Cash Waqf: An Innovative Instrument of Personal Finance In Islamic Banking

Monzer Kahf and Amiirah Nabee Mohomed[1]

ABSTRACT

Personal financing in the practice of Islamic banks refers to responding to cash provision or simply financing cash. From Shari'ah perspective, personal finance or giving loans is a benevolent provision that should not be offered by Islamic financial institutions for a profit. Different motives or factors affect demand for personal financing whether for individuals, corporates, financial institutions or governments and genuine needs for cash may arise under specific circumstances. Some needs which should be responded only by cash or cash loans cannot be financed against an increment, such as debt settlements or rollovers, for which the solution is the Cash Waqf-based instrument. This study investigated lending cash through operationalization of Cash Waqf fund as a non-profit based instrument for personal finance, especially for individuals, within a banking context. The dynamics of this Cash Waqf instrument's establishment and operational issues are discussed and its potential advantages and disadvantages are also examined.

Key Words: *Personal financing, Awqaf, Shari'ah, Islamic banks, Islamic finance, Cash Waqf*

INTRODUCTION

Waqf, more than 1400 years old, is one among the important Islamic institutions and one of the greatest sources of charity whose principal objective is to promote the overall well-being of the Muslim community. In fact, the idea of Waqf itself is not born with Islam and it was scatterly practiced before the arrival of the Prophet Muhammad (pbuh). People in all religions in different societies used to reserve particular plots

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of land and buildings as places of worship, a practice which we witness until today. Waqf has been prospering in Islam and the Prophet (pbuh) promoted it himself and passed on the legacy to future generations. Throughout Islamic history, the practice of setting aside a property for a particular benevolent purpose came to be known under the appellation of Waqf and developed into different kinds to include religious Waqf, philanthropy Waqf and family/private Waqf.

Muslim scholars opine that the first Waqf ever created in history is the sacred building of Ka'bah in Makkah because the Qur'an (3:96) refers to it as the first house of worship established for mankind (Kahf, nd). The first Waqf in Islam was the establishment of Masjid al-Quba in Madinah followed by the Masjid al Nabawi, built by the Prophet (pbuh) himself. Such Waqf fall under the category of religious Waqf although Waqf can also be for other purposes such as family Waqf and philanthropy Waqf. The Waqf practice is well-known to Muslims all over the world as an investment for promoting social goodness and Muslims throughout history have been rendering their properties into Awqaf in the service of mosques, hospitals, education, social and charitable institutions and other purposes of goodness. The word habs was used for Waqf by the Prophet Muhammad (pbuh) himself and became commonly known as such in the Maliki school, and today, the idea of Waqf exists in Western and other countries under the name of foundations, endowments or trusts.

Kahf (2000) defines Waqf as: "a perpetual or temporary holding of a Mal (asset or usufruct) that produces repeated services or products for an objective of general or private righteousness". He argues that Waqf are of three kinds: philantrophic or public Waqf (the benevolent objective is for society at large), family or private Waqf (for the family and descendants of the founder or any other assigned persons) and religious Waqf (for religious purposes only). Waqf can also take the form of hybrid models if the Birr objective includes two or more purposes (e.g., case of a private Waqf whereby part of the revenues are used for philantrophic purposes). Waqf can further be classified into "Direct Waqf" and "investment Waqf", the former provides direct facilities/ services to its beneficiaries while in the latter, it is the revenue generated through the investments that is spent on the benevolent objective. The main characteristics of the Waqf infrastructure are: righteous/benevolent (Birr) objective, perpetuity, separation of property from management, permanence of stipulations of founder, inter-generational development nature, protects properties and creates dynamics of social change. Cash Waqf is not a recent invention and dates back to early Islamic historical practices of Awqaf in the first century of Hijrah (Kahf, 2014). Cash Waqf can take two forms: one, cash is used as lending Waqf to provide interest-free loans, and two, cash is invested

and its net return is assigned to the Waqf beneficiaries. We therefore discuss that Cash Waqf can be a practical model of personal finance (PF) in Islamic banking.

This paper investigates new application of Awqaf in a modern banking environment. It consists of an Introduction, two sections and a Conclusion. Section One discusses Cash Waqf and the need for reviving and re-engineering its potential applications in a contemporary environment. In its 2009 resolution (Resolution 179-19/5), the OIC Fiqh Academy observed an over-reliance on Tawarruq in providing cash financing and called upon Muslim societies and communities to create an institutionalized system for interest-free PF. In this regards, we deliberate the development of Waqf into a quasi-banking model. We propose that Islamic banks (IBs) can create Cash Waqf funds or foundations to serve their own customers, which will be an added privilege for them. In Section Two, we discuss the dynamics of its establishment and operations covering aspects such as funding, sustainability, risk management, accessibility to targeted population. We will also investigate the potentiality of different innovative ways of Cash Waqf PF which may include temporary Cash Waqf deposits by IBs' customers. The Conclusion summarizes the main discussions.

SECTION ONE
CASH WAQF

Definition

Cash Waqf is not a new concept and several evidences prove that it was present in early Islamic history. Cash Waqf has been given two definitions in Fiqh. Al Tasuli (1998, v. 2, p. 369), in his book 'al Bahjah fi Sharh al Tuhfah', defined the meaning of Cash Waqf in the Maliki School as "the process of dedicating cash as waqf for the purpose of lending it to those designated as the beneficiaries without interest". In the book by Ibn Nujaym (Al Bahr Al Raiq Sharh Kanz Al Daqaiq, V5, p219), it is reported some of the companions of Zufar made Waqf of Dirhams and Dinars and when he was asked about the functioning of such types of Waqf, he explained that you give the cash on Mudarabah basis and you use the proceeds for the Waqf's stipulated charitable purpose for which it is assigned[2].

Kahf (1998) confirmed these two definitions in his writings and affirmed that Cash Waqf has been widely practiced by late Hanafis and Malikis. He added that Cash Waqf

2 وَعَنْ الْأَنْصَارِيِّ وَكَانَ مِنْ أَصْحَابِ زُفَرَ فِي مَنْ وَقَفَ الدَّرَاهِمَ أَوْ الدَّنَانِيرَ أَوْ الطَّعَامَ أَوْ مَا يُكَالُ أَوْ يُوزَنُ أَيَجُوزُ قَالَ نَعَمْ قِيلَ وَكَيْفَ قَالَ تُدْفَعُ الدَّرَاهِمُ مُضَارَبَةً ثُمَّ يُتَصَدَّقُ بِهَا فِي الْوَجْهِ الَّذِي وَقَفَ عَلَيْهِ

may take two forms as mentioned in these two Fiqh schools: Cash Waqf can be cash for lending and collecting it from the borrowers to be relent to others or it can be cash to be utilized on Mudarabah basis and its profit assigned to the beneficiaries of the Waqf while preserving the investment principal.[3] Ahmad (2015) criticized al Tasuli's definition as it is only about administering interest-free loans and did not consider any means of making the fund sustainable. Ahmad argued that lending without any investments subjects the fund to credit risk that can be aggravated in case of default payments and may deplete the fund. He affirmed, however, that the two classical definitions complement each other and enlightens the exact nature of Cash Waqf.

Çizakça (2004a) defined Cash Waqf as "charitable endowments established with cash capital" and Çizakça (2004b) as a "Trust Fund established with money to support services to mankind in the name of God". Cash Waqf has also been defined as "the confinement of an amount of money from founder and dedication of its usufruct according to founder's condition, in perpetuity to the welfare of the society" (Mohsin, 2009).

We therefore define Cash Waqf as: "a perpetual or temporary holding of endowed cash to produce repeated benefits or usufructs for an objective of general or private righteousness according to the founder's stipulated conditions". This broad definition encompasses both forms of Cash Waqf, which is one, using cash as lending Waqf to provide interest-free loans, and two, investing cash and assigning its net return to the Waqf beneficiaries.

As mentioned by Çizakça[4] and Kahf, investment Cash Waqf is different from other property Waqfs owing to the nature of the endowment. This implies that the Nazir is not restricted to any specific form of investment, i.e., he can change it from one asset to another. Cash investment Waqf is different from the Waqf of shares or the Waqf of deposits. Under the latter forms, Waqf funds are invested and used according to the Waqf document and the Nazir has no authority to change it unless the document of Waqf allows changing investment. This was discussed and resolved by the OIC Fiqh Academy in 2004 (Resolution No. 140-15/6), after resolving that Cash Waqf

3 In his Book Notes on Islamic Economics – Charitable Sector (2014), Kahf reaffirmed that Cash Waqf can take either of two forms: "*cash may be made into lending Waqf to be used for interest-free lending*" or "*cash may be invested and its net return assigned to beneficiaries of the Waqf*".

4 Çizakça (2000) opines that Cash Waqf is a particular kind of endowment which is different from ordinary real estate Waqf because of the nature of its original capital (asl al-mal or corpus) that consists purely or partially of cash.

is permissible, that if Cash Waqf funds are invested in assets, it is as if the Nazir bought with it a real estate or manufactured with it an item, those objects and assets do not become the Waqf assets in place of the cash but they may be sold for continued investments and the Waqf remains the original amount of cash.[5]

Historical Experiences

Kahf (2014) affirms that cash investment Waqf dates back as early as the first century of Hijrah. He provided the evidence of al Bukhari who allocated the title of one of his sub-chapters "Making a Waqf out of domestic animals, personal weapons, goods and money"[6] and Imam Malik bin Anass (Circa 179H) who also mentioned the Cash Waqf. In the book al Bahr al Ra'iq Sharh Kanz al Daqa'iq (V5, p219) by Ibn Nujaym (Circa 970 AH), it is reported that al Ansari who was a disciple of Zufar used to make Waqf of Dirhams and Dinars and they used to give the cash on Mudarabah basis and give out the proceeds to charity or for the Waqf's purpose.

Similarly, in the book, al Bayyan wal Tahseel by the Grandfather Ibn Rushd (Circa 520 AH, 1988), two incidents were reported: one where a person made a Waqf of one hundred dinars to the heir and then the man after him and another where a man said to take from his wealth one hundred and spend it on his house which he made Waqf for the sake of Allah. Kahf (2014) affirmed that there are enough evidences that both forms of Cash Waqf existed throughout Muslim history particularly in areas where the Maliki or Hanafi schools prevail as well as the numerous questions, discussions and opinions given on Cash Waqf that are present in Fatwa books of these schools.

Few data and information are available on Cash Waqf. Ahmad (2015) affirmed that after the two eras of Malik and Zufar, Cash Waqf practices were revived in Fes in Morocco and by the Ottoman State (1301-1922 CE) and after the collapse of the Ottomans, there are no record of Cash Waqf practices as contemporary researchers in this field did not refer to any practices other than the Ottoman Cash Waqf. According to Çizakça (2004b), cash endowments were approved by Ottoman courts as early as the start of the 15th century, and towards the end of the 16th century Cash Waqf was widespread and extremely common all over Anatolia and the European provinces of the Empire.

Çizakça (2004b) in his research on 'Ottoman Cash Waqfs Revisited: The Case of Bursa

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5 أولا: استثمار أموال الوقف:يعمل بشرط الواقف إذا اشترط تنمية أصل الوقف بجزء من ريعه، ولا يعدّ ذلك منافياً لمقتضى الوقف، ويعمل بشرطه كذلك إذا اشترط صرف جميع الريع في مصارفه، فلا يؤخذ منه شيء لتنمية الأصل
ثانياً: وقف النقود: إذا استثمر المال النقدي الموقوف في أعيان كأن يشتري الناظر به عقاراً أو يستصنع به مصنوعاً، فإن تلك الأصول والأعيان لا تكون وقفاً بعينها مكان النقد، بل يجوز بيعها لاستمرار الاستثمار، ويكون الوقف هو أصل المبلغ النقدي

6 Under this sub-chapter, Al Bukhari reported from Al Zuhri (Circa 125H) an incident of Cash Waqf given to a merchant to use for trade and its profit to be allocated for charity (Kahf, 2014).

(1555- 1823)' found that about 20% of the Bursa cash endowments had survived for more than a century according to Bursa Cash Waqf Census Registers. According to him, although controversies on Cash Waqf continued during the 16th and 17th centuries with no end, Cash Waqfs flourished. There were 2517 Waqfs established in Istanbul during the period 1456-1551 of which 46% (1161) were Cash Waqfs while in Bursa, there were 761 Cash Waqfs during the 18th century. In the year 1954, extant Ottoman Cash Waqfs' capital was pooled to create a modern bank, the Bank of Awqaf (Vakiflar Bankasi) in Turkey. (Çizakça, 2004a). Cash investment Waqf was also very dominant in Sudan and Kuwait in the nineties, and today exists in Saudi Arabia in the form of accumulated small donations that are invested and the returns are channeled to charity (Sanabil al Khayr) (Kahf, 2014).

Cash Waqf in contemporary times, according to Ahmad (2015), takes the form of Waqf shares to collect donations or direct deposits in bank accounts of the Cash Waqf which could be traced back to 1999 in the Sultanate of Oman and the State of Kuwait and later on in 2001 in UAE. These countries collected Waqf donations by issuing shares and selling them to the public, the share proceeds are invested and returns are distributed to the designated beneficiaries. According to Ramli and Jalil (2013a), Koc Holdings in Turkey was the first corporate body involved in establishing and administrating Waqf properties as early as 1967 and Islami Bank Bangladesh Limited (IBBL) in Bangladesh established Cash Waqf certificates in 1997 as a means of accumulating Waqf fund and channeling the proceeds to underprivileged Muslims. They mentioned that the establishment of Corporate Waqf in 2006 by Johor Corporation (JCorp), where Waqf assets in the form of company shares were issued and managed by a corporate body, revolutionized Waqf practices in Malaysia. In Malaysia, models of Corporate Waqf have also been used by Bank Muamalat Malaysia Berhad (Ramli and Jalil, 2013b).

Mohsin (2013) affirmed that in the 21st century, Cash Waqf schemes are being practiced in several countries, namely: Waqf Shares scheme in Malaysia, Indonesia, Kuwait and UK; Deposit Cash Waqf scheme in Singapore, Bahrain and South Africa; Corporate Waqf scheme in Malaysia, Turkey, India, Pakistan and Bangladesh; Co-operative Waqf scheme in Uzbekistan. Cash Waqf has huge potential as an effective tool in individual PF as discussed below.

Reviving Cash Waqf In A Contemporary Banking Environment

Cash Waqf has been revived to a certain extent in some countries through the Waqf shares model and deposits in IBs. The following are some contemporary studies on Cash Waqf within the banking context.

Ramli and Jalil (2013a), in a research paper on "Banking Model of Corporate Waqf: An Analysis of Wakaf Selangor Muamalat", analyzed the structure of the Corporate Waqf model applied in "Wakaf Selangor Muamalat" established in 2012. Collaborations between corporations and Waqf institutions inculcate and replicate the corporate culture of accountability, good governance and transparency into Waqf. They critically examined Wakaf Selangor Muamalat - a collaboration between a state-owned Waqf management institution (Perbadanan Wakaf Selangor Berhad - PWS) and an Islamic commercial bank (Bank Muamalat Malaysia Berhad - BMMB). The Waqf fund is obtained through Bank Muamalat's banking services from individuals and institutions (minimum contribution: RM10 for individuals; RM100 for institutions and there is no maximum contribution amount). The Bank also endowed RM1 million into the fund. The fund is based on Wakalah bil Istithmar concept and is used for charitable purposes (education and healthcare). A fund management company (Muamalat Invest Sdn. Bhd.) was appointed to invest the funds in Shari'ah compliant instruments to generate returns, 25% of which will be distributed to PWS and 75% of them will be distributed in education and healthcare areas. This paper gives us a model of how Cash Waqf can be implemented within the contemporary banking framework.

Ramli and Jalil (2013b) is a similar study undertaken by the same authors on "Corporate Waqf Model and Its Distinctive Features: The Future of Islamic Philanthropy". They traced the developments of Cash Waqf by corporates in Malaysia and analyzed their practices to identify the models of Corporate Waqf and discussed their Shari'ah considerations. The authors concluded that Corporate Waqf is the best model of modern Waqf practices based on its characteristics of professional management, public confidence and government recognition.

Mohsin (2013) studied "Financing Through Cash-Waqf: A Revitalization To Finance Different Needs" in an attempt to revitalize what she called 'an old Islamic financial product' and enrich its potentials by exploring different goods and services provided under Cash Waqf schemes in Muslim-majority and Muslim-minority countries without depending on the government for these needs. She discussed the Shari'ah aspects of Cash Waqf and the role of Cash Waqf in different countries focusing on six Cash Waqf schemes (waqf shares scheme, deposits cash waqf scheme, compulsory cash waqf scheme, corporate waqf scheme, deposit product waqf scheme and co-operative waqf scheme). Mohsin proposed a framework for Cash Waqf and explained its modus operandi for both direct and indirect Cash Waqf. She argued that the proposed Cash Waqf framework can also take the form of a unique micro-financial institution that provides small entrepreneurs with interest-free loans for business start-ups. She concluded that Cash Waqf is a very powerful institution for fundraising to meet society's crucial needs in this world while seeking rewards in the hereafter.

The research topic "Cash-Waqf: New Financial Instrument for SMEs Development in Bangladesh" was investigated by Islam (2015). He affirmed that Social Investment Bank Ltd was the first in Bangladesh to introduce Cash Waqf Certificates in 1995. He deliberated the process of Cash Waqf for Micro, Small and Medium Enterprise financing in terms of fund mobilization from the society (individuals, organizations, SME members, governments) and its investment and discussed the role of Cash Waqf in financing SME and micro financing. Cash Waqf can be invested through Islamic debt-creating instruments (Murabahah, Ijarah, Salam, etc.) that are low risk to generate profits and later on expand the Cash Waqf usage to equity instruments (Mudarabah and Musharakah). Cash Waqf, if applied properly in every sector of the economy, will contribute to poverty alleviation, create employment and ensure society's development.

Empirical studies revealed that Cash Waqf played a significant role in the Ottoman society and was very successful in organizing and financing expenditures on education, health, welfare and a host of other activities over almost three hundred years which today are financed by the government or local authorities (Çizakça, 2004b). In Resolution (140-15/6) in 2004, the OIC Fiqh Academy elaborated that Cash Waqf can be in the form of interest-free loan (qard hassan), for investments whether directly or by Musharakah with many Waqifin in one fund or through issue of shares for Cash Waqf to encourage Waqf and achieve collective participation in it.[7] The interest-free loan Cash Waqf is probably what the OIC Fiqh Academy intended in its 2009 resolution and this is what we try to operationalize within the banking framework. Cash Waqf has great potential and benefits to a society and can effectively meet different society's needs including PF. In fact, the most appropriate institution to provide interest-free loans would be the third sector institutions (charitable institutions) because their targeted society's segment, objective and mission are of different nature.

Kahf (2014) deliberated that the principal of cash lending Waqf is used for easing liquidity problems of beneficiaries whereas in cash investment Waqf, only the income is used for philanthropic, religious or private beneficiaries as assigned by the founders. In this regard, we suggest developing Cash Waqf into a quasi-banking model. IBs can create and operate a Cash Waqf fund as part of their corporate social responsibility (CSR) whereby the fund will be used for the purpose of providing interest-free loans to their beneficiaries or create Cash Waqf foundations to serve their own customers, which will be an added privilege for them. We discuss lending Cash Waqf as an instrument for individual PF in what follows.

7 يجوز وقف النقود للقرض الحسن، وللاستثمار إما بطريق مباشر، أو بمشاركة عدد من الواقفين في صندوق واحد، أو عن طريق إصدار أسهم نقدية وقفية تشجيعاً على الوقف، وتحقيقاً للمشاركة الجماعية فيه

SECTION TWO
CASH WAQF AS A PERSONAL FINANCE INSTRUMENT

There are some individual genuine needs that are difficult or cannot be financed through the usual Islamic finance contracts such as debt settlement, for which the solution is the Cash Waqf instrument. We discuss below operationalizing lending Cash Waqf within IBs and expound on its dynamics. Cash Waqf can be a potential contemporary tool for individual PF in IBs used for all needs for cash loans, debt settlements or interest-free financing for which profit-making tools cannot be used and can also be used for microfinancing and SMEs cash financing if provided by specialized banks.

Conditions For Lending Cash Waqf in a Banking Context

1. It can be temporary or perpetual. Temporary Cash Waqf can be in the form of dedicating funds to a specific purpose for a limited period of time.8

2. Conditions specified by the founder(s) are fully binding and must be followed as long as they do not violate or contradict the Shari'ah.

3. The purpose of the lending Cash Waqf should be defined and may be restricted to lending for specific needs only such as emergency cash needs for basic needs or medical, settling off interest-based debts.

4. The targeted segment (beneficiaries) should be defined as well as the maximum amount of loan, payment period and other terms and conditions.

5. The original amount of cash is the Waqf. The Waqf asset (cash) cannot be invested as the purpose of lending Cash Waqf is to provide cash loans and investing it may prevent some beneficiaries from benefiting from the Waqf.

6. If for some reasons Cash Waqf funds are in excess of demand, they can be invested in assets and those assets may be sold for other investments. The revenues from the investments may be added to the original Waqf or may be dedicated to a specific benevolent cause within the conditions of the Waqf founder.

7. Lending Cash Waqf can have later additions to its original capital.

8. Lending Cash Waqf may require borrowers to provide personal guarantees or

8 Making a Waqf temporary by will of the founder was not recognized except in Maliki school (Kahf, 2014).

to have a Takaful life cover and contain such conditions to ensure the original amount borrowed is paid back.

9. Borrowers will be charged only for out-of-pocket expenses incurred in providing the loan by the lender. In case of default, customers will also be charged for any actual costs and expenses incurred by the IB in collecting the debt. Expenses charged to borrowers may increase over time because actual costs and expenses increased due to inflation. Lenders can pass on debt collection costs and actual inflationary effects on customers but not the opportunity cost of the debt.

Operationalizing the Cash Waqf Personal Finance Instrument

The Cash Waqf PF model can be operationalized by IBs in two ways: 1) as a Cash Waqf open-end fund (CWF) or 2) as a Cash Waqf foundation. The difference between the two lies in administration, management and recognition and treatment under the law. An open-end fund is a kind of mutual fund that issues and redeems shares at any time. A fund manager is assigned to administer and invest the funds and there is no limit to the number of shares that the fund can issue and it can issue shares at any time. In contrast, a foundation is a legal non-profit organization that gives interest-free loans and recollects them back to recycle its fund endowment again.

Structure, Process Flow and Transaction Dynamics

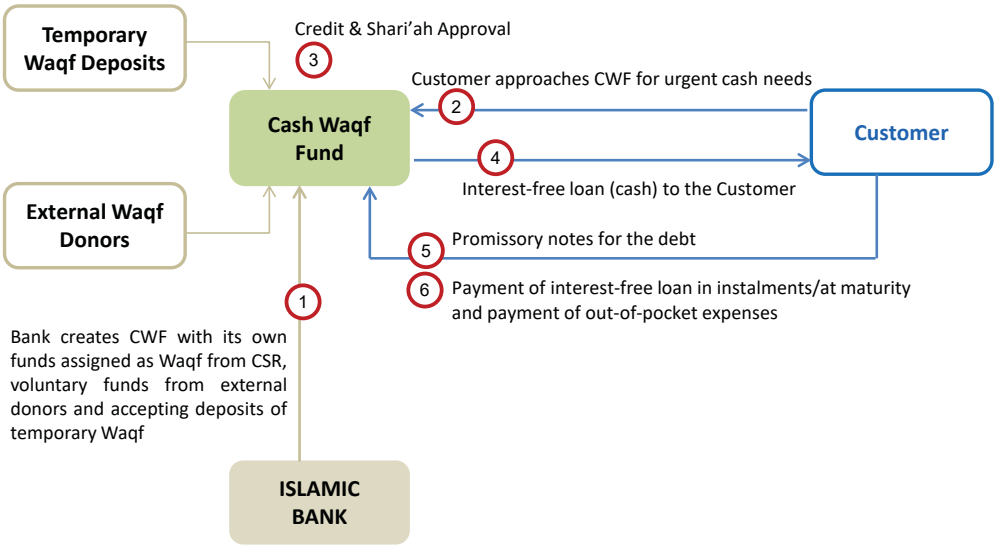

Figure 1: Cash Waqf Open-Fund Instrument (Source: Authors)

1. The IB creates an open fund[9] with capital as Waqf contributions which may come from its own funds (part of its CSR funds assigned as Waqf) or by accepting deposits of temporary Waqf[10] and/or other Waqf funds from external donors. It assigns itself or its subsidiary company as the fund manager.
2. Customer approaches the CWF with PF request. The relationship manager enquires regarding the purpose of the financing and assesses the financial situation of the customer.
3. The request is sent for approval from Credit and Shari'ah departments. If the customer's request is among the needs that fall within the purview of the CWF facility, it will be funded from the CWF.
4. Upon approval (Credit and Shari'ah), funds from the Cash Waqf pool is used to provide PF in terms of interest-free loans.
5. The Customer provides promissory notes for the debt to the CWF.
6. The interest-free loan is paid at maturity or in instalments as pre-agreed. The customer will also be charged for all out-of-pocket costs incurred by the Bank in providing the interest-free loan.

Cash Waqf Foundation

The Cash Waqf foundation is similar to the instrument presented above in its operations and has same process flow and transaction dynamics with the only exception that it is fully independent and has its own legal entity. IBs can create and operate a Cash Waqf foundation whereby funds will be used for the purpose of providing interest-free loans to serve their own customers.

Operational Aspects and Issues

1. Fund Manager

The IB, as manager of the fund, maintains its accounts and is responsible for giving loans to the borrowers and collecting payments. At the end of each period (quarterly,

9 The idea of open fund is to enable the fund to receive contributions at any time in contrast to closed fund.

10 Islamic financial institutions may come up with innovative ideas to encourage their own customers to make Waqf contributions to this fund that is for a benevolent cause whether by cash contributions or other means. E.g., Al Rajhi Bank has an innovative Islamic credit card - the Ehsan card that enables cardholders to make a charitable donation to the Orphan Care Organization (Enasn) via points accumulated through purchases that are converted into cash equivalent.

half-yearly, yearly), the IB settles the accounts and reports the fund's performance. Amounts collected will be added in the fund and used over again for new PF. Only actual costs incurred in providing the loans and collecting payments will be charged to borrowers.

The Cash Waqf open-fund instrument is for benevolent purposes and the IB, as fund manager, is not expected to charge a management fee particularly when:

a. CWF is partially funded by temporary Waqf deposits and external donors. This is because the CWF benefits the IB in terms of image and market reputation, and charging a management fee for managing the CWF for its own customers may have a moral issue of customer exploitation especially if the funds come from CSR.; and
b. Financing is restricted to the IB's customers only.

If the IB does not restrict the scheme to its customers only, it may then charge actual management expenses.

2. Funding and Temporary Waqf Deposits

Main funding should come from CSR contributions of IBs individually for internal CWF and collectively for the Cash Waqf Foundation. Funding may also come from outside donors or from the IB's customers who wish to make temporary Waqf as Waqf deposits. Some donors may give funds as Waqf permanently, but some may choose to give temporary Cash Waqf funds subject to redemption on demand or after a period. The open fund structure can accommodate temporary Waqf funds. There is no benefit to the fund provider except that it is a benevolent action for which reward is left to God. Kahf (2014) discussed this issue saying that there are people who are willing to help with their available financial resources for a given time period but they would like to retrieve their principal later. He added that this becomes similar to loans as defined in Shari'ah "an act of charity in which the lender sacrifices the benefit of using cash during the period of the loan".

3. Risk Management

Financial institutions and banks are well-equipped to address risk management and fund sustainability issues when it comes to administration and management. This Cash Waqf-based instrument may be integrated into the Islamic banking sector and is more likely to succeed. IBs before providing the interest-free loan through Cash Waqf funds will do a complete assessment of the customer's profile and investigate the purpose of

the facility. Although they may give funds as cash to the customer, they can through following ensure the loan is paid back:

a. Asking for proof or evidence of payments made. E.g., in case of debt settlements, the IB can effect payment directly to the conventional bank without giving cash to the customer, if it is for purchase of gold, silver and foreign currencies, the IB can give cash to the customer and request receipt as proof of payment, etc.
b. IB can ask for personal guarantees or collaterals to secure the debt.
c. IB can ask for the beneficiary's salary to be credited to the Bank and payment for the loan to be automatically deducted from the salary once transferred each month.
d. IB can ask the customer to take a Takaful life cover which covers the debt in case of death or complete disability.

Strict measures will ensure that the funds given out are recovered and the CWF is not depleted.

4. Sustainability

The lending CWF instrument is used only for giving benevolent loans, collecting the loans and giving it to new borrowers. It entails no investment and sustainability concerns arise regarding the CWF and preservation of its capital. Lending CWF requires a continous inflow of funds from CSR funds and similar sources to ensure self-sustainability. Sustanability of the fund is affected by three factors: risk of default or non-payment, administrative expenses and inflation.

To ensure capital preservation, administrative costs incurred may be borne by the IB in the case of internal CWF or charged to borrowers in case of Cash Waqf Foundation as resolved by the OIC Fiqh in 1986 Resolution No. 13 (1/3).[11] AAOIFI, in Shari'ah Standard No. 19 on Qard issued in 2004 mentioned that it is permissible for an institution to charge for services rendered in loan-giving equivalent to the actual amount directly spent on such services. Indirect expenses such as employee salaries, rent amongst others should not be included. This implies that the components of the service charge may include:

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11 OIC Fiqh Academy Resolution No. 13 (1/3) in Amman: Regarding service fee for IDB loans:
1. It is allowed to charge a fee for loan related services. The said fee should be within the limit of the actual expenses.
2. Any fee in addition to the actual service related expenses is prohibited (haram) because it is considered as Riba (usury).

a. Actual cost of processing the loan application;
b. A monthly or yearly charge comprising of actual cost for maintaining the accounts and following-up on the loan;
c. All costs and expenses incurred in securing the debt and obtaining appropriate collaterals and guarantees will be borne by the borrower;
d. All expenses related to recovering the debt in case of non-payment including court charges; and
e. Actual inflation depletion and actual default loss can also be charged in case of independent CWF but both are not recommended when the CWF is internal of the IB.

What is important to note is that any ex-ante estimation of these costs should always be subject to ex-post adjustment. Ahmed (1995) ascertained that service charge can only be calculated at the end of the period because it is only at that time that actual administrative expenses are known. He stated that it is possible to levy an approximate service fee to customers and reimburse or reclaim the difference at the end of the period when actual administrative expenses are known.

5. Targeted Segment

If the CWF is exclusively funded, operationalized and capitalized by the IB, it can choose to restrict the beneficiaries to its own customers only. But if the CWF is independent from any specific IB, there should be no restriction on the beneficiaries.

Advantages & Disadvantages of Cash Waqf PF Instrument

The Cash Waqf PF instrument has several advantages although it is non-profit based. It can be a practical model of PF in IBs and used as a financial tool for individual cash needs for cash loans and settling interest-based loans. It can be used for all genuine individuals cash needs that cannot be financed under Murabahah/Service Ijarah and the other well known Islamic contracts as well as enabling individuals to purchase jewellery, gold, silver and foreign currencies or even for benevolent causes. In fact, such tools may be an added privilege for IBs and improve public's perception of IBs being socially-responsible corporations and add to their image.

However, the Cash Waqf-based instrument will not generate any profits or monetary gains to IBs. It is meant only for individual genuine cash needs and not for corporates and goverments because corporates are profit-making institutions and governments'

projects that seek to fulfill society's needs can be met through the Waqf institution directly and by-passing financing goverments as evidenced through historical practices.

This instrument may also be abused by customers who may seek financing for purposes that can be financed by other profit-based Islamic contracts to avoid profit charges. IBs have to implement stringent customer assessments and restrict the CWF to only specific purposes to avoid abuse by customers. Controls can be put on CWF by the central bank by recognizing it as an instrument and regulating and/or issuing guidelines on its uses.

Cash Waqf Instrument for Microfinancing and SMEs

Corporations and businesses have different needs depending on their nature of business and size such as financing purchase of assets, inventory, hiring workers, payment for day-to-day expenses, financing expansions, research, development and marketing costs, etc. Small and medium enterprises (SMEs) are businesses whose annual turnover, capital or number of employees fall below certain limits and include new start-ups. These kinds of businesses are underserved by commercial banks, including IBs. Governments in almost all countries have specialized banks or finance institutions created by governments with the objective of providing low-cost financing to certain category of individuals and SMEs, through which they seek to promote entrepreneurship, SMEs and financial inclusion. Such institutions, particularly, in Muslim countries can operationalize a CWF for microfinance institutions and SMEs for those needs that cannot be financed except through cash loans or to promote their activities.[12] This institution can also extend interest-free loans to unbankable individuals through special schemes.

The advantage of the CWF being operated and funded by the government through a specialized bank implies greater accessibility to a larger segment of the population and the government being welfare-oriented would be ready to sustain the pool of funds and such financing activities to improve living standards and promote economic growth. But, there should be proper controls in place and high levels of disclosure to prevent any mismanagement of funds and fraud.

12 This instrument should be used only for SMEs genuine cash needs such as paying outstanding debts. For other needs such as working capital, the Bank can provide financing based on other Islamic contracts. Or in the case of microfinancing, the government may use this instrument to finance any of their activities simply to encourage and boost their activities as they are economically weak until their economic status is uplifted.

CONCLUSION

This paper discussed Cash Waqf and reviving and re-engineering its potential applications in a modern banking environment in an attempt to fulfill contemporary needs. Cash Waqf was presented as a potential contemporary instrument of PF in IBs. We proposed that IBs can create Cash Waqf funds or foundations to serve their own customers, which will be an added privilege for them. The concepts of Waqf and Cash Waqf in Shari'ah were reviewed. Cash Waqf was defined and some historical experiences of Cash Waqf as well as some contemporary studies were provided. Cash Waqf is of two types: lending Cash Waqf and investment Cash Waqf. We discussed lending Cash Waqf as a PF instrument and the conditions governing it within a banking environment. Lending Cash Waqf PF structure can take two forms in IBs which we termed as: Cash Waqf Open-end Fund and Cash Waqf Foundation. We discussed how CWF can be operationalized within IBs, presented its structure and transaction dynamics and the operational issues as well as its advantages and disadvantages. The Cash Waqf instrument can be used for microfinancing and SMEs cash financing if provided by specialized government banks. CWF can be a successful instrument of PF used for all cash loans, debt settlements or interest-free financing for individuals provided proper mechanisms are established to prevent abuse. Cash Waqf-based instruments used in individual PF by IBs will positively affect their image and reputation and can also be an attractive marketing tool.

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