Islamic Legal Authority in a Non-Muslim Society: Designing the Islamic Credit Union of Bellevue, Washington

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This Article examines the current state of Islamic law within a community of Muslims in the United States as it relates to Shari’a-compliant financial products. After briefly reviewing the history of Islamic finance and Islamic authority structures within the United States, I rely on interviews with multiple parties involved in the establishment of one of the first Islamic credit unions in the United States to explore the development of Islamic law within American regulation and cultural mores. I examine the authority structure present among Muslims in the Puget Sound area, and I examine the qualities that define a credible religious scholar. Fundamentally, this Article contributes to the analysis of legal authority among Muslims in the United States.

TABLE OF CONTENTS

I. INTRODUCTION 2
II. ISLAMIC FINANCE AND AUTHORITY STRUCTURES IN THE UNITED STATES 3
   A. History of Islamic Finance 3
   B. Muslim Authority Structures in the United States 6
III. DESIGNING THE ISLAMIC CREDIT UNION 9
    A. The Concept 9
    B. Local Muslim Population 10
    C. Structuring the Credit Union 13
    D. Credible Legal Authority in a Non-Muslim Society 15
    E. The Future of the Islamic Credit Union 25
IV. CONCLUSION 26

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I. INTRODUCTION

The field of Islamic finance has grown popular in the United States. Scholars are discussing the implementation of Islamic banking as a result of, among other things, the meltdown of the Western financial system and studies showing a large untapped market of stable wealth among Muslims.1

According to one author, the American Muslim community has a combined purchasing power of more than $170 billion.2 Some American banks, mortgage houses, and lenders are realizing the “untapped potential of this market” and starting to offer Islamic products following models established in Europe and Asia.3 The use of Islamic banking products in the United States is certain to expand in coming years.

Amidst this enthusiasm, scholars disagree about whether products created within the confines of U.S. financial regulations that are marketed as “Islamic” are indeed in conformance with Shari’a, or Islamic law.4 For instance, Islamic legal scholars question whether the products offered by two large Islamic mortgage institutions in the United States conform with Shari’a.5 This disagreement is due, in part, to a lack of consensus among scholars regarding what is required for a modern financial product to be Shari’a-compliant.6 In the context of this uncertainty, and the complex process of determining Shari’a-compliance, Muslims seeking an Islamic financial product place more importance on the authority figure who is endorsing the product.7 Accordingly, the Islamic authority figure behind financial products has taken on renewed significance.

This Article offers a narrow look at one piece of Islamic banking trends in the United States: the establishment of an Islamic credit union for the members of mosques in the Bellevue, Washington area. The design of the credit union reflects modern authority structures among American Muslim communities. It illustrates how Islamic law can develop within the constraints of American regulation and cultural stand-

3. Id.
5. BILL MAURER, PIous PROPERTY: ISLAMIC MORTGAGES IN THE UNITED STATES 42 (Russell Sage Foundation 2006).
7. MAURER, PIous PROPERTY, supra note 5, at 3.
Islamic Legal Authority in a Non-Muslim Society

The Article continues with Part II, which provides a brief history of Islamic finance and the structure of Muslim authority within the United States. Part III explores the design of the credit union and the selection of an Islamic legal scholar. Through interviews with the board of directors of the credit union, I demonstrate how a community can successfully develop Islamic financial institutions within the confines of American regulation and cultural mores. Part IV concludes the Article.

II. ISLAMIC FINANCE AND AUTHORITY STRUCTURES IN THE UNITED STATES

A. History of Islamic Finance

The principles central to Islamic finance and banking are found in the revealed texts of Islam. Both the Qur’an and many hadith have been interpreted as prohibiting riba, loosely defined as the taking of interest, and gharar, practices that are considered unduly speculative. The Qur’an mentions riba at least twenty times. Among the verses found in the Qur’an prohibiting riba is the following, reportedly one of the earliest verses to have been revealed to Muhammad:

That which you seek to increase by usury will not be blessed by God; but the alms you give for His sake shall be repaid to you many times over. (30:39)

While scholars debate what exactly defines riba, the objection to usurious rates of interest and undue speculation has its basis in maintaining the stable, egalitarian principles of an ideal Islamic society. Lenders should not exploit the economically disadvantaged.

Islamic banking and finance is, in its broadest sense, the global phenomenon of economic activities that seek to avoid riba through careful structuring of financial transactions. In its modern incarnation, Islamic banking traces its roots to the independence of Muslim countries after World War II. During the 1960s and 1970s, private companies, nation-

8. Hadith are traditional accounts of things said or done by Muhammad or his companions. Often they are in the form of narrations originating from the words and deeds of Mohammad. Hadith are regarded by traditional schools of jurisprudence as important tools for understanding the Qur’an and in matters of jurisprudence. KAREN ARMSTRONG, ISLAM 199 (Modern Library 2000).
9. VOGEL & HAYES, supra note 6, at 45.
11. Id.
13. VOGEL & HAYES, supra note 6, at 4–6.
al governments, and multinational organizations established Islamic finance institutions across the Muslim world.\textsuperscript{14}

Following a long period of stagnant growth, these institutions emerged in the Muslim world as an extension of eighteenth- and nineteenth-century revivalism and awakening. This revivalism later evolved into what Abdullah Saeed has termed the “neo-revivalism” of the first half of the twentieth century.\textsuperscript{15} Sayyid Qutb and organizations like the Muslim Brotherhood were emblematic of the neo-revivalist movement.\textsuperscript{16} They advocated the self-sufficiency of Islam and argued for Islam as a way of life, resistant to the threat of increased westernization.\textsuperscript{17} The neo-revivalists rejected attempts at reinterpreting the Qur’an or the sunna.\textsuperscript{18} Rather, they proposed rediscovering old interpretations of these sacred texts.\textsuperscript{19}

While the prohibition of \textit{riba} and \textit{gharar} were central principles during the classical period, such practices were “eclipsed” when much of the Islamic world fell to the power of European colonial empires.\textsuperscript{20} With the emergence of modern Islamic banks, these principles are again brought to the forefront. Today, Islamic banking organizes itself around these core principles.\textsuperscript{21}

The first modern banks to self-consciously follow Islamic principles emerged during the 1960s and 1970s.\textsuperscript{22} The growing neo-revivalist movement during this period resulted in popular condemnation of interest as \textit{riba}. Contemporaneous with this trend was the growth of oil wealth in conservative Gulf countries. Many of these states adopted, at a policy level, a traditional interpretation of \textit{riba}.\textsuperscript{23} Together, these factors combined to generate the need for institutions that could manage wealth and still conform to traditional Islamic principles. Private banks with government shareholders, fully nationalized banks, and international banks like the Islamic Development Bank were launched during this period.\textsuperscript{24} These banks were initially formed in response to the needs of

\begin{itemize}
\item[14.] Id.
\item[15.] MAURER, MUTUAL LIFE, supra note 10, at 37.
\item[16.] Id.
\item[17.] Id. at 37, 69; VOGEL & HAYES, supra note 6, at 20; Yvonne Y. Haddad, Muslim Revivalist Thought in the Arab World, 76 THE MUSLIM WORLD 143, 147 (1986).
\item[18.] The \textit{sunna} is the way of life prescribed as normative for Muslims on the basis of the teachings and practices of Muhammad and interpretations of the Qur’an. ARMSTRONG, supra note 8, at 202.
\item[19.] Haddad, supra note 17, at 157.
\item[20.] VOGEL & HAYES, supra note 6, at 4.
\item[21.] MAURER, MUTUAL LIFE, supra note 10, at 28.
\item[22.] VOGEL & HAYES, supra note 6, at 20.
\item[23.] ABDULLAH SAEED, ISLAMIC BANKING AND INTEREST: A STUDY OF THE PROHIBITION OF RIBA AND ITS CONTEMPORARY INTERPRETATION 8 (E.J. Brill 1996).
\item[24.] VOGEL & HAYES, supra note 6, at 11.
\end{itemize}
governments and corporate finance professions. More recently, Islamic banks have targeted the personal and retail banking sectors.

Global Islamic banking today owes much to the immigration of Middle Eastern and South Asian professionals and students to Britain and the United States during the 1970s and 1980s. The growth of the Middle East oil industry and its associated international interests fostered the creation of a network of interconnected Muslim businessmen who gained experience in Western regulations and business environments. As Muslim populations continued to establish themselves in Western countries, financial institutions began to cater to their needs. For example, the Islamic Bank of Britain was approved by the UK Financial Services Board as the first fully Islamic bank in England in 2004. HSBC and other multinational financial services firms have started penetrating markets that do not otherwise offer Shari’a-compliant financial products. Additionally, two large American-based Islamic financing companies, LARIBA and Guidance Residential, have established themselves in the United States as providers of home and automobile loans.

For these institutions, complying with Shari’a and gaining the regulatory approval of non-Muslim majority governments has presented novel challenges. As one example, deposit insurance, required for Western financial institutions, is prohibited in most instances according to Shari’a. Because of these conflicts between Western banking traditions and Shari’a, the few Islamic banks in the United States offering personal services like mortgages, home loans, or automobile financing are careful to address concerns over these challenges by advertising who their Shari’a scholars are and what kind of supervision they provide to the firm.

As modern Islamic banks have developed to meet the needs of dispersed Muslim communities, their establishment in non-majority Muslim nations has presented tension between local interpretations of Shari’a

26. Id.
27. MAURER, PIOUS PROPERTY, supra note 5, at 26.
28. Id.
31. MAURER, PIOUS PROPERTY, supra note 5, at 33–35.
32. Id.
34. See e.g., LARIBA AMERICAN FINANCE HOUSE, https://www.lariba.com/default.htm (last visited October 19, 2010); GUIDANCE RESIDENTIAL, http://www.guidanceresidential.com/ (listing prominent links to their Shari’a supervisory model and board members) (last visited October 19, 2010).
compliance, which are sometimes more permissive, and more traditional interpretations, which are less so.\footnote{Ahmed, supra note 12, at 9.}

The existence of these financial services firms provides interesting insight into the modern beliefs of Muslims. Because understanding whether a financial product is Shari’a-compliant frequently involves a high level of specialized knowledge regarding acceptable practices and the mechanics of the product itself—knowledge that is beyond the average consumer—certification by an authoritative figure is important.\footnote{Shirley Chiu and Robin Newberger, \textit{Islamic Finance: Meeting Financial Needs with Faith Based Products}, \textit{Federal Reserve Bank of Chicago, Profitwise News and Views}, at 8 (February 2006).} Islamic banking consumers often place emphasis on who is providing certification when deciding whether or not to purchase a financial product that is advertised as Shari’a-compliant. While the field of Islamic finance has grown in the United States, so has the demand for authority figures who are able to interpret Islamic law and advise on the development of financial products within the confines of the American regulatory system.\footnote{Maurer, \textit{Pious Property}, supra note 5, at 83.} As discussed below, Muslim authority figures today navigate an uncertain landscape between traditional Islamic teachings and the modern regulatory environment.

\section*{B. Muslim Authority Structures in the United States}

Muslims comprise an important contingent of North American society. It is difficult to judge exactly how large the Muslim population is within the United States due to the rapid influx of immigrants, their relatively high birthrate, and the increasing number of converts.\footnote{Karen Isaksen Leonard, \textit{Muslims in the United States: The State of Research} 4 (Russell Sage Foundation 2003).} The United States census does not tabulate information on religious affiliation, but there have been numerous surveys that estimate between 1.1 and 7 million Muslims live in the United States.\footnote{Maurer, \textit{Pious Property}, supra note 5, at 8–9.}

In the United States, Muslims are a growing and increasingly diverse minority in a nominally Christian nation. As Khaled Abou El Fadl notes, one of the most difficult questions for practicing Muslims is how to live as people of faith in a challenging and sometimes hostile environment.\footnote{Khaled Abou El Fadl, \textit{Striking a Balance: Islamic Legal Discourse on Muslim Minorities, in Muslims on the Americanization Path?} 57 (Yvonne Yazbeck Haddad & John L. Esposito eds., 1998).} According to El Fadl, it is unclear how much of Islamic law needs to be implemented in order for residence by a Muslim minority in a non-Muslim territory to be considered acceptable according to Islamic law.

\begin{thebibliography}{100}
\bibitem{Ahmed} Ahmed, supra note 12, at 9.
\bibitem{Chiu} Shirley Chiu and Robin Newberger, \textit{Islamic Finance: Meeting Financial Needs with Faith Based Products}, \textit{Federal Reserve Bank of Chicago, Profitwise News and Views}, at 8 (February 2006).
\bibitem{Maurer} Maurer, \textit{Pious Property}, supra note 5, at 83.
\bibitem{Maurer2} Maurer, \textit{Pious Property}, supra note 5, at 8–9.
\end{thebibliography}
Islamic Legal Authority in a Non-Muslim Society

He cites the early-twentieth-century Egyptian Islamic scholar Rashid Rida as having advised the Muslims of Bosnia that they were the best judges of their own affairs when determining how much of traditional Islamic law must be implemented in a new land.42

In part due to the diversity of ethnic and cultural backgrounds, the American landscape of Islamic authority lacks cohesive definition and is open to new interpretation. In his study of Islamic mortgages and their acceptance in the United States, Bill Maurer cites El Fadl, the chair of Islamic Law at UCLA, as stating, “[I]n the United States the field of Shari’a is flooded with self-declared experts who inundate our discourses with self-indulgent babble and gibberish.”43 These new voices in Islamic law have both mainstreamed the discourse and led to a simplification that lacks the traditional commitment to diverse interpretations.44

Leading scholars such as El Fadl and Taha Alalwani discourage the application of Islamic legal decisions rendered elsewhere to the modern American context. Instead they promote fiqh45 scholarship in the United States that is shaped by the contemporary American context and rendered by American scholars.46 As Yusuf Talal DeLorenzo notes, with the growth of an ethnically and culturally diverse community, the concept of an “imported” scholar who does not understand local conditions and circumstances has become problematic.47 Increasingly, the American Muslim community has turned to local experts, familiar with the community and the American legal system, for solutions to their fiqh-related issues.

In contrast to Karen Isaksen Leonard’s position that new spokespeople, without formal Islamic legal education, have been shaping the discourse in the United States on important Islamic legal issues, DeLorenzo contends that this role is increasingly filled by American Muslim scholars who have sought formal fiqh education abroad at Islamic universities and traditional Islamic institutions.48

Despite the wide range of fiqh expertise and training available among the American Muslim community, there is concern over the lack of credence given to the traditional methods of scholarship. Leonard, who has detailed the efforts to create nationwide fiqh councils in the United States, cites El Fadl and other scholars’ characterizations of the new Islamic legal discourse, full of “confident new spokespeople,” as

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41. Id. at 57, 70.
42. Id. at 60, 70.
43. MAURER, PIOUS PROPERTY, supra note 5, at 53.
44. LEONARD, supra note 38, at 91.
45. Fiqh is Islamic jurisprudence and refers to the legal rulings of the Muslim scholars based on their knowledge of the Shari’a. ARMSTRONG, supra note 8, at 200.
46. LEONARD, supra note 38, at 91.
48. Id. at 81; LEONARD, supra note 38, at 90.
having “produced . . . a landscape devoid of respect for the schools and methods of Islamic legal scholarship and for pluralism.”

Leonard cites Muhammad Khalid Masud as speaking about the somewhat unguided calls for the spread of Islam from Western-educated intellectuals:

For the simple reason that they are not hindered by the complexities of traditional legal thought, [these intellectuals] have the freedom of selecting more eclectically from tradition and justifying their views directly from the Qur’an and hadith. They often earn instant popularity because of reference to the “sources,” but, since their interpretations do not form a continuity with tradition, their impact is often partial and ephemeral. The new intellectuals are therefore continually compelled to search for dramatic, and often extremist, solutions.

According to Masud and other scholars, the classical schools of Islamic jurisprudence appear to play a minimal role in the teachings of imams in the United States. In 2000, a survey conducted of imams and presidents and members of governing boards of mosques reinforces this perspective. The study revealed that traditional schools of Islamic law are near the bottom of the list in importance as “sources of authority in worship and teaching.”

Fifty-two percent of respondents indicated that teachings of a particular madhab were of little or no importance. These findings appear consistent with the observations of Maurer and others that the practices of Muslims in the United States are often in conflict with traditional Shari’a concepts and rulings. This is likely due to the impracticability of living a devout life in a non-Muslim majority country such as the United States. In order to address these conflicts, scholars have issued rulings on the principle of darirah, or necessity, when there is no other alternative. For example, Sheikh Yusuf Abdullah al-Qaradawi opined for the European Counsel for Fatwa and Research that Muslims living in the West are permitted to purchase homes using conventional mortgages provided that the borrower is purchasing the house for themselves or their household, the borrower does not have an-

49. Leonard, supra note 38, at 91.
52. Id. at 28.
53. A madhab is an Islamic school of religious jurisprudence. Armstrong, supra note 8, at 201.
55. See Maurer, Pious Property, supra note 5, at 40; see also, El Fadl, supra note 40 at 57–59.
other house, and the borrower has no other assets that would permit him or her to purchase the house without a mortgage.\textsuperscript{56}

In the context of this emerging definition of what it means to be a practicing Muslim in America, Part III examines the beliefs and authority structures related to financial products that exist within a specific community.

III. DESIGNING THE ISLAMIC CREDIT UNION

The following portions of the Article contain the results of interviews with board members involved in the establishment of the Islamic Credit Union in Bellevue, Washington.\textsuperscript{57}

A. The Concept

The idea for the Islamic Credit Union began with Rizwan Rizwi. As Mr. Rizwi describes it, the concept evolved out of conversations with Muslims in the Bellevue, Washington community during the fall of 2008. These Muslims had concerns about where to put their money based on uncertainty in the American financial system and dissatisfaction with the perception that usury is prevalent in most U.S. bank products. This concern was shared not only by the more orthodox Muslims, but also by those who were “middle of the road” practicing Muslims. According to Mr. Rizwi, even among the non-orthodox Muslim community, Muslims are aware that the banks they are using are not Shari’a-compliant. Further, they are concerned about what their money is used for while it sits in the bank.

Mr. Rizwi, with his financial background, was aware of the growth of banks offering Islamic investment products in recent years. Concurrent with this growth, Muslim communities have discussed whether the products that are being offered are indeed compliant with Shari’a. Mr.

\textsuperscript{56} MAURER, PIIOUS PROPERTY, supra note 5, at 40.

\textsuperscript{57} The interviews have been excerpted in this paper and edited for flow and grammar. The three subjects interviewed are as follows:
(1) Mr. Rizwan Rizwi serves as the Chairman of the Board for the credit union. He was born in England and received his Bachelors degree and MBA there as well. He has worked for Prudential and Smith Barney Citigroup as an investment advisor. He worked at a private investment advising firm in Seattle before he left to form his own consultancy.
(2) Mr. Shahzad Qadri serves on the Board of Directors of the credit union as the General Counsel. Mr. Qadri graduated from Seattle University School of Law, has worked as a prosecutor in King County, and is currently a partner Adorno & Yoss, where he focuses on immigration and business law.
(3) Sheikh Humza Chaudhry serves as the Chief Religious Officer on the board of the credit union. He grew up in California and Washington State. He attended the University of Washington, where he received Bachelors degrees in Biochemistry and Near Eastern Languages. He received an ijaza from the Dar-e-Nizami curriculum after studying Islamic texts and currently serves as a stand-in imam at Seattle-area mosques.
Rizwi realized that one way to ensure a financial institution was following the tenets of the faith was to create it himself. He suggested to his friends the idea of starting a credit union focused on the Muslim community that would allow for the design of investment products and loans that are Shari’a-compliant. His friends were enthusiastic.

A credit union, as opposed to a bank, was selected as the preferred organizational structure to be free from outside influence and the demands of profit seeking. As Mr. Rizwi notes, credit unions are burdened less by regulation than banks:

RIZWI: We felt that there would be less outside influence from the regulators because traditional banks borrow between other banks and the Fed. We don’t want to have interest associated with the borrowing. If we’re going to be borrowing from the Fed then we’re going to be back in a situation where we’re borrowing and then loaning that money out. Then it becomes a for-profit venture and everyone questions our motives. The other issue is that the regulations are more stringent [for banks]. Given these factors and given what our objectives are, [a bank is] probably not the best fit for us. 58

But the credit union model presents challenges to sustainability. Unlike traditional banks that can borrow money to loan out at higher rates, funding for everyday operating costs will have to come from other sources. Mr. Rizwi plans, through a related entity, to invest some of the money acquired from deposits in Shari’a-compliant products and funds that produce income. Initially, Mr. Rizwi plans to offer interest-free checking accounts and small business or personal loans. These loans will be approved according to traditional credit score criteria. To the knowledge of Mr. Qadri and Mr. Rizwi, there are no other Islamic credit unions in the United States with this type of structure and few, if any, Islamic credit unions of any type.

B. Local Muslim Population

The Muslim population in the Puget Sound area is estimated by Mr. Rizwi and Mr. Qadri to consist of between 30,000 and 40,000 people. The population comprises a spectrum of Muslims including the very liberal, who may only attend services once a month, and the orthodox, who pray five times a day. The relative wealth of the community varies between the well-educated, who work at large corporations such as Boeing and Microsoft, and the relatively less educated population of refugees from Somalia. Although the Somali population may not have significant financial resources, conversations with leaders of the community indicate that the Somali community will be interested in Shari’a-compliant financ-

58. Interview with Rizwan Rizwi, Chairman, Islamic Credit Union, in Bellevue, Wash. (May 1, 2009).
Islamic Legal Authority in a Non-Muslim Society

Cial products. Coming from what is a traditionally cash-based society, Somalis are reportedly excited to have a place to invest their money. Mr. Qadri describes the Muslim community in general in the following way:

QADRI: The Muslim community at large in the U.S. is a relatively disjointed community. What I mean by disjointed is that it is not as organized as the Jewish community or as the Asian community—I don’t mean this in a negative way. You have Muslims from all over the world, with their own ideas, Pakistani, Asian, Arab, so no one really works hand in hand; you have all these different communities and different ideas.59

Because of this disjointedness, Mr. Qadri describes a need to organize and operate the credit union in a transparent and professional manner that will serve all ethnic and cultural groups equally. Once it becomes known that they are operating a credit union, Mr. Qadri foresees being asked for loans on the street and in non-business contexts, as is common in the informal nature of the Muslim community. In order to gain the trust of the community, Mr. Qadri stresses the need to treat every potential loan customer equally through a formal and transparent evaluation process.

Credit unions are required to affiliate with organizations whose members may use the credit union. The affiliated organizations, and therefore the target population, for the credit union will initially be the five mosques in the Bellevue–Redmond area. Many of the families who attend these mosques, according to Mr. Rizwi, have all of their assets in non-interest checking accounts:

RIZWI: Many people keep money in conventional checking accounts, in many cases with no interest, because they don’t want to receive or take interest. They are in a situation where they can’t buy property because they don’t have enough cash to buy it and they are living in cramped conditions. They are earning enough money and they have good jobs . . . and there are some national Shari’a certified organizations that are giving loans on housing. But again, there is varying hesitancy in using these institutions when people aren’t used to them, when they are not local.60

The credit union aims to give people the opportunity to diverge from this practice of keeping assets solely in checking accounts. In exchange for keeping their money with the credit union, following the pattern of Islamic banks in the Middle East, members will likely receive gifts from the bank of amounts that vary according to the performance of the bank’s investments. In years where the bank does not make a profit, no gifts will be distributed. As such, the customers are not receiving in-

59. Interview with Shahzad Qadri, General Counsel, Islamic Credit Union, in Bellevue, Wash. (April 24, 2009).

60. Interview with Rizwan Rizwi, supra note 58.
terest, yet they are still rewarded for their deposits in a Shari’a-compliant fashion.

Among the factors being considered in the formation of the credit union is, as Mr. Qadri notes, the movement towards more orthodox beliefs among the younger generation. He attributes this shift to a post-9/11 identity crisis where American-born Muslims are scrutinized and feel alienated from U.S. society. In the absence of ties to another country, many young Muslims turn to religion as a safe haven that provides a resonant and anchoring identity.

QADRI: What we’re seeing is that my generation and the generation after me are becoming more conservative. My parents’ generation is not that conservative. They follow the tenets but they are not extremely religious. We are seeing a more religious group come in. These are kids of my generation who have been born and raised here [in the United States].

INTERVIEWER: Why do you think that is?

QADRI: I think it’s an identity thing. I was born and raised in Saudi Arabia, surrounded by Muslims and I was able to come to a good medium. I was exposed to the good and the bad and was allowed to figure it out. My cousins were born and raised here and they are far more religious. We call them the black sheep because they are the most religious out of all of us. Because they haven’t been exposed to that part of the world, they have a perception that that is how the Muslim world should be.

QADRI: One of my cousins only uses checking accounts. He does not own any savings, and he does not invest. He makes a good income, but he will not buy a house because he’s not going to pay interest. He prays five times a day, and his beliefs are more conservative. He won’t go sit in a bar. It is kind of ironic because in our family we go sit in lounges.

We are seeing that more and more, and it is usually people who have grown up here. I think you saw more of that emerge after 9/11 because, for the Muslim community, it was like the Japanese internment. We weren’t locked up, but we could be pinpointed when we were walking down the street because of the way we looked. People who are Americans who have no connection to the Middle East, they were born and raised here, their loyalties were being questioned. They don’t have another country to turn to so their identity is going to be their faith.

If you go back historically within the Muslim religion, it calls for the Muslim umma, which is a united Muslim front. That is where it is headed. If you talk with my parents, who are in their fifties, their
response is, “These kids are going crazy.” This is because what you are seeing is a lot of these kids, good professional kids who could get phenomenal jobs, brilliant kids are leaving their jobs and they are going to Yemen or Syria to learn the faith and they are coming back and they are saying “We’re going to promote the faith.” [Their parents] are saying, “That’s great, you can do that but you’ve got to make a living if you’re going to have a family.” So that is an issue for the older generation. They’re saying, “We worked hard to be where we are at so that you guys could have a progressive life, don’t go back.”

With a young Muslim population that is growing increasingly orthodox in their beliefs, the board members of the Islamic Credit Union emphasize the importance of running an organization that is professional and conforms to Shari’a law. In addition to a younger, more conservative client base, Mr. Rizwi is concerned about the negative stigma attached to Islamic finance as a money-laundering vehicle for terrorist organizations. To assuage concerns relating to these issues, they are planning to structure the operations of the credit union to be as transparent as possible. They will explain their decisions, their financial structure, and their methods of operation to the public.

C. Structuring the Credit Union

Initially, the Islamic Credit Union will offer small business and personal loans and checking accounts. They plan to gradually build a capital supply that will allow the credit union to lend larger amounts, including home mortgages. According to Mr. Rizwi, sufficient demand exists in the Muslim community for Shari’a-compliant versions of all of the products that are offered at conventional banks. This parallels the findings of other scholars regarding potential demand. Additionally, Mr. Rizwi sees demand for investment and retirement advice:

RIZWI: There are some Shari’a-compliant investment funds available, but again, [Muslims] need advice. The advisory side is another product that can be offered. There may be certain leasing products of funds that are available to certain investors depending on their goals, their requirements, etc. I think there are a multitude of services that people require that are not being catered to. [Muslims] are hesitantly doing something but they are uncertain as to whether they are doing the right thing. When there is hesitancy, they pull back in-

61. Interview with Shahzad Qadri, supra note 59.
62. See Wu, supra note 1; see also Muhammad El Qarchi, Islamic Finance Gears Up, 42 FIN. & DEV. 46, 46 (2005) (stating that Islamic financial institutions have proliferated internationally in the past ten years and manage over $250B in assets with a fifteen percent yearly growth rate.)
to cash. There is a need within the community to have these services, and we want to address it.\(^{63}\)

*Shari’a* doctrine prohibits the charging of excessive fees and interest to enforce loan repayment.\(^{64}\) This creates a dilemma in structuring loans with incentive for the borrower to pay them back. The credit union is considering adopting the method used by Pakistani banks of assessing fees for late payments. These fees, instead of going to the bank, will be donated to charity.

QADRI: We are probably going to do smaller loans for cars and smaller business initially. The concern we have with starting off with a bigger amount of money is being able to enforce the requirements that the money has to be returned. If you don’t have the penalties in place, because we can’t charge interest, we can’t up the interest and we can’t charge late fees. So what do we do in order to make sure that the money is being paid back? Regardless of how religious you are, I think human nature is the same. If you don’t have to pay it back, you’re not going to pay it back. So those are glitches, and we are in the early stages now.

INTERVIEWER: *So what ideas do you have for holding people accountable for their loan payments?*

QADRI: One thing that the Pakistani banks are doing is, although they can’t assess late fees, they still assess fees and that money is not income for the banks. It basically gets contributed to charity, it is in a separate account and the amount is substantial. If you have a $25,000 loan and you’re late on the first payment, they assess you $100, next payment, maybe $250. But it doesn’t go into the bank’s coffers. That amount is distributed among particular charities. The problem, again, is regulatory compliance for us. How do we deal with the regulators and explain to them: “This is what we’re doing and why we’re doing it.”\(^{65}\)

Another challenge in establishing the credit union is insurance. The National Credit Union Administration (NCUA) requires licensed credit unions to insure their deposits up to a certain amount, similar to the FDIC.\(^{66}\) Both Mr. Rizwi and Mr. Qadri hope insurance will give credence to the bank and security to customers. The *Shari’a* consultant, Sheikh Humza, has advised that insurance in many cases is forbidden as a form of specu-

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\(^{63}\) Interview with Rizwan Rizwi, *supra* note 58.

\(^{64}\) Wael B. Hallaq, *SHARI’A: THEORY, PRACTICE, TRANSFORMATIONS* 266 (Cambridge Univ. 2009).

\(^{65}\) Interview with Shahzad Qadri, *supra* note 59.

lation. In some countries, risk pools are used as a substitute. Mr. Qadri is arguing for an exception from this rule out of necessity.

QADRI: My argument is that there is a concept called maslaha, which basically says that if it’s a necessity, in the society that you’re living in, then it’s allowed. I’ve been constantly arguing about that, you cannot have [a credit union] without [insurance].

This discussion between Mr. Qadri and Sheikh Humza exemplifies the many issues that arise when designing a credit union that is sustainable as a business and compliant with both state regulations and Islamic law. It has been challenging, at times, to develop solutions for problems, like deposit insurance, that satisfy Sheikh Humza.

**D. Credible Legal Authority in a Non-Muslim Society**

To ensure that the products offered at the Islamic Credit Union are compliant with Shari’a, it is necessary to have someone familiar with Islamic banking law to advise on structuring the products. Both Mr. Rizwi and Mr. Qadri confess to a lack of expertise in structuring checking accounts or loans that qualify as conforming with Shari’a. According to members of the board, ignorance about the finer points of Shari’a-compliant banking and finance is common among the Muslim population. While there is general knowledge among the population that riba is prohibited, few lay-Muslims can assess whether a particular product advertised as Shari’a-compliant is indeed compliant. This is due to a lack of knowledge about what interest alternatives are acceptable under Islamic law and a lack of transparency from financial institutions as to how they are operating and structuring their products.

According to Sheikh Humza, the average Muslim does pay attention, on some level, to forbidden deceptive practices or usurious rates in their daily transactions. Often, they accept what they know to be forbidden transactions for a lack of alternatives:

SHEIKH HUMZA: Theoretically, a lot of [Muslims] know that a lot of these things are going on and a lot of them feel helpless in the face of a lack of options. Sometimes people will know that [transactions] are considered unethical or immoral and they will still go ahead with them. For example, take a mortgage on a house. Someone may say well, Islamic mortgages don’t exist or aren’t accessible to me and I need to live in a house. People will do those things and they have heavy consciousness about them. They come to me and ask what they should do about it. That is one of the reasons that this

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67. Interview with Shahzad Qadri, supra note 59.
may actually work. There are people who want to do things in a different way that just don’t have any options.68

This level of scrutiny when it comes to financial services, however, only goes so deep. Sheikh Humza acknowledges that most people, when assessing whether to put money in a financial institution that is advertised as Islamic, will not investigate beyond a cursory inquiry into the certification. Instead, if people are presented with two different financial institutions, each of which purports to be certified as Islamic, they will focus on the bank that will be most profitable to them, not the one that is more Islamic.

SHEIKH HUMZA: I think as long as people know that [a bank] passes some sort of minimal legitimate Shari‘a certification, as long as they don’t think people are cutting corners, I think then the focus will shift to who is making more money.69

Many of the larger banks and mortgage companies that offer Shari‘a-compliant products employ reputed Islamic scholars as consultants and certifiers for their products.70 The backing of a prominent scholar gives consumers the security that the products they are using are indeed compliant with Shari‘a, at least according to that particular scholar’s school of thought.71 These scholars are often paid well for their services. According to Mr. Qadri, the services of a reputed scholar for one year may cost up to $350,000. Mr. Qadri stated that this high cost is a function of increased demand and short supply. Most of the well-known scholars who focus on Islamic financial issues are already associated with a bank. For a start-up credit union without significant capital resources, paying for a reputed scholar to advise them is out of the question. Accordingly, Mr. Qadri and Mr. Rizwi searched locally for scholars who would be able to advise them.

Mr. Rizwi was concerned about the political ramifications within the Muslim community if he asked an imam from one particular mosque to serve as an advisor to the credit union. It could appear that the credit union favored one segment of the population over others. To Mr. Rizwi, the ideal Shari‘a advisor would not be attached to any particular mosque and would be available to focus solely on the credit union. His ideal candidate was someone who had a deeper knowledge of Islamic law than himself, was recognized in the community, and acknowledged the ways that the credit union could benefit the community.

68. Interview with Sheikh Humza Chaudhry, Chief Religious Officer, Islamic Credit Union, in Bellevue, Wash. (May 8, 2009).
69. Id.
70. VOGEL & HAYES, supra note 6, at 10.
71. MAURER, PIous PROPERTY, supra note 5, at 83.
Mr. Rizwi met Sheikh Humza, who currently serves as the Shari’a advisor for the credit union, while attending services at one of the mosques. Mr. Qadri and Mr. Rizwi explain their confidence in Sheikh Humza by emphasizing that he has formal training in Islamic law (although in interviews, they were not certain if he had a degree, and if so, what type), that he was honest about his lack of knowledge in areas of Islamic finance, that he had the ability to obtain answers from other scholars when he did not have them himself, and that he was young and willing to examine this issue with fresh eyes.

RIZWI: I knew little about [Sheikh Humza] at the time. To be honest, most of the board [members] are young. I felt that [the credit union] just needed a fresh look.

[Sheikh Humza] said he didn’t have a lot of expertise in the area but he had enough that he could get in touch with the right people who can give an indication of where things are. I told him that I don’t want to be in the grey area, I want to be in the black and white. I want to err on the side of caution if possible. I want to depend on [him] because I’m going to be pushing the bar a little bit in terms of the challenges associated with making [the credit union] actually viable.

He said as long as he doesn’t have to compromise the standards then he can agree with this. I told him there shouldn’t be a point where he feels he is [compromising the standards] because he is going to be the person in charge of giving the ruling. He may be using other scholars who have issued some guidelines, but he is making the final ruling.72

Mr. Qadri echoes those sentiments and highlights the fact that Sheikh Humza was straightforward about his lack of experience and access to answers through his teachers and scholarly friends. Mr. Qadri also notes the inability of the credit union to pay for a famous scholar to sit on the board.

QADRI: [Sheikh Humza] was very up front with us. He said, “I’m new to the game, I only have five years under my belt. I don’t know the answers to all the questions, but I have enough connections so that I can get the answers.” I think the issue with the credit union was that we don’t have the funds to pay a [reputed] scholar and [advising banks] has become a money-making business. There are a few scholars and a lot of banks that want them.73

72. Interview with Rizwan Rizwi, supra note 58.
73. Interview with Shahzad Qadri, supra note 59.
The appointment of Sheikh Humza, with little experience in Islamic finance, is illustrative of the dearth of qualified authorities in the region and the importance of access to scholarly connections. Such access to a line of trained and credentialed authorities who can provide conclusive rulings is important in convincing customers that the credit union is properly Islamic.\textsuperscript{74} As Mr. Rizwi notes, such access can be difficult to obtain. Sheikh Humza’s connections with his teachers and other scholars likely served to overcome any hesitancy on the part of Mr. Qadri and Mr. Rizwi about his lack of knowledge.

Understanding Sheikh Humza’s background and training is instructional as it provides one example of what a critical mass of Muslims deem to be a credible authoritative figure. His background also speaks to the current state of religious education and formal Islamic training in the Puget Sound. Sheikh Humza serves as a stand-in imam at some of the local mosques. His personal history mimics the pattern that Mr. Qadri describes of young, American-born Muslims traveling to the Middle East for formal religious training and then returning to the United States to teach.\textsuperscript{75}

After growing up in California, Sheikh Humza moved to Washington State where he received two bachelor’s degrees from the University of Washington and served as president of the Muslim Student Association. While at university, the terrorist attacks of September 11, 2001 occurred, and he found himself in the position of spokesperson to a community that was anxious to learn about Islam. Sheikh Humza’s experiences speaking to people about Islam helped him recognize the knowledge gap that existed between the average American view of Islam and what he knew to be true about the religion. After graduation, he traveled and sought further study in religion on the Indian subcontinent.\textsuperscript{76}

INTERVIEWER: What is your Shari’a training?

SHEIKH HUMZA: I have an eight-year seminary degree from Dar-e-Nizami from the Indian subcontinent. It is a very long, rigorous, and encyclopedic course of study for Islamic law and its various sources. I’m the only one in the area to my knowledge that has that and a functioning level of English and can write and read properly. This is another issue in America. We have very few seminary graduates that can speak English, and there are very few trained imams in the first place. If they are trained, usually they are imported from abroad and they cannot speak English properly. Or they are from here and they have no seminary education . . . very few people right

\textsuperscript{74} \textit{Maurer, Pious Property, supra note 5, at 83 (noting the importance of public backing by a prominent Islamic scholar in determining the success of mortgage products in the United States).}
\textsuperscript{75} See interview with Shahzad Qadri, \textit{supra} note 59.
\textsuperscript{76} See interview with Sheikh Humza Chaudhry, \textit{supra} note 68.
now in America are trained in the tradition and have a knowledge of American culture and language.

INTERVIEWER: *Do you have an ijaza*77 *or a certificate?*

SHEIKH HUMZA: Yes. That comes following the eight years of study at Dar-e-Nizami. In fact, the certificate that you receive is basically what they call an *ijaza amma*—it's a general certificate to teach basically all the subjects until that point that—an *ijaza* basically means a permission. When someone receives an *ijaza*, it's usually for one specific subject or one specific book. After that, it is an *ijaza amma*, which says the person is considered a scholar. That being said, it is somewhat of an exaggeration. There is so much [to study] that what is actually the case is that the person with the eight-year degree is then able to start reading things on their own and forming their own opinions and discussing things as a student. Whereas before the person may not even have the background to be able to understand or process many of the things that they are reading. So really, the *ijaza* is a sort of passing from a beginning stage to an intermediate state of student. But learning is a neverending process.78

While Sheikh Humza may be one of only a handful of Islamic scholars in the region with a certificate from a seminary, he perceives himself as still an intermediate-level student. He acknowledges that he has not had any particular training in modern Islamic finance.

INTERVIEWER: *Did your studies involve any particular focus on Islamic finance?*

SHEIKH HUMZA: No, not in the modern sense. In the old sense yes, because there is quite a bit of legal text that we have to go through. General theoretical issues of what is lawful and not lawful and why it is not lawful. There is the study of Islamic finance as it applies to the modern world, but that is a separate course of study and I haven’t taken that. The disclaimer I told Rizwan is that I’m not an expert in the field. When he came to me I told him I would help out and what I can do is I can help guide you to the correct way and help you wade though whatever you need to deal with in a general way.79

Given his lack of specialized training in Islamic finance, Sheikh Humza is unlikely to be able to authoritatively answer all of the ques-

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77. An *ijaza* is a certificate used primarily by Muslims to indicate that one has been authorized by a higher authority to transmit a certain subject or text of Islamic knowledge. William Graham, *Traditionalism in Islam: An Essay in Interpretation*, 23 J. INTERDISCIPLINARY HIST. 495, 511 (1993).

78. Interview with Sheikh Humza Chaudhry, supra note 68.

79. Id.
tions that arise in developing the credit union’s products. Mr. Rizwi realizes this and expects Sheikh Humza to go to other scholars for guidance:

RIZWI: Typically, he would go to his teaching group and his line of teachers who issue the scholarly level fatwas on the subject. They will go up the chain in some instances or go across the chain or look at a different school of thought to see if there is a consensus. I told Humza to get the views from across the board and go with the more conservative one just to err on the side of caution. I hope that market conditions don’t force us to deviate from it. We’re trying very hard to avoid that. Obviously, we have to make a profit at some level because everyone isn’t just going to volunteer; it’s going to require employees at some point.80

Sheikh Humza notes the potential for divergent opinions among experts on the same issue. He said his choice of who to approach on a particular question will be guided by the expert’s area of expertise and not necessarily the expert’s stature or perceived rank in the community. He will seek the person who is best equipped with the knowledge to answer the particular question.

INTERVIEWER: When board members come to you with questions and you don’t have the answers, where do you anticipate going?

SHEIKH HUMZA: That has happened already. Different people have their different opinions and two experts will have different opinions just like in a Supreme Court case. We have a rich Muslim tradition that spans so many countries and places. Across countries and jurisprudential and philosophical differences.

. . .

There are a lot of different Islamic scholars that I correspond with via the internet.

. . .

A number of people have experience with different elements of the Islamic finance system . . . there are people who have different experiences with different aspects. Somebody has experience in the insurance business, someone has experience in finance products, like mortgages or car payments, and somebody has had experience looking through contracts.

INTERVIEWER: Would you go with a question to the person who you know has more of an expertise or is there another hierarchy that you are following?

SHEIKH HUMZA: In Sunni Islam we have no hierarchy. We have no priesthood and we have no hierarchy. The person we respect for

80. Interview with Rizwan Rizwi, supra note 58.
their learning is based on their learning and the person we respect for their piety is based on their piety. We are not told that this person is bigger than this person. It becomes evident based on their knowledge or their actions.81

In accepting Sheikh Humza’s credentials and experience as sufficient to serve as a religious advisor to the credit union, Mr. Qadri and Mr. Rizwi acknowledge the reality of the shortage of scholars available in the Pacific Northwest and the price that must be paid for an experienced scholar to sit on a board. Their choice of Sheikh Humza reflects not only the economic and practical realities of Islamic scholars in the region but also local community standards of acceptance. By relying on Sheikh Humza to advise on religious issues, the credit union implicitly believes that his advice and counseling will be accepted by the community. Although Sheikh Humza states that he does not plan to offer formal certifications of the products himself (citing lack of expertise in the field of Islamic finance), his opinions and views will shape the structure of the products:

SHEIKH HUMZA: I am not an expert in this field to the point where I can offer some stand-alone certification. The idea is that I will guide them through the process when they are laying down the groundwork. As far as compliance with Islamic law, I am just there to guide them on which decisions they should make. Ultimately, any certification that is going to be made will have to be made by an expert in the field.82

Therefore, regardless of whether the products offered by the credit union are formally certified as Shari’a-compliant, they will have the endorsement of Sheikh Humza.83

Members of the board are confident that Sheikh Humza’s guidance, as a Maliki scholar, will be acceptable to a profitably large segment of the population. They believe that by virtue of his title as Sheikh, any endorsement by him will be acceptable to most Muslims in the community. Mr. Rizwi and Mr. Qadri predict that any approval by Sheikh Humza will likely be acceptable across madhhabs as well. Most Muslims, they assert, are relatively unconcerned with following rulings from a particular school.

Even if there is concern, Sheikh Humza is familiar with rulings from across the madhhabs. Mr. Rizwi has instructed him to follow the

81. Interview with Sheikh Humza Chaudhry, supra note 68.
82. Id.
83. There is some disagreement over whether formal certification by another scholar or a board will be obtained before the Islamic Credit Union opens. Mr. Rizwi states that he understands formal certification not to be necessary at this time while Sheikh Humza says there is no point in offering these products if they are not certified as Shari’a-compliant. Interview with Rizwan Rizwi, supra note 58; interview with Sheikh Humza Chaudhry, supra note 68.
most conservative viewpoint acceptable, regardless of the school. According to Mr. Qadri, because Sheikh Humza is well-known in the community, the fact that he will be endorsing or formally certifying the products will be sufficient for most of the community to accept the products as Shari’a-compliant.

INTERVIEWER: Do you have any concerns about Sheikh Humza’s interpretations or whether they will be challenged by the local community here?

QADRI: No. Because in most communities, if I said this is a Muslim product and it is being endorsed by Sheikh Humza, the only other person who might challenge him is another Sheikh who thinks we are in complete violation. The local community will say, “Great, there is a crescent on it, we’ll support it.”

RIZWI: Whenever anyone certifies in a certain way, they are going to rely on what they know. My understanding is that [Sheikh Humza] does have an understanding of opinions across the board. He is aware of what other rulings are. I sat down with him and we talked about making money on money, what is trading and what is interest, where is the line between usury and trading. For some people it may seem very clear, but when you go into the details, it can be quite complicated, particularly from a Western understanding. I am confident in him even though he may have a slant in that direction. [Another member of the board] from Microsoft has a very good understanding of Shari’a as well. He’s not formally educated, but he has a better understanding than I do. There will be enough questioning within the board and with people who are interested in the project that we can hopefully get some kind of consensus established.

Their confidence in the acceptability of Sheikh Humza’s endorsement is likely due also to the accountability that is inherent in any decision to vouch for a product. Sheikh Humza’s character, and that of any scholars that he uses as references, is on the line. As Mr. Rizwi states, “his reputation is at stake . . . When [Sheikh Humza] agreed to help, he was a bit hesitant because he was sticking his neck out.” Apart from this reputational incentive, Mr. Rizwi believes it unlikely that there is legal liability in vouching for a product’s compliance with Shari’a. “It’s in good faith,” according to Mr. Rizwi, “We’re trying as a board to bring

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84. Interview with Shahzad Qadri, supra note 59.
85. Interview with Rizwan Rizwi, supra note 58.
86. See also WAFIK GRAIS & MATTEO PELLEGRINI, CORPORATE GOVERNANCE AND SHARIAH COMPLIANCE IN INSTITUTIONS OFFERING ISLAMIC FINANCIAL SERVICES 6 (World Bank Policy Research Working Paper 4054, Nov. 2006) (noting that reputational incentives among Shari’a scholars are sufficient to mitigate conflicts of interest presented by paying for the services of a scholar to certify products).
things to the market that are compliant. If [someone] feels it is not, the option is that you close your account.”

Sheikh Humza affirms that he does not expect much questioning from the average Muslim as to whether the products are Shari’-a-compliant, nor does he expect his Maliki schooling to compromise the public’s acceptance of the product. Sheikh Humza suggests that, for most lay-Muslims, the differences between the Maliki and any alternative madhab’s understanding of what is Shari’a-compliant are beyond their understanding. Any controversy is likely to be limited to the scholarly realm.

SHEIKH HUMZA: A lot of these transactions are so different from the old medieval transactions that are described in our books. The field of Islamic finance is quite pan-madhhab. It really draws on all the different schools of thought. To make a financial system that was entirely consistent with all of the schools would probably require building it from scratch. The four Sunni schools are mutually recognized. There is never any sort of, on the scholarly level, non-acceptance of the other.

I don’t think that most lay people have an advanced enough understanding of Islamic finance to make it necessary to cater to different ideological points of view. If there is going to be disagreement, it is going to be mostly limited to the scholarly realm. Because it is starting off, we probably will focus on things that are not going to be controversial . . . [such as] [b]asic modes of investment, murabaha, musharaka.87 If someone wants to buy a car, we will purchase the car from the dealer and sell it to the person for a previously agreed upon marked-up price.88

Mr. Qadri deemphasizes the importance, among the Muslim population in the Puget Sound region, of the particular leader who endorses the product. What is important, he implies, is that some scholar endorse it. Beyond that, it is about marketing. Muslims are “gluttons for marketing,” he stated. As an example, Mr. Qadri points to Guidance Residential, a U.S. Islamic mortgage bank. According to Mr. Qadri, Guidance has succeeded, despite charging exorbitant—some would say un-Islamic—initiation fees, due to a good marketing campaign. He indicates that, among the Muslim community in Bellevue, there are very few people who would recognize the name of the best scholar in the Western world. Thus, name recognition is not a concern to Mr. Qadri.

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87. Murabaha and musharaka are common forms of Islamic financing that involve either profit and loss sharing between partners or cost-plus profit financing. MAHMOUD AMIN EL-GAMAL, A BASIC GUIDE TO CONTEMPORARY ISLAMIC BANKING AND FINANCE 10, 15 (Rice Univ. 2000).
88. Interview with Sheikh Humza Chaudhry, supra note 68.
QADRI: [O]ther than the very few rich people, most people don’t know Sheikhs. As long as [the products] are backed by some scholar that they can turn to, they really don’t care. You could go ask the average mosque-goer who the number one scholar in the nation is and they won’t know. If you have a group of people who are extremely religious and involved in the community, they’ll know. But an average person at a mosque, who does not want to deal with *riba*, does not know the difference.89

Mr. Rizwi, however, has a different perspective. He indicates that the notoriety of the scholar endorsing the product does make a difference to people. He suggests that it might be possible for Sheikh Humza, through his scholarly contacts, to get access to a renowned scholar who will be willing to endorse their products.

RIZWI: Obviously, if you have one of the top scholars, internationally renowned, that will make a difference. Some of the top investment banks are paying these guys millions of dollars and their opinions are sought after. Their rulings are such that there are a limited number of these people available and the big investment banks have picked them up. [Sheikh] Humza may have more of a chance getting access to them through his personal contacts than I would.90

In the event that people do question the propriety of a product’s compliance, Mr. Rizwi says the board will examine the complaints and explain the reasoning in the design of the products. At the same time, he acknowledges the diversity of the community and the near impossibility of pleasing everyone with one product.

RIZWI: I’m expecting that there will be some questions. My experience with the community is that there will be some people who will go along with it and some who will want to know every detail of how we got to this place. If they are going to want to do it, they are going to want to be one-hundred-percent sure that it is really allowed. There have been some people helping me on the project who had some concerns. And my question to them is: Where is your money right now? Do you have any control over how it is being managed in any way? You can’t keep everyone happy all the time. If we can keep the majority of people happy most of the time, I personally will see that as a success. Again, there will be differences of opinion. That’s why I want to err on the side of caution so we don’t exclude anyone.

We can explain the reasons why we have allowed something. If it is a number of people who have the concern then the board will have

89. Interview with Shahzad Qadri, *supra* note 59.
90. Interview with Rizwan Rizwi, *supra* note 58.
to address it and we will have a formal addressing of any issues. It is not an easy project. There are a lot of moving parts. There is a lot of diversity within the members. People think the Muslim community is all one community and its not. You’ve got a multitude of ethnic groups that are connected by their religious beliefs, but they’ve got their own cultural understandings and, in many cases, their own local language in addition to English.91

E. The Future of the Islamic Credit Union

Following months of planning, it became clear in the winter of 2009 that the credit union would not be able to attract the investors necessary to allow it to open in January of 2010 as originally intended. According to Mr. Rizwi, the business plan for the credit union necessitated a sufficient amount of private investment to cover expenses for the startup period.92 In part due to the economic downturn, private funding was difficult to obtain. It became evident that opening the credit union without sufficient startup capital would be imprudent. Not only would the credit union have to contend with short-term losses but without sufficient capital in reserve it would only be able to offer a small number of loans.

Instead, the board members of the credit union opted to embark on an alternate strategy to raise the funds necessary for the credit union. They are currently in the process of opening a Shari’a-compliant investment-advising business targeting high net worth individuals interested in responsible investment opportunities. Through analysis of potential investments (including factors such as debt load and business practices), the advisory business will assist clients in managing their wealth in ways that conform to Islamic teachings. The board members anticipate that the operation of this for-profit investment firm will eventually generate enough revenue to provide startup capital for the credit union. Mr. Rizwi hopes to be able to open the credit union with zero-interest loans from the investment firm by 2013.

The lack of startup capital notwithstanding, Mr. Rizwi notes the continual demand among Muslims for a local Shari’a-compliant bank where they can keep their money. Following recent conversations with community members, he believes that there remains a strong desire among many mosque-goers in the Bellevue area to have a convenient and Shari’a-compliant institution that will provide zero-interest loans and will serve as custodian of their savings. Many Muslims in the community continue to voluntarily limit their financial obligations to those that are Shari’a-compliant.

91. Id.
92. Interview with Rizwan Rizwi, Chairman, Islamic Credit Union, in Bellevue, Wash. (May 24, 2010).
IV. CONCLUSION

The story of the formation of the Islamic Credit Union is one small data point among multiple overlapping phenomena. The credit union can be viewed as part of a number of larger trends: the global growth and expansion of Islamic finance, the realization of Muslim beliefs within a non-Muslim majority culture, or the development of uniquely American Islamic legal institutions. It is not easy to locate the credit union as part of a distinct trend. Likely, its formation is a result of multiple factors that may be easier to observe in hindsight.

Nonetheless, the establishment of this institution enables observations about a narrow segment of the Muslim population in the United States. Some of these observations are consistent with the findings of Leonard and Maurer. For example, as Leonard has noted, the classical madhhab’s particular schools of thought seem to be of little importance in the lives of most Muslims today. The board members of the credit union agree. There is little concern given to the fact that Sheikh Humza comes from a Maliki background despite the fact that potential customers may follow other schools. As long as his decisions are somewhat conservative, the board members expect that only a select few will take issue with his scholarly background.

Additionally, the board members agree that the Muslim community in the Puget Sound region is typical within the United States for its diversity. There are always a variety of opinions on a particular issue. Complex ethnic and cultural differences among Muslims of Sunni background may make pleasing the entire Muslim population challenging in the context of the credit union. At the same time, by closely observing the more conservative perspective regarding acceptable Islamic financial products, the credit union should minimize potential objections to their practices.

Finally, the theme underlying the Islamic Credit Union concept of trying to live according to Islamic law in a non-Muslim society echoes the observations of El Fadl. He observes that Muslims struggle to live as people of faith in unaccommodating lands, surrounded by uncertainty about how much of Islamic law must be implemented in order for them to legally reside in non-Muslim territory. As Sheikh Humza observes, many Muslims come to him with questions about what to do with their money in the absence of Shari’a financial services. Questions of this nature are driving the development of Islamic authority structures and institutions within the United States. As the credit union demonstrates,

93. See LEONARD, supra note 38; see also MAURER, PIous PROperty, supra note 5.
94. LEONARD, supra note 38, at 91.
95. El Fadl, supra note 40, at 57
96. Id.
Islamic authority figures answering these questions are operating in a novel environment. There are not yet clear rules for who can serve as an authority figure or what constitutes an acceptably Islamic, yet still regulatory-compliant financial product.

In contrast to what some researchers have noted, Sheikh Humza appears to defy the finding that the Islamic legal landscape is full of spokespeople without formal Islamic legal education who are shaping the discourse on important issues. Rather, Sheikh Humza, while young, benefits from formal Islamic schooling and connections to teachers and scholars who can provide guidance. Similar to the findings of DeLorenzo, he seems to exemplify the class of young, conservative, American-born Muslims that Mr. Qadri spoke of. It is this same young population who will inherit and help shape the existing authority structures.

As an attempt at actualizing the beliefs of a group of Muslims living in the United States, the credit union represents an interesting example of the development of Islamic law within the constraints of government regulations and American cultural standards. As a new, intentionally Islamic institution, the Islamic Credit Union serves as a focal point for the consensus of the community. It will be instructive to follow the progress and success of the institution as it, and others like it, develop.

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97. DeLorenzo, supra note 47, at 81.