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COMMUNICATING INFORMATION TO AND AMONG PIAC MEMBERS



Apples to Apples Are Private Market Valuations Fair?

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Diversity, Equity and Inclusion - Why Savings Plans Do Not Consider the Fastest-Growing Religion in Canada

OPINION BY DIMITRI POLIAK

PRINCIPAL, SAVINGS, NORMANDIN BEAUDRY

Canada is often celebrated for its remarkable diversity and commitment to inclusivity. As a nation, it is well-positioned to ensure that investors from historically underserved, minority communities have access to investment opportunities that align with their beliefs and values. One such group is the Muslim community, which in 2017 represented approximately 3.2% of Canada's population and today accounts for nearly 2.8M people (roughly 7.2%).¹ Despite this substantial and growing population, its investment needs are often overlooked by traditional strategies and typically absent from workplace savings programs and pension plans.

This article seeks to broaden the understanding of the unique investment needs of the Muslim community—with a focus on opportunities within group capital accumulation plans (CAPs).

Background

Islamic finance is a growing industry, with an estimated global market size of over \$2 trillion USD² and follows systems and principles in accordance with Shariah Islamic Law. The core principles include the prohibition of interest (known as “Riba” in Arabic) and, broadly speaking, avoid undue harm to society and counterparty exploitation – the latter leading to the exclusion of industries such as pork products, alcohol, adult entertainment, gambling, weaponry, and others as prohibited by the Muslim faith.

These stipulations have led to the development of financial products and services that align with investment principles that are consistent with these restrictions, primarily through “Sukuk” (Islamic alternative to bonds) and Islamic equity funds, both of which have been recently introduced on some Canadian record-keeping platforms.

Shariah investment offerings are certified compliant by recognized, or specially appointed panels of experts, who audit and approve holdings and ensure adherence

to Islamic principles. The compliance process may also involve reporting to investors the proportion of returns derived from religiously forbidden sources for the purpose of cleansing assets, often through donations to appropriate causes of the investor's choosing and initiation.

It is important to note that these investment products were not widely available in the recordkeeper market before the COVID-19 pandemic. Canadian Muslim CAP members did not have access to investment opportunities consistent with their faith and faced barriers to participate in CAPs, directly impacting their ability to receive full remuneration and attain their financial objectives.

Investment Primer

Sukuk funds hold a distinct place within the framework of Islamic finance and involve the issuance of certificates that represent ownership in specific assets. They are well suited for infrastructure investments and Public Private Partnerships wherein the asset is financed by the Sukuk investors and ultimately returned to the government at maturity. One option that is currently available on a record-keeper platform includes the SP Funds Dow Jones Global Sukuk ETF Fund which seeks to track its namesake index. In terms of equity options, the SP Funds Shariah S&P500 ETF Fund and the BlackRock CDN MSCI ACWI Islamic Equity Index also track their namesake indices and are available on some record-keeper platforms.

Interestingly, as a result of the religious screens, Shariah funds may share similar characteristics to socially responsible investments as their intent is to ensure good stewardship of society and the environment.

Investment in gold in accordance with Shariah law is complex and its nuance is best left to expert panels to review, however it is commonly used instead of cash due to the prohibition of interest.

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⁵ Statistics Canada: “Canada Day... by the numbers (2017)” and “A look at immigration, ethnocultural diversity and languages in Canada up to 2036, 2011 to 2036”² <https://www.reuters.com/business/finance/global-islamic-finance-forecast-grow-main-markets-recover-sp-2021-05-03/>

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The World Gold Council and their partners offer some insights. Futures and certificates are prohibited as gold must be traded on a spot basis and be physically held by a custodian with the ability to deliver the physical asset upon redemption. There are ETF products, subject to strict audit requirements regarding Shariah compliance, which moderate storage fees and match buyers and sellers based on quantity and quality.³

A single asset class, such as gold, may not sufficiently diversify a Shariah-compliant equity portfolio over a long-term horizon. This is an important consideration as not all record-keepers offer a Sukuk fund in addition to a Shariah-compliant equity fund.

Additionally, some record-keepers offer an interest-free account, which was the investment alternative first offered in the industry. The intent was to allow for participation in the CAP without providing an investment return.

Complexities for Administrators and Employers

“Uneasy lies the head that wears a crown”⁴ - in this case, this refers to the plan administrator or employer.

Fiduciary Oversight

While the inclusion of these funds can broaden participation

for a more diverse set of employees, it does create friction with existing best practices that seek to reduce complexity, minimize fees, design plans for the average demographic, and aim for optimal performance outcomes amongst other considerations.

With a more diverse set of offerings comes complexity of oversight and administration, however there are varying options available. Some record-keepers only offer an equity-based Shariah-compliant investment while others may also offer a Sukuk, or an interest-free account. The shortcomings of an interest-free account to long-term asset accumulation make it a difficult option to justify in retirement programs, and yet, it has been adopted by some employers in the absence of Shariah-compliant funds.

Creating a diversified portfolio can become a relatively complex task depending on the available investment options. It is important to remember that the restrictions as part of the investment process and possible allocation to gold as an alternative to cash will likely result in ongoing tracking issues against broad benchmarks thereby complicating oversight for committees.

Duty to Accommodate

Drawing on insights from the legal field, the duty to accommodate will be an important factor in this discussion.

³ <https://www.gold.org/gold-standards/shariah-gold>⁴ Shakespeare's Henry IV, Part 2

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For employers, the investment in retirement programs is meant to support the employee population, not the other way around. Therefore, organizations must address the needs of employees who wish to participate in the retirement program but are unable to do so due to religious restrictions.

Using Ontario as an example, the Ontario Human Rights Commission's policy on preventing discrimination based on creed is instructive:

"...Along with designing inclusively and removing barriers, organizations must also respond to individual requests for accommodation. The duty to accommodate requires that the most appropriate accommodation be determined and provided, short of undue hardship.

Accommodation is considered appropriate if it results in equal opportunity to enjoy the same level of benefits and privileges experienced by others, or if it is proposed or adopted to achieve equal opportunity and meets the individual's creed-related needs."⁵

Importantly, a degree of expense and inconvenience, such as additional fiduciary complexity, is considered as reasonable as part of accommodation.

Materiality may not be a relevant factor in this context. Employers with a Muslim population in their workforce may focus on the duty to accommodate as the primary issue of concern. Employee surveys are a valuable tool to gauge interest and provide insights in this regard.

After all, employers expend significant resources attracting and retaining their workforce. Are organizations willing to marginalize certain employees to minimize oversight complexity in their retirement program? The alternative would be to offer pay in lieu of equal terms to the value of the contributions in the CAPs but this presents its own set of challenges regarding the purpose and benefit of a retirement program.

Organizations must understand that the cost and complexity of accommodation will be marginal relative to the potential expense of defending itself at the human rights tribunal. As a result, employers will have to work towards a solution as outright marginalization of these employees is not constructive.

To navigate these added complexities, committee training and educational communication are extremely beneficial. The first aims to develop informed decisions regarding the investment offering – to maintain a certain balance between outcome-driven and accommodation-driven options within the context of the CAP's purpose. The second aims to limit confusion among all employees and enhance the participant experience of those seeking Shariah-compliant investments.

Looking Ahead

It is important to consider which crown takes precedence – that of the administrator or that of the employer. While employees as beneficiaries generally may not have influence over investment offerings, employers create retirement programs as part of a broader business strategy to attract and retain talent.

Some record-keepers have taken a meaningful step forward by making Shariah-compliant options available but there is still room for improvement. However, there are now sufficient options available in order to evaluate adding Shariah-compliant funds and determine if they are right for your organization. Continuing this discussion with record-keepers will help to remove additional barriers and bring greater scale to the discussion.

While Shariah investing does present some complexity to plan administrators and the participating CAP members, the benefits are starting to outweigh the drawbacks. This is an opportunity to support an otherwise neglected and rapidly growing employee base, while acting on Diversity, Equity, and Inclusion (DEI) initiatives. It should not be forgotten that these types of investments can align with Socially Responsible Investing (SRI) initiatives as well. Personalization and inclusion in retirement and savings programs tend to yield greater engagement outcomes, which, over time, improves the overall employee experience and, one hopes, retirement outcomes for all Canadians.

It will not be a question of 'if' but rather of 'when' organizations will be impacted by this growing issue and those with fiduciary responsibilities should be prepared to provide guidance or seek expertise. 🍁

⁵ <https://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed/9-duty-accommodate#:~:text=Under%20the%20Code%2C%20employers%2C%20unions,a%20requirement%2C%20rule%20or%20standard>