

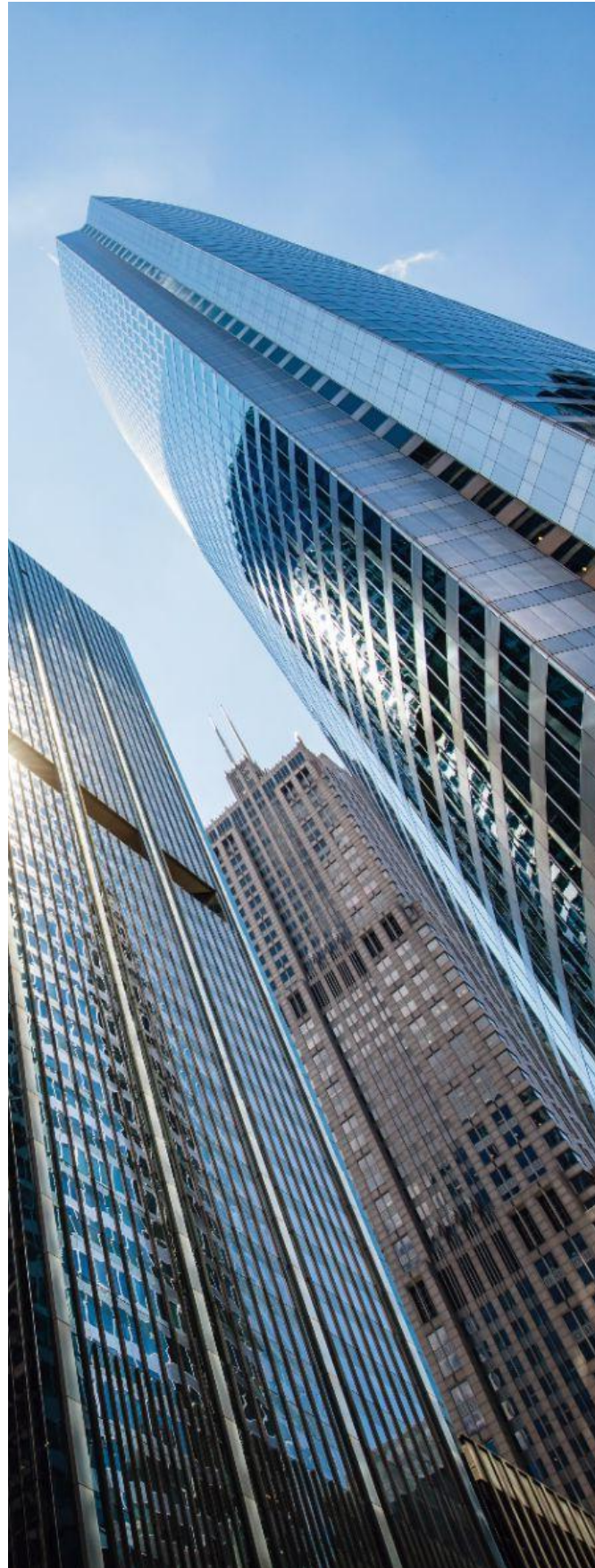
Equality and social inclusion: The way forward for Waqf

November 2021



Content

Introduction	3
.....	
An overview of Waqf in Malaysia	5
.....	
Harnessing Waqf as a platform to address socio-economic issues	9
.....	
Implementing Waqf Investment Fund	12
.....	
Key Takeaways	17



Introduction



In light of the pandemic, there are several socio-economic issues which remain unresolved such as cash assistance to the low income communities, assistance provided to vulnerable communities whom are impacted by natural disasters (i.e. flood) and many more.

The announcement of a Waqf Investment Fund Framework by the Government of Malaysia during the [Budget 2022 announcement](#) sets out a path to further develop Waqf assets in Malaysia. A socially responsible investment instrument, Waqf can be a platform to address the issues above, and the introduction of a framework is also key to strengthening the growth of Islamic social finance instruments in Malaysia.

This programme will support the overall National Waqf Masterplan which was first introduced in Budget 2021, by leveraging Waqf instruments to alleviate poverty and income inequality among the vulnerable communities in Malaysia. These are goals aligned with the 12th Malaysia Plan (RMK-12).

In our report, we will elaborate on the Waqf Investment Fund model and how the Waqf Investment Fund Framework plays a role in overcoming current challenges to Waqf development. We believe that the Waqf Investment Fund model has numerous opportunities and potential to be unlocked, as a tool to overcome the socio-economic challenges faced in this country.

This report focuses on the following themes:

Key challenges

Challenges to be resolved concerning Islamic Social Finance (i.e., operational, governance, reporting challenges)

Equality and social Inclusion

Effort to address poverty, narrowing inequality, and strengthening inclusivity

Legal framework

Compliance to the legal elements of Waqf and to ensure Securities Commission and Shariah legal requirements are met

Waqf Investment Fund structure

An investment tool to spur the development of Waqf financing in the economy

Socio-economic impact

5 key socio-economic contributions from Waqf

Implementation

Key considerations for implementation (i.e. governance, collection and distribution mechanism)



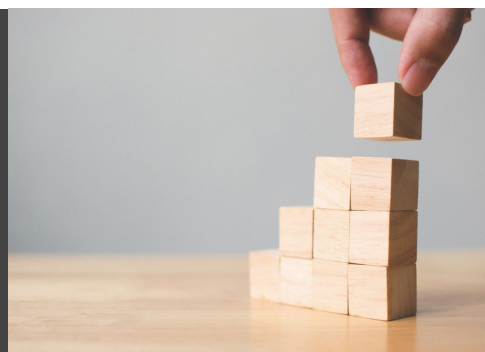
Alignment to the Budget 2022 and RMK-12 announcement by the Malaysian government



Following the recent **Budget 2022 announcement**, here are the key highlights that are relevant to the Waqf sector:

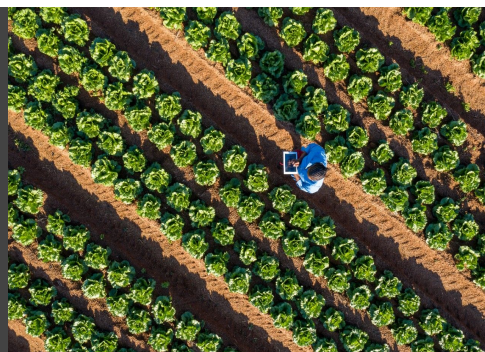
Strengthening the Waqf instrument

The government will continue to strengthen Waqf as an instrument of wealth redistribution for the economic development of the ummah. The returns from the Waqf initiative and Waqf assets will be used as mediums to distribute assistance to high-need communities.



Introducing other spectrums of Waqf

To produce more farmers and Halal industry entrepreneurs and assist them in the event of a disaster, the government will channel a start-up fund of RM10 million to launch the Waqf SME Halal, Agriculture Waqf and Disaster Waqf initiatives (which is related to the Emergency Waqf Fund for disaster-related incidents)



Encouraging Public-Private Partnerships

The Ministry of Finance highlighted that with the introduction of the three Waqf initiatives in Budget 2022, corporations and individuals are welcomed to endow their assets into this fund as it has immense potential to create value.



RMK-12 announcement

In the recent **RMK-12 announcement**, the Waqf instrument has been mentioned as a platform as part of the government's effort to **address poverty and narrow inequality** embedded in Theme 2 - Strengthening security, wellbeing and inclusivity.



An overview of Waqf in Malaysia



Waqf's role in solving socio-economic issues



Why Waqf?

Definition of Waqf¹

Waqf is a form of donation and endowment. The main elements of Waqf are permanence and perpetuity. It involves donating assets for charitable purposes with no intention to reclaim the value gained. When all of the prerequisites for the creation of Waqf are met, the asset becomes a Waqf asset and is vested in the State Islamic Religious Councils (SIRCs)²

Role of Waqf in socio-economic development

- An alternative source of funding/capital for infrastructure and land development
- Fair and equitable wealth and economic distribution
- Supports the needy and aims to eradicate poverty

Key elements of Waqf

- All assets endowed or donated under Waqf belong to Allah S.W.T
- The value of Waqf assets cannot diminish nor can it be consumed. Only the returns of Waqf assets (investment) can be used for other purposes.
- The benefits and usufruct (the legal right to use and benefit from someone else's property) of Waqf can be received by everyone regardless of race, religion or gender

Abu Hurairah reported Allah's messenger as saying:

“

When a man dies, all his acts come to an end, but three: recurring charity, or knowledge (by which people benefit), or a pious offspring, who prays for him.

”

Muslim, 1992: Chapter 3, Hadith 14

¹Islamic Relief Worldwide - Islamic Social Finance Waqf (endowment)

²Zurina Shafii, Zamir Iqbal, Mustafa Tasdemir. Governance Regulatory Framework for Waqf in Selected Countries, 2015

Legal considerations in Waqf management in Malaysia



Under the Malaysia's Federal Constitution, the power lies within the state government to legislate laws on the administration of Waqf. The administration of Waqf properties is placed under the State Islamic Religious Councils (SIRCs)' administration of Islamic law enactments in their respective states.³

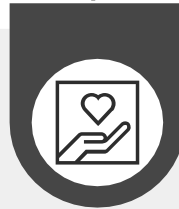
Legal Considerations for the creation of Waqf⁴

Note that once a property has been endowed, it does not belong to any human being as it only belongs to God. This has legal implications to the land ownership and title of the endowed asset (i.e. building, land, etc) that shall be subjected to three primary elements of Waqf which include irrevocability, perpetuity and inalienability to secure the benefits for the present and future generations.



The founder is not allowed to revoke the property that has been declared as Waqf and his/her heirs are not allowed to change the status of the property

Irrevocability of Waqf



The Waqf property shall be consistent and provided with ongoing financial support for charitable purposes. This ensures that no one including the government is allowed to confiscate the Waqf property

Perpetuity of Waqf



Once a Waqf property is set for its perpetual use, no one is entitled to become the owner to the property and the property is not subjected to any form of sale, gift, mortgage or even alienation

Inalienability of Waqf

³Sharifah Zubaidah Syed Abdul Kader and Nor Asiah Mohamed, Legal Framework for Management of Waqf Land in Malaysia, 2014

⁴M.I.A. Mohsin et al. (n.d). Financing the Development of Old Waqf Properties

How Waqf is commonly used in Malaysia



Socio-economic contribution from Waqf

Education

Public services

Healthcare

Emergency

Farming



Education

Waqf plays a role in educational development. Waqf endowments are used to fund educational expenses through donations (e.g. Wakaf Be#Learn initiative⁵) to provide teaching aids to support the teaching and learning process



Public services

Ensuring the wellbeing of communities as a priority. Aims to provide assistance and support marginalised groups through social services (e.g. Housing Projects in Waqf Seetee Aisah, Pulau Pinang⁶)



Healthcare

Waqf can be harnessed to support healthcare services and to ensure the development of healthcare institutions to meet the needs of each member of society (e.g. mobile dental clinics⁷)



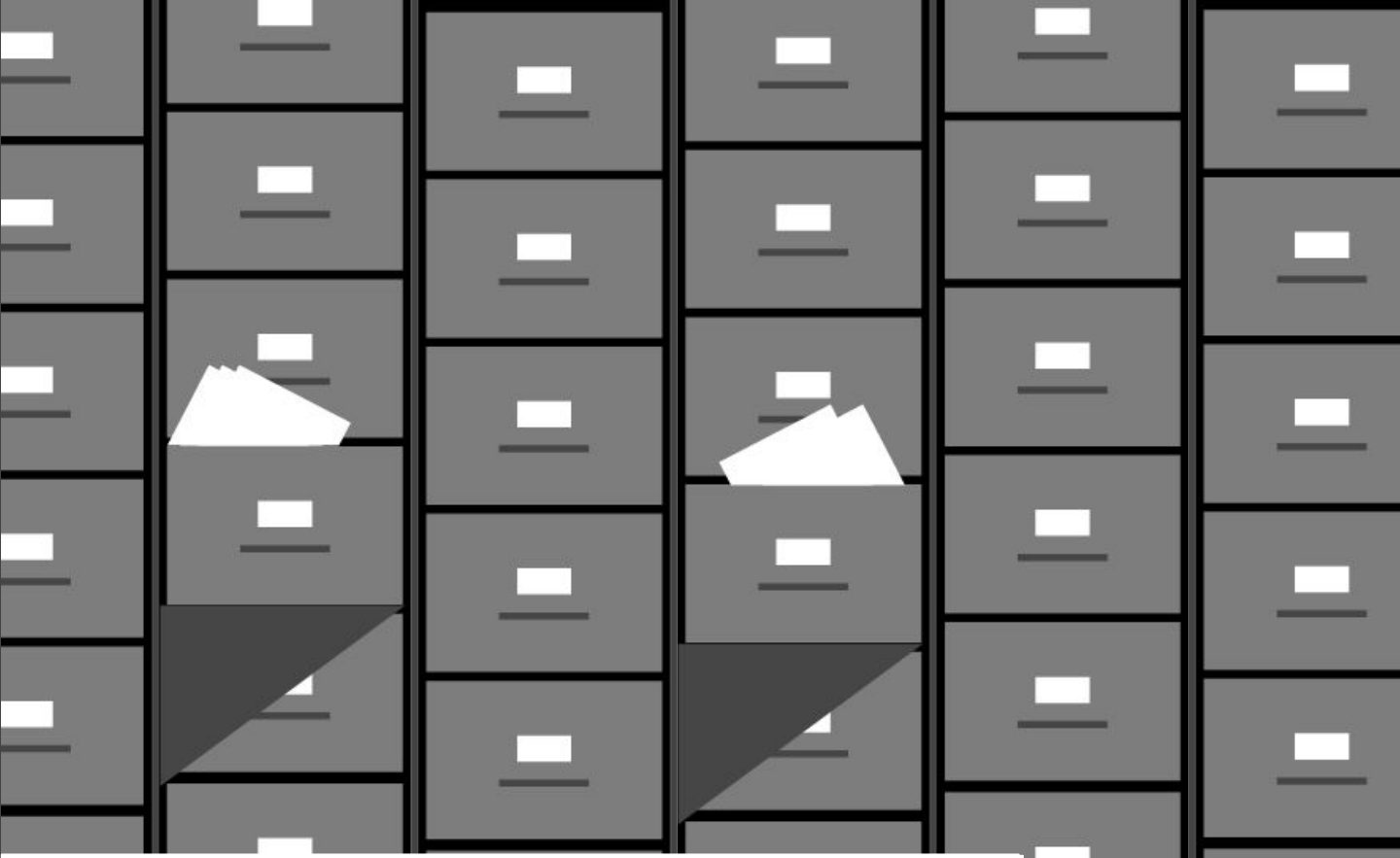
Emergency

Waqf has a pivotal role to play in emergency response especially in light of COVID-19 and increasing flood incidences in Malaysia. In the event of a natural disaster, Waqf funds can be mobilised to support victims and rebuild affected communities (e.g. Wakaf Bencana⁵) through aid such as basic food items, blankets, and clothes.



Farming (Agriculture⁸ and aquaculture)

Waqf can also be used to develop agricultural land for plantation projects or to support farmers/fishermen as a platform to generate income from cultivation of land or aquatic produce (i.e. Boat Waqf to purchase boats and other equipment⁷)



Harnessing Waqf as a platform to address socio-economic issues



Socio-economic challenges faced today



Below are some of the socio-economic challenges that still exist in Malaysia today. These challenges can potentially be addressed from the effective implementation of Waqf.

1

Income inequality

The substantial income gap between the rich and the poor reduces the pace and durability of economic growth within the country. As a result, this undermines progress in healthcare and education, and accentuates political and economic instability which may decrease investment opportunities.

2

Disbursement mechanism for assistance

Initiatives that are currently available to provide assistance are more often than not reactive rather than proactive when responding to natural disaster incidents. This includes emergency response incidents and pandemics among other adverse events.

3

Disbursement mechanism for cash handouts

To date, many low-income households are very much reliant on government handouts. A more sustainable approach is needed to improve the level of governance and effectiveness of the cash disbursement processes.

4

Financial assistance such as micro-loans for small and medium enterprises (SMEs)/small businesses

Many entrepreneurs in various sectors such as agriculture and food and beverage (F&B) require assistance in the form of working capital to get their business up and running. However, access to financing remains a challenge for most SMEs and start-ups. Some may not receive much support from the government and financial institutions due to inadequate cash flow to meet repayment obligations, and insufficient collateral and financial track record⁹.



Challenges in applying Waqf instruments in Malaysia



Although there is great potential for Waqf in addressing socio-economic issues, the challenges in developing Islamic finance and Islamic Social Finance assets remain a critical issue that needs to be addressed. These are some of the challenges and barriers to Waqf development.



Transparency and reporting¹⁰

The lack of structured reporting has raised concerns of accountability, transparency, and practice of Waqf governance. Most councils do not meet the standardise guidelines which leads to transparency issues. Variances in state jurisdictions have contributed to the differences in reporting and disclosure across the councils which result in limited information made available to the public.



Expertise in managing Waqf assets¹¹

Difficulties in developing Waqf assets arise from the lack of experience and knowledge in the areas of asset and operational management, real estate and finance. Operational expenses on Waqf properties at times exceed the revenue gained. This results in underperforming Waqf assets and low return on assets invested.



Bureaucracy¹²

Multiple layers of approval at the top management level is one of the delay factors in Waqf management. The high level of bureaucracy makes the overall approval process time consuming. For example, various matters would need to be presented at each level before receiving approval. This may extend the period required to settle a single issue or business process.



Governance¹³

Waqf is governed by the State Islamic Religious Council (SIRC). The respective SIRCs within Malaysia are given the authority to control and administer the Waqf assets. Jurisdictional issues may arise due to inconsistency in governance and the inability to enhance the Waqf asset's commercial value. As a result, the growth of the Waqf assets is restricted.

More details on the governance structure for sustainable Waqf management can be found in this article on [Waqf's pivotal role in the nation's socio-economic development](#).

¹⁰Dalila Daud. Perception of Waqf Reporting Practices by SIRCs, 2020

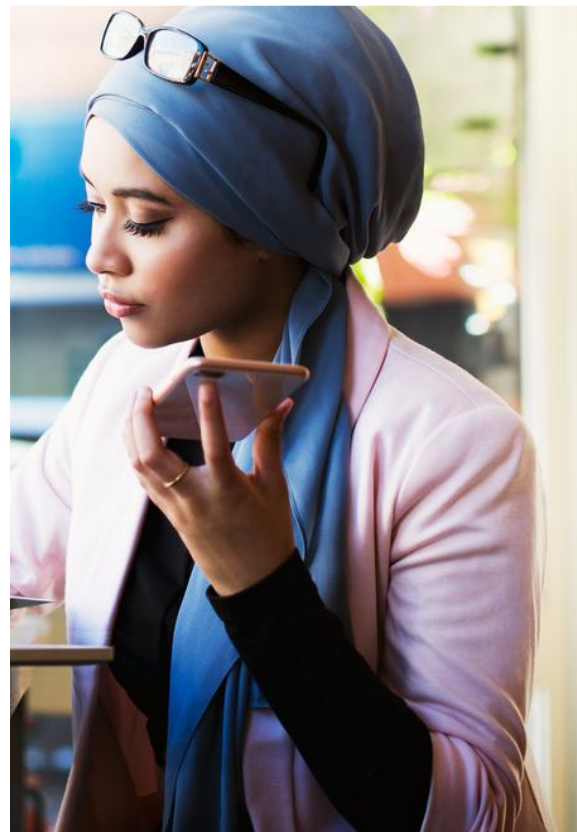
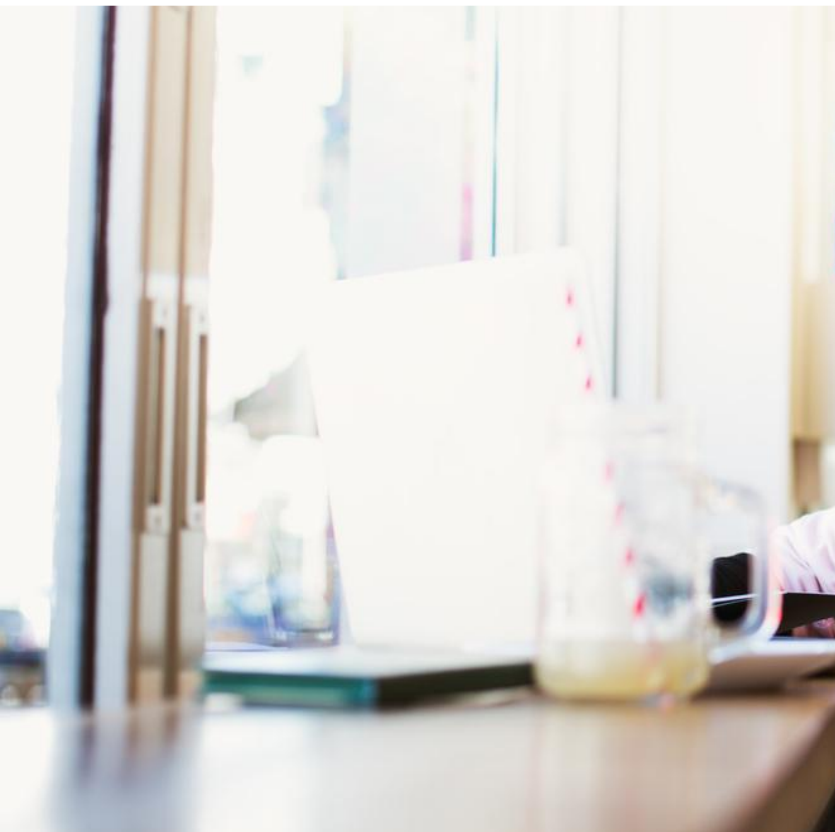
¹¹PwC analysis, stakeholder engagement session with the SIRCs

¹²Latiff Azha a* , Sayin Baharuddinb , Sayurnoc , S.S Salahuddind , M. Rani Afandi e Hamid Afifah Hf. The Practice and Management of Waqf Education in Malaysia, 2013

¹³The World Bank Group, INCEIF and ISRA. Maximizing Social Impact through Waqf Solutions, 2019

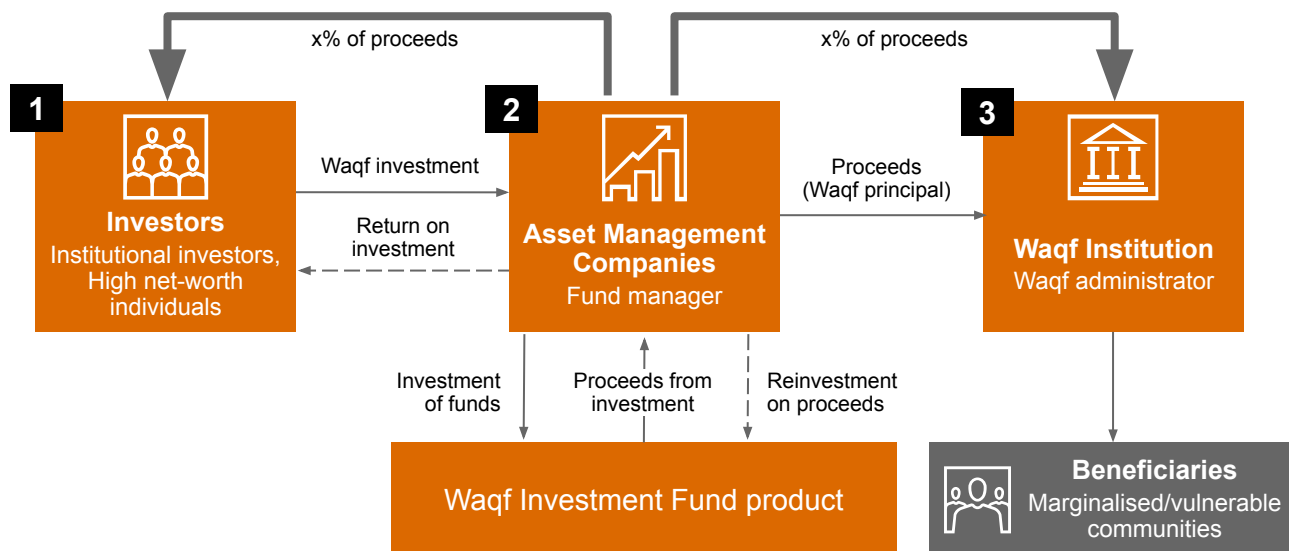


Implementing Waqf Investment Fund



Governance structure of the Waqf Investment Fund

To solve the challenges mentioned, setting up a Waqf Investment Fund can be a feasible investment tool to spur the development of Waqf financing in the Malaysian economy. Critically, it functions as a platform to fundraise the Waqf principal that generates high social impact value and garners returns that can be distributed to the beneficiaries or to high-need communities.



1 The investors (i.e. Institutional investors, high net-worth individuals) invest in the Waqf investment fund

2 The fund manager manages the funds. x% of proceeds will be channelled to a Waqf administrator; x% would be reinvested into the security or back to the investors.

3 The Waqf administrator disburses the cash Waqf to NGOs. Funds would be used to procure physical assets and/or non-monetary items for distribution to the beneficiaries.

Source: PwC Waqf Investment Fund Framework 2021

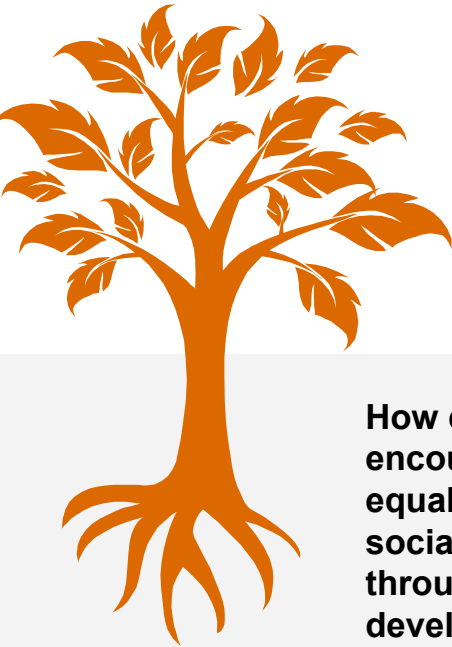
The figure above illustrates the structure of a Waqf investment fund, a form of financial security which can potentially involve sophisticated investors such as **high net-worth individuals** and/or **institutional investors** who require complex investment strategies to satisfy their investment goals. This fund is set up to provide a platform to investors who wish to invest their money to contribute to Waqf purposes (i.e. social development and philanthropic objectives).

Investors of this security may choose to receive the return on their investment or reinvest the proceeds back to the Waqf investment product. The **fund manager manages the funds** and allocates the predetermined percentage of **return on investment** to the identified **Waqf administrator**. **Another portion of the return on investment** would be reinvested or channelled to the investors depending on the preferences of the individual investors.

A Waqf institution has to be an entity approved by the Waqf authority of the respective country/State Islamic Religious Council to use Waqf principals to **develop Waqf assets***. The role of a Waqf administrator is to **solve socio-economic issues** and imbalances in the community. The fund targets beneficiaries including but not limited to marginalised and vulnerable communities, low-income households, children or elderly people, and refugees.

*Physical assets (i.e., emergency kit, school supplies, shelters, hospitals, etc) shall be procured or built to distribute aid or non-monetary items to the beneficiaries with the support of NGOs and other relevant parties.

Waqf Investment Fund to promote Equality and Social Inclusion



How can we encourage equality and social inclusion through the development of the Waqf Investment Fund?

Increase equality of opportunity

Increase racial equality



Combat racism and discriminatory practices

Promoting diversity and inclusion

The **primary objective** of setting up a Waqf Investment Fund is to support the **reduction of poverty**. This is through the practice of **equality and social inclusion** in providing **equal opportunity** for public services such as affordable housing, education, healthcare, emergency aid, etc.

The establishment of the fund shall emphasise increasing equality of opportunity, reducing racial and other inequalities, combating racism and discriminatory practices, and increasing diversity and inclusion.

Equality and social inclusion refer to **providing** the people with **equal rights and opportunities** to improve **inclusiveness** among groups that were historically excluded from opportunities and decision making.

The existing social system disproportionately affects the **underprivileged and vulnerable communities**, due to the pre-existing inequalities (i.e. access to information and resources, education level, etc). Hence, this framework provides an opportunity to expand the Islamic capital market size through support from public funding and to **increase access to Islamic funds** for a **positive impact** to the broader community.

In addressing barriers for sustainable development, the overall set up of the Waqf Investment Fund is aligned with the United Nations Sustainable Development Goals (SDG)¹⁴ which includes: (1) No poverty (3) Good health and well-being (5) Gender equality (10) Reduce Inequality

5 key pillars of the Waqf Investment Fund



For a Waqf investment fund to successfully achieve its goals of addressing socio-economic issues, all stakeholders (i.e. Waqf administrator, asset management company and distribution agency) need to be aligned with the 5 pillars illustrated below.

Guiding principles are included for each pillar as recommendations on how a Waqf Investment Fund can be set up. These guidelines take into account current barriers to Waqf development highlighted on page 11.



Transparency

- Establish a clear structure of reporting to ensure transparency and accountability to practice good governance
- Ensure all stakeholders have access to information and are well informed



Efficiency

- Ensure effective and efficient collection and distribution of funds that can be channelled to the beneficiaries within a certain timeframe
- Enhance collaboration between each stakeholder by setting up a proper governance structure from collection to distribution of funds



Accountability

- Ensure all parties comply with Terms of Reference (TOR), policies and processes established
- Ensure each participating stakeholder executes/plays their roles and responsibilities efficiently through close monitoring



Innovation

- Maintain a unique product structure that provides a competitive edge
- Identify differentiating factors to maximise the potential of the fund and promote new opportunities
- Maintain a diversified investment portfolio, with adequate risk and reward dimensions to maximise investment gains



Environmental, Social & Governance

- Encourage Shariah-compliant ESG investing by showcasing to potential investors the impact to beneficiaries
- Encourage Muslims as well as non-Muslims to invest in ESG-related investment
- Expand access to sustainable social investment instruments

Key considerations for implementing the Waqf Investment Fund



When implementing the Waqf Investment Fund, a proper governance structure is needed to ensure that Securities Commission (SC) and Shariah legal requirements are met. Furthermore, a structured distribution mechanism has to be developed to ensure the distribution of assistance to the beneficiaries is executed effectively and efficiently.

Each stakeholder needs to consider these best practices during the implementation phase:



Shariah Standards & Legal Framework for Waqf¹⁵

Waqf benefits shall be contributed to a cause that does not involve sin and shall be Shariah compliant whereby the benefits can be distributed to Muslims and non-Muslims. Under the legal framework, all Waqf created under Islamic law shall be vested in the SIRC and maintained by the Registrar of Waqf.



Waqf Administrator

The Waqf administrator needs to adopt the compliance guidelines stipulated by the Waqf authority (i.e., JAWHAR). The Waqf administrator needs to be approved/authorised by the Waqf authority to receive and manage the Waqf funds and channel it to the distribution agency.



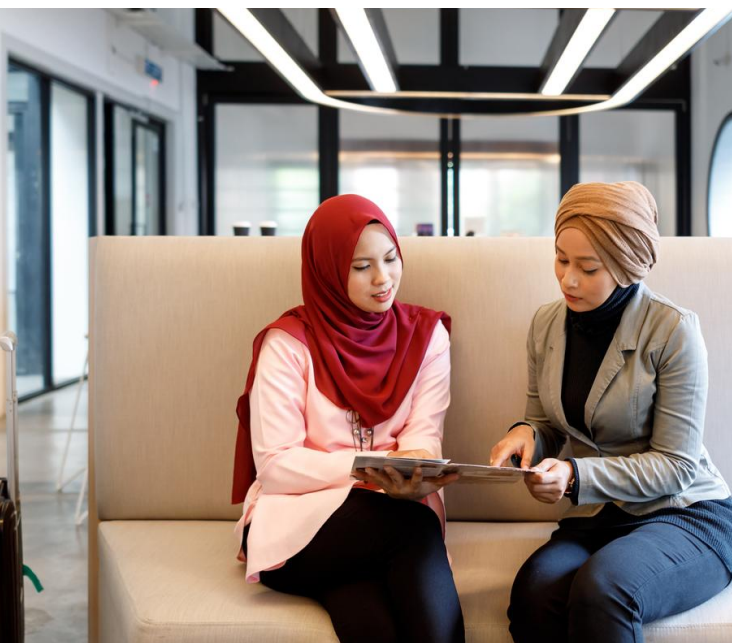
Distribution agency

Waqf funds will be disbursed to pre-approved and appointed NGOs that have a verified track record and the capability to plan and monitor how the funds are used. Funds received from the Waqf administrator would be used to procure physical assets and non-monetary items.



Fund manager

The Waqf Investment Fund will be managed by the asset manager with a proven track record and relevant experience in managing a Waqf investment product. The fund manager has to ensure that the management of the fund is compliant with Securities Commission and Shariah legal requirements.



Tax Implications of Waqf in Malaysia

Waqf institutions and Waqf donations are tax-exempt which can be deducted from the income and corporate taxes¹⁶. Islamic Shariah laws and common laws are binding on the Waqf administrator with respect to the entire transactions and management of the Waqf Investment Fund. Shariah governance should prevail to ensure that the source of the funds collected and disbursed comply with Islamic jurisprudence requirements.

¹⁵Zurina Shafii, Zamir Iqbal, Mustafa Tasdemir. Governance Regulatory Framework for Waqf in Selected Countries, 2015

¹⁶M.I.A. Mohsin et al. (n.d). Financing the Development of Old Waqf Properties



Waqf Investment Fund

Establishing the Fund



There are challenges in applying Waqf instruments for socio-economic development purposes. However, this fund can be implemented with the proven track record of the existing funds in the capital market and the endorsement received from the Securities Commission. With support from the Waqf institutions and governmental agencies and participation from the private sector, the fund will be able to achieve its envisioned goals.

Socio-economic development



Socio-economic issues can be improved through the development of education, healthcare, public services, farming businesses (i.e. agriculture and aquaculture) and emergency services. The fund aims to alleviate poverty through the expansion of the Islamic capital market and create awareness on Waqf as a tool to promote equality and social inclusion.

Promoting equality and social inclusion



Increasing financing assistance to various communities provides better access and exposure to marginalised and disadvantaged groups. Ensure the funds are made available to different social groups to increase equality and opportunity.



Contact us



**Dato' Mohammad Faiz
Azmi**

**Executive Chairman,
PwC Malaysia**

mohammad.faiz.azmi@pwc.com



Razman Adam Zainudin
**Consulting Partner, Finance
Transformation,
PwC Malaysia**

razman.adam.zainudin@pwc.com



Marina Che Mokhtar
**Deals Partner, Economics
and Policy, PwC Malaysia**

marina.che.mokhtar@pwc.com



Thariq Ziad Adnan
**Consulting Executive
Director, PwC Malaysia**

thariq.ziad.adnan@pwc.com



Nyca Khaw
**Consulting Associate,
Finance Transformation,
PwC Malaysia**

nyca.wh.khaw@pwc.com

This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

© 2021 PwC. All rights reserved. "PricewaterhouseCoopers" and/or "PwC" refers to the individual members of the PricewaterhouseCoopers organisation in Malaysia, each of which is a separate and independent legal entity. Please see www.pwc.com/structure for further details.