



COMCEC

Standing Committee
For Economic and Commercial Cooperation
of the Organization of Islamic Cooperation

CAPITAL MARKET
REGULATORS FORUM

Presentation on

Enhancing Infrastructure for Islamic Capital Market

Report of the Islamic Finance Task Force of the COMCEC CMR

**Chair of Islamic
Finance Task Force**



**Co-Chair of Islamic
Finance Task Force**



**Secretariat of the
COMCEC Capital
Market Regulators Forum**



TASK FORCE ON ISLAMIC FINANCE

Islamic Finance Task Force aims to increase cross-border and cooperation activities in Islamic finance among the COMCEC CMR Forum Member Authorities which in turn serve to increase the economic and commercial capacity of the member states and strengthen cooperation possibilities both at global and regional levels

Mandate

The mandate of the Islamic Finance Task Force is essentially to publish a report on **“Enhancing Infrastructure for Islamic Capital Market”**

Given the broad areas under the ICM infrastructure, the following sub-topics will be covered in the report:

- Legal, Regulatory & Tax Framework;
- Shariáh Governance;
- Talent Development; and
- Products & Services

Objective of the report

1. To examine key elements on infrastructural developments for ICM;
2. To encourage implementation of international regulatory standards and develop regulatory capabilities;
3. To enable Member Authorities to review their advancement and benchmark their progress in developing ICM; and
4. To address/enhance cross-border activities among the Member Authorities in Islamic Finance

List of Abbreviations

Foreword

Preface (Task Force on Islamic Finance)

Executive Summary

Part A: Islamic Finance and ICM

1. Introduction
2. Emergence of ICM
3. Important Aspects of ICM:
 - a) Legal, Regulatory and Tax Framework
 - b) Shariáh Governance
 - c) Talent Development
 - d) Products & Services

Part B : Survey Questionnaire on ICM

1. Introduction
2. Background & Rationale
3. Objectives
4. Methodology
5. Survey Findings
 - a) General Background
 - b) Legal, Regulatory and Tax Framework
 - c) Shariáh Governance
 - d) Talent Development
 - e) Products & Services

Part C: Conclusions and Recommendations

1. Legal, Regulatory and Tax Framework
2. Shariáh Governance
3. Talent Development
4. Products & Services
5. Summary of Recommendations

Appendices

- Appendix I : Survey Questionnaires on ICM
- Appendix II : Law/ Parliamentary Legislations/ Regulations Passed or Amended To Facilitate the Development of ICM
- Appendix III : List of Tax Benefits Provided For ICM
- Appendix IV : International Shariáh Standards Adopted by Member Authorities
- Appendix V : List of Universities and/or Institutions of Higher Learning Offering Education and Certifications Programs on Islamic Finance
- Appendix VI : List of Training Institutions and/or Dedicated Training Institutions Specializing in ICM

References

Bibliography and Data Sources

SURVEY QUESTIONNAIRE

- The survey findings are divided into 5 parts: The first part of the survey deals with the general background of the countries, while the subsequent parts of it deals with legal, regulatory and tax framework for ICM, Shariáh governance, product and services, and the talent development.
- The analysis and issues discussed were largely distilled from the survey and the research of secondary sources

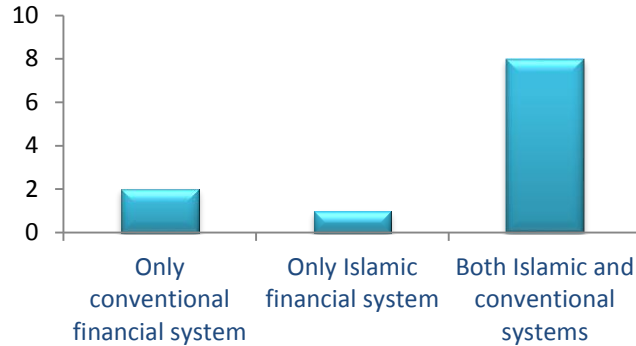
- **11** Member Authorities responded to the survey
 - the respondents represent Members' Authorities that have experienced some level of development in ICM
- **Issues:**
 - Lack of established databases
 - Difficult to draw sufficient conclusion and certainty on the current state of ICM infrastructure and make appropriate recommendation

No.	Member Authorities	Country
1.	State Committee for Securities	Azerbaijan
2.	Autoriti Monetari Brunei Darussalam	Brunei
3.	National Council of Credit	Cameroon
4.	Securities and Exchange Organization	Iran
5.	Capital Markets Authority	Kuwait
6.	Securities Commission	Malaysia
7.	Capital Market Development Authority	Maldives
8.	Capital Market Authority	Palestine
9.	Securities and Exchange Commission	Pakistan
10.	Capital Markets Board	Turkey
11.	Securities & Commodities Authority	UAE

Survey Findings

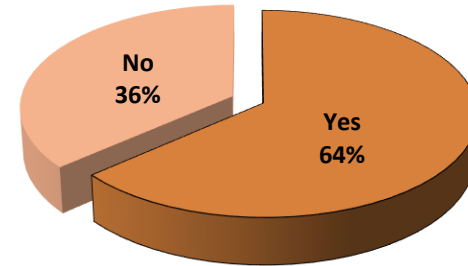
Survey Finding: General Background

1| Types of Financial System



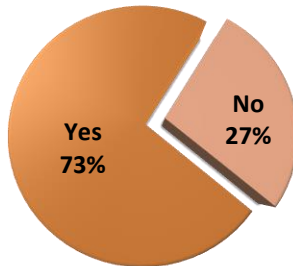
A majority of the respondents have both Islamic and conventional financial systems

3| Separate Unit/Division to Develop ICM within the Regulatory & Supervisory Authority



A majority of the respondents (64%) indicate that they have a special unit or division established within their regulatory & supervisory authority to develop ICM

2| Developmental Plan for ICM



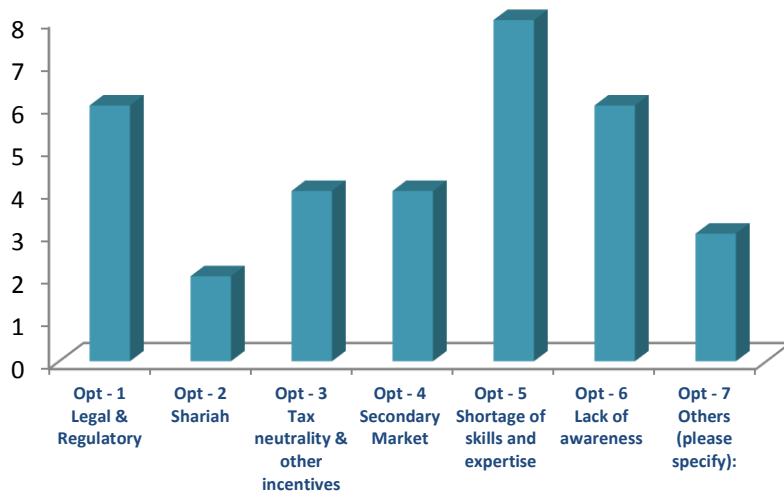
A majority of the respondents (73%) indicate that they have a plan to develop ICM

- 7 respondents have on-going developmental process of ICM in accordance with their plan.
- 1 respondent's ICM development plan is not progressed in accordance to the plan

Existence of a specialized unit or function within the regulatory authority of capital markets proves the dedication and the level of consideration given to develop the ICM

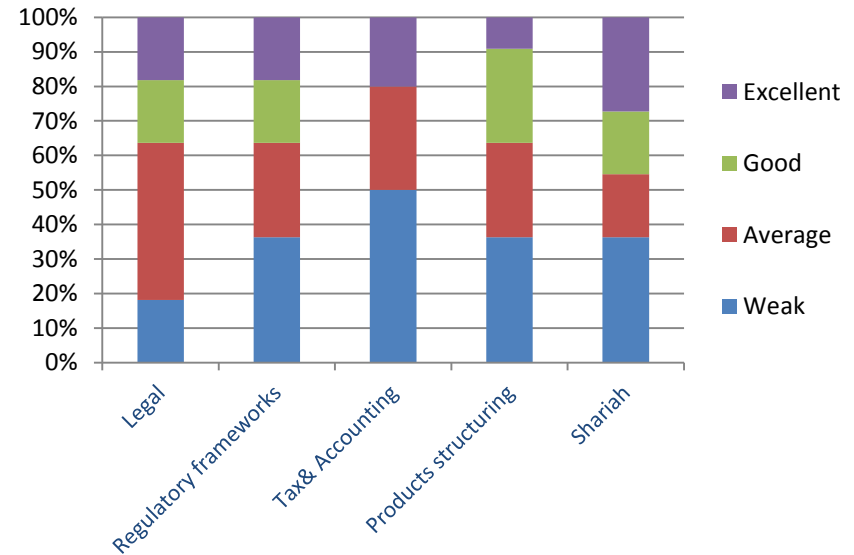
Survey Finding: General Background

4| Major obstacles in developing ICM



- 3 major obstacles:
 - i. shortage of skills and expertise;
 - ii. lack of awareness; and
 - iii. legal and regulatory difficulties
- Some of the critical challenges identified in the survey:
 - Malaysian' general public literacy on ICM products and services
 - Cameroon's major obstacle is the lack of promotion of the Islamic finance;
 - Iran had once faced difficulty in the dual supervision on some Islamic products such as Musharaka securities

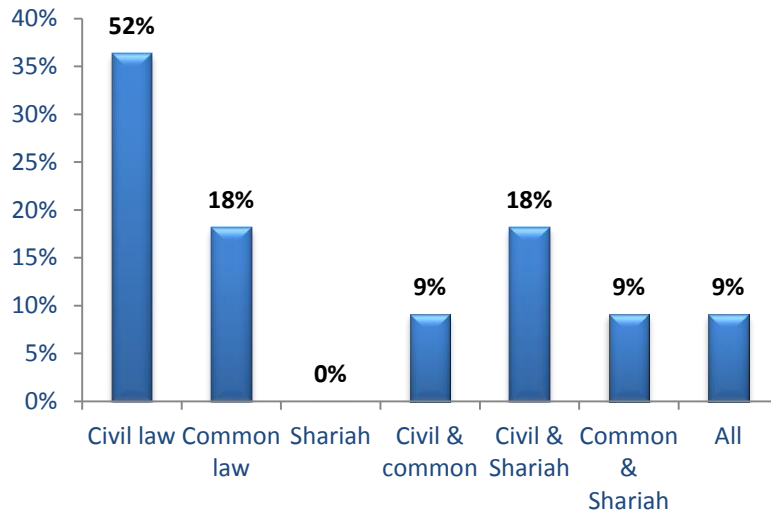
5| Industry's level of understanding on ICM related issues



- A majority of the respondents have a weak level of understanding issues relating to Tax & Accounting
- On matter relating to legal, majority of the respondents have an average level of understanding
- These five areas above are co-related and similarly important in the ICM. It is therefore vital to ensure that the industry has a greater level of clarity and understanding in these 5 areas to appreciate its intricacies.

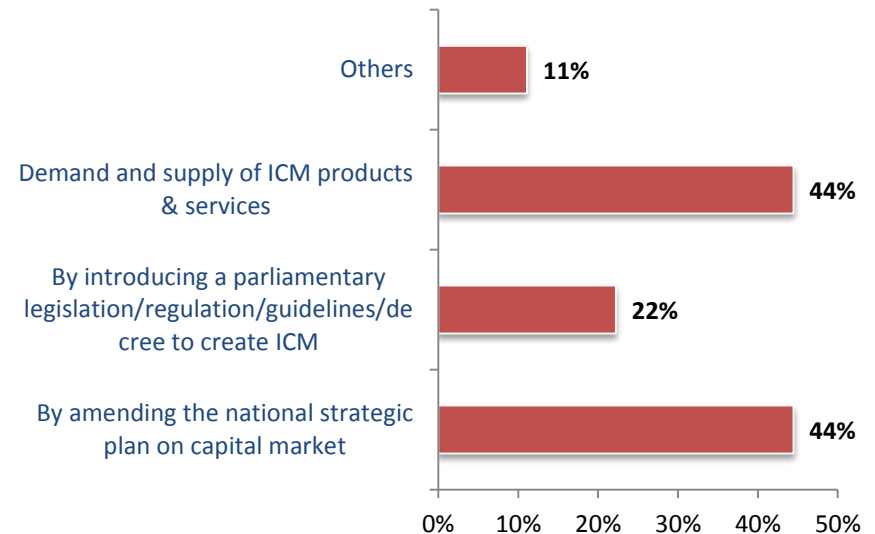
Survey Finding: Legal, Regulatory & Tax

1| What type of legal system/framework does your country have?



- A majority of the respondents (52%) indicate that the legal system/framework in their country is based on Civil law

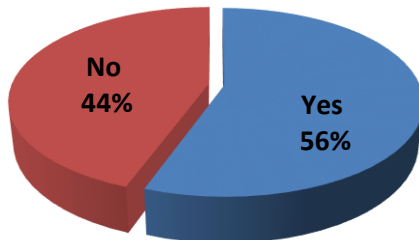
2| How ICM was initially developed in your country?



- A majority of the respondents indicate that ICM was introduced due to:
 - Demand and supply of ICM products and services;
 - Amendment of the national strategic plan on ICM

Survey Finding: Legal, Regulatory & Tax

3| Do your legal framework governing ICM products and services differ from the conventional capital market?



56% of the respondents indicate that their legal framework governing ICM products and services differ from the conventional capital market

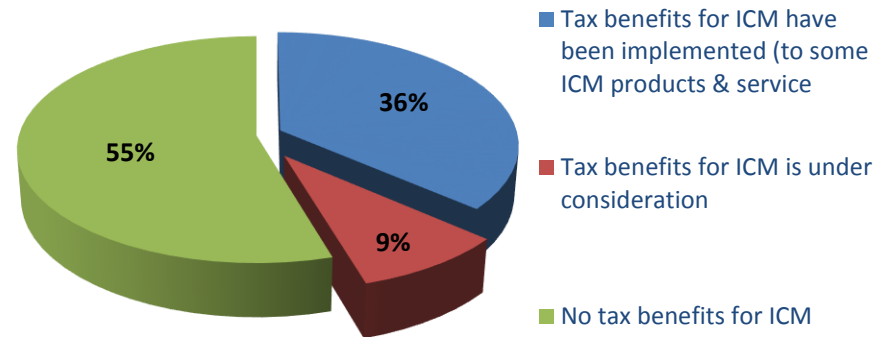
- due to specific regulations for ICM products and services which require additional compliances e.g criteria for Shariáh-compliant investments and appointment of Shariáh Adviser.

4| Law/ Parliamentary Legislations/ Regulations passed or amended to facilitate the development of ICM

Various parliamentary legislations and regulations have been passed or amended in most countries

- This signify the initiatives taken to accommodate the intricacies of the ICM as well as to ensure its soundness and stability

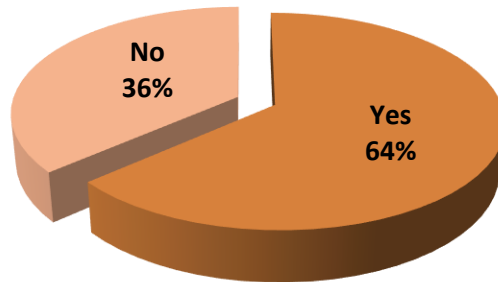
5| Is there any tax benefits accorded for the ICM in your country?



- A majority of the respondents (55%) do not have tax benefits accorded to the development of ICM
 - No plan within the next five years to revise tax provisions to develop ICM
- 36% of the respondents indicate that tax benefits for some ICM products have been implemented

Survey Finding: Shariáh Governance

1| Does your country have a Shari'ah governance framework for ICM?



A majority of the respondents (64%) indicate that a Shariáh governance framework for ICM is present in their country

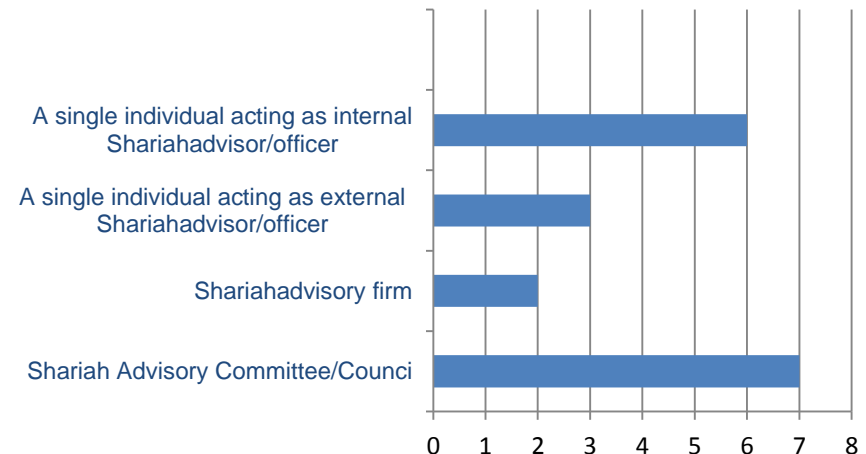
- Out of these, 71% of the respondents have incorporated Shariáh governance as part of their regulatory framework.
- However, respondents placed less emphasis on:
 - a mechanism for registering/licensing individual Shariáh advisers
 - the provisions in the legislation/legal framework to deal with to Shariáh related dispute

2| Adoption of International Shari'ah Standards

There are diverse perceptions and acceptability on the international Shariáh standards.

- there is a need to achieve reconciliation of different rulings and practices.
- Further research is necessary to explore greater acceptance of the international Shariáh standards.

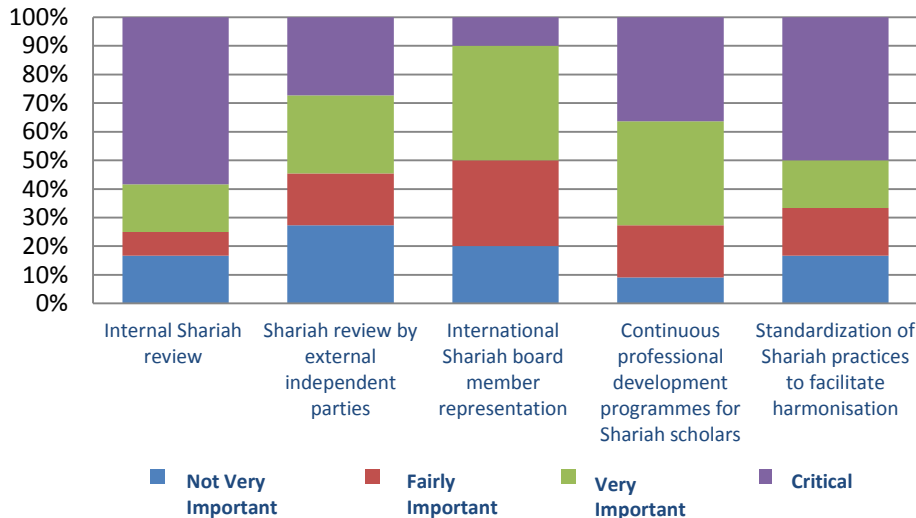
3| Monitoring of Shariáh Compliance or Endorsing ICM Products



The Shariáh Advisory Committee/Council is the most common approach of Shariáh Governance whereas Shariáh advisory firm is the least preferred among the respondents.

Survey Finding: Shari'ah Governance

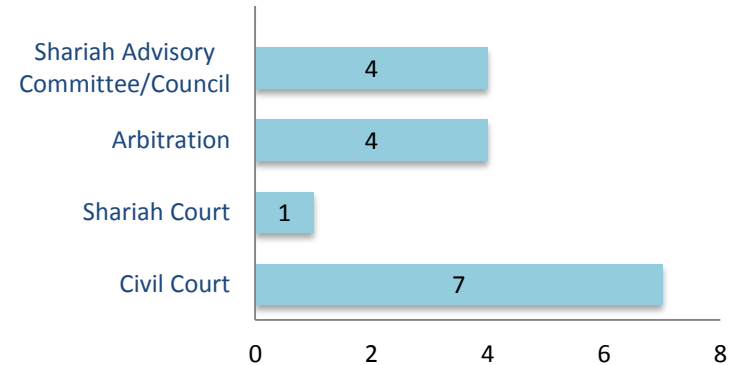
4| Significant Aspect of Shari'ah Governance



Rating for components of Shari'ah governance framework:

- 1) critical :
 - an internal Shari'ah review; and
 - standardization of Shari'ah practices to facilitate harmonization
- 2) Important:
 - having an international Shari'ah board member
- 3) Least important :
 - Shari'ah review by external independent parties

5| Dispute Resolution Mechanism

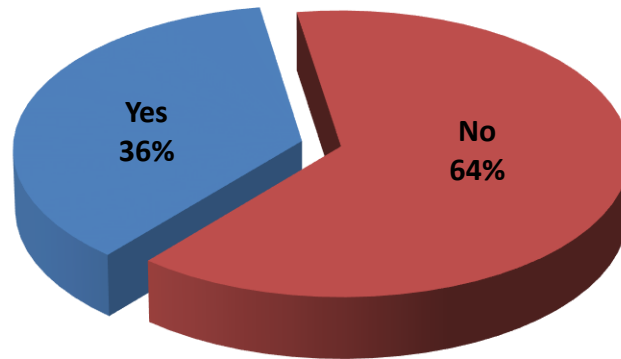


A majority of the respondents indicate that conflicts in Islamic financial products and services are resolved in civil courts

- However, with the increase of Islamic financial institutions and new products, there is a need for Islamic legal framework for dispute resolution.

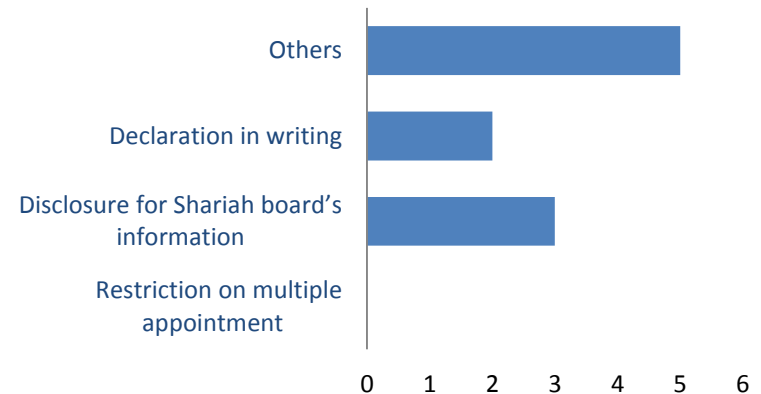
Survey Finding: Shariáh Governance

6| Fit and Proper Criteria Policies for the Appointment of Shariáh Advisers



A majority of respondents (64%) do not have specific fit and proper criteria enacted on the appointment of Shariáh advisers for the Shariáh Board/Committees.

7| Mechanisms to Eliminate Conflict of Interest for Shariáh Scholar

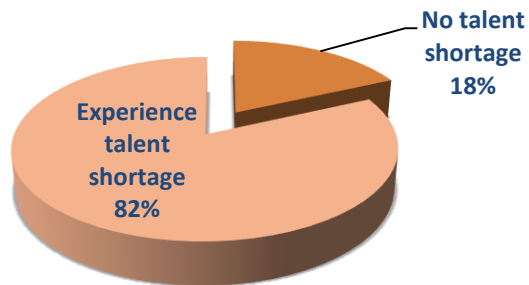


It is noted that the varying practices in the mechanism to deal with conflict of interest.

- two out of eleven respondents have a declaration in writing to disclose conflict of interest of Shariáh scholars;
- three respondents disclose the conflict of interest for the information of the respective Shariáh advisory bodies only

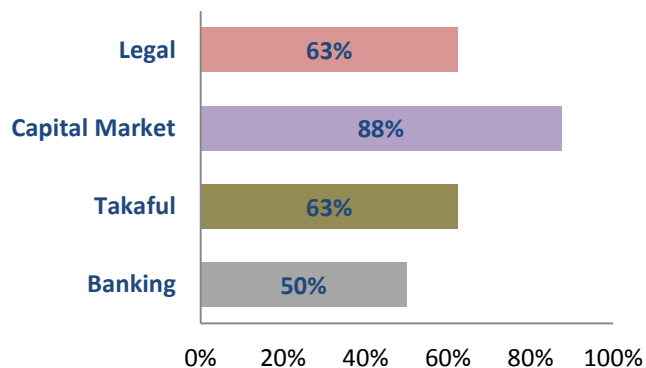
Survey Finding: Talent Development

1| Does your country experience shortage supply of talents in Islamic finance?



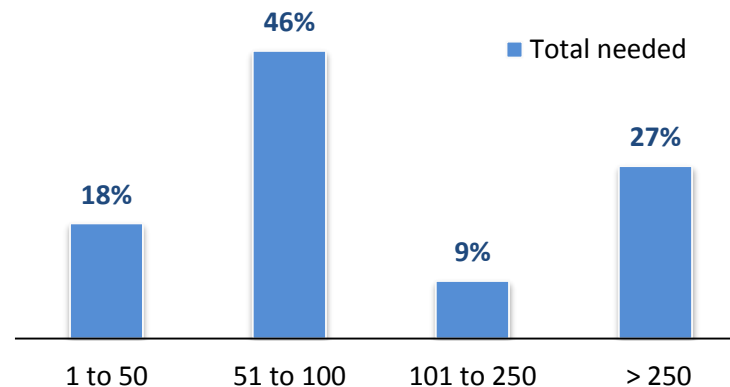
A majority of the respondents experienced shortage of talents in the Islamic finance

If there are shortages, which area is affected the most?



Capital market is the most affected area, followed by legal and takaful. Banking is the least affected

2| What is the estimated number of Islamic finance professionals is needed by your country in 5 years to cope with the development/expansion of Islamic finance industry?



A majority of the respondents require 51 to 100 personnel to develop its Islamic finance industry in the next 5 years

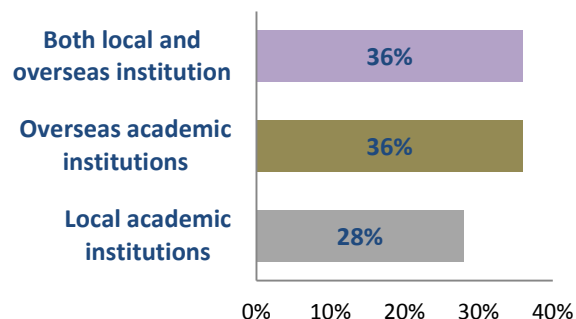
- indicates moderate growth and demand from the talent market to fulfil the needs of Islamic finance industry.
- Countries that require more than 250 (27%) signify their more advance position in the Islamic finance industry which would require more demand for talent.

Survey Finding: Talent Development

3| Do you think that it is necessary to develop talents through the right academic/professional qualification in Islamic finance?

All unanimously agreed on the necessity to develop human capital through the right academic/ professional qualification in Islamic finance

4| Where did most of your experts/talents receive their Islamic finance qualifications/certificates?



Most talents received their Islamic finance qualifications from international institutions that offer Islamic finance certifications

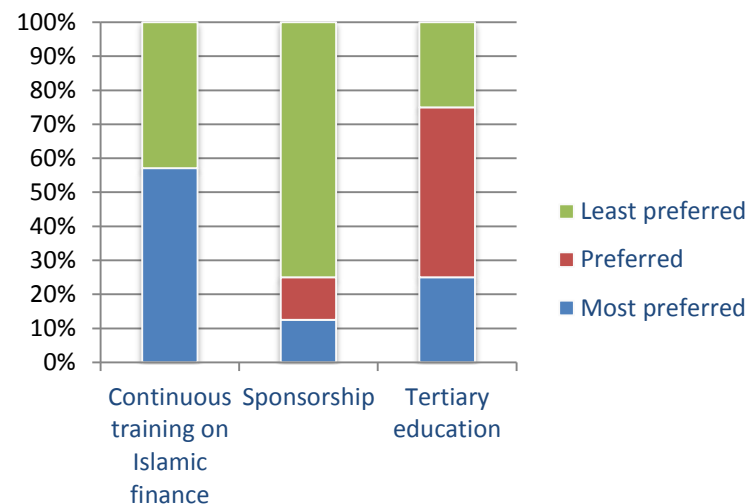
Top countries where most of your experts/talents received their qualifications/certificates in Islamic finance

Malaysia is the top popular placement for talents to obtain qualification on Islamic finance, followed by the UK and Bahrain.

5| Are there initiatives to produce/develop talents in the ICM in your country?

A majority of the respondents (73%) indicate that they have initiatives to develop talents for ICM

If there are initiatives, please rank the initiatives/programmes that being pursued the most

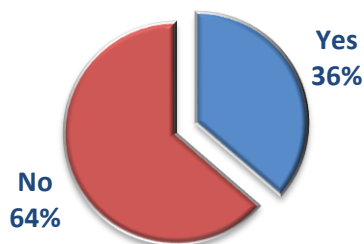


Continuous training on Islamic finance such as on the job training, attending seminar or training in Islamic finance is rated as the highest.

- short term deals to tackle the immediate talent needs
- training programs are usually readily available and easy to implement to meet its needs

Survey Finding: Talent Development

6| Does your country have regular professional training programmes specialized in ICM?



7| Immediate plans to develop talents on Islamic finance through training

The most preferred immediate plan:

- train the trainer
- send staff for overseas training; and
- set up dedicated training institution for Islamic finance

8| The option of developing dedicated training institutions for Islamic finance talent within the next 5 years

A majority of the respondents (55%) do not plan to have their own dedicated training institution

- option is preferred more by matured markets like Malaysia and UAE

9| Are there existing collaborations between the local industry, academia and regulators with external parties outside your country in ensuring sustainable supply of qualified and skilled talents?

55% of the respondents indicate that they do not have any collaboration

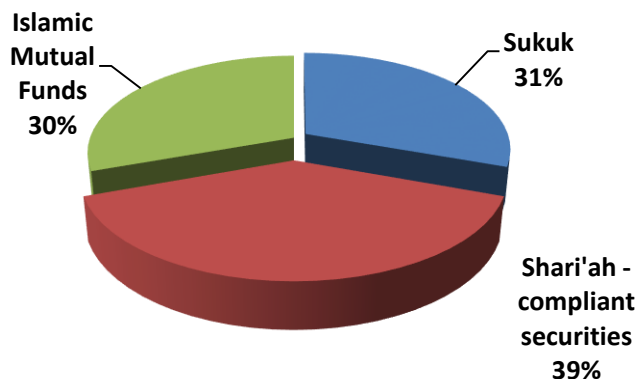
If there are no existing, are there plans to form collaborations in the near future?

67% of the respondents is positively looking for future collaboration

- This signifies the importance of having a platform for sharing of experiences, establishing suitable partnerships and networking programmes to cater the sustainability of supply of qualified and skilled talents

Survey Finding: Products & Services

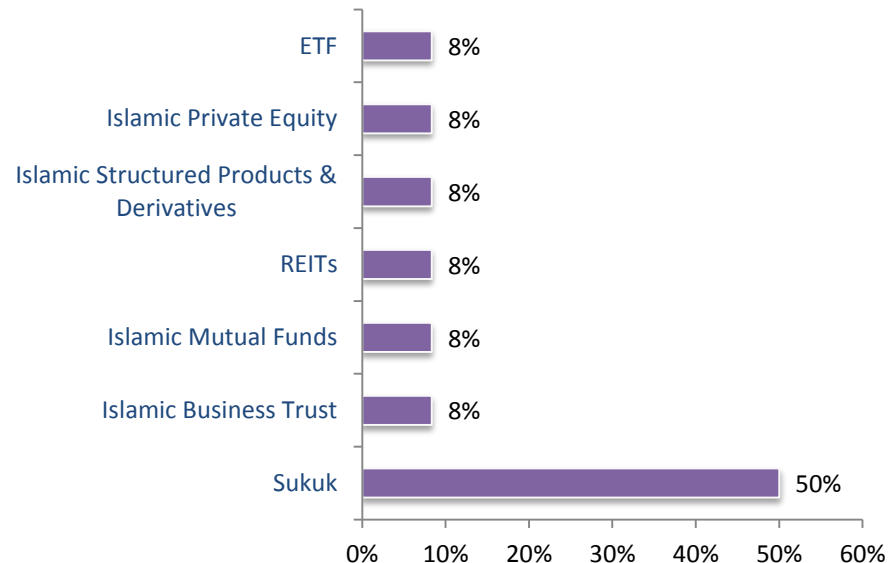
1| Top 3 ICM Products



Shari'ah-compliant securities are among the most accessible products. The screening criteria for Shari'ah-compliant securities, however, may vary from jurisdiction to other jurisdiction based on the rulings set by the Shari'ah scholars.

- The Survey result also shows that the sukuk and mutual fund are equally available

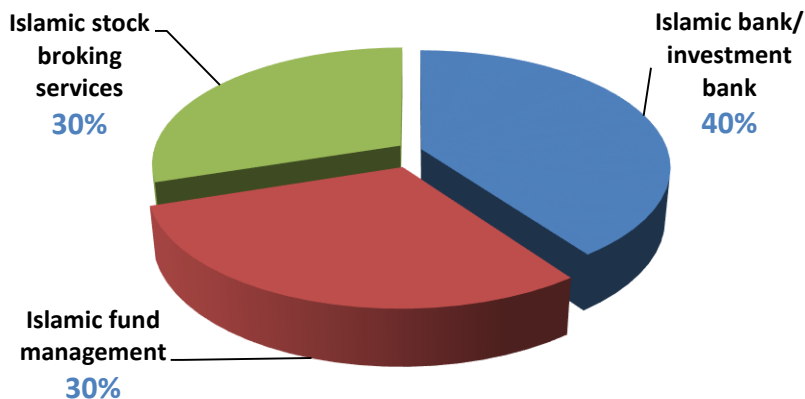
2| Please indicate new ICM products do you intend to establish within the next 3 years



A majority of the respondents intend to issue sukuk in the next 3 years

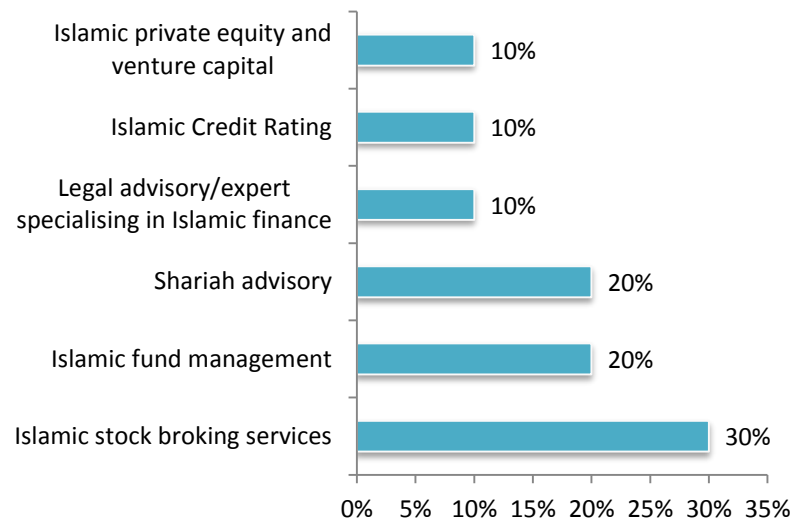
Survey Finding: Products & Services

3| Top 3 ICM Services



The **Islamic bank / investment bank** is the top ICM services available in COMCEC CMR member countries, followed by the **Islamic stockbroking** services and **Islamic fund management** services

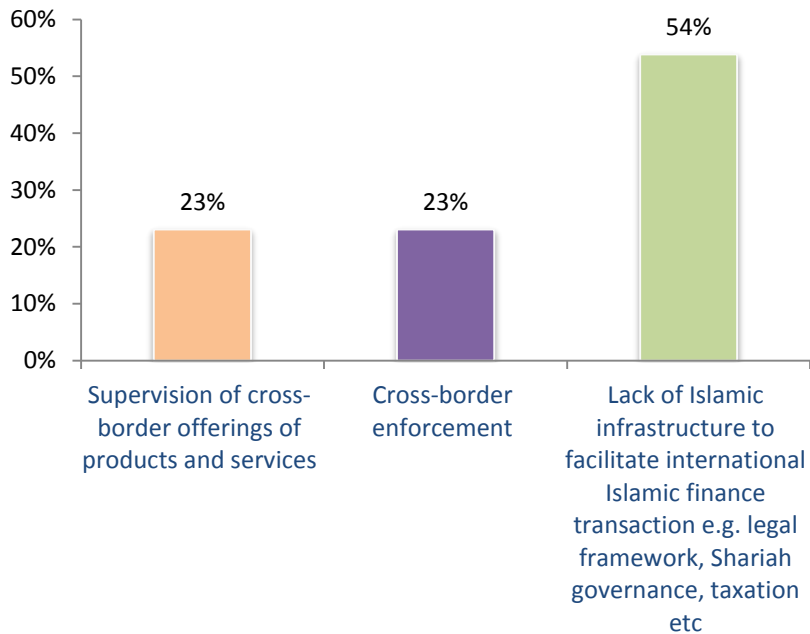
4| Please indicate new ICM services do you intend to establish/expand within the next 3 years:



Three respondents intend to establish Islamic stockbroking services in the next 3 years

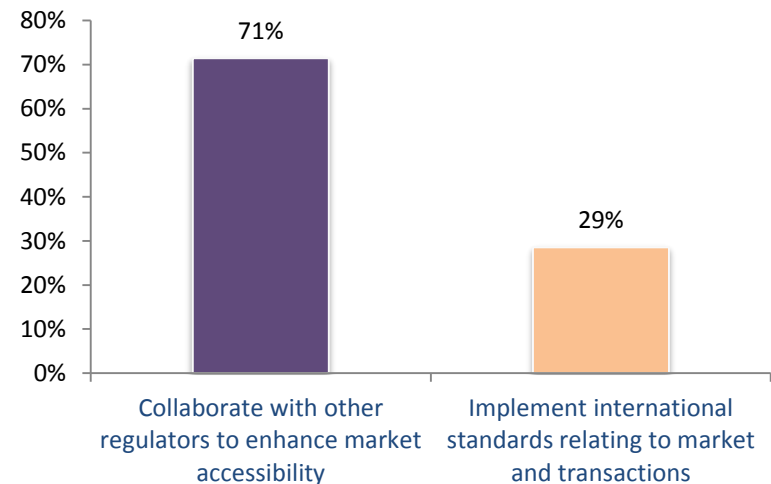
Survey Finding: Products & Services

5| Please identify the major cross-border issues faced by your supervisory authority with respect to ICM products & services?



Lack of Islamic infrastructure is a major cross-border issue

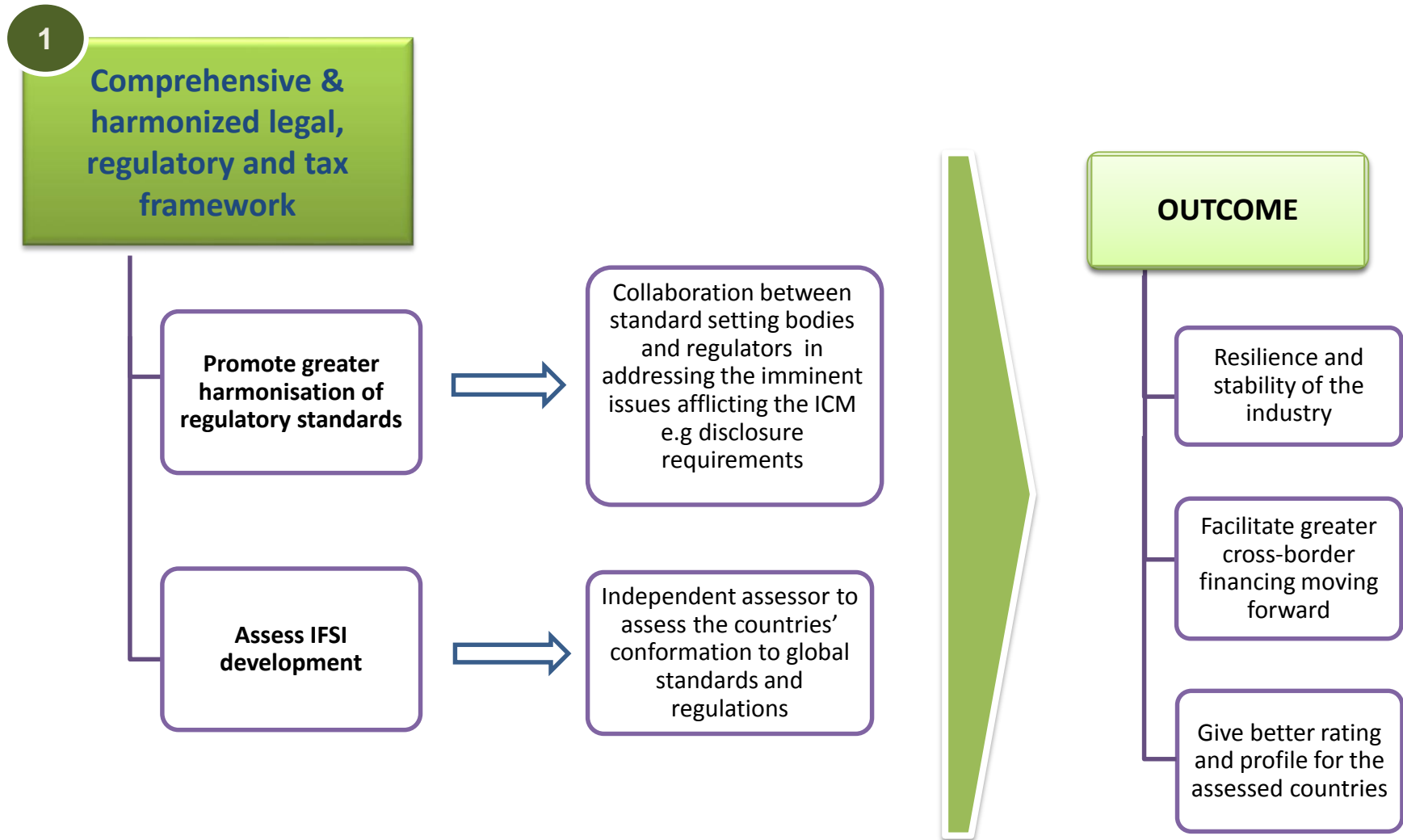
6| Which of the following initiatives could enhance cross-border activities in ICM products and services the most?



Majority agreed that collaboration with other regulators could enhance cross border activities

Recommendations

RECOMMENDATION: LEGAL, REGULATORY & TAX



RECOMMENDATION: LEGAL, REGULATORY & TAX

2

Appropriate and effective dispute resolution mechanisms

Create dedicated courts deal with Islamic finance transactions

Well-trained and competent judges and lawyers in Islamic finance and conventional law

Greater use of arbitration or mediation

Features of arbitration/mediation as value add e.g. confidentiality

OUTCOME

Credible and reliable forum that resolves legal disputes of Islamic finance transactions

Speedy justice without compromising the rights and liabilities of the parties.

RECOMMENDATION: LEGAL, REGULATORY & TAX

3

Facilitative tax framework

Tax Neutrality

Create level playing field between conventional capital market and ICM by giving relief to the tax charges

Tax Incentives

To nurture and encourage the on-going development and growth of Islamic finance

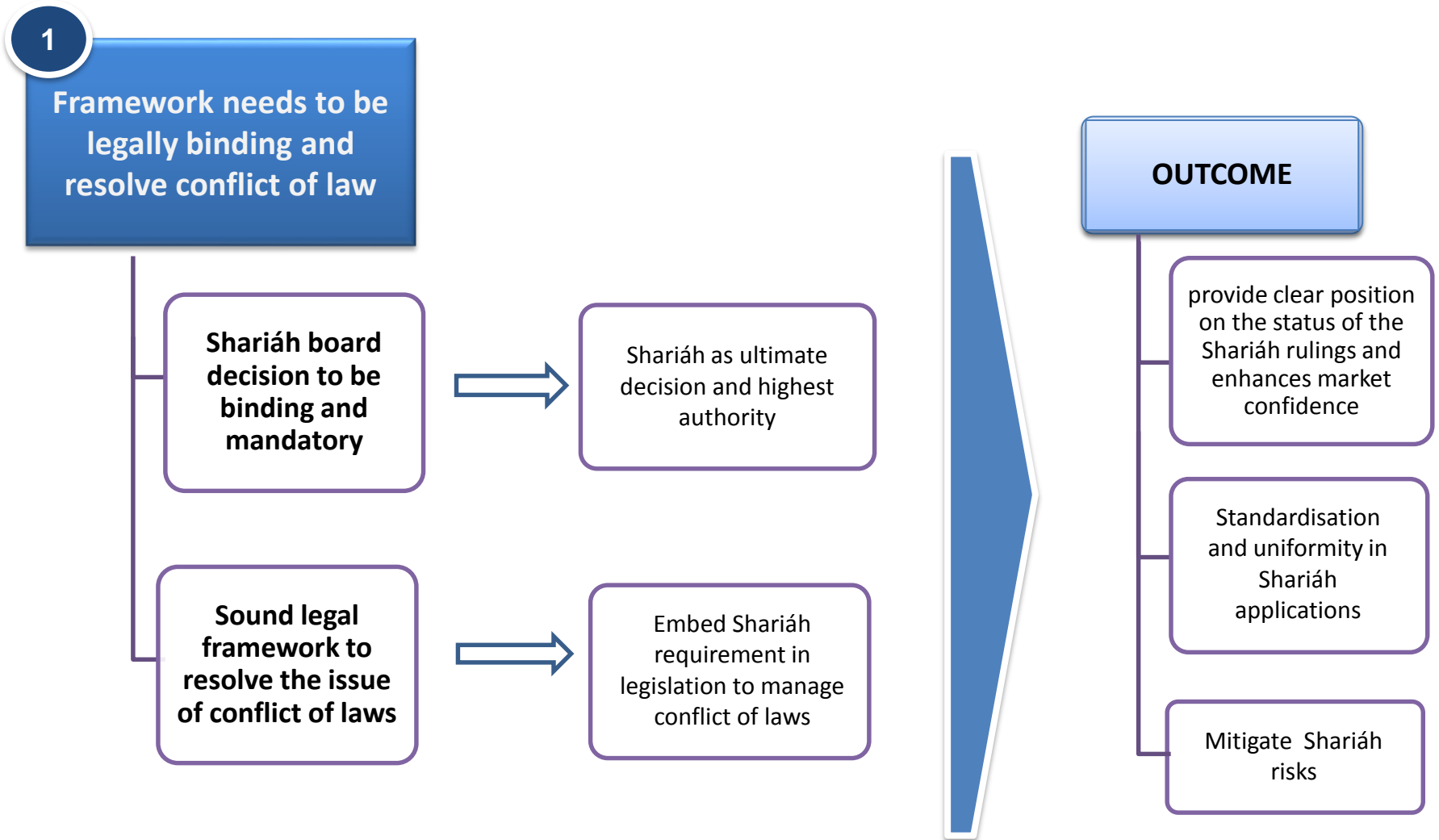
OUTCOME

Encourage more transactions and participants

Enhance certainty and transparency

Accelerate the development and innovation of new ICM products

RECOMMENDATION: SHARIÁH GOVERNANCE



RECOMMENDATION: SHARIÁH GOVERNANCE

2

Best Practices / Code of Conduct for Shariáh Advisers

Managing the disclosure process to deal with conflict of interest

Roles & Responsibility of Shariáh Advisers

Restrict the Shariáh adviser from sitting in multiple committee

Shariáh advisers' responsibility to exercise professional conduct

Establish fit and proper criteria for Shariáh Adviser

OUTCOME

Avoid fatwa shopping and preserve products confidentiality

Promote transparency and accountability

Preserve integrity and ensure competency

RECOMMENDATION: SHARIÁH GOVERNANCE

3

Continuous Professional Development for Shariáh Advisers

Provide incentives to Shariáh scholar to attend capacity building programmes

Mentoring and coaching by senior Shariáh scholars

Blend between the theoretical aspects of Islamic finance and the practical aspects

Platform for Shari'ah advisers to deliberate and exchange ideas as well as sharing session

Expose new Shariáh Advisers to real and practical issues and potential solution

OUTCOME

Increase the knowledge and skills of the Shariáh advisers

Foster greater harmonisation between the different Shariáh interpretations

Continuous supply of experienced Shariáh scholars

RECOMMENDATION: TALENT DEVELOPMENT

1

Comprehensive talent development solutions

Covering the process of attracting, developing and retaining talents

Effective at all levels, from pre-employment stage up to leadership positions

Not only finance community – must include other segments directly or indirectly involve in the Islamic finance industry

Example

Create comprehensive competency assessment for all to gauge the level of knowledge and skill of the talent

The assessment should meet the highest standard

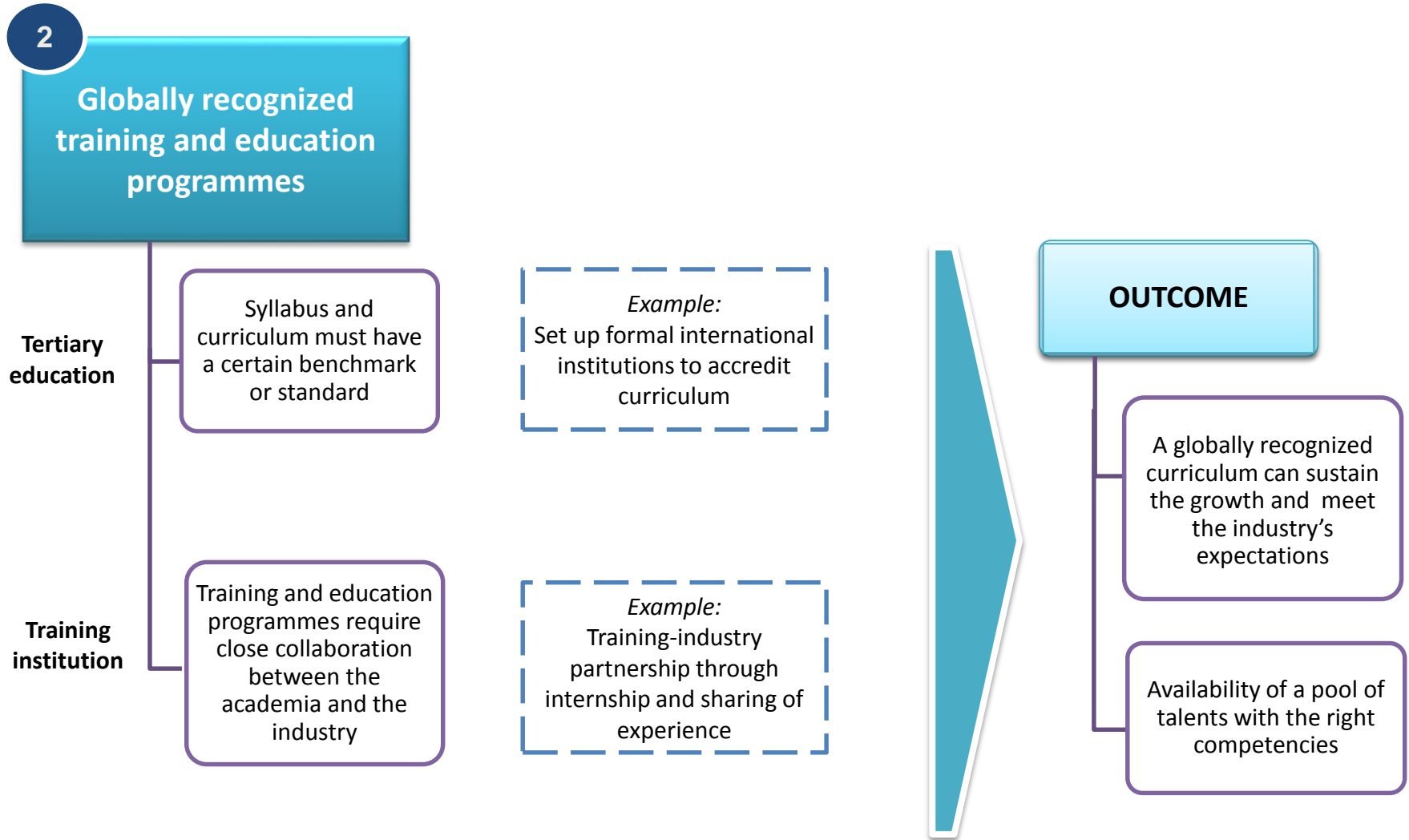
In-close collaboration with the industry

OUTCOME

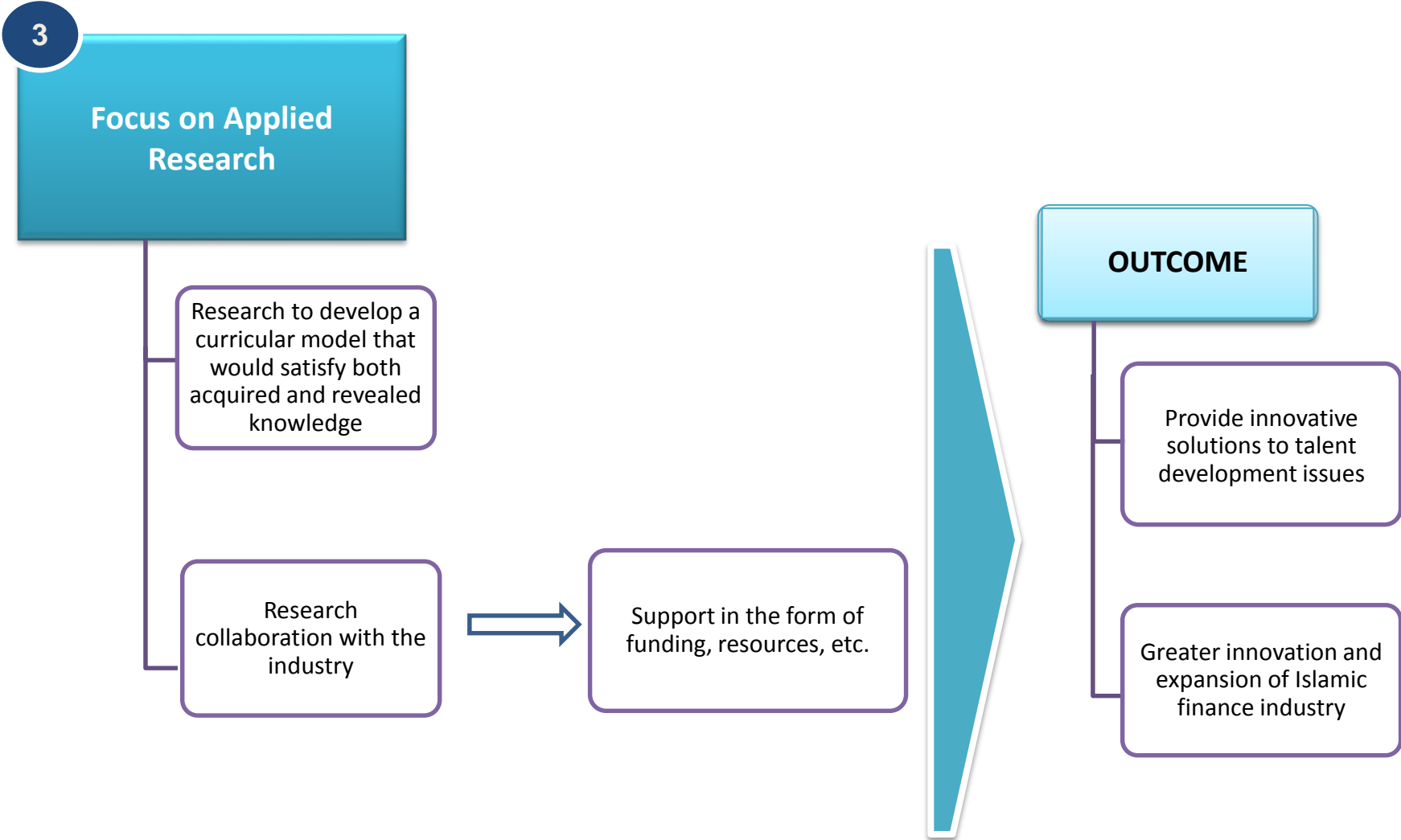
Industry's specificities will be understood and matched

Production of competent and versatile talents

RECOMMENDATION: TALENT DEVELOPMENT



RECOMMENDATION: TALENT DEVELOPMENT



RECOMMENDATION: PRODUCTS & SERVICES

1

Promoting ICM products and services as alternative financing and investment

Use Shariáh-compliant instruments in cross-border trades and financing activities, especially within OIC

Expand trade between regions - strengthening business ties between develop and less develop countries

Adopt established and existing Shariáh instruments for cross-border activities – fast track

OUTCOME

Capital investments among OIC can be enhanced

Wider use of Shariáh-compliant products & services as an alternative investment and financing

Faster integration of Islamic finance into mainstream

RECOMMENDATION: PRODUCTS & SERVICES

2

Ensure compliance with internationally acceptable standards

Enhance regulatory standard - Adopt international best practice and standards established by international standards setting bodies e.g. IDB, IFSB, AAOIFI, etc



Benchmark standards of documentation, governance structure and practices, levels of transparency, disclosure, and the protection accorded to investors



OUTCOME

Improve product compatibility, competitiveness and acceptability at international level

Availability of better rating and profile

Increase investors' confidence

RECOMMENDATION: PRODUCTS & SERVICES

3

Need for greater international co-operation and co-ordination

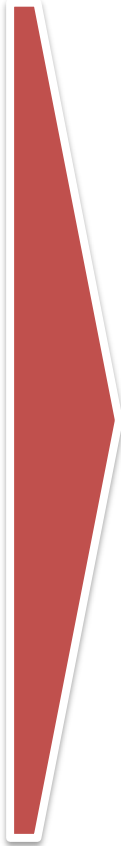
International coordination on regulatory approaches and supervisory oversights

High impact promotional activities

Platform to share experiences on ICM development

Collaborate through mutual recognition arrangements

Regional promotional events on Islamic finance with international perspective and industry leaders' participation



OUTCOME

Enables accessibility of products across jurisdictions

Establish business networking that benefit the host countries

SUMMARY OF RECOMMENDATIONS

Legal, Regulatory and Tax Framework

- Develop a comprehensive and harmonised legal, regulatory and tax framework
- Enforce an appropriate and effective dispute resolution mechanisms
- Implement tax neutrally to create level playing field between conventional capital market and ICM as well as tax incentives to accelerate the development and innovation of ICM products

Shariah Governance

- Enforce Shariah governance framework to be legally binding and resolve conflict of law
- Promote Best Practices / Code of Conduct for Shariah Advisers
- Promote continuous professional development for Shariah Advisers

Talent Development

- Implement comprehensive talent development solutions to meet requirements at all levels
- Ensure globally recognized training and education programmes
- Focus on applied research and innovation to ensure sustainable growth of ICM

Products & Services

- Promote ICM products and services as alternative financing and investment
- Ensure compliance with internationally acceptable standards applicable to the IFSI
- Foster and strengthen international co-operation and co-ordination to facilitate cross-border relationship

AREAS FOR COOPERATIONS & COLLABORATION

		<u>Example</u>
Legal, Regulatory and Tax Framework	<ul style="list-style-type: none">• Develop a comprehensive and harmonised legal, regulatory and tax framework	<ul style="list-style-type: none">✓ Collaboration between standard setting bodies and regulators in addressing the imminent issues afflicting the ICM e.g disclosure requirements
Shariah Governance	<ul style="list-style-type: none">• Promote continuous professional development for Shariah Advisers	<ul style="list-style-type: none">✓ Capacity building programmes for Shariáh scholar:<ul style="list-style-type: none">○ Workshops○ Dialogues with market practitioners○ Intellectual discourse, etc
Talent Development	<ul style="list-style-type: none">• Ensure globally recognized training and education programmes• Focus on applied research and innovation to ensure sustainable growth of ICM	<ul style="list-style-type: none">✓ Set up of a formal international institution to accredit Islamic finance curriculum✓ Establish joint research initiatives between members that benefit talent on the cross-jurisdiction knowledge
Products & Services	<ul style="list-style-type: none">• Promote ICM products and services as alternative financing and investment• Foster and strengthen international co-operation and co-ordination to facilitate cross-border relationship	<ul style="list-style-type: none">✓ Use Islamic finance products as substitute to the conventional finance to finance the expanding trade between regions✓ Regional promotional events on Islamic finance with international perspective and industry leaders' participation

Thank You

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