<td>715</td>
<td>800</td>
</tr>
<tr>
<td>USD 200 million to USD 249 million</td>
<td>2,925</td>
<td>3,450</td>
<td>650</td>
<td>830</td>
</tr>
<tr>
<td>USD 100 million to USD 199 million</td>
<td>5,965</td>
<td>6,025</td>
<td>1,015</td>
<td>1,145</td>
</tr>
<tr>
<td>USD 50 million to USD 99 million</td>
<td>10,450</td>
<td>11,560</td>
<td>850</td>
<td>955</td>
</tr>
<tr>
<td>USD 30 million to USD 49 million</td>
<td>19,455</td>
<td>19,005</td>
<td>835</td>
<td>870</td>
</tr>
<tr>
<td>TOTAL</td>
<td>42,895</td>
<td>43,810</td>
<td>6,250</td>
<td>6,710</td>
</tr>
</tbody>
</table>

*Source: Wealth-X
Mykolas D. Rambus is the Chief Executive Officer of Wealth-X, the leading provider of qualified prospects and intelligence on ultra high net worth (UHNW) individuals. Wealth-X provides its clients with qualified prospects and intelligence on UHNWIs, along with the privately held companies they control. Wealth-X works with 8 of the top 10 global private banks, leading educational institutions, not-for-profits and luxury brands. Our online business development database represents USD10.7 trillion of the world’s net wealth.

Mr. Rambus is a frequent commentator on wealth management issues in various publications including The Wall Street Journal, Financial Times and the New York Times. He has been a keynote speaker at numerous wealth management events.

In today’s world, many of the most important decisions are made by individuals with substantial financial means. We connect organisations that have authentic reasons to engage this particular community enabling great charitable, financial, and lifestyle outcomes to be achieved.

Wealth-X’s analysis reveals that there are 12,990 UHNW individuals with a net worth of at least USD100 million in Asia, with a combined wealth of USD4.6 trillion. Less than 4% of the market has an established family office, representing a huge opportunity for advisors and MFOs. The key to tapping this vein of wealth lies in the ability to understand the profile of Asia’s UHNW segment. By understanding the goals, fears, tastes and demands of regional UHNW individuals, family offices are better equipped to position themselves and craft the right approaches that will allow them to capture the market.

The key to tapping this vein of wealth lies in the ability to understand the profile of Asia’s UHNW segment.

Wealth-X analysis shows that on average, these UHNW individuals have a net worth of USD360 million, with an average liquidity of USD52 million. Diversified industries, at 14%, head the top five industries associated with Asian UHNWIs that are served by family offices.
The average age of UHNW individuals served by family offices is 63 years old and 69% of this group is married, with an average of 3 to 5 children. Most of these families are entering the wealth transfer stage. The need to clearly define legal entities, office structures and ownership is key to a successful transition. With the next generation showing little desire to take over the family business, advisors need to structure their product offering in a manner that ensures business continuity, protects the patriarch’s legacy and meets the desires of the new generation.

Wealth-X analysis shows that as the appeal of the family office increases, there is a need to import experienced talent into Asia to manage succession planning and support the family’s vision. This is likely to lead to an increased willingness to bring in external experts to ensure that wealth amassed by earlier generations is preserved and that legacies are properly established as well as maintained.

Table 2: Top Five Industries of Asian UHNW’s with Family Offices

<table>
<thead>
<tr>
<th>Industry</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diversified Industries</td>
<td>14%</td>
</tr>
<tr>
<td>Computers &amp; Software</td>
<td>12%</td>
</tr>
<tr>
<td>Real Estate</td>
<td>11%</td>
</tr>
<tr>
<td>Finance, Banking &amp; Investment</td>
<td>9%</td>
</tr>
<tr>
<td>Hotels, Restaurants &amp; Leisure</td>
<td>7%</td>
</tr>
</tbody>
</table>

*Source: Wealth-X*

As wealth transfer occurs, the younger generations are likely to continue to rely on concierge services offered by family offices. These services must be tailored to reflect the demands of the family. Asia’s love affair with luxury goods cannot be ignored when engaging with the UHNW segment. For example, more than 54% of UHNW individuals with family offices favour real estate investments while 12% own private aircraft. Luxury automobile collections round out the top three.

**Going Forward**

Beyond understanding the demographics of Asia’s UHNW segment, professionals who serve family offices need to ensure that their services are personalised to cater to the needs of their clients.

In addition to understanding a family’s vision and philosophy, family office advisors and MFOs need to understand the specific needs as well as desires of Asian UHNWIs, with a view to offering solutions for potential issues that the ultra rich may face. For example, in the United States, there are family offices that conduct investment clinics for the heirs of ultra wealthy families. Family offices in Asia should be aware of global trends and adopt or innovate accordingly to ensure they are providing the services the family needs.

Table 3: Top Hobbies of UHNW’s with Family Offices

<table>
<thead>
<tr>
<th>Hobbies</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Travelling</td>
<td>13%</td>
</tr>
<tr>
<td>Philanthropy</td>
<td>8%</td>
</tr>
<tr>
<td>Education</td>
<td>5%</td>
</tr>
<tr>
<td>Investing</td>
<td>4%</td>
</tr>
<tr>
<td>Reading</td>
<td>4%</td>
</tr>
<tr>
<td>Aviation</td>
<td>4%</td>
</tr>
<tr>
<td>Golf</td>
<td>3%</td>
</tr>
</tbody>
</table>

*Source: Wealth-X*

Such legacies include philanthropy. In Asia, where most prefer to give anonymously, this aspect is often overlooked. Such behavioural patterns may evolve over time as families institutionalise giving and attempt to ensure that the causes they support will continue to be well maintained through the generations. Philanthropic causes are likely to become more diverse and sophisticated as younger generations champion new causes, shifting away from more traditional causes like education, health, and poverty towards causes like sustainable energy and environmental causes.

Table 4: Top Lifestyle Investments of UHNW’s with Family Offices

<table>
<thead>
<tr>
<th>Investments</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate Investments</td>
<td>54%</td>
</tr>
<tr>
<td>Private Aircraft</td>
<td>12%</td>
</tr>
<tr>
<td>Luxury Automobile Collection</td>
<td>11%</td>
</tr>
<tr>
<td>Yacht</td>
<td>6%</td>
</tr>
<tr>
<td>Art Collection &amp; Collectibles</td>
<td>5%</td>
</tr>
</tbody>
</table>

*Source: Wealth-X*
ENTERING THE ASIAN FAMILY BUSINESS

Is it important for business owning families in Asia to give their next gen the best chance to differentiate?
“My son has just finished his university degree. I think it is time he should come and join the family business.”

I was having breakfast recently with an accountant from the UK and with an old friend from the trust industry in Hong Kong. The trustee commented that she had a client who ran a family business in Asia who had just done the thing that many Asian fathers seem to do and called his son back from studies in the UK to come and start working in the family business.

The English accountant automatically said: “What a bad decision – he should let his son make his mistakes somewhere else before he comes to work in the family business!”.

From an English or American perspective there are many good reasons why the Next Gen should go and get outside work experience before coming and working in the family business. Western thinking about family owned business is that it is better to allow the Next Gen to have several years of outside work experience before being invited to join the family business so that they can learn what it is like to be an employee, and learn business in general, in a place where their family name is not on the door. It can be very hard for family member employees to receive honest feedback from their managers when they are a family member, and without this honest feedback it is hard to develop. However, when discussing this issue with business men and women in Asia, there is often a lot of resistance to this ‘Western perspective’.

Some of the explanations that I have heard from different families around Asia include:

“I need my sons there because who else can I pass on the work to.”

“I need to make sure that my sons enter the business because if they decide not to join then how can the business continue?”

Other friends that I have discussed this issue with have basically responded saying that they have observed many successful second generation business leaders from Asian families who went to work straight after finishing their university and who have been successful in business and in their personal life. This leads to the most difficult Asian response to argue with:

“This is what my father did with me – are you saying I have not been successful?!”

I think that at the heart of the American thinking on this topic are the concepts of (i) adult developmental stages as articulated by Daniel J. Levinson in The Seasons of a Man’s Life (and later also The Seasons of a Woman’s Life); and (ii) the need to differentiate from your family.

The term “differentiation” comes from family systems theory, in particular from the family systems theory of Murray Bowen. It should be compared to the term “individuation” which is the term used by Carl Jung in his discussion of the adult life cycle. In simple terms it refers to becoming an autonomous adult - someone
who can think independently for themselves. Someone who has the ability to separate “thinking” from being emotionally “reactive”. Someone who has the ability to stand apart from the emotionality of their own family system, while still remaining connected to it. Therefore a key concept is being mature and non-reactive.

Under Levinson’s framework for men, the ages of 22 – 28 is the stage of “entering the adult world” and if you can be independent of your family during this key period it is very valuable in becoming emotionally distinct (i.e. differentiated) from your family.

American culture is well understood to being an individualistic culture and Asian culture a collective culture. However, is the concept of differentiation relevant for Asian families? The answer to this question seems to be a clear “yes”, but perhaps with some modification. One Asian academic has written that she has found that “a healthy family system correlates with a healthy family business”.¹

Is it important for business owning families in Asia to give their next gen the best chance to differentiate? While this does not appear to be intuitively accepted in Asia, I believe there are some sound arguments why this is very important.

---

1. Queena Lee-Chua

Christian Stewart

Christian Stewart founded Family Legacy Asia in 2008 to provide independent advice to Asian families on best family governance and family business practices. He works with family enterprises in Asia helping them to improve communication, plan together for the future, and resolve differences, by helping the family to form their own family council, family constitution and family policies.

Christian has lived in Hong Kong since 1994. An Australian lawyer by background, he was previously a tax partner at PricewaterhouseCoopers in Hong Kong, as well as a Managing Director and the Head of Wealth Advisory in Asia for JPMorgan Private Bank.

He is a frequent speaker and writer on Asian family governance and family business issues and many of his articles can be found at www.familylegacyasia.com.
First, many Asian families do believe in the concept of family human capital and intellectual capital as being important components of the family wealth. To give your next generation the chance to become mature adults is an investment in human capital.

An Asian father (or mother) thinking about whether to pull their young adult back from school and into the family business should ask themselves the question of which is more important to you? The good of your business or the good of your son or daughter? If you value the wellbeing of the next gen, give them a chance to find maturity away from the family.

Second, while you hear of many Asian families where the next generation successor came back straight from school and started working in the business and all went successfully, you also hear of cases in Asia where the successor later drops out and leaves the business – or they wait until the father has died and then they sell the business!

Giving them that time away from the business so that they come back in as mature adults will likely mean the decision to join is a mature decision that they will not lightly go back on. To do well at business you must have the passion for it, and even in Asian families this passion will shine through if the decision to join the business is a voluntary one.

The third reason is that in many traditional Asian families, i.e. in families with a strong family hierarchy (traditional “Confucian families”), the siblings often do not find it easy to work together collaboratively once “Dad” has gone. The siblings can often carry over their birth order and family role ways of relating to each other (i.e. family hierarchy) into their adult working lives. However, the more differentiated one of the siblings, the better the ability of that sibling to define a new adult-self, and a new adult working relationship with their siblings. In short, the more maturity they will have in their interaction with their sibling partners. This maturity will result in much better decision making by the siblings and it will reduce the chance of conflicts among siblings.

So if you send your next gen away to get outside work experience first, and to give them a chance to differentiate through working away from the family business, when they come back they are going to be much better business partners with their siblings and it will give the family business greater immunity against family conflicts. This is an important point, as it has been predicted that the majority of Asian family businesses will fail due to internal factors, such as family conflict, rather than because of any external factors.

In conclusion, one of the best practices that Asian family firms should adopt, especially those that are already in the “sibling partnership” stage of ownership, is to adopt a written “family employment policy” which states that family members need to have several years of outside work experience before they can apply for a job with the family business. Such a family policy will help to communicate clearly to the next generation of family members the “rules for entry” into the family business.
WEALTH MANAGEMENT FROM THE SHARIAH PERSPECTIVE

Islamic wealth management is an area which is attracting increasing interest. With the rise of Islamic finance and in particular the emergence of a variety of takaful products, industry experts and high net worth individuals seek to understand the application of Shariah principles in the area of wealth management.

According to Islamic sources, wealth is a trust from Allah and that man is only a trustee who is entrusted with any property that ends up in his hands and he owns in this world.

The Quran states that all things in existence, big or small, belong to Allah and that man is to discharge his responsibilities in relation to his assets, like his other duties, in accordance with divine guidance (see Chapters 5:120; 2:201). In brief, Islam:
1. Permits the fulfilment of a man’s natural inclinations within reasonable limits.
2. Permits individual ownership but discourages concentration of wealth within a small section of society.
3. Regards wealth to be one of the indispensable necessities of human life and has outlined laws and guidelines that allow men to acquire, spend and preserve wealth in a responsible manner.
4. Regards wealth owned by a person as both a trust and a test. The trust aspect means that the property must be used in ways beneficial to the individual and to society. The test aspect means that those who have more than what they need should take care of others who are in need. They must also take care not to transgress upon or neglect the property rights of others.
5. Encourages a person to be self-sufficient and to spend on personal and family needs; discourages spending on idle desires and luxuries.

Islamic sources, namely the Quran, Hadiths of the Prophet and scholarly interpretations of these two sources, contain guidance as to how to acquire and manage our assets and properties, as well as those of other people which we are holding on trust. Ultimately, every individual will be made to account for all their actions in respect to their property and how they managed them in this world.

Modern financial planning is about managing income and wealth to achieve certain financial goals. It analyses and manages an individual’s financial success through four ways: 1) wealth creation, 2) wealth accumulation, 3) wealth protection, and 4) wealth distribution.

These ways have resonance and parallels in Islamic sources. Islamic wealth management would emphasise upon products and mechanisms that are in accordance with Shariah principles to achieve those objectives, and an additional aspect, i.e. 5) wealth purification/cleansing.

1. **Wealth creation/accumulation:**

   Islam strongly encourages the earning of livelihood through trade and other economic activities. In fact, it is an obligation upon a Muslim to find his own income for living and avoid from begging from others. Seeking one’s livelihood is definitely ordained by Allah s.w.t, with the reminder that the obligation to Allah s.w.t. surpasses every worldly activity:

   “And when the Prayer is finished, then may ye disperse through the land, and seek of the Bounty of Allah. And celebrate the Praises of Allah often (and without stint): that ye may prosper.” (Al-Jumaah: 10)

   “But seek, with that (wealth) which Allah has bestowed on you, the home of the Hereafter, and forget not your portion of lawful enjoyment in this world; and do good as Allah has been good to you and seek not mischief in the land. (Al-Qasas verse 77).

   The Prophet Muhammad himself had been involved in entrepreneurship and a well-known hadith of his states that trade generates nine-tenths of man’s income and livelihood. The most illustrious names in Islamic history, including the companions of the Prophet and jurists, had been actively involved in economic ventures and trade. Reports from the Prophet and his Companions praise efforts to acquire wealth with a view to achieve financial security.

   The Prophet s.a.w. said that it was better to “leave one’s heirs free from want than that he left them in financial hardship, dependent upon other people.”

   [Sahih Bukhari]

   The Prophet s.a.w. told people to take advantage of 5 things before the onset of 5 others: Your youth before your old age, your health before your sickness, your wealth before your poverty, your free time before your preoccupation, and your life before your death.”

   [Narrated by Ibn Abbas and reported by Al Hakim]

   During his caliphate Umar ibn Al-Khattab r.a. urged people to invest extra moneys as “this will increase their capital and after them their children would have something left and would not be empty-handed.”

   [Al-Baladhuri, Futuh Al-Buldan]
In acquiring wealth, a Muslim is to observe Islamic teachings:

- Permissible economic activities only;
- Permissible income only for consumption by oneself & one’s dependents;
- Avoidance of riba (usury or interest), maysir (gambling), gharar (ignorance, excessive uncertainty or speculation); oppressive practices.
- Mutual consent and agreement between parties.
- “O ye who believe! Squander not your wealth among yourselves in vanity, except it be a trade by mutual consent” (An-Nisa: 29).

Modes of investment will change with time, sophistication in trade and business, innovation and shifts in thinking, commercial practices, etc. but these principles remain applicable and relevant.

2. Wealth protection:

Wealth protection aims to protect the accumulated wealth against financial risks and threats. One should protect one’s wealth from the uncertainties and unpredictable occurrences in life, such as death, losing ability to work, chronic diseases and old age.

Islam encourages risk management to protect oneself, family and property, for example through takaful arrangements.

The Prophet (s.a.w) noticed a Bedouin leaving a camel and asked him: “Why do you not tie down your camel?” The Bedouin answered, “I put my trust in Allah.” The Prophet said: “Tie your camel first, then put your trust in Allah.”

Debts are to be incurred with caution, and should be settled as soon as possible. A hadith of the Prophet states that a man who is deserving to enter paradise will be barred from it due to debts which he had left unsettled (Sahih al-Nasaa’i, 4367). Eminent scholar Ibn ‘Abd al-Barr in his al-Tamheed (23/238) commented that “the debt for which a person will be kept out of Paradise is that for which he left behind enough to pay it off but he did not leave instructions to that effect, or he was able to pay it off but did not do so, or he took the loan for some unlawful or extravagant matter and died without having paid it off.”

Individuals may enjoy wealth and ensure a life of comfort for himself and his family, but is to be moderate in expenditure.

"And [the Servants of Allah are] those who, when they spend, are neither extravagant nor niggardly, but hold a medium (way) between those (extremes)“. (Al-Furqan:67).

He should also set aside some of his wealth for charitable purposes.

Your wealth and your children are only a trial. Whereas Allah, with Him is a great reward (Paradise). So keep your duty to Allah and fear Him as much as you can; listen and obey, and spend in charity for the benefit of your own souls. And whosoever is saved from his own covetousness, then they are the successful ones” [at-Taghaabun :15-16]

And spend [freely] in God’s cause, and let not your own hands throw you into destruction (by being stingy); and persevere in doing good: behold, God loves the doers of good. (Al-Baqarah: 195).

3. Wealth distribution:

Wealth distribution seeks to make proper planning so that your accumulated wealth can be managed and distributed according to your wishes with minimum hassle. From the Shariah perspective, the appropriate measures are important to:

1. ensure Islamic injunctions regarding one’s properties and financial obligations are fully carried out, including outstanding debts, dependents’ expenses and zakat payments;
2. achieve one’s objectives with regards to one’s assets and belongings in ways which are in accordance with Shariah principles;
3. ensure expeditious distribution of the estate to one’s heirs;
4. minimise unnecessary legal costs, protracted legal proceedings and payment of taxes;
5. minimise financial hardship to the family and the assets from being frozen; and

6. minimise the risk of conflict and animosity arising amongst family members.

As an example, a will with an executor appointed enables the distribution of one’s estate to be undertaken within a shorter time frame and at lower legal costs through an application for a grant of probate, compared with an application for a letter of administration from the court.

One’s wealth can be distributed during one’s lifetime as gifts (hibah), trusts and waqfs and after one’s death using wills (wasiyyah). It is a misperception that the rules of faraid or inheritance are the sole and inevitable mode of distribution for Muslims. It is important to instruct one’s heirs to carry out their role with regard to the properties in case of one’s death or disability, so that debts and other responsibilities to other people are discharged.

An increasing number of high net worth individuals have realised the need to ensure proper measures to prepare their loved ones for their demise, preserve their business legacy and achieve personal and strategic objectives in relation to their assets. They may utilise hibah, wasiyyah and final instructions, wasiat or wills, waqf or charitable endowments, amanah or trusts or faraid rules. Also important are medical authorisations in case of incapacity and contractual arrangements made in relation to one’s shareholdings in a company or interests in a firm. Family office services which provide multiple services in managing one’s assets also assist in smoothing the transition from the older generation to the younger one in the event of one’s passing.

4. **Wealth purification/cleansing.**

Muslims must ensure they discharge certain obligations in relation to wealth and assets they have accumulated.

- **Zakat payments upon fulfillment of its conditions with regards to income, businesses, precious metals, etc;**

- **Purification of one’s assets from any impermissible income that has resulted during the process of accumulating wealth. This income cannot be consumed and is to be channelled to charitable purposes.**

One of the challenges in implementing Islamic wealth management principles is the challenge posed in the differing vehicles for holding and distributing wealth found in civil law as well as common law structures. A case in point is the trust, the favoured device in the common law world, which is not recognised in the civil law world. Likewise the variety of incorporated entities available in the civil law world is not matched by the heavily regulated corporate structures found in common law countries.

In order to encourage the use of its services, the Labuan Financial Services Authority maintains a competitive cost structure for the setting up and running of the entities under its jurisdiction. This makes it attractive for wealth management as it does not significantly intrude upon the asset value of the estate.

Some of the structures available in Labuan are

- The Company
- The Foundation
- The Private Trust
- The Protected Cell Company

As with other jurisdictions, the essence of a Labuan Company is its limited liability. An estate will only be exposed to the extent of assets committed to the company, if the intention is to generate revenue from those assets. Additionally, the dissolution of the company and the repatriation of capital and assets to the estate can be done without any Court intervention in Labuan, making transfers of assets a relatively quick process.

The Foundation is a hybrid of a common law trust and company. It has a separate legal personality of its own and allows for the founder to appoint officers to the Foundation to administer it for the benefit of named beneficiaries. As the founder will relinquish his assets on transfer to the Foundation, the assets will no longer form part of the founder’s estate but will inure for the benefit of his named beneficiaries although he can regulate the manner in which those assets are dealt with through the Charter and articles of the Foundation. Labuan is
“Accumulation of wealth is allowed and in some circumstances mandatory in Islam.”

The only jurisdiction in the world today which specifically allows Islamic private foundations to be set up.

Where Private Trusts are concerned, Labuan offers a specific Shariah-compliant trust structure under the Labuan Shariah Compliance Trust. The Shariah-compliant trust allows the holder of an asset to divest it to a trust which is bound to invest in Shariah-compliant businesses or activities. The asset so divested fall out of the estate of the donor and becomes subject to the discretion of the trustee for named or identifiable beneficiaries. It is therefore remote from disposition in the event of the death of the donor. The trustee can be given more or less discretion by the terms of the trust deed that sets up the trust in accordance with the wishes of the donor.

The Protected Cell Company allows the assets of an estate to be segregated under a single limited liability structure. Core assets may be held under specific cell and protected from assets committed to deriving revenue in a separate cell. The asset holder is free to determine the number of cells and their content depending on his ultimate intentions.

These are some of the entities that can be used for wealth planning. As can be seen, they afford a great deal of flexibility while staying true to the principles and spirit of Islamic law.

In conclusion, accumulation of wealth is allowed and in some circumstances mandatory in Islam. Islamic teachings guide how wealth should be acquired, managed and spent. Above all, wealth is a trust, responsibility and form of trial by Allah to His servants; and each person will be accountable on how he acquired and disposed of his assets in this world. The Islamic law of succession (faraid) is not the only and ultimate way or outcome for a Muslim’s assets. It is important for an individual to be familiar with and utilise the methods available in Islamic wealth planning. This will enable one to prepare for and carry out his obligations as a Muslim, life’s eventualities, achieve strategic objectives, minimise costs and prevent family conflict.
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Aida is involved in advising on Islamic banking and finance transactions and documentation, corporate and commercial matters and in particular, she has advised on:

- The structure and documentation for both Islamic corporate and retail financing
- The legal and regulatory framework for Islamic financial services
- Shariah compliance issues for sukuk issuance as well as private equity and unit trust funds
- Islamic wealth management and planning

Aida completed her pupilage in chambers at Messrs. Zain & Co., and was called to the Malaysian Bar in 1994. She joined ZICOlaw in 2007 as Senior Associate and was made partner in 2009.

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Paul now keeps the lawyers and partners updated as to changes in the law and industry which would impact our clients. He also serves as editor of our publications to our clients. In addition, Paul manages a Knowledge Database and also a Precedent Bank, to ensure best practices are undertaken in the firm. In his role as Training Partner, he arranges training sessions for our lawyers and staff so that they are equipped not just with the law but with the skills necessary to serve our client’s interests.

Prior to ZICOlaw, Paul was a Partner of Messrs. Maxwell Kenion Cowdy & Jones in Ipoh, Malaysia.