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Challenges of the Emerging Markets of Islamic Finance in Africa: Nigeria as a Case Study

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ABSTRACT

The challenges facing emerging Markets of Islamic Finance in Africa are multi-faceted. They include; constitutional and other legal challenges, liquidity management for IF institutions, reputation and operational risk related challenges, distorted perception of the IF products and services by the consumers among others. The study attempted to proffer relevant solutions to these challenges using Nigeria, the number one economy on the continent as a case study. With three full-fledged banking and insurance institutions and many other windows operators, Nigeria has shown to be a leading emerging market in the practice of the three components of Islamic finance, The methodology adopted was analytical approach. The study concluded that the challenges are surmountable; hence recommendations were made on how best to overcome the teething problems of this nascent industry in the nearest future.

Keywords: Islamic Finance; Challenges; Banking; Insurance; Nigeria.

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الملخص

كان إصدار ترخيص مزاولة النشاط البنكي لمصرف جائز عام 2011م بمثابة إعلان دخول نيجيريا أسواق المالية الإسلامية من جديد، وذلك بعد الفشل الواضح لتجربة سابقة في أواخر تسعينات القرن الماضي. واليوم، مع وجود ثلاث مؤسسات مالية إسلامية كاملة، وأخرى نوافذ إسلامية للمصارف أو شركات التأمين، لم يعد من المشكوك فيه كون الصناعة المالية الإسلامية قد وجدت موطئ قدم في نيجيريا، بيد أنه في الحقيقة ما تزال هذه الصناعة بعيدة عن تحقيق جميع إمكاناتها في دولة هي الأكثر كثافة سكانية واقتصادها هو الأكبر على مستوى القارة. ولقد حاولت الورقة التي بين أيديكم تشخيص الداء للوقوف على أهم التحديات التي تعيق نمو المالية الإسلامية في نيجيريا وتقديم الحلول المناسبة عند اللزوم. وقد توصلت الورقة إلى أن هذه التحديات متعددة المستويات. فمنها ما هي دستورية وقانونية، ومنها ما يتعلق بإدارة السيولة في المؤسسات المالية الإسلامية القائمة، وإيجاد أسواق مستدامة لذلك، وأخرى تتمثل في تحديات البيئة الاقتصادية نفسها، وما يتعلق بمخاطر السمعة وعمليات القطاع المالي الإسلامي، فضلا عن ضعف البنية التحتية لعمليات الصيرفة الإسلامية، وندرة الكفاءات البشرية المؤهلة، بالإضافة إلى المفهوم الخاطئ لمنتجات المالية الإسلامية وخدماتها من قبل المستهلكين أو العملاء. وقد خلصت الدراسة إلى أن هذه التحديات وإن كانت جسيمة، إلا أنها غير مستعصية، لذا تضمنت الورقة جملة من التوصيات حول الطرق الأمثل للتعامل مع هذه التحديات والتغلب عليها في أقرب وقت ممكن.

الكلمات المفاتيح: المالية الإسلامية؛ التحديات؛ الصيرفة؛ التأمين؛ نيجيريا.

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INTRODUCTION

Recent trends in Africa's financial markets reveal a common pattern of emerging markets in Islamic finance industry. A steady rise in growth and development of the IF industry has been noticed in a number of countries with either full-fledged Islamic finance operations or Islamic window set-up.[1] In a like manner, legal and regulatory frameworks are constantly put in place in the emerging markets within the African region to enable the take-off and operation of Islamic banking offerings while also ensuring its progress and stability within the financial system of a given jurisdiction. An appreciable number of emerging IF markets in Africa have sailed through the first hurdle of putting in place the necessary legal and regulatory frameworks to offer Shari'ah-complaint services.[2]

The Islamic Corporation for the Development of the Private Sector (ICD) in its 2015 report, noted that Africa played host to more than 50 Islamic financial institutions out of the 600 institutions globally.[3] In 2017, Malaysian International Islamic Finance (MIFC) reports that Africa countries made remarkable efforts geared towards the development of the IF industry. For instance in North Africa, Tunisia starts preparatory work for its debut sovereign *sukuk* insurance of USD 500 million, in addition to the operation of Islamic banks and *takaful*. Morocco has introduced new legislation allowing the creation of Islamic banks (although preferred to be called participatory banks) and enabled private firms to issue Islamic debt instruments. While the National Bank of Egypt has started to offer Shari'ah-compliant banking products through Islamic window set-up. The story is not different in the West African sub-region, where the Central Bank of Nigeria established a central advisory body known as "Financial Regulation Advisory Council of Experts" (FRACE) to ensure all Islamic banking products conform to Shari'ah. FRACE is the equivalent of Shariah Advisory Councils (SACs) in other jurisdictions.

Senegal and Togo have issued their first sovereign *sukuk* in the respective worth of 100billion CFA francs and USD 251 million. Only Cote d'Ivoire has issued sovereign *sukuk* twice between 2015 and 2016. East Africa countries equally present us with impressive update. The government of Djibouti has established a national Shari'ah board to help oversee the Islamic finance sector. Kenya reviewed its Islamic finance laws to

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[1] The modern Islamic finance industry has three major components namely; Islamic banking, Islamic capital market and Takaful (otherwise known as Islamic Insurance).

[2] The following countries, in our reckoning, qualify as emerging IF markets in Africa; Morocco, Senegal, Nigeria, Cote d'Ivoire, Togo, Tunisia, Egypt, Djibouti, Kenya, Uganda, Mauritius and South Africa.

[3] Islamic Corporation for the Development of the Private Sector (ICD) (2015) report, "Islamic Finance in Africa: A Promising Future", Islamic Development Bank Group (IDB)

assist the issauance of its debut sovereign *sukuk* estimated at a value of USD 500 million and Uganda approved legislation to offer Shari'ah-complaint services.[4] Despite having 1.5 % Muslim population, South Africa sets herself apart among Southern African countries with the issuance of USD500 million sovereign *sukuk*, operation of full-fledged Islamic bank and Islamic banking window on her territory.[5]

With the rapid growth and sustainable market drives in Islamic finance across the globe,[6] Africa has found inspiration to establish and develop Islamic finance for purposes of financial inclusion, infrastructure funding and stimulating economic activities – the three key driving pillars of Islamic finance in Africa. Available facts and figures position Africa as the world's largest untapped growth market for Islamic economy[7] due to its huge demography, vast natural resources and mineral deposits. There is a negative correlation between financial inclusion and the population size of Muslims of the total country's population in Sub-Saharan Africa (IMF report, 2016).[8] Apparently the Muslims are underserved by the mainstream interest-based financial system. Paradoxically the same argument goes in favour of Islamic finance given the demand for Shari'ah complaint financial products. Africa's over 1.2 billion population is an opportunity for investment in agriculture with potential for expansion of food exports, economic diversification and provision of financial services to cover the unbanked sector.

From another perspective, Islamic finance emphasizes risking-sharing and non-interest features that would stimulate small and medium enterprises (SMEs) through Islamic microfinance. The interplay between SMEs and microfinance in the economies of African countries creates a resultant effect of business growth, demand for labour and improvement in the living standard of the people. More so, Africa's infrastructure deficit

[4] Malaysia International Islamic Financial Centre (MIFC) (2017) report, "Islamic Finance in Africa: Impetus for Growth", Bank Negara Malaysia, p.2

[5] Ibid, p.4. See also, International Monetary Fund (IMF) (2014) working paper, "Islamic Finance in Sub-Saharan Africa: Status and Prospects", International Monetary Fund, p. 12

[6] According to the Securities Commission Malaysia, the global Islamic financial services industry, based on the current growth momentum of the global Islamic finance, is estimated to reach USD 6 trillion in assets by the year 2020 with a growing number of new market entrants. See MIFC (2017) report, op. cit., p.2

[7] Islamic economics is distinct from Islamic finance. The former is much wider than the later as it covers the overall philosophy of the Islamic economic system including but not limited to production, distribution, consumption and other aspects of economics, economic development, monetary economics and so on. Thus, Islamic finance is an offshoot of Islamic economics. For more information on the scope of Islamic economics,see Lamido, A., (2013), "Islamic Economics: Early History and Recent Developments", in Shehu, U.R, et al. (ed.), Readings in Islamic Economics, IIIBF, Kano, p. 14-29

[8] International Monetary Fund (IMF) (2016) report, "Financial Development in Sub-Saharan Africa: Promoting Inclusive and Sustainable Growth", International Monetary Fund,p. 22

can better be addressed through an alternative financing mode outside the national budget. *Sukuk* (Islamic bond) represents that alternative for raising capital for large infrastructure such as roads construction, seaport terminals, fibre-optic cables etc. with less systemic risk than conventional finance.

Despite the impressive initial growth of Islamic Finance industry in Africa, it is still confronted with a number of challenges. The paper focuses on Nigeria as a case study of an emergent IF market in Africa. The choice of Nigeria is informed by the fact that it is a leading emerging market with proof of steady progress in the practice of the three components of Islamic finance. The main concern of this study therefore, is to examine the challenges of Islamic finance in the emerging Nigerian market. The work adopts both descriptive and analytical approach in the course of discussion. The paper is presented in seven parts. After this introduction, part two gives an account of the rise of Islamic Finance Industry in Nigeria. Part three captures an overview of the current legal and regulatory framework for Islamic Finance in Nigeria. In part four, the various Islamic Finance products and services as offered by Islamic banks were discussed. The challenges inhibiting the growth of Islamic finance in Nigeria were highlighted in part five, while part six suggests the ways through which the challenges can be surmounted. The paper rounds-off in part seven with a concluding remark.

1. THE RISE OF ISLAMIC FINANCE INDUSTRY IN NIGERIA

The introduction of Islamic finance in Nigeria dates back to late nineties when the Banks and other Financial Institutions Decree (BOFID), now BOFIA, was promulgated during the military regime by the Supreme Military Council of Nigeria.[9] The Decree specifically gave recognition to Profit and Loss Sharing(PLS) bank as a class of banks in the country while also provided for 'specialized' banks and included in the definition such other banks as may be designated from time to time.[10] Invariably, the designation of non-interest banks as specialized banks and Islamic banks as form of non-interest bankswas based on section 61 of the Act (BOFIA, 2017).[11]Between 1993 and 1997, there was no meaningful progress

[9] The Decree was promulgated in 1991 and was later to be known as Banks and Other Financial Institutions Act (BOFIA) since the return of democratic rule in 1999 and in compliance with the provisions of Section 315 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), thereby becoming an Act deemed to have been passed by the National Assembly. It is now to be found in Cap B3, Laws of the Federation of Nigeria (LFN) 2004. It is therefore not surprising that some authors do not bother making reference to the decree having been overtaken by Section 315.

[10] See Sections 23 and 61 of BOFIA

[11] See also the Preamble to the Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria

recorded in the area of establishment of Profit and Loss Sharing banks. Investors applying for banking licence to operate Islamic banks did not comply with CBN's requirements (Sanusi, 2011).[12] In 1998, the Central Bank of Nigeria (CBN) gave its approval to the defunct Habib Bank Plc to operate an Islamic banking window. Again, this was not successful due to absence of requisite framework that will enhance the smooth running of IF market at the time and hence the initial failure of the first attempt. By the year 2004, repeated demands for the establishment of full-fledged non-interest banks continue to flow in from interested investors leading to the grant of Approval-In-Principle (AIP) by the CBN to Ja'iz International Plc to establish Jai'z Bank upon meeting mandatory capital requirement.[13]

Prompted by the prediction of Goldman Sachs in a series of reports between 2001 and 2005, that Nigeria is among the 11 emerging countries that have the potential of becoming one of the 20 largest economies by year 2025, the CBN launched its Financial System Strategy (FSS) 20:2020 blueprint in 2006 (Nwaoba 2009).[14] The FSS was meant to engineer Nigeria's evolution into the International Financial Centre (IFC), African Financial Hub and to develop the financial sector into a growth catalyst that will enable Nigeria's transformation into one of the 20 largest economies in the world by 2020 (FGN, 2007).[15] The FSS 2020 captures low level of financial literacy and inclusion as one of key challenges in the financial market sector.[16] In addressing this problem, the CBN developed National Financial Inclusion Strategy, wherein it proposedbusiness and operating models for achieving financial inclusion targets, identified stakeholders and defined their roles in implementing the strategy as part of the strategic approach to entrench financial inclusion in Nigeria.[17] The Commercial banks were further assigned the role of pursuing strategies to reach more unbanked persons with financial services while the National Insurance

[12] Sanusi, L. S(2011), "Islamic Finance in Nigeria: Issues and Challenges".Paper presented at Markfield Institute of Higher Education (MIHE), Leicester (17 January 2011). United Kingdom. p. 4

[13] Ibid

[14]Nwaoba, P. (2009), "Nigeria's Financial System Strategy 2020: Conceptual Framework, Issues and Challenges", Bullion – Journal of the Central Bank of Nigeria, Vol. 33 (4), pp. 4

[15]Federal Government of Nigeria (2007), "Financial System Strategy 2020: A Blueprint for the Nigerian Financial System", Government Press.

[16] Financial Markets, (access date: November 23, 2018). Financial System Strategy 2020. URL: https://www.fss2020.gov.ng/financial-markets/

[17]Financial Inclusion in Nigeria (access date: November 23, 2018), National Financial Inclusion Strategy Summary Report. Central Bank of Nigeria [online] URL:https://www.cbn.gov.ng/Out/2012/publications/reports/dfd/CBN-Summary%20Report%20of-Financial%20Inclusion%20in%20Nigeria-final.pdf

Commission was to promote micro-insurance and Islamic insurance products.[18] Thus, new initiatives in the money market to capture the unbanked population evolved following series of advocacy for non-interest banking as pushed by development partners who supported financial inclusion initiatives like the Department of International Development (DFID) and Enhancing Financial Innovation and Access (EFInA).

In 2008, the Non-Interest Finance Working Group (NIFWG) was established with the Support of EFInA. The EFInA received technical support from the Islamic Finance Council of the United Kingdom. Key among its objectives is to bring together market operators and regulators through a multi-institutional platform in order to develop the non-interest banking and finance industry in Nigeria as well as deepening the uptake and usage of non-interest finance and banking products in order to promote financial inclusion in Nigeria.[19]

In the wake of global financial crisis of 2008 that wreaked havoc on giant financial institutions all over the world, Islamic financial industry was, surprisingly however, marginally affected thereby giving impetus to the growth of the industry globally as there was increase in its reserves as well as new investors coming into its fold. According to Sanusi (2011), “It has a compound average growth rate (CAGR) of 14.1% in assets from USD 150.0 billion in mid-1990s to around USD 1.0 trillion in 2009. It is offered in major financial centres including UK, Luxembourg, Singapore, Hong Kong, Malaysia, UAE, Bahrain, South Africa, and it has become a part of the services of major western financial institutions such as HSBC, Deutsche Bank, Citigroup, and Standard Chartered.”[20] This remarkable global appeal to Islamic finance and its impressive growth encouraged the participation of the developing economies and incidentally for Nigeria, it was at a time when concerted efforts were under way to implement the financial system strategy and meet the financial inclusion targets.

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[18] In the same way insurance companies were given the mandate to expand the current portfolio of insurance products to better address consumer needs, for example, micro-insurance, Islamic insurance (Takaful), and index-based insurance. See the CBN National Financial Inclusion Strategy, (access date: November 23, 2018). Central Bank of Nigeria [online] URL:https://www.cbn.gov.ng/Out/2013/CCD/NFIS.pdf

[19] Enhancing Financial Innovation and Access (EFInA), (access date: November 22, 2018), EFInA Non-Interest Finance Working Group Progress ReportOctober 2009 to March 2014, URL:http://noninterest.org.ng/assets/DownloadDocs/NIF-Achievements-Final.pdf The main stakeholders in the Nigerian IF market involved include the Nigeria Deposit Insurance Commission, National Insurance Commission, Pension Commission, Debt Management Office, the Central Bank of Nigeria and other market operators interested in offering Islamic finance products.

[20] Ibid, p. 3

Two important events happened in 2009 that signaled the re-emergence of IF markets in Nigeria. The first was the CBN membership of the Islamic Financial Services Board (IFSB) headquartered in Malaysia in January 2009.[21] The second was CBN issuance of the draft framework for the regulation and supervision of non-interest banks in Nigeria in March 2009. Following the inputs of stakeholders, the CBN released the new banking model which designated non-interest banks among the specialized banks[22] and in 2011, it issued the Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria.[23] In October 2010, the CBN joined other Central Banks and multilateral organizations as member shareholder to form the International Islamic Liquidity Management Corporation (IILM), also based in Malaysia. The IILM aims to create and issue Shari'ah-compliant financial instruments to facilitate effective cross-border Islamic liquidity management and also enhance cross-border investment flows, international linkages and financial stability by creating more liquid Shari'ah-compliant financial markets for institutions offering Islamic financial services.[24]

2. AN OVERVIEW OF THE CURRENT LEGAL AND REGULATORY FRAMEWORK OF ISLAMIC FINANCE IN NIGERIA

The operation of Islamic finance in Nigeria, like every other jurisdiction, is premised on the formulation of relevant legal and regulatory frameworks that will enable its take-off. The idea of a legal framework is conceived by the important role that law plays in a democratic society like Nigeria. The constitution, as the supreme law of the land, provides for the enabling provision for the enactment of the two principal legislations in the banking sector, the Central Bank of Nigeria Act and Banks and Other Financial Institutions Act (LFN, 2004).[25]The Constitution of the Federal Republic of Nigeria (as amended) vested the legislative powers of the Federal Republic of Nigeria in the National Assembly, comprising of a Senate and a House of Representatives with respect to any

[21] Apart from the membership of IFSB, the Governor of Central Bank of Nigeria sits on the council of the IFSB. The Islamic Financial Services Board, (access date: November 22, 2018). The Council of IFSB [online]. URL:https://www.ifsb.org/council.php

[22] Section 4.1(c) of the CBN Regulation of the Scope of Banking Activities and Ancillary matters, No. 3, 2010.

[23] In the same year, Nigeria Deposit Insurance Corporation (NDIC) and Securities Exchange Commission (SEC) issued Frameworks for Non-interest Deposit Insurance and Islamic Fund Management respectively.

[24] The International Islamic Liquidity Management Corporation, Malaysia, (access date: November 22, 2018). URL:http://www.iilm.com/about-us/

[25] The Central Bank of Nigeria Act 2007, CAP A66. No. 7, LFN and Banks and Other Financial Institutions Act, CAP B3, LFN 2004. More so, the objects of the CBN as contained in section 2 of the Act, is to give effect to Item 60 of the Exclusive Legislative List Part 1, Second Schedule to the 1999 Constitution (as amended), which in turn gives effect to the realization of the economic objectives of the Fundamental Objectives and Directive Principles of State Policy in Chapter II of the constitution (as amended).

matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to the constitution (CFRN, 1999).[26] Item 6 of the List captures banks, banking bills of exchange and promissory as matters falling within the Exclusive Legislative List.[27]

Regulatory frameworks, either in forms of guidelines, regulations and/or circulars made in furtherance of Islamic financial services are therefore made in pursuance of the non-Interest banking regime under the CBN Act and BOFIA. The following paragraphs provide a brief exposition on regulatory framework.

The CBN Act empowers the Central Bank to issue guidelines to any person and any institutions under its supervision (CBN Act, 2007).[28] In the case of Islamic financial services, the CBN issued Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria. A remarkable provision in the Guidelines states that a non-interest financial institution operating Islamic financial services shall ensure that its Memorandum and Articles of Association (MEMART) state that its business operations will be conducted in accordance with the principles and practices of Islamic commercial jurisprudence.[29] Other guidelines relative to Islamic financial services include the Guidelines on the Regulation and Supervision of Non-Interest (Islamic) Microfinance Banks in Nigeria, Guidelines on Non-Interest Window and Branch Operations of Conventional Banks and Other Financial Institutions, Guidelines on Shari‘ah Governance For Non-Interest Financial institutions in Nigeria, Guidelines on the Governance of Financial Regulation Advisory Council of Experts for Non-Interest (Islamic) Financial Institutions in Nigeria and Guidelines on the Governance of Advisory Committees of Experts for Non-Interest (Islamic) Financial Institutions in Nigeria.

In the BOFIA, the exemption of profit and loss sharing banks from display of interest rates is a reference to non-interest financial institution to which Islamic banks belong.[30] Application for license, under the Act, is a mandatory requirement in financial business excluding insurance and stockbroking. Invariably, the requirement applies to non-interest

[26] Section 4(1)(2) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)
[27] Other related matters include control of capital issues in item 12, currency, coinage and legal tender in item 15, incorporation, regulation and winding up of bodies corporate in item 32 and insurance in item 33 of the Exclusive Legislative List, Part 1, Second Schedule to the 1999 Constitution (as amended).
[28] Section 33 (1) (b) of the CBN Act 2007. The issuance of CBN Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria is in pursuance to the provision of this section.
[29] Section 3 (2) of the CBN Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria.
[30] Section 23(1) of BOFIA

financial institutions much as it applies to conventional financial institutions.[31] Also, Islamic bank as a variant of non-interest financial institutions comes under the supervision of the Central Bank.[32]

More importantly, the CBN Governor, in furtherance of the object of promoting sound financial system, is vested with power to make regulations.[33] The exercise of such power is reflective in the making of Regulation on the Scope of Banking Activities and Ancillary Matters.[34]Islamic financial services are unique for its profit and loss sharing feature, prohibition of speculation and interest-based transactions among other essential principles of Islamic finance. These fundamental principles disclose a clear message that before a product or service is adopted by an Islamic financial institution, it must from the very beginning, be Shari'ah-complaint. The next section looks at products and services available on offer in Islamic banks in Nigeria.

3. ISLAMIC FINANCE (IF) PRODUCTS AND SERVICES OFFERED IN NIGERIA

Much has been said about IF products and services in various classical and modern literatures.[35] Our approach here is to focus on the Islamic finance products and services offered in Nigeria, while also providing an outline on Islamic finance. Basically there are four broad categories of Islamic financial contracts. The first is deposit-taking contracts used mainly for bank deposit by Islamic banks. The second is equity-based contracts in form of partnership arrangements through profit and loss sharing ventures, mostly utilized in investment activities such as *musharakah* (business partnership) and *mudarabah* (entrepreneurship). The third is sales-based contracts used in business and trade financing like *murabahah (*cost-plus sale*), bay' al musawwamah* (negotiated sale)*, bay' al istisna'* (manufacturing contract) and bay' *salam* (foward sale*).* The fourth is lease-based contracts otherwise known as *Ijarah*, which are also used for both financing and investment activities. The *ijarah* contracts mostly come in form of hybrid contracts. Examples are *Ijarah muntahia bi tamlik* (lease-to-own contract), *Ijarah thumma al bay'*(lease ending with sale), *Ijarah mawsufah fi dhimmah* (forward lease) *sukuk al ijarah*

[31] Section 59 (1)(a) of BOFIA
[32] Sections 61 of BOFIA
[33] Section 57 (2) of BOFIA.
[34] CBN Regulation on the Scope of Banking Activities and Ancillary Matters, No. 3, 2010.
[35] For an exposition on classical writings on Islamic Economics and evolution of modern Islamic economics, see Lamido, A.,*op. cit., p.* 19-24

(securitization of existing tangible leased assets).[36] The likes of *wakalah* (agency contract), *kafalah* (gurantee *contracts)* and *ju'alah* (unilateral contract for a task accomplishment) are supporting contracts which are considered as auxiliary services to the above categories (Muhammad, 2013).[37]

At the Islamic capital market, dealings involve equities and Islamic securities such as *sukuk* (Islamic bond). *Sukuk* has gained prominence as a tool for infrastructural development as manifested in the Federal Government of Nigeria issuance of N100billion sukuk investment certificate in 2017 to bridge the crucial road infrastructure gap in the country.[38] Prior to this, one of the federating States of Nigeria, Osun issued a 62 million USD sukuk to develop key infrastructure in the educational sector[39]. Both sukuk issuances were oversubscribed.

Takaful (Islamic insurance) has equally come to stay in Nigeria with the full-fledged Islamic insurance operational licence issued by the National Insurance Commission (NAICOM) to both Noor Takaful Plc[40] and Ja'iz Takaful Plc[41] in 2016, in addition to Takaful windows operational licences issued to a number of conventional Insurance companies.

The Principles underlying the practice of Islamic finance include but not limited to; prohibition of*riba* (interest), *gharar* (risk) and maysir (games of chance). In Nigeria, institutions offering Islamic financial services are further obliged not to engage in non-permissible transactions including unjust enrichment, exploitation and unfair trade practices, dealings in pork, alcohol, arms and ammunitions, pornography and other transactions, products, goods and services which are not compliant with rules and principles of Islamic jurisprudence.[42]

The regulatory framework on Islamic financial services in Nigeria clearly defines institutions offering Islamic financial services in the banking sector to include any of the following; full-fledged Islamic bank or full-fledged Islamic banking subsidiary of a

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[36] Muhammad, A., (2013), "A Theoretical Introduction to Islamic Banking and Finance", in Dandago, K.I, et al (ed.), Essentials of Islamic Banking and Finance in Nigeria, Benchmark Publishers Limited, p. 23-29
[37] Ibid, p. 24
[38]MIFC (2017) Report, op.cit. p.8
[39] See Osun's Sukuk Bond, (access date: December 02, 2018). URL:www.osun.gov.ng
[40] Noor Takaful Plc, (access date: December 02, 2018). URL: https://www.noortakaful.ng
[41] Ja'iz Takaful Plc, (access date: November 25, 2018). About Jai'z Takaful. URL: https://www.jaiztakafulinsurance.com/index.php?route=about/jaiz/takaful
[42] Preamble to the CBN Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria

conventional bank; full-fledged Islamic merchant or full-fledged Islamic banking subsidiary of a conventional merchant bank; full-fledged Islamic microfinance bank; Islamic branch or window of a conventional bank; Islamic subsidiary, branch or window of a non-bank financial institution; a development bank regulated by the CBN offering Islamic financial services; a primary mortgage institution licensed by the CBN to offer Islamic financial services either full-fledged or as a subsidiary; and a finance company licensed by the CBN to provide financial services, either full-fledged or as a subsidiary.[43]At present, only Ja'iz Bank Plc operates as a full-fledged Islamic bank while Sterling Bank and Sun Trust Bank operate on the basis of Islamic window of their respective conventional banks. There are also a number of full-fledged Islamic microfinance banks in operation. For the purpose of this study, we shall take a look at the products and services of Ja'iz Bank Plc and Sterling Bank Plc only.

In terms of products and services, Ja'iz Bank Plc products and services come in two categories; the retail banking and corporate banking, and they include: Ja'iz Auto Ijara, Ja'iz Premium Savings Account, and Ja'iz Investment Account. The Auto *Ijara* is a product for car financing that enables a customer acquires a car on the principle of *ijara* (lease) for rental payments. After the lease period the customer gets ownership of the car against his initial security deposit.[44] This is a hybrid contract in practice otherwise known as *ijarah thumma al bay'* (a contract of lease ending with sale) (Al Qarafi, 1997).[45] The Premium Savings Account is an investment product that operates the partnership principles of *mudarabah*.[46] The product is offered based on the following conditions; funds received from customers' deposits are invested in an ethical and responsible manner, profits are distributed every month based on customers account balance and depending on the volume of investment, the minimum deposit is N10,000,000.00 (Ten

[43] Ibid

[44] Ja'iz Bank Plc, (access date: November 25, 2018). Ja'iz Auto Ijarah. URL: http://jaizbankplc.com/jaiz-auto-ijara/

[45] It is important to state here that in hybrid contracts, the lease and sale contracts must be negotiated independently as it is unacceptable under Islamic law that a single product constitutes the object of sale and lease contracts concurrently. See Al Qarafi, A, (1997), "Al Furuq", Dar al Kutub al 'ilmiyyah, Beirut, 1st edition, vol. iii, p. 262.

[46] In this case the customer, being the capital provider, is the *rabb al mal* while Jai'z bank is the entrepreneur, *al mudarib*. The both will share the profit that accrues from the investment at a pre-agreed ratio. In the event of a loss, the customer will bear the loss while the bank loses managerial efforts provided there is no negligence or misconduct on the part of the *mudarib*. This type of *mudarabah* is a single-tier form of *mudarabah*. See Obaidullah, M, (2005),"Islamic Financial Services", Jeddah, King Adulaziz University, Jeddah.

million naira) and minimum investment period is 30days.[47] The Investment Account is a product for corporate bodies and individuals that want periodic and stable return on their investment. The bank collects deposits from its customers and invests same in a specific business venture to be agreed with the customer. This arrangement gives rise to an agency relationship between the bank and the customer whereby the bank acts as an agent to invest depositors' funds in an ethical manner. Expected rate of return on investment is as agreed before the commencement of the investment by parties involved.[48] This type of product represents the *Mudarabah* mode of equity-based contracts in Islamic finance and qualifies as multi-tier form of *Mudarabah* (Obaidullah, 2005).[49]

Sterling Bank through its Alternative Finance, a non-interest banking window, offers new products and services in the personal and business categories. The personal category includes traditional accounts,[50] Investment account, Hajj savings plan, asset finance and home finance. The business category comes intwo divisions; the MSME and Agriculture finance. The MSME comprises of Business Connect Account and Micro Enterprise Facility.[51] The Investment account for instance, has N100,000.00(One hundred thousand naira)as minimum account opening deposit and the depositor benefits from the profits that accrued over a fixed term.[52] The Home finance on the other hand, consists of lease finance and rent- to-own alternative. The terms and conditions for the latter avoid making the property an object of sale and lease contracts concurrently in compliance with principle of Islamic finance in that regard. The two banks offer Shari'ah-compliant products and services after they are duly approved by their Advisory Committee of Experts.[53]

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[47] Ja'iz Bank Plc, (access date: November 25, 2018).Ja'iz Premium Savings Account. URL: http://jaizbankplc.com/jaiz-premium-savings-account/

[48] Ja'iz Bank Plc,(access date: November 25, 2018).Ja'iz Investment Account. URL:http://jaizbankplc.com/jaiz-investment-account/

[49] A multi-tier *mudarabah* refers to an arrangement where the depositor as the *rabb al mal* opens an account with his bank, the *mudarib*. Afterwards the bank uses deposits (now as *rabb al mal*) to provide *mudarabah* financing to another client as a second *mudarib*. The profit accrued from the second *mudarib* is shared with the bank on a pre-agreed ratio, after which the bank share its own portion of profit with the initial capital provider also according to a pre-agreed ratio. Obaidullah, M., (2005), *op*. cit.

[50]Such as savings, current, corporate and domiciliary accounts.

[51] Sterling Alternative Finance, (access date: November 25, 2018). URL: http://saf.ng/

[52]Sterling Alterative Finance, (access date: November 25, 2018). Investment Account. URL:http://saf.ng/investment-account/. This investment account here also operates as *Mudarabah* type of Equity-based contracts.

[53] It is the requirement of the law that any bank offering Islamic financial services must have Advisory Committee of Experts. Section 8 (2) CBN of Guidelines for the Regulation and Supervision of Institutions Offering Non-Interest Financial Services in Nigeria and section 4 of CBN Guidelines on Shari'ah Governance for Non-Interest Financial Institutions in Nigeria.

4. CHALLENGES INHIBITING THE GROWTH OF ISLAMIC FINANCE IN NIGERIA

There is no gainsaying that Islamic finance has come to stay in the Nigerian financial system. What is left now is the need for genuine push in the area of further development of the nascent industry to entrench its stability and continued survival and keep it at pace with international best practices especially in global Islamic financial industry. To achieve this, issues that gave rise to challenges confronting the IF industry must be proactively addressed through concerted efforts of relevant stakeholders. The following problems have been identified as factors stunting the smooth growth and steady development of the industry in Nigeria.

4.1. Constitutional and other legal challenges

There is a genuine concern among stakeholders that Islamic banking as presently modeled within the Nigerian financial sector still suffers inadequate legal framework (Ahmad, 2014).[54] This is so, apparently because the bulk of the existing legal and regulatory frameworks are delegated legislations made in form of guidelines. Such legislations, in the Nigerian legal jurisprudence, remain persuasive authorityby which the courts are usually not bound. In fact, the continued reliance of the CBN on its own perceived interpretation of relevant sections of the law granting it exercisable powers may be interpreted differently by the courts. After all the interpretative and adjudicatory functions of the courts are part and parcel of the judicial powers vested in the courts.[55] A proof of the interpretative function of the court can be seenin a 2012 decision of the Federal High Court sitting in Abuja that declared non-interest banking operating under the principles of Islamic jurisprudence as illegal and unconstitutional.[56] Admittedly the pronouncement was not the *ratio* but an*obiter* which does not have a binding effect; it however, has far reaching implications on the likely disposition of the court on Islamic finance disputes.

[54] Ahmad, I., (2014),"Corporate Governance (CG) In Islamic Financial Institutions In Nigeria: The Dilemma of Supremacy and Legality", Unilorin Shari'ah Journal, vol. 2 (2), pp. 120

[55] Section 6 (1) of the 1999 Constitution (as amended)

[56] The main contested issue in the case was whether the plaintiff has *locus standi* to present the case. Unfortunately for the Court it went to the merit of the case by pronouncing that the license issued by CBN to Ja'iz bank is illegal. The attitude of the court was a clear departure from the step a court should take once a plaintiff lacks *locus standi.* The effect of a locus standi is to deny judicial assistance to the plaintiff by not looking at the merit of the case. For a better discussion on *locus standi*, see Sambo, A. and Abdulkadir, A., (2013),"Shari'ah, Constitutional Challenges and the Adjudication of Islamic Finance Disputes in Nigeria", in Dandago, K., et al (ed.), Essentials of Islamic Banking and Finance in Nigeria, Benchmark Publishers Limited, p. 120-134

Arguably, no financial sector of any nation can reach its full potential in the absence of adequate legal framework which must not be confined to the enabling laws, but also the necessary facilitating laws. What is available as a body of law up till today in Nigeria could best be described as enabling but not truly facilitating the practice of Islamic finance in its entire ramifications. The spectacular achievements in Islamic Finance recorded in the last two decades in a country like Malaysia are largely attributable to the strong and enabling environment brought about through prompt and adequate legislative interventions as the need arises. Nigeria can take a clue from what Malaysia achieved in 2013 by passing into law a complete set of legislations that enable, facilitate and regulate the practice of Islamic Finance in the country, Islamic Financial Services Act 2013. The long title of the said Act is self- explanatory as it states, "*An Act to provide for the regulation and supervision of Islamic financial institutions, payment systems and other relevant entities and the oversight of the Islamic money market and Islamic foreign exchange market to promote financial stability and compliance with Shari'ah and for related, consequential or incidental matters.*"[57]

Jurisdictional challenge is yet another disturbing factor in attempting to resolve Islamic finance dispute. Ordinarily by subject matter, one would expect that Islamic finance disputes should conveniently fall under the jurisdiction of the Shari'ah Court of Appeal in exercise of its original jurisdiction. The contrary is however the case. The jurisdiction of the Shari'ah Court of Appeal is only appellate and on matters of Islamic personal law*strictu sensu*. Sadly, Islamic finance does not qualify as matter of Islamic personal law.[58]Worse still the law requires that parties before a Shari'ah Court must be Muslims who have requested the court that hear the case in the first instance to determine it in accordance with Islamic personal law.[59] These provisions of the law are tall order for Islamic finance disputes for the reason that an appreciable percentage of depositors and investors in an Islamic bank are non-Muslims, who may dispute with other co-depositors, co-investors, their banks or other financial institutions as a result of the default bank-customer relationship.

[57] Islamic Financial Services Act 2013, Laws of Malaysia, Act 759

[58] The 1999 Constitution (as amended) did not define Islamic personal law both in the relevant sections and in the interpretation section. We however learn from Sections 262 (2)(a-d) and 277(2)(a-d) that issues of marriage, divorce, guardianship of an infant, paternity, gift, wakf, inheritance are all ingredients of Islamic personal law within the contemplation of the Constitution.

[59] Section 262 (2) (e) 277(2)(e) of the 1999 Constitution (as amended). In section 242 (2)1 (e) of 1979 Constitution, non-Muslims were allowed to come under the jurisdiction of the Shari'ah Court of Appeal if they so wish, with the phrase "whether or not they are Muslims" that was initially there. That phrase was replaced with "being Muslims" in the 1999 Constitution.

More complexity arise in determining the appropriate court(s) to entertain matters on Islamic finance disputes when one realizes that the Federal High Court has jurisdiction to the exclusion of all other courts in Nigeria, in matters relating to "banking, banks, other financial institutions, including any action between one bank and another, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other fiscal measures."[60] The only proviso is in connection with dispute between an individual customer and his bank, and the jurisdiction in this matter lies with either the Federal High Court or High Court of State.[61] The foregoing is problematic for the continued existence of Islamic finance in Nigeria.

In the opinion of the present authors, this itself presents an opportunity for law review in the interest of the nation, its citizens and its economy. Afterall, law is said to be made for the people and not people made for the law. The awkward situation in which we find ourselves in this respect is that of giving jurisdiction to those that lack the competence and qualification to adjudicate, and barring those who, we all agree, are the most qualified and competent to adjudicate in disputes arising from Islamic finance related causes and matters.

4.2. Reputational and operational risk related challenges

Reputational and operational risks are fallouts of unethical practices and failure to comply with relevant principles of Shari‘ah. As rightly observed by Ahmad (2014), Islamic finance industry is a Shari‘ah-compliant industry and owes a duty of fiduciary responsibility to its customers to conduct all its activities in accordance with Shari‘ah. That being the case, the CBN is yet to issue Guidelines on corporate governance for Islamic Financial Institutions.[62] The current position whereby Islamic financial institutions are obliged to comply with code of corporate governance like that of the OECD code, may be problematic for the IF industry as a result of the conventional origin of the code.

Put differently, at the conception of codes of corporate governance, Islamic financial institutions were not contemplated. Even the standard setting organizations for Islamic Financial Institutions like the Islamic Financial Services Board (IFSB) and Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) do not intend to

[60] Section 251 (1)(d) of the Constitution (as amended)
[61] The proviso to section 251 (1) of the Constitution (as amended)
[62] Ahmad, I.,*op. cit.*, p. 96

reinvent the wheel by proposing a wholly new corporate governance framework.Instead, the Guiding Principles of the IFSB would complement the existing internationally recognized standards of good corporate governance by addressing the specificities of Islamic Financial Institutions.[63]The predicament of Islamic Financial Institutions is more pronounced with the reality that Islamic Financial Institutions are duty bound to follow the conventional codes. Not even the FRACE or ACE has the power to examine their provisions as to whether they comply with principles of Shari'ah. Drawing inference from the above, it is submitted that codes and principles that govern Corporate Governance within the Nigerian Islamic finance industry are conventional and therefore, the ultimate goal of Shar'iah governance might have been compromised (Ahmad, 2014).[64]

By the combined provisions of BOFIA and CBN Act, Islamic financial institutions are within the category of "specialized banks", for which the Central Bank can make and has been making "specialized" regulations and guidelines. It therefore begs for answer why the Bank has not deemed it fit to consider issuing "specialized" guidelines on corporate governance for Islamic Financial Institutions, the same way it has done, commendably, by issuing "Code of Corporate Governance for Development Finance Institutions" being another species of specialized banks under our domestic laws.

4.3. Shortage of human resources

A case has been made for the necessity of having qualified and highly resourceful personnel who are specialists in Islamic commercial transactions to serve as experts to Islamic financial Institutions for effective and efficient Shari'ah supervision of those banks (Alaro, 2014).[65] The qualification of members of Financial Regulation Advisory Council of Experts (FRACE) and Advisory Committee of Experts (ACE), requires sound knowledge, expertise and experience in the field of Islamic Jurisprudence with specialization in the field of Islamic Commercial Jurisprudence.[66] Additional requirements include written and spoken Arabic and English languages, exposure in the field of

[63] See IFSB-3 and IFSB-10 Guiding Principles
[64] Ahmad, I., *op. cit.*, p. 98
[65] Alaro, A., (2014), "Making A Case For Effective and Efficient Shari'ah Supervision of Islamic Banks", Unilorin Shari'ah Journal, 2014, vol. 2(1), pp. 1-22
[66] Section 4.3.2 Guidelines on the Governance of Financial Regulation Advisory Council of Experts For Non-Interest (Islamic) Financial Institutions In Nigeria and Section 5.2.1(ii) Guidelines on the Governance of Advisory Committees of Experts For Non-Interest (Islamic) Financial Institutions in Nigeria.

business, economics or finance especially Islamic finance.[67]Only very few individuals can meet up with these qualifications requirement.

Similarly, the crop of staff that is to implement and execute the resolutions of Islamic financial institutions' experts must also possess necessary knowledge and skills required to operate smooth running of such entities. The kind of responses and explanations of products and services provided to customers by some staff of the banks presently operating Islamic banking in Nigeria are worrisome, as they depict either total ignorance or deliberate distortion of the nature and features of Islamic financial products. Some of them have had long time experiences as staff of conventional banks, and tend to believe there is little or no difference between the two operations.

4.4. Distorted perception of IF products and services by the consumers

Islamic finance was received with mixed feelings in Nigeria. While a section of the society welcome the idea of an interest-free financial system, another section saw it as an attempt to Islamize Nigeria. The Islamization claim has, like other past times in Nigerian history, failed to hold water, following the presence of IF industry for almost a decade now. Yet, people are still made to believe no substantial difference exists in the IF products and those of the conventional banks. Therefore the claim of an Islamic finance is merely a ploy for attraction of business opportunity. In relation to this, Volker (2011) rightly emphasizes:

> The thought of the conventional finance oriented people [is] that Islamic finance though conceptually different but replicate in practice conventional finance and therefore, it is not an issue of religion or ideology but a business opportunity.[68]

The customers are at the receiving end of this distorted perception.Undoubtedly, distorted perception affects the awareness level of the IF products and services which in turn records low level of patronage and turnover rate over the years. It becomes more problematic even, when consumers do not know the underlying basic principles that should serve as guide to provide them with basic note of difference between products and services of Islamic financial institutions and those of the conventional banks. Assuming

[67] Sections 4.3.3 and section 5.2.2 of the above respective guidelines

[68] Volker, N.(access date: November 28, 2018). Islamic Finance Ethics and Shari'ah Law in the Aftermath of the Crises: Concept and Practice of Shari'ah Compliant Finance, Ethical Perspective. URL:http://www.ethical-perspectives.be/viewpic.php?TABLE=EP&ID=1350

without conceding that Islamic financial institutions offer similar products like the conventional banks as it is the case in the operation of savings, current, corporate and domiciliary accounts, the rules of engagement will definitely be different. This position found inspiration in the popular maxim "the substance, in contractual arrangements is more important than the wording" (**العبرة في العقود بالمعاني لا بالمباني**).[69]

4.5. Weak infrastructure

Infrastructure has become very complex in the contemporary commercial transaction especially with the use of technology in the banking sector. There are now e-platforms for conducting transactions between the bank and customers and between customers among themselves. The sophistication of technological infrastructure and the accompanying user-friendly feature has made deployment of such infrastructure a necessity for Islamic financial institutions. The challenge however lies in the huge cost required to develop a well-designed infrastructures such as widespread Automated Teller Machines (ATMs) points for customers' easy accessibility, firewall (to prevent from unauthorized access and hackers), Server (to maintain the operation and its availability), Webpage (to promote Islamic e-products and services), mobile application (for easy access regardless of location) etc.[70]

4.6. Liquidity Management for IF institutions

Whenever there is a mismatch between the size and maturity of assets and liabilities, a financial institution is said to be confronted with liquidity risk. In other words the inability of a bank to meet its obligations towards its customers' demand for funds despite having sufficient assets that are illiquid possess a real danger for the bank. The usual practices for banks therefore in managing liquidity risk are either to borrow from each other, borrow from the central bank or invest in liquid assets such as bonds and securities that can be sold off and liquidated at a time of need.

While a conventional bank can utilize any or all of the above facilities, an Islamic financial institution cannot. Borrowing either from another bank or the central bank shall attract interest (*riba*) while investing in bonds, debentures and treasury bills is also prohibited for an IF because of the *riba* element involved in all. Stock market may also

[69] Al Suyyuti, J., (1983),"Al ashbau wa al Nazair", Dar al-Kutub al 'Ilmiyyah, Beirut, 1st edition, p.166
[70] Amin, H., (2008), "E-Business from Islamic Perspectives: Prospects and Challenges", Journal of Internet Banking and Commerce, vol. 13(3), pp.10.

prove inaccessible to an IF institution if there are no enough Shariah compliant stocks in trade.

Sukuk as an alternative to *riba*-based bonds represents an excellent liquidity management instrument for Islamic financial institutions, but unfortunately IF institutions in Nigeria had to wait until2017 when the Federal Government of Nigeria issued its first ever sovereign sukuk. The second government sukuk was issued in December 2018[71]. It is argued that one sukuk by just one entity in a year is grossly insufficient for managing the liquidity risk in the entire IF industry of the country[72]. There is need for other parties, government and corporate entities to also issue sukuk.

4.7. Challenges of the Business Environment

Like other commercial endeavours operating on the Nigerian soil are affected by the business environment, the same goes for the IF industry as a business entity. Nigeria is ranked 146th among 190 economies in the Ease of Doing Business Index, according to the latest World Bank annual ratings.[73] The perennial problems of epileptic power supply, bureaucracy of government ministries, departments and agencies, endemic corruption and others are very much felt by businesses in various sectors of the economy. In the banking sector for instance, cases of financial corruption involving financial institutions constitute a challenge in the business environment. The event that led to the sack of CEOs of certain banksby the CBN in 2009 provides us with an insight on how demanding it could be for Islamic financial institutions to uphold trust (*amanah*)in the discharge of their responsibilities.[74]

5. RISING ABOVE THE CHALLENGES: THE WAY OUT

Despite the above challenges staring the IF industry at the face, there are still ways through which the challenges can be surmounted. In other words, the IFindustry in Nigeria can still develop to emerge as the undisputed leader among emerging Islamic finance

[71] For details, visit Debt Management Office (DMO)'s official website: www.dmo.gov.ng

[72] Although as mentioned elsewhere in this paper, Osun State also issued a semi-sovereign sukuk in 2013, however the present authors could not find any credible evidence to show that Osun sukuk is available for purchase on any secondary market, it is believed that the investors are merely holding the instruments till maturity, and therefore not useful for IF liquidity management.

[73] Economy Profile Nigeria, (access date: November 28, 2018). Ease of Doing Business 2019. URL:http://www.doingbusiness.org/content/dam/doingBusiness/country/n/nigeria/NGA.pdf

[74] The CBN identified the prevalence of unethical practices by the management of the affected banks as part of the reason for its action. See Chiejine, F., (access date: November 28, 2018). Corporate Governance in the Nigerian Banking Sector: An Ethical Analysis of the 2009 Regulator Intervention and Operators' Behaviours, URL:https://repository.upenn.edu/cgi/viewcontent.cgi?article=1028&context=od_theses_msod

markets in the Sub-Sahara Africa and thus become a key player in the global Islamic finance industry. To actualize this aspiration, the constitutional and legal challenges must, as a matter of priority, be addressed.The Constitution should be amended to confer exclusive jurisdiction on the Shari'ah Court of Appeal to hear and determine matters of Islamic finance irrespective of the religion professed by the parties to a case. The provision of section 251 of the constitution should also be amended to avoid crisis of jurisdiction that may likely arise between more than one court.

Of all risks associated with IF industry, the risk of non-compliance with Shari'ah is increasingly gaining more attention and equally becoming an issue of serious concern for IFIs. In fact, it suffice to say that non-compliance with Shari'ah would represent the height of mismanagement, betrayal of trust and unethical practices.[75] This is so because investors have entrusted their monies with IFIs on the ground that they will be invested in Shari'ah compliant businesses. CBN, NAICOM, SEC and other regulatory bodies of IF in Nigeria must therefore continue to insist on having qualified and competent persons as members of the operators' committees of experts.

It has been argued elsewhere that having one or more university degrees in the required areas of specialization will go a long way to ensure credibility and competence of the Shari'ah committee, as against using paper qualifications as the benchmark for membership of a Shari'ah Committee of IFIs.[76] Except we want to play ostrich, the requirement of a degree in the specialization of Islamic finance means that we are attuned to the reality of the present age where knowledge continues to get wider and more complex. In this connection, Kamali (1991) aptly got the gist when he submitted that in view of the sheer bulk of information and the more rapid pace of its growth, specialization in any major area of knowledge would seem to hold the key to originality and creative *ijtihad*.[77] It goes without saying that IF industry is in dire need of such originality and creative *ijtihad.*[78]

[75] According to the CBN, "Compliance with Shari'ah principles is a critical element of non-interest banking and finance." See the introduction to the Guidelines on Shari'ah Governance for Non-Interest Financial Institutions in Nigeria.
[76] Alaro, A., *op. cit*. p. 13
[77] Kamali M., (1991),"Principles of Islamic Jurisprudence", Islamic Texts Society, Cambridge, p. 379
[78] Creative *ijtihad* in the context of Islamic finance implies that informed steps be taken by Shari'ah Committee in the exercise of *ijtihad* to make keeping the doors of halal wide open, and as their pre-occupation, rather than making closure of gates of illegal transactions their primary concern. Thus, members of Shari'ah committee should not confine their role to mere declaration of halal and haram *simplicita*. Alaro, A., *op. cit*. p. 15-16.

Furthermore, it is suggested that the IFIs should promote the acquisition of knowledge and expertise in Islamic finance through training and retraining of their staff. Specialization in Islamic finance can be broadly divided into three concentrations of Economics, Law and Shari'ah. Graduates of these fields and other-related ones should be encouraged to specialize in one of the concentrations of Islamic finance in order to address the shortage of personnel.

While that is being done, it is also imperative to extend the standard to the arena of corporate governancein the IF industry in Nigeria. The unique nature of Islamic finance has necessitated the desire of practitioners to have a "specialized" Corporate Governance, in addition to the general Shari'ah governance regulations. In other words, enthronement of the peculiarities of IF in the domestic regime of corporate governance in Nigeria must be given priority. As noted by Ahmad (2014), although risks within the IF industry largely rely on Shari'ah governance, other determining factors that are not specifically related to Shari'ah may also exist.[79] To this end, the timely issuance of the CBN Guidelines on Corporate Governance for IFIs is much desired.

The low level of awareness of IF products and services and the resulting distorted perception that follows it is not a good omen for the IF industry. In a country with Muslim majority like Nigeria with ready market for IF products and services, the IFIs should be competing favourably with their conventional counterparts in attracting news depositors and investors. The IFIs should explore every legitimate means to reach out to the public on the unique nature of the IF products and services they offer. This would halt the continue rise in distorted perception of IF products and services by consumers. In the same vein, the IFIs must procure latest IT infrastructure that will enhance easy accessibility.

Finally the government is encouraged to create an enabling environment that will ease business for investors. The current rank of Nigeria in the Ease of Doing Business Index does not project the country in positive light. The implication is that Investors would consider other destinations for investment other than Nigeria and when this happens the country would record low level of foreigndirect and portfolio investments, which shall ultimately affect the economy as a whole.

CONCLUSION

[79] Ahmad, I., *op. cit.*, p. 118

Emerging Markets of Islamic Finance (IF) in Africa are faced with challenges that come in diverse ways. Using Nigeria as a case study, the paper identified major challenges inhibiting the growth of Islamic Finance in Nigeria while also proffering relevant solutions where necessary. The challenges varied from constitutional constraint to operational risk-related challenge and to lack of liquidity management for IFIs among others. The paper found that addressing the identified challenges with relevant solutions is critical in the steady development of Nigerian IF industry. The present legal framework for regulating IF industry is inadequate; hence recommendations were made in the work for necessary amendments to the existing laws and constitutional provisions, with a view to positioning IF in Nigeria for maximal growth, profitability and sustainability. In the same vein, taking a clue from what has happened in other jurisdictions, considering having an all- encompassing law to regulate the Islamic financial services in Nigeria may be a good option. The paper also acknowledged the efforts put in place so far to manage the liquidity-related risks in Islamic Finance, it however observed that the Shari‘ah compliant instruments available in the market for managing liquidity management are still insignificant when compared to what is accessible and available for conventional financial institutions.

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