

How Jersey is meeting growing demand for Islamic finance

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As Islamic finance continues to grow and globalise, those seeking to manage or deploy capital in line with the requirements of Shariah will have ever greater need for structures and service providers capable of satisfying these principles professionally and transparently.

Jersey, with its deep bench of expertise and experienced professionals across the legal, administration, accounting and audit sectors, flexible structures and regulatory regimes and track record of excellence in governance, is well placed to cater for this increased demand.

| Shariah compliance

From a legal perspective, Shariah consists of a body of Islamic principles and jurisprudence (including in relation to financial matters) which must be complied with when Muslims and Islamic institutions transact or invest. It is not a governing law in itself so Shariah investments and transactions will be governed by the laws of a specific jurisdiction (for instance, Jersey or England and Wales).

The religious requirements for the transaction will primarily be housed in the constitutional and transactional documentation and in the way the investment is structured. Although there are a number of principles of Shariah (such as the prohibition of interest) which are immutable, these often do not go into detail on the intricacies of the structure. This means that Islamic financial transactions, as with conventional finance, can have various characteristics subject always to rulings that they comply with the Shariah. The flexibility inherent in Jersey's legal and regulatory regimes caters for this well.

It is equally important that practitioners are familiar with the concepts behind Islamic finance

and the impact on these over the life of a Shariah-compliant investment structure, including how they must interact with the Shariah Supervisory Board (SSB) which ultimately rules on compliance with Shariah requirements.

Establishing Shariah-compliant structures in Jersey

Across Jersey's financial sector there is widespread expertise and experience in establishing and operating such structures and a number of practitioners with formal qualifications in Islamic finance.

In particular, Jersey has a track record in catering for a range of Muslim and Islamic institutional clients in the following areas:

- **Real estate investment:** Jersey SPVs have long been a tried and tested route to investment in property, in particular in the United Kingdom. Shariah financing arrangements – typically structured as a commodity Murabaha – are often utilised to fund acquisition and development of the property.
- **Islamic bonds:** Sukuk – essentially, bond-like instruments involving a direct ownership interest in an asset – are frequently issued by Jersey SPVs on behalf of major Islamic financial institutions. These can be listed on international stock exchanges such as the London Stock Exchange, as well as on The International Stock Exchange (TISE), whose headquarters are in the Channel Islands.
- **Generational wealth:** Muslim families frequently look to Jersey's expertise in private wealth management. Jersey trusts are similar in nature to Shariah law endowments, or waqf. Jersey foundations are also frequently used. These structures are frequently (though do not in themselves need to be) managed in line with Shariah principles, though in themselves may be utilised in order to ringfence assets outside of the strict Shariah succession rules and better reflect the settlor's wishes.
- **Funds:** The flexibility and ease of Jersey's fund regimes makes it straightforward to establish Shariah-compliant investment funds. These will often be established under the successful Jersey Private Fund (JPF) regime which offers a light-touch regulatory approach and swift authorisation. A JPF may be established in various legal forms, such as limited partnerships, companies and unit trusts and can invest in all asset classes (subject where relevant to Shariah investment restrictions). Jersey funds are subject to 0% tax.

Islamic finance and sustainable investment

In all areas of Jersey's finance sector, environmental, societal and governance (ESG) considerations are increasingly becoming fundamental to investment decisions. This is the same

in the Islamic world. Indeed, Shariah principles include stewardship of assets and doing no harm and while these are not directly aligned with conventional ESG criteria, it is easy to see where parallels may be drawn.

Jersey has clearly articulated its aim to be the leading sustainable international financial centre in the markets it serves. By applying its expertise in governance and transparency to the application of ESG criteria, Jersey can offer robust solutions to sustainable investment needs.

Islamic investors are currently restricted to a small pool of funds which both comply with Shariah principles and formal ESG criteria. We expect further growth in this area as managers seek to offer a wider range of products suitable for Muslim investors.

Again, the flexibility of Jersey's regime caters well for this. In particular, although Jersey requires robust disclosure and application of sustainability criteria, it does not mandate a specific taxonomy. Managers will therefore be able to establish parallel structures operated efficiently in Jersey which meet the needs of investors wherever they are situated and including, where relevant, any specific Shariah overlay.

As Islamic financial institutions continue to expand their global footprint, this growth will need to be supported by experienced service providers capable of establishing and operating Shariah compliant structures. In Jersey, they will find a forward-looking jurisdiction which has long catered for a global investor base and numerous service providers with significant experience in catering for clients, primarily from Muslim countries, for whom Shariah compliance is essential.

How can Ogier help?

Our lawyers are conversant with a broad cross-section of Islamic products and work closely with our clients to reconcile the requirements of regulators and Shariah scholars. In particular, we have significant expertise in the set-up of special purpose vehicles (SPVs).

Our Islamic Finance team represents both Islamic and conventional banks and financial institutions in relation to Islamic products including Murabaha, Mudaraba, Musharaka, Ijara, Wakala, and Sukuk.

Get in contact to find out more.

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