A STUDY ON THE NEED FOR VBI IN MALAYSIAN ISLAMIC FINANCIAL INDUSTRY AND ITS SHARI'AH PERSPECTIVE

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Abstract: The purpose of this paper is to highlight the need for Value-Based Intermediation (VBI) in Malaysia introduced by Bank Negara Malaysia (BNM) in March 2018, under the guidance of Shari'ah Advisory Council (SAC), which is the decisive authority in matters relating to Shari'ah, analyse the aim of VBI against that of SDGs in the light of Maqasid al-Sahri'ah, and to assess VBI from the perspective of Shari'ah. The growth of Islamic banking in Malaysia experienced a boost where the market share of Islamic banking assets grew from 7.1% in 2010 to 28% in 2016, but there has been a decline in Islamic finance's annual growth from 24.2% in 2011 to only 8.2% in 2016. There could be various reasons for this decline, such as maintaining a steady growth requires constant innovation in the products and services offered. However, innovation becomes difficult in case of IFIs, since they have to comply with legal and Shari'ah rules at the same time. Qualitative method of study is used for this paper. It is found in the study that VBI not only conforms with the principles of Shari'ah but also re-focuses IFIs to achieve the objectives of Shari'ah or fulfill Maqasid al-Shari'ah. The study also found that VBI is also in line with the SDGs, which are human-made goals presented to the world by United Nations around 2012. However, while SDGs are prone to changes and criticism, the objectives, or goals of Shari'ah are holistic, permanent, and divine. VBI is a concept applicable only in Malaysia's Islamic Finance Industry until the time this paper is
written, and therefore, it focuses only on the Malaysian IFI. There is a need to understand why VBI was needed in Malaysian IFI despite each Islamic bank having their own Shari’ah committee and SAC of BNM and this paper will help develop that understanding.

**Keywords**: Value-based intermediation (VBI) Malaysia, shari’ah, maqasid al-shar’iah, SDGs, IFI.

**INTRODUCTION**

Since the beginning of the Islamic finance industry in Malaysia in the early 1980s or 1983-84 to be precise, with the establishment of two Islamic finance industry's icons in Malaysia, i.e., Tabung Haji and Bank Islam Malaysia Berhad (BIMB), the focus has been on making Islamic finance industry distinct from its conventional counterpart. As it is known, Malaysia has a dual banking industry where Islamic and conventional banks operate side by side, and therefore, it becomes even more critical for the Islamic finance industry to distinguish itself and its goals from the goals of the conventional finance industry. Where on the one hand, conventional banking's main aim is to earn and maximize profits, Islamic banking, on the other hand, focuses on a more inclusive approach. It operates as a facilitator in developing a more sustainable and optimistic society, which is what VBI's focus is as well and that is to make IFI more focused towards achieving the objectives of inclusive and sustainable growth in accordance with the Shari'ah principles.

Value-Based Intermediation or VBI was introduced in Malaysia in March 2018 to make the Malaysian financial sector more development-focused. However, the immediate focus was on the
Islamic banking industry in order to make it more distinct from its conventional competitor and also to shift focus on investing in projects that are more value-based from the social point of view and helps in achieving inclusive growth in a sustainable manner which coincides with the ultimate objective of Shari'ah. In March 2018, BNM released a strategy paper on VBI according to which it explains VBI as "An intermediation function aimed at delivering Shari'ah's intended results through practices, behavior and offerings that produce a positive and sustainable impression on the economy, community and environment, consistent with the sustainable returns and long-term interests of shareholders." (BNM, 2018).

BNM's strategy paper explains the four underpinning thrusts of VBI as Entrepreneurial mindset, Community empowerment, Good self-governance, and Best conduct. With VBI, the IFI plans to focus on value-based propositions through its implementation by Islamic banks depending on their potential and expertise level.

LITERATURE REVIEW

Background of the development of Dual-Banking system in Malaysia

Conventional banking has been in the financial markets all over the world since time immemorial, but Islamic banking is a new phenomenon that took its form in the mid-1960s. The first conventional bank in Malaysia opened in 1859 by the name of Chartered Mercantile Bank of India, London, and China at Penang. The second conventional bank to open in Malaysia was Chartered
Bank in 1875, followed by HSBC, Easter Bank, and OCBC in 1959. (Al-Omar, 1996).

After the fall of Uthmania Khilafah in Turkey, fear took over the minds of Muslims all over the world that the teachings of Islam are going to disappear from the minds of humankind, and therefore, a preventive measure was required. Ahmad Al Naggar, who is called the father of Islamic banking, was residing in Germany at the time and noticed how the German government was applying the Social Saving bank to acquire sustainable economic growth in the country. He presented this idea to the Egyptian government, and that is how the first Islamic bank by the name of Mit al Ghamr came into existence in 1963, intending to explore the possibilities for mobilization of savings and local credits as a requirement for social and economic development. (Al-Omar, 1996).

In Malaysia, Islamic banking commenced with establishing its first full-fledged Islamic bank called Bank Islam Malaysia Berhad (BIMB), in 1983. Because Malaysia is a country with wide ethnic variations where people of three main ethnicities are Malay, Chinese, and Indians, live together belonging to different religions in which Islam is the dominant religion and therefore; as a result, it is viable for Malaysia to have a dual-banking system to cater to the needs of different societies. Islamic banking is crucial for Muslims who want to stay away from the riba based conventional banking system. However, Islamic banking is open to every person from every religion. This dual-banking and dual-financial structure has provided Malaysian people with a wide range of financial products to choose from.
according to their need and preference, ranging from simple savings accounts to complex investment products such as sukuks.

The development of Islamic Banking in Malaysia can be traced in three stages, where the first stage is 1) Monopolistic years-1983-1990, the second stage is 2) Developing years- 1990-1994 and the third stage is 3) Take off years- 1994-onwards.

The first stage is called monopolistic years (1983-1990) as BNM decided to give an Islamic bank ample time to set up and operate smoothly without any competition from a similar player in the market.

The second stage started in 1990 when the Malaysian government decided to take Islamic banking on a national level and have as many Islamic banks as possible to provide Islamic financial services to all the Malaysians. For this development phase, the government decided to allow new Islamic banks to establish and also allowed existing conventional banks to set up their Islamic banking subsidiaries throughout Malaysia. This approach has been taken after a thorough consultation with prominent Islamic jurists and scholars, who favored the decision. In 1993, BNM introduced a scheme known as Skim Perbankan Islam (SPI), which allowed conventional financial institutions to offer Islamic banking services alongside their conventional services. Three conventional banks were selected for the initial phase testing, which grew to 18 by the end of 1993.

The Third was take off years where several measures were adopted to strengthen the Islamic banking system and grow further. These measures include the introduction of the Islamic money market in January 1994, separate disclosure for SPI banking operations in
1996, the commencement of full-fledged SPI banking branches in the first quarter of 1996, and the harmonization of Shari'ah issues through the formation of the central Shari'ah Advisory Council (SAC) under BNM in May 1997. (Uzaimah Ibrahim et.al, 2012)

Value-Based Intermediation (VBI) in Malaysian IFI

VBI was introduced in Malaysia in March 2018 when the Bank Negara Malaysia (BNM) launched the strategy paper titled "Value-Based Intermediation: Strengthening the Roles and Impact of Islamic Finance" to introduce VBI in the Malaysian IFI. This move of the BNM received a lot of positive responses, especially from the Shari'ah scholars. With VBI, BNM aims to make Islamic finance more sustainable by making it more robust, especially in resilience towards economic crisis. The effort of BNM is to contextualize VBI into the practical approach or financial activities of IFI in Malaysia. Along with introducing the strategy paper for VBI, BNM also introduced three other guidance documents, namely; 1) the Implementation guide for VBI; 2) the VBI Financing and Investment Impact Assessment Framework (VBIAF), and 3) the VBI Scorecard. The BNM explained the functions of these three documents as follows:

"The VBI aims to re-focus Islamic finance business models towards realising the objectives of Shari'ah that will generate positive and sustainable impact to the economy, community, and environment through practices, processes, offerings, and conduct:

a) The Implementation Guide for VBI guides the Islamic finance institutions regarding reasonable value-based banking practices to direct them on the value-based intermediation
initiative. It also clearly explains the different phases of implementation and also highlight the challenges in the implementation process along with their practical solutions;

b) The VBI Financing and Investment Impact Assessment Framework provides a procedure for the execution of an impact-based risk management system for evaluating the financing and investment-related activities of Islamic banking institutions in accordance with their commitment towards VBI; and

c) The VBI Scorecard provides an overview covering purposes, key components of assessment, and proposed measurement methodology. (This paper is jointly developed with the Global Alliance for Banking on Values). (BNM, 2019).

In the words of BNM, referring to the above-listed documents, VBI is an approach for the sustainability of IFI, which is defined as "an intermediation function that aims to deliver the intended outcomes of Shari’ah through practices, conduct, and offerings that generate optimistic and sustainable impression to the economy, community, and environment, consistent with the shareholders' sustainable returns and long-term interests." (BNM, March, 2018)

Relationship between VBI and SDG's in light of Maqasid al-Shari'ah (MaS)

Maqasid al-Shari’ah (MaS) reflects the ultimate aim of Islamic law. MaS aim to have sustainable economic and social growth where every person is treated equally in society. MaS is an amalgamation made by Muslim jurists very carefully, based on the Quranic verses
and the Hadith of Prophet Muhammad (PBUH). Islamic jurists analyzed Quranic verses and Hadith between the 4th to 7th Hijri to develop the concept of Maqasid al-Shari’ah. Instances of this concept can be traced back to the administration of the second Caliph, Umar bin al-Khattab, and the school of Islamic jurisprudence of Maliki, emphasizing the importance of public interest (Maslahah). The concept of MaS was first coined by the twelfth-century theologian Abu Hamid al-Ghazali, who said that MaS stands for the welfare of human beings in this life and the hereafter, and it does that by providing means for the protection of five most essential elements necessary for the survival of human beings, which are; 1) life or al-hayaat, 2) religion or al-deen, 3) lineage or al-nasl 4) intellect or al-aql and 5) wealth or al-maal. He was also the one who categorized Maqasid al-Shari’ah into three descending levels of significance, namely; 1) daruriyyah (the essentials or necessities), 2) hajjiyyah (the complementary needs), and tahsiniyyah (the embellishments).

![Fig 2.3: The Pyramid of Maslahah based on MaS](image)
Protection of the five most essential elements required for human survival comes under the necessary level as these are the absolute necessities for the physical and spiritual well-being of the individuals and communities. If these daruriyyah are ignored, it will lead to chaos and disorder in the whole world (Chapra, 2008).

As mentioned earlier, VBI is launched to re-focus the Islamic finance industry in Malaysia towards the fulfillment of the objective of Shari'ah. When the Central bank of Malaysia introduced the strategy paper for VBI, i.e., BNM, it said, "Value-based intermediation (VBI) aims to deliver the intended outcomes of Shari'ah through practices, conduct, and offerings that generate optimistic and sustainable impact to the economy, community, and environment, constant with the shareholders' sustainable returns and long-term interests." Therefore, it will be right to say that VBI practices are entirely in line with the objectives of Shari'ah whereas Sustainable Development Goals or SDGs are human-made goals that are not holistic or divine in nature. The idea of SDG's based on nations working interrelatedly was proposed by United Nations (UN) back in 2012 in Brazil and subsequently developed and adopted by around 178-member countries as a set of 17 goals meant to be achieved by 2030. These goals include "No poverty, Zero hunger, Good health and well-being, Quality education, Gender equality, Clean water and sanitation, Affordable and clean energy, Decent work and economic growth, Industry, innovation and infrastructure, Reduced inequalities, Sustainable cities and communities, Responsible consumption and production, Climate action, Life below water, Life on Land, Peace
justice and strong institutions and Partnership for the goals." (UN, 2015).

When we talk about VBI, the focus shift towards the intermediary role of Islamic financial institutions in delivering positive and sustainable impacts on society, while SDGs are focused on a set of goals that are human-made and are therefore subject to change and criticism. These goals are made keeping in mind the worldly things of importance to the human beings and, therefore, lacks the fulfillment of spiritual needs of human beings. SDGs are suited to be applied within a capitalist system and less consistent with Shari’ah. While holistic objectives of Shari'ah or MaS are the higher objectives of the Lawgiver, i.e., Allah (SWT) bestowed upon us through the intermediary of Prophet Muhammad (PBUH). Compared to MaS, the set goals are limited to 17 and can be changed according to the needs. The foundation of MaS is general and universal in nature, while they must be consistent with Shari'ah, these holistic objectives are well-structured, well thought out and permanent in nature. Some of the goals of SDG's might be in line with the Shari'ah. However, there could be other goals that are contrary to Shari’ah, or they are prone to changes in importance depending on time and situation and hence, have the probability of becoming non-Shari’ah compliant, such as the goal of gender equality, as in the conventional world women are considered lesser than men. Therefore, SDG's focus is on giving women the same worldly status as that of men, while Islam gives more importance and respect to women. Their role in society is
different, and Islam has given higher status to women in comparison, especially in the form of a mother. (Farhah & Razina, 2018).

METHODS

This paper uses the qualitative method of research, which is based on descriptive analysis. This methodology is used as it satisfies this paper's requirements, such as data collection, which includes previous articles, journals, and web content related to the topic. This paper discusses VBI in Malaysia by analyzing facts and theories without empirically testing the theories.

RESULT AND DISCUSSION

The Need for VBI in Malaysian IFI

As discussed earlier and as it is well known that Malaysia has a dual-channel financial system where Islamic and conventional financial markets exist parallelly to each other. Because the conventional financial industry is much older and well established than the relatively newer Islamic finance industry, it is evident that the framework for the conventional finance industry is much more developed and well-structured as compared to the IFI, which in some areas is still governed by the conventional financial acts and rules that were in existence since a long time, even before the introduction of Islamic finance in Malaysia. Therefore, we can say that IFI does not have a completely different framework of its own, which has been a part of debates for a long time. For example, List 2 of the Ninth Schedule of the Federal Constitution states that Islam is a matter for the State Government and hence, everything related to Islam and
Islamic law would be determined by the rules of the State, and this is the reason Islamic laws applied in Malaysia are not uniform throughout the federation. (Uzaimah Ibrahim et.al, 2012).

As mentioned in the problem statement, the growth of Islamic banking in Malaysia experienced a boost where Islamic banking assets' market share grew from 7.1% in 2010 to 28% in 2016. Nevertheless, there has been a decline in the annual growth of Islamic finance from 28% to only 8.2% in the latter half of 2016, and this is when the idea of adopting VBI in IFI was coined in a meeting of BNM. The statement released by the Central Bank or BNM stated as follows; "Existing efforts are primarily based on ensuring that the financial transaction (including services) product frameworks, specifications, and operational aspects comply with Shari'ah specifications as set out in the regulatory framework. In order to understand the broader effect of financial operations, greater prominence must be assigned. If the existing framework could be shifted to reach beyond enforcement and offer value proposals not only to all financial customers but to the larger stakeholders within society and the economy at large, more market opportunities could be generated." It added: "Greater transparency must include the role of market players and the influence of general stakeholders, particularly with regards to non-financial aspects such as entrepreneurship facilitation, social well-being, sustainable environment and economic growth. The comprehensiveness of disclosure would impact the understanding and decision-making of key stakeholders in the financial industry." (Zakariah, 2017).
VBI from the Perspective of Shari'ah

According to Islamic jurisprudence principles, everything is permissible until there is reason to prove it otherwise, such as *Hukm (order)* by the Lawgiver with definitive proof from Quran and Sunnah. Everything is permissible unless proven otherwise is based on the legal maxim *al-aṣlū fi al-ashya' al-ibāḥah* which means the original of things is permissibility. When it comes to VBI, it is an advanced and innovative approach in IFI that aims to strengthen the principles of Shari'ah, which is essential, especially if we see it in the context of this modern world. Having said that, if we analyze the VBI from the perspective of Shari'ah, it falls in line with the principles of Islamic law, as the end outcome of VBI must be in line with the holistic objectives of Shari'ah. It can be proven from the strategy paper released by Bank Negara Malaysia (BNM) in March 2018, which states:

"Value-based intermediation (VBI) seeks to achieve Shari’ah's intended results through processes, actions and offers that produce an encouraging and sustainable effect on the economy, society, and environment, consistent with the sustainable returns and long-term interests of the shareholders. VBI also emphasizes the minimization and prevention of negative impact from the Islamic banking industry's practices, conduct, and offerings. VBI promotes a more holistic observation of Shari'ah, beyond Shari’ah compliance, i.e., ensuring Islamic banking offerings and practices comply with Shari'ah requirements and achieve the intended outcomes
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of Shari’ah. Intended outcomes of Shari’ah focus on enhancing the well-being of the people through the preservation of wealth, faith, lives, posterity and intellect". (BNM, 2018)

Fig 2: Framework of Maqasid al-Shari’ah by Ahmad Sarkawi, et.al. 2017

Ahmad al Sarkawi came up with the above illustration of Maqasid al-Shari’ah discussed in the BNM's strategy paper of VBI. Based on the classification of MaS made by the classical Islamic jurists between the 4th to 7th Hijri. It is clear from the above illustration that all three levels of MaS are inter-related and complementary to
each other, and they are there for the welfare of human beings, not only in this world but also in the hereafter. *Daruriyyah* has been expressed as the necessary level of needs that must be fulfilled because non-fulfillment of these needs may be a barrier to Allah's (SWT) worship or towards fulfilling religious obligations. (Ahmad Sarkawi et.al, 2017).

If we analyse IFI in the light of MaS, the primary aim of IFI acting as a financial intermediary is to bring *maslahah* to their customers in a mutually beneficial manner, i.e., not to forgo their profit but also, at the same time their aim should not be profit maximization but, it should be the welfare of the society. It is evident from the instruments of Islamic social finance and objective behind their existence, which consist of "the traditional Islamic instruments based on philanthropy (such as Zakat, Ṣadaqah, and Waqf) and cooperation (such as Qarḍ and Kafalah). Additionally, it also covers the modern form of Islamic financial services such as Islamic microfinance, Sukuk and Takaful, the aim of which is to facilitate the society". (Zain, 2018).

It is also interesting to note that while the instruments of Islamic social finance are developed from the holistic sources, i.e., Quran and Sunnah, these instruments are equally applicable in modern times and can be used by IFI's to fulfill the objectives of Shari'ah. It is also worth noting that all the Islamic social finance instruments are also in line with the modern concept of SDGs and can be utilized to fulfill most of the UN's goals. For example, zero hunger and no poverty can be tackled by Islamic social instruments, such as Zakat, which has been a proven tool for eradicating poverty, as seen during
the reign of Umar bin al-Khattab (RA). (Ahmed H. &. Qaradawi Y, 2004 & 1999).

**Ethical changes in standard practices of IB's after the introduction of VBI**

A study by (Abu Bakar, 2017) finds that Islamic banks in Malaysia use standard form-based contracts to deal with customers, and this practice is shared across all the Islamic banks in Malaysia. The standardized forms of contracts are used to ease operations, save time and cost and at the same time promote the smooth functioning of the economy. These standard contracts are the basis of trade agreements between Islamic banks and their customers. These standard operating procedures based on a standardized form across the Islamic Banking industry helps in reducing legal costs on negotiated contracts between parties without having to negotiate every time a new contract is agreed upon between the contracting parties. It minimizes the documentation and variations in procedures and, at the same time, also minimizes the need for a Shari'ah scholar's involvement to check the legitimacy of the contract. Alvi (2009) as cited in (Noormahinar, 5-6th December, 2016). These standardized contracts are pre-drafted by Islamic banks across the industry and offer a better negotiating power to the Islamic banks and makes the offer on a 'take it or leave it' basis. Standard form contracts are also known as 'adhesion contracts' since they are non-negotiable. Therefore, the Islamic banking customers do not have much space to negotiate on terms of the contract and have to accept the pre-drafted
terms in order to facilitate financing for their business or purchase. They are also referred to as 'boilerplate contracts' since consumers have no choice in 'shopping around' for better contract terms as standard form contracts are standardized across the IBs. Research on the customer's ability to read and understand these pre-drafted terms revealed that a large number of customers failed to read or understand these pre-drafted terms, and even if they read the terms, there was a high chance of them undervaluing the risks associated with these contracts. Standard form contracts may also be long and confusing for consumers, usually written using technical language and involving legal terminologies that are tough to understand. All the above settings may lead to the inclusion of unfair terms in consumer contracts and notices. These terms, which are unfair to Islamic banking customers, violate the objectives of Shari'ah (Maqasid al-Shari'ah) due to social detriments that go against ethical and moral rules and fair practices.

Therefore, such a scenario demands an intervention to adopt fair practices and terms in consumer contracts and notices. VBI plays a vital role in shifting the paradigm of Islamic banks towards a more inclusive approach, where they now have to include their customers in governance and operating structure to avoid using biased terms and conditions in contracts and notices. With VBI, IBIs will need to contemplate the socio-economic impact of their activities and actions on a broader range of stakeholders, including the financial consumers. (Abu Bakar, 2017).
Recent Examples of VBI practices in Malaysian IFI

Based on the guidelines provided by the Bank Negara Malaysia (BNM) regarding the practice of VBI, many Islamic banks have followed these guidelines and tried to reach the goals set with the launch of VBI.

One of the first banks to adopt this approach is Bank Islam Malaysia Berhad (BIMB). In their report titled "Sustainability Report," which they have been issuing since 2016, highlighted that their method of reaching the required sustainability is by aligning themselves with their goal of becoming a responsible financial entity in doing their financial services operations. BIMB used Sadaqat, a social finance instrument, to achieve VBI as mentioned in their report, which says, "Bank Islam Malaysia Berhad ("Bank Islam") has created the e-Donation facility that enables donations to be made at several terminals via a Debit or Credit card using payWave feature. These terminals were installed at various mosques throughout the country, supporting our commitment to moving the society towards cashless transactions. While the facility eliminates the need to carry cash to the mosque, thus reducing the need for cash management at the mosque, and theft and robbery in the mosque, e-Donation helps foster more acts of good deeds by expanding on the selection of platforms that can be utilized for public benefits. To date, 13 terminals have been installed in nine states across Malaysia". (BIMB, 2016).

Agrobank Malaysia Bhd is the other bank that adopted VBI in their practice. Agrobank, in collaboration with Bernas Sdn Bhd, launched an initiative to improve the productivity and hence the
standard of life of paddy (rice) farmers. Towards this initiative, Bernas Sdn Bhd and Agrobank M Bhd collective contributed about RM 50mn to be given as working capital to the farmers. Bernas provided free technical advice and consultation to these farmers. In addition, Agrobank launched the Paddy i-Tawarruq product based on a tawarruq contract to provide financing to the paddy farmers. Apart from these initiatives, Agrobank M Bhd signed an agreement to provide financial assistance of up to RM 112Mn to the Sarawak Land Consolidation and Rehabilitation Authority (SALCRA). This initiative was taken to boost the agriculture sector and improve the standard of living of the farmers. (Agrobank, 2018).

Ambank Islamic Bhd took another initiative in achieving VBI. Its focus was on the two main pillars of VBI, namely; 1) financial inclusion and 2) environmentally and socially responsible financing. In this regard, the CEO of Ambank Islamic Bhd. Mr. Eqhwan Mokhzanee Muhammad, said, "The emphasis on small and medium enterprises (SMEs) comes into play within the context of financial inclusion. We set up a new division called enterprise banking. There are many services, such as corporate lending, industrial leasing and buying, and financing of business property. We decided to focus on SMEs because they are a big part of the domestic economy, accounting for more than 95% of businesses established in the country. More so, SMEs are creators of jobs and, in turn, economic drivers. However, it is still a very significant segment that cannot easily obtain financing. So, we are looking at ways to penetrate and improve the provision of funding for this segment". (Subramaniam, October, 2018).
CONCLUSION

It is very clear from the discussion above that VBI conforms with the principles of Shari'ah, and it was a well calculated and positive step by the BNM to launch VBI in Malaysian IFI, especially at a time when Islamic banking was losing its earlier growth rate. The rate of growth of IFI in Malaysia was around 24%-28% in 2011 and it came down to a growth rate of only 8.2% in 2016. Therefore, VBI was a fresh move to re-focus the Islamic finance industry towards the goals it was supposed to accomplish. These goals also match with the ultimate goals of Maqasid al-Shari'ah, and in the case of Islamic banking and finance, it is to work as a facilitator to bring ease and maslahah to the people and save them from any mafsadah or harm, e.g., Takaful (Islamic alternative of insurance), where a group of takaful participants guarantees to cover each other in case of a financial loss borne by any participant of takaful. In addition, it would not be wrong to say that a practice such as VBI, which falls in line with the principles of Shari'ah and pushes IFI to fulfil the objectives of Shari'ah through achieving sustainable growth, need to be promoted in other countries having Islamic banking as well, which will ensure welfare of humanity on a large scale all worldwide and at the same time boost the IFI through a more focused approach.

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