

Module Training and Competency (TC) For Islamic Retail Banks

Industry Comments and Feedback

Volume 2

April 2013

Industry Comments		
General Comments:	Ref	CBB's Response
A bank noted that the Paper should define courses of actions in cases of conflicts with the Labor Law.	GR1	There are no conflicts with the Labour Law in the Module.

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Specific Comments:			
Reference to the draft Directive:	Comments	REF	CBB's Response
TC-1.1.1 Individuals occupying controlled functions (refer to Paragraphs LR-1A.1.5 to 1A.1.16) in an Islamic bank licensee must be qualified and suitably experienced for their specific roles and responsibilities. The controlled functions are those of:	A bank noted that list of controlled function outlined in TC-1.1.1 is inconsistent with list of controlled functions in LR Module (LR1A.1.2). for example TC-1.1.1 does not include Sharia Supervisory Board members and financial instrument traders. This might create some confusion.	SP1	As noted in the cover letter to the consultation document, the reference to controlled functions in Module LR (Licensing Requirements) will be amended to be in line with those included in Module TC.
	(a) Board Member; (b) Chief Executive or General Manager and their Deputies; (c) Chief Financial Officer and/or Financial Controller (d) Head of Risk Management; (e) Head of Internal Audit; (f) Head of Shari'a Review; (g) Compliance Officer; (h) Money Laundering Reporting Officer; (i) Deputy Money Laundering Reporting Officer; and (j) Heads of other Functions.	A bank noted that Paragraph TC-1.1.1 defines Controlled Functions and suggests titles for the various functions (such as Chiefs and Heads). This sounds as if CBB is defining "national titles" for the functions. The Paper should consider that different banks give different titles to different positions (for example Chief Auditor, Chief Risk Officer, General Manager) and therefore the Module has to apply equally to people holding similar positions.	SP2
TC-1.1.2 An Islamic bank licensee must take reasonable steps to ensure that individuals holding	A bank noted that being a controlled function, the Board is expected to have reasonable and sufficient knowledge of the business. Although	SP3	LR-1A.1.20 already states that Licensees seeking to appoint Board Directors must seek CBB approval for all the candidates to be put

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<p>controlled functions are sufficiently knowledgeable about their respective fields of work to be able to guide and supervise operations that fall under their responsibilities.</p>	<p>this rule is appropriate, they do not see how the Bank’s Management have a hand to control this. This must be addressed to shareholders of the company. The control that they believe CBB is enforcing to ensure that this rule is followed is the preapproval of all nominations for the Board via submission of form 3.</p>		<p>forward for election/approval at a shareholder meeting, in advance of the agenda being issued to shareholders. CBB approval of the candidates does not in any way limit shareholders’ rights to refuse those put forward for election/approval.</p>
	<p>The bank recommends that CBB should revise article TC-1.1.2 and mention that Islamic Bank licensee must liaise or refer all controlled functions to the CBB for review and approval prior appointment. This will ensure that individuals appointed for controlled functions are sufficiently knowledgeable, ...etc</p>		<p>TC-2.1.1 already states that: “If an Islamic bank licensee recruits or promotes an individual to undertake a controlled function, it must first file Form 3 (Approved Persons) with the CBB and obtain the express written approval of the CBB for that person to occupy the desired position. In its application, the Islamic bank licensee must demonstrate to the CBB that full consideration has been given to the qualifications and core competencies for controlled functions in Appendix TC-1. (See Article 65(b) of the CBB Law and Paragraph LR-2.3.1).”</p>
<p>TC-1.1.13 Heads of other functions, where risk acquisition or control is involved, are responsible for tracking specific functional performance goals in addition to identifying, managing, and reporting critical organisational issues upstream. Certain functions require dealing directly with clients while others do not. Both</p>	<p>A bank recommended further clarification on the definition of heads of other functions to avoid any ambiguity in relation to obtaining CBB approval.</p>	<p>SP4</p>	<p>The definition of Heads of other Functions is very clear. The bank must see if that definition applies to any of its functions and hence obtain CBB approval. In case of doubt, the bank should refer back to the CBB to seek clarification.</p> <p>Additional guidance has been added stating that banks should contact the CBB should they require further clarification on whether a</p>

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<p>categories of functions, however, require specific qualifications and experience to meet the objectives as well as compliance requirements of the Islamic bank licensee.</p>			<p>specific position falls under the definition of ‘heads of functions’.</p>
<p>TC-1.2.1 All individuals holding controlled functions in an Islamic bank licensee must undergo a minimum of 15 hours of CPD per annum.</p>	<p>A bank noted under TC -1.2.1, Controlled functions must undergo minimum 15 hours of continuous professional development (CPD) training. The module does not specify how the hours are calculated. Also, controlled functions at higher level may find it difficult to complete such rule, especially at Board.</p> <p>Furthermore, The Module does not specify if the individual holding controlled functions completed the required hours of “CPD” training while working with another Islamic Bank, and if he needs to undergo this training again when joining a new institution.</p> <p>A bank recommends that CBB should clarify on how the CPD hours are being calculated. In addition, it is difficult to request from the Board to achieve this as they are not working in the Bank</p>	<p>SP5</p>	<p>Disagree. It is up to each bank to decide on how they would calculate the hours of CPD.</p> <p>Completing the required hours of CPD at Board level can even be by attending 2 or 3 days of conferences, which is not difficult at all. Banks should arrange presentations for the Board members.</p> <p>It is up to the new employer to decide, if for example an employee has moved to a new bank in June and he completed 15 hours CPD with his ex employer, and the position he hold with the new employer is in the same field, then it is up to the new employer to judge whether the 15 CPD completed is good enough and in line with the bank’s training policy or whether the employee need to complete another 15 hours of CPD for that year.</p> <p>See SP5</p>

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	<p>on permanent basis as other controlled function individuals. CBB should reconsider this for the Board, and minimize the hours.</p>		
	<p>Another comment from the bank:</p> <p>As regards completion of 15 hours of CPD every year, it will be useful if additional guidelines are included in the proposed module on how CPD hours should be calculated for all controlled functions. Once again, licensees will be able to report the actual CPD against stipulated minimum on a quarterly basis. It should be made obligatory on the part of directors to submit a periodic statement directly to the CBB by a due date failing which the member holding controlled function would be deemed disqualified to hold office. Such a filing should be completely independent of the licensee as licensee management or Board secretary are bound to be influenced by the directors.</p>	SP6	<p>The monitoring of the required minimum CPD is the bank's responsibility. When doing onsite examination, the CBB may request evidence that proper monitoring has taken place to ensure compliance.</p>
	<p>A bank noted that TC-1.2.1 requires all controlled functions to undergo a minimum of 15 hours continues professional development training (CPD). We fully agree on the importance of CPD across the organization, however they are of the opinion that for some controlled functions including but not limited to BoD members and SSB members the minimum CPD hours may be reduced.</p>	SP7	<p>Disagree. Completing the required hours of CPD can even be by attending 2 or 3 days of conferences, which is not difficult at all. Banks should arrange presentations for the Board members.</p>

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	A bank noted that Paragraph TC-1.2.1 specifies the minimum 15 hours training hours per annum. While this may be reasonable for the Management, the same number of hours may be too long for the Board Members and appears to be inconsistent with the Core Competencies for Board Members as specified in Appendix TC-1.	SP8	See SP7
TC-1.2.3 The level of supervision should be proportionate to the level of competence demonstrated by the approved person. Supervision will include, as appropriate: (a) Reviewing and assessing work on a regular basis; and (b) Coaching and assessing performance against the competencies necessary for the role.	A bank noted that the Paper contains rules for various Controlled Functions that can be categorized into two broad groups namely “Board” and the “Management”. Providing one set of rule for both these groups may result in conflicts. Consider the following examples : •Paragraph TC-1.2.3 explains supervisory requirement of person occupying positions of Controlled Functions. This paragraph, in their opinion, is more applicable for the Management (rather than the Board).	SP9	The rule applies to all controlled functions including board members and management mentioned in the list of controlled functions. Board can be supervised by the shareholders just as management being supervised by the board.
TC-2.1.1 If an Islamic bank licensee recruits or promotes an individual to undertake a controlled function, it must first file Form 3 (Approved Persons) with the CBB and obtain the express written approval of the CBB for that person	A bank noted that the Paper contains rules for various Controlled Functions that can be categorized into two broad groups namely “Board” and the “Management”. Providing one set of rule for both these groups may result in conflicts. Consider the following examples :	SP10	Disagree. Shareholders appoint board members. Therefore, this rule is applicable to both the Board and the Management.

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<p>to occupy the desired position. In its application, the Islamic bank licensee must demonstrate to the CBB that full consideration has been given to the qualifications and core competencies for controlled functions in Appendix TC-1. (See Article 65(b) of the CBB Law and Paragraph LR-2.3.1).</p>	<p>•Paragraph TC-2.1.1 discusses rules for “recruiting” and “promoting” an individual to undertake Controlled Functions. Naturally “recruiting” and “promoting” applies to the Management only.</p>		
<p>TC-2.3.1 The requirements of this Module for Islamic bank licensees are effective from the issuance date of this Module.</p>	<p>A bank noted that they would also urge the CBB to consider a transition period when implementing this module to allow licensees time to regularize any non-compliance at inception.</p>	<p>SP11</p>	<p>Existing employees prior to issuance of this Module are grandfathered as mentioned in the new rule TC-2.3.3 that has been added.</p>
<p>Appendix TC-1</p>	<p>A bank noted that with regard to Board members knowledge of their responsibilities, qualifications and experience as specified in the appendix TC-1 of the proposed module, they wish to note that while the Corporate Governance and Nomination Committees could certainly play a role with respect to scrutinizing and evaluating nominations to Board, we believe that it is regulator’s right to evaluate if an individual is fit and proper to hold an office. The licensees (Board and/or management) will not be in a position enforce or take responsibility. This is one area that could be effectively controlled only by CBB through the approval process.</p>	<p>SP12</p>	<p>When a bank is planning to recruit an individual to hold a controlled function, it must first look at the qualifications and experience requirements in Appendix TC-1 in order to make sure that such individual is eligible for this position and then the bank needs to fill Form 3 and apply for CBB approval. It is the bank’s responsibility to assess the individual’s competence prior to making the decision of recruiting him/her and it is also the bank’s responsibility to individuals holding controlled functions are properly trained and that competence is maintained.</p>

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	<p>A bank noted that under Appendix TC – 1, the section mentions the qualifications and core competencies required for each controlled function. The Board being a controlled function are required to demonstrate competency by requirements highlighted in the attached document. Again, Bank Management do not have the privilege of nominating Directors, and this is left to the shareholders to decide.</p> <p>The bank recommends that CBB prior approval is the preventive control, and this should be mentioned in this section. The Board Nomination Subcommittee can take these requirements into consideration at the nomination and election stage.</p>	SP13	<p>The shareholders appoint the board members and these criteria must be taken into consideration when assessing any application for board membership. Moreover, the qualifications and experience in the appendix of the TC are rules and will be used by the CBB as a criteria in assessing the candidates. However, the CBB could potentially decide that overall a candidate is fit and proper even if he is not meeting all the Q&E requirements in the appendix.</p>
	<p>A bank noted that the level of experience and qualifications required for some controlled functions is more stringent than others (e.g. requirements for certain approved positions are more substantial than the requirements for board members). Further, in some instances an approved person may not have the required academic / professional qualifications but have an extensive working experience which may be good enough to handle the function. Thus, we suggest if the requirements are made more flexible and streamlined.</p>	SP14	<p>See SP13</p>

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	<p>The bank also noted that they believe that a minimum of 15 years' experience for Chief Financial Officer is relatively high when compared to the other functions. It is recommended to reduce the number of years of experience to 7 years.</p>	SP15	Noted.
	<p>A bank noted that Appendix TC-1 outlines qualification and core competencies for controlled functions. We noted that the minimum years of experience required for the head of finance has been substantially more than the experience required for heads of other functions which are of no less importance.</p>	SP16	See SP15
	<p>A bank proposed the following in respect of the Qualifications and Core Competencies criteria provided in Appendix TC-1:</p> <ul style="list-style-type: none">•Competencies for the Board Members should be the same as the functions they are expected to occupy. For example, Chairman of the Audit Committee must have the same qualifications and competencies as that of the Head of the Internal Audit. This suggestion complies with the requirement of the HC Module and will lead to improving communications/understandings between the Management and the Board.	SP17	Disagree. Assignment of board members to various committees will take into account the competencies held by each board member and does not require board members to be specialists in the area for which they are committee members.

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	<p>•One of the competency criteria used for the Board includes a “minimum experience in business and/or government ...”. For avoidance of doubts, they suggest emphasizing, as per of this criterion, that Public Servants acting as Board Members must comply with relevant provisions of the Commercial Companies Law. See Article 68 and Article 69 of the BCCL which defines rules for “public servants” occupying Board positions.</p>		<ul style="list-style-type: none"> • Disagree. • This is totally out of scope for this Module and has nothing to do with CBB Law.
	<p>•Similar to the above, they note that the Paper defines a criterion for CEOs to have “7 years at a senior management level in an Islamic bank”. They propose removing the word “Islamic” to give flexibility to banks to recruit competent persons from Islamic or Conventional banks.</p>		<ul style="list-style-type: none"> • Disagree. The CEO should have a minimum experience of 10 years in the banking sector, whether conventional or Islamic, of which at least 7 years at a senior management level in an Islamic bank.
	<p>•Judging or measuring competencies by the number of years of experience may be misleading. The Paper should give weight to what a person has achieved during his tenure with other banks rather than just the number of years (spending 15 years with a small bank is totally different from spending 3 years with a large bank). CBB should also consider the impact of the criterion on Bahrainization of certain positions.</p>		<ul style="list-style-type: none"> • See SP13