

Algeria: A new president, a new approach toward Islamic finance



ALGERIA

By Dr Ahmed Tahiri Jouti

The new Algerian president, Abdelmajid Tebboune, has instructed the finance minister to start preparing the legal and regulatory amendments to introduce Islamic banks in Algeria and to allow the Algerian government to issue its first sovereign Sukuk.

These instructions are part of a global reform that aims to avoid a financial crisis. Indeed, launching Islamic banks can contribute in collecting more cash and including more people in the financial and economic sphere.

It is worth noting that from a historical perspective, Algeria is the leader of Islamic finance in the Maghreb region with two existing Islamic banks and two Islamic windows. Nevertheless, from

a regulatory perspective, these are all conventional banks.

Therefore, introducing an appropriate legal and regulatory framework would enhance the credibility of the Islamic financial institutions in Algeria if and only if the government conceives a roadmap to implement a comprehensive ecosystem for the industry including Takaful, Sukuk and Islamic banking.

The Algerian stock market needs a new approach toward the private sector. The government needs to promote the private sector and increase its competitiveness while facilitating the access to different financial instruments.

All in all, the new government approach toward Islamic finance seems to be satisfying local experts that have for years been calling for the implementation of a comprehensive Shariah compliant

ecosystem based on the experience of other countries such as Malaysia, Bahrain, Morocco, the UAE and others.

From a Shariah governance perspective, a unique Shariah board that is the Higher Islamic Council would supervise the Algerian Islamic financial industry. This institution is attached directly to the president of the Republic of Algeria and is a consultative body. The president shall issue a decision that attributes to the Higher Islamic Council the assignment of issuing Fatwas and opinions for the Islamic financial institutions (including banks, windows, Takaful operators, stock market, originators and all the institutions offering Shariah compliant solutions and instruments) and that these Fatwas are binding on all the players. (👉)

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The challenge for Italy to create an Islamic bank



ITALY

By Stefano Loconte

If we want to consider the opportunity for Italy to create an Islamic bank, namely the possibility to constitute an Islamic bank, an Italian subsidiary of an Islamic bank or an Islamic window of an Italian bank, we firstly have to consider that the concept of 'bank' as designed in conventional finance does not exist in Islamic finance.

What is different is the business object of the institution and the manner it is pursued. An Italian bank usually collects deposits and grants credits and, pursuant to Article 10 of the Italian Consolidate Law on Banking, 'banks' are institutions which can exercise, not only banking activities, but also all those financial activities not reserved by the law to other specific intermediaries.

In view of this, it is important to take into consideration the special features that an Islamic financial institution need to be Shariah compliant, but also to verify the rules a bank in Italy shall comply with to play its activities. Particularly, Articles 4 and 5 of the Consolidate

Law on Banking cover the supervisory activity of the Italian central bank, which also has the responsibility to authorize the establishment of a new banking institution.

As aforementioned, an Islamic bank could operate in Italy also through a subsidiary of an Islamic bank, which may be placed in a non-EU country or in an EU country. In the former case, the authorization of the Italian central bank is needed, after having obtained the opinion of the minister of foreign affairs. In the latter case, it is necessary to obtain the authorization of the supervisory authority of the state in which the controlling institution is placed.

Another relevant aspect is the importance, for banks in Italy, to comply with the principles of safe and careful management. For this reason, when an Islamic bank, subsidiary or window wants to operate in Italy, it is fundamental to examine the role of the Shariah supervisory board that must be identified in an Islamic financial institution's corporate structure.

Namely, the membership of the Shariah supervisory board and the relationship

between this and the other organization bodies, eg the board of directors, must be defined. With regards to the first aspect, the problem is related to the fact that there are very few Shariah experts who can be elected as members of Shariah supervisory boards. With regards to the second aspect, it is important to grant the independence of the Shariah supervisory board to protect against the eventual interference of the board of directors, and vice versa.

Lastly, despite the efforts of AAOIFI and the IFSB to have uniform standards of interpretation of the Islamic law, lots of uncertainties still exist with regards to the issue of Shariah compliant financial instruments.

For all these reasons, it has been proposed to assign to CONSOB (the regulatory body for the Italian stock exchange) the task of elaborating the rules and duties that institutions issuing the so-called ethical instruments must observe. (👉)

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