

Factors Influencing the Involvement in Shubuhah Activities: The Case of Shari'ah-Complaint Companies in Bursa Malaysia

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Abstract

In the Islamic society each individual enjoys complete freedom in the earning of his livelihood. Islam gives complete freedom to all economic enterprise. Anybody can start, manage and organize any kind of business activities within the limits set by the Islamic Shari'ah. Islamic Shari'ah establishes rules which govern and define the economic, social, political and cultural life of Islamic societies, including their financial institutions. Islam, in principle prohibits all activities that cause harm to the dealers and consumers in the market as well as society as a whole. It is very necessary that all dealings and business activities must abide by the rules of Islamic law, In addition to avoid all doubtful activities. The primary objective of this research is to examine the public listed companies which are under Shari'ah compliance category are fulfilling the Shari'ah principals, by analyzing doubts activities in terms of business activities, Type of industry, Chairman of the company, the percentage of Muslim Shareholders, and shari'ah Supervisory Board, and what are factors affecting the involvement in Shubuhah Activities for these companies. A total of 506 companies listed in the main board of Bursa Malaysia were selected a sample of 218 using stratified sampling method. 218 annual reports were collected as cross-sectional year 2007 and analyzed using the SPSS program.

Keywords:

Doubtful activities (Shubuhah), Shari'ah compliance, Halal and Haram

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List of Arabic terms

Arabic Terms	Translation
<i>Shari'ah</i>	Islamic Law
<i>Shubuhah</i>	Doubtful
<i>Ummah</i>	Community
<i>Riba</i>	Usury
<i>Haram</i>	Forbidden
<i>Halal</i>	Permissible
<i>Fiqh</i>	Jurisprudence
<i>Ausol</i>	Origins
<i>Makrooh</i>	Unlikable
<i>Maqasid Asshriah</i>	Objectives of Islam
<i>Ma'kulat</i>	Food
<i>Khanzir</i>	Pigs
<i>Zakat</i>	Alms

1.0 Introduction

Malaysia is an Islamic country, the government of which has introduced many rules and regulations on business activities that conform to the Islamic law of *Shari'ah*. One of these rules and regulations is the introduction of Islamic financial market in Malaysia in 1993 [1]. Currently, Malaysia is moving to the next level of *Shari'ah* compliant era where government is now seriously putting many rules and incentives to encourage companies to be active participants in *Shari'ah* compliant. Cooperating with some organizations such as Securities Commissions, Bursa Malaysia, Bank Negara Malaysia and some other financial institutions, the Malaysian government has introduced varieties of product choices for Islamic finance. This extended to Islamic financial product traded in capital market which is a market where activities are carried out in ways that do not conflict with the principles of Islam. In Malaysia, this Islamic capital market is monitored by *Shari'ah* Advisory Council (hereafter SAC). It is necessary to mention that SAC is a committee that was established by the Securities Commission in 1996 under section 18 of the Securities Commission Act 1993 [2]. The SAC was given the mandate to ensure that the running of Islamic Capital Market complies with the principles of *Shari'ah*.

Malaysia is considered one of the key players in the Islamic finance industry, not only in Asian, but also globally. Therefore, the Malaysian government introduced many rules and regulations that are complying with the provisions of Islamic *Shari'ah* [3]. Islamic financial system in Malaysia has seen significant growth in terms of demand and acceptance and development since it was first introduced in 1963. It started from a modest beginning, through the establishment of the Malaysian Pilgrims Fund Board Tabung Haji in 1963 which is considered the first Islamic financial institution in Malaysia [4]. After that, several Islamic institutions were established including Islamic Bank of Malaysia in 1983, followed by development of Islamic money market in 1993. *Shari'ah* approved securities were listed in the Kuala Lumpur Stock Exchange in June 1997.

Malaysia, as centre for the largest market in the world of Islamic bonds, has worth of approximately \$ 47 billion. According to Malaysian National News Agency (BERNAMA) in the third of November, 2009 Prime Minister Datuk Seri Najib Tun Razak said: Malaysia has achieved significant success in Islamic finance which at end June this year accounted for close to 19 % of the country's banking assets. In addition to Moreover, at the end of August, the Islamic capital market too hardly reached RM803 billion, representing 54 per cent of Bursa Malaysia's market capitalization. While total financing now currently amounts to RM115 billion and constitutes 15.5% per cent of the total financing portfolio of the banking industry, with a net non-performing financing remains low at 2.4%per cent.

In Malaysia, in order to ensure that activities and all operations of Islamic financial institutions do not contradict with *Shari'ah*, the *Shari'ah* Advisory Council (SAC), *Shari'ah* Supervisory Committee (SSC) or *Shari'ah* Supervisory Board (SSB) normally functions as advisors or supervisors of Islamic banking activities. In addition, Bank Negara Malaysia (BNM) has also issued the relevant guidelines to ensure prudent regulation of *Shari'ah* matters in Islamic financial institutions. Internationally, there is are the Islamic Financial Services Board (IFSB) and the Accounting and Auditing Organizations of Islamic Financial Institutions (AAOIFI) that have issued a number of governance standards and guidelines [3].

The Islamic world needs to find some requires an alternative finance models that are *Shari'ah* complaint and free of interest. Since the Islamic *Shari'ah* is common to all matters of life, the Muslim community (*Ummah*) practices issues fully. Because the Islamic *Shari'ah* covers all aspects of life, Muslims must comply with the provisions of the Islamic *Shari'ah* and also be extended to include all aspects of life and should not be limited and confined to certain areas, particularly the finance and Islamic banking. There are tarnishes, and things issues that are unclear and are not compliance with the Islamic *Shari'ah*. In other words, there is still a gap in the study of compliance with the Islamic *Shari'ah* behind finance and the Islamic banking. Many of the companies in Islamic countries, particularly in Malaysia, use a dual system such as Islamic banking and finance system and conventional system that are based on interest (*Riba*) [5]. There are a lot of doubtful things and controversial issues, particularly those companies that are using both systems, this will affect the Muslim customers, if these companies were not committed to comply with the law. There are a small number of few activities that do not comply with the *Shari'ah* requirements [6]. According to (Jamal) [7]: "It was mentioned earlier that *Imam al-Bukhari* recorded this *Hadith in Kitab ul-Buyu'* (Trading). When it comes to trading there are many matters that are doubtful, matters which existed then and even now, e.g. where cheating is done professionally. Therefore we have to be careful if the matter related to trading is clear and evident, permissible or not permissible, or if it is doubtful, in which case we have to avoid it".

Therefore, the present paper will investigate only *Shari'ah* compliant companies listed in Bursa Malaysia. The present paper assumes it is assumed that there is a relationship between the doubtful business activities and companies' characteristics, which influence the level of compliance with the *Shari'ah*. There is still a lack of specialized studies in on the doubtful activities (*Shubuhahat*) in Bursa Malaysia, especially regarding the factors that influence influencing the involvement in *Shubuhahat* activities. Therefore, this paper will be a pioneer in this regard. There are many is a group of factors that affect the corporate involvement in doubtful-activities. Therefore, the objectives of the present paper are:

1. To investigate the business *Shubuhahat* for these companies.
2. To determine the relationship between companies characteristics and the involvement in *Shubuhahat*.

2.0 Doubtful Things (*Shubuhah*)

According to the principles of *Shari'ah*, all business activities must be in accordance to rules and regulations of *Shari'ah*, and any activity against these rules and regulations will be forbidden (*Haram*) in Islam. Therefore, business activities are very essential in *Shari'ah* compliance criteria, and in this paper, business activities are referred only to the clear business deals not the unclear businesses (*Shubahat*) [8].

It is worth mentioning here that the studies on doubtful businesses in Islam are few. However, some researchers such as Imam Ghazzali have highlighted the *Shubuhah* in his book, *Ihya-Ulum-Id-Din*. Al-Ghazali [9] mentions the doubtful activities in general, and then divided the money *Halal* and *Haram*. Also, specifying the ranking of the doubts activity and places, the book by Imam Ghazali is essential since it rooted and divided the doubtful business deals on the basis of Islamic *Shari'ah* law. Al-Qaradawi, [10] emphasizes that money types are either *Halal* or *Haram*. The study calls for avoiding such doubtful activities based on *Hadith* given in Al-Bukhari. Another Study [1] focused on clear business and unclear business and applied these terms to *Shari'ah*-complaint companies in Bursa Malaysia. One of the major findings is that 90.8% of the activities are clear business while 9.2% are unclear business, concluding that the companies that deal with unclear business have got some doubtful business.

Defining precisely what is clear and unclear in business activities is troublesome because of the similarities between them. The agreed-upon *Hadith* states “*What is lawful is clear and what is unlawful is clear, but between them are certain doubtful things which many people do not recognize. Who guards against the doubtful things keeps his religion and his honor blameless (Al-Bukhari & Muslim)*” [20]. Explaining this *Hadith*, Alasqlani [15] states that it is identicalness to other where the verdict was not evident. However, Ibn Mandhour states that the similarities it is than problems matters. When Imam Ahmad was asked about *Shubhat*, he replied that it is status between the *Halal* and *Haram* and a Muslim who wants to keep his religion should not approach it. Although in *Shari'ah*, *Halal* and *Haram* are strictly decided; between the statuses of *Halal* and *Haram* *Shubhat* exist. However, this status of *Shubhat* is only known by the scholars in *Shari'ah*. This is supported by *Hadith* mentioned above. Therefore, it is not easy for many people to recognize doubtful activities that exit in the middle between *Halal* and *Haram*. Subsequently, Muslims should avoid *Shubuhah* because it is a status that Muslims may get involved in it.

There is a range of business activities which raise many doubts and many questions on the legality of the work or dealings, and the money earned from these activities. These activities are:

1. Dealing with the conventional modern insurance companies.
2. Dealing with companies that frequently perform a prohibited transaction in *Shari'ah*.
3. Working in places where taboos are committed.
4. Working in foreign countries, in places where taboos are committed.
5. Dealing with the traditional tax system (i.e. only tax systems those are Non-complaint with *Shari'ah*).
6. Working in the stock market (Bursa) with the companies those are dealing with *Shari'ah* non-compliant shares.
7. Working or dealing with the *Shari'ah* non-compliant investment funds.

Shubuhah is an Islamic term which usually refers to the arguments against the criticism of Islam. More precisely, it can point to difficulties perceived in Holy Qur'an or Islam. *Shubuhah* activities in business are mixing the *Halal* money with the *Haram* money or interlacing *Halal* activities and *Haram* activities together, in which scholars have disagreed, when some scholars said it is permissible, and others said that it is forbidden, both sides have evidences with permissible or prohibition.

A derived term with similar meaning is mentioned in the Qur'an at (Sura Al-i-Imran):

"It is He who has sent down to you the Book. In it are Verses that are entirely clear, they are the foundations of the Book; and others not entirely clear. So as for those in whose hearts there is a deviation (from the truth) they follow that which is not entirely clear thereof, seeking Al-Fitnah (polytheism and trials, etc.), and seeking for its hidden meanings, but none knows its hidden meanings save Allâh. And those who are firmly grounded in knowledge say: "We believe in it; the whole of it (clear and unclear Verses) are from our Lord. And none receive admonition except men of understanding". (Qur'an, Sura Al-i-Imran-3: 7).

Commenting on the previous verse, it is reported that Prophet Mohammed says,

"When you see those who follow what is not so clear of the Qur'an, then they are those whom God described, so beware of them" [20].

On the authority of Abu 'Abdullah al-Nu'man bin Bashir, radiyallahu 'anhu, who said: I heard the Messenger of Allah, PBHU, say:

"Truly, what is lawful is evident, and what is unlawful is evident, and in between the two are matters which are doubtful which many people do not know. He who guards against doubtful things keeps his religion and honour blameless, and he who indulges in doubtful things indulges in fact in unlawful things, just as a shepherd who pastures his flock round a preserve will soon pasture them in it. Beware, every king has a preserve, and the things Allah has declared unlawful are His preserves. Beware; in the body there is a flesh; if it is sound, the whole body is sound, and if it is corrupt, the whole body is corrupt, and behold, it is the heart." [20].

The *Hadith* given above is one of the major principles of Islam, which is under the provisions of *Halal* and *Haram*. In this *Hadith* Prophet Mohamed shows doubtful things and legitimate approach in dealing with *Shubuhah*. In this *Hadith*, there are also some issues that are:

1. First place is doubt in the course of *Halal* and *Haram*: It has four classes:

The individual knows an issue to be unlawful before, but doubt arises in the matter of its being lawful. It is mandatory to give up this doubt and to take it as unlawful. For example, a hunted animal falls into water and it is lifted up as dead from water. Eating its meat is unlawful. There should be no place of doubt in it. The Prophet Peace be upon him (PBUH) said: Don't eat it. Your dog perchance has not killed it. Whenever anything was brought to prophet (PBUH), he used to enquire if doubt arose in his mind, till he knew whether it was *Zakat* or gift.

a. Although things are lawful, yet one doubts that it may be unlawful. The things are basically lawful, but owing to certain circumstances one doubts whether the legality of that thing still remains. For instance, two individuals quarreled with each other, one said to the other, "You are haters". An Allah-fearing man should leave them on doubt:

- b. There are things that are essentially unlawful but a cause prevails upon it so strongly that it becomes lawful. It becomes a subject matter of doubt and becomes strong of its being legal. For instance, an animal after being shot disappeared. Afterwards, it was found with the shooting signs only on its body. It might be that it died owing to other reasons. Thus doubt arises whether its meat is lawful or not. An Allah-fearing man refrains from eating its meat. Prophet says, "*If you know that your arrow killed it, and you do not find any wound inflicted by wild beasts, you may eat it.*" (Reported by al-Tirmidhi, who classifies it as *Sahih*).
 - c. Things are knowingly lawful, but it becomes unlawful at last owing to the rules of *Shari'ah*. For example, a pot is lawful but doubt arises whether there is any impurity in it. So to drink water from it becomes unlawful.
2. Second place of doubt is mixture of *Halal* and *Haram*: not kept separate but will become mixed and therefore doubt arises whether it is lawful or unlawful. There are three types of this mixture of lawful and unlawful things:
 - (A) One unlawful item is mixed with limited number of lawful items, for instance the meat of a dead cow is mixed up with the meat of some sacrificed cows. Doubt in these issues are to be given up, as there is no sign therein that the meat of a dead cow has been mixed. If there is reasonable doubt (*Shubuhah*) that the meat of a dead cow has been mixed, it will be unlawful.
 - (B) Secondly, is the mixture of limited number of unlawful items with unlimited number of lawful items, for example, if there is prevalence of interest (usury) in a certain town, it is lawful to accept coins of that town.
 - (C) The third case is the mixture of unlimited number of lawful items with an unlimited number of unlawful items. In this case, if the unlawful items can be identified, it will be unlawful to enjoy them, but to give up a doubtful thing is a sign of piety. During the reign of Yezid some soldiers looted the properties of *Medina* for three days, although this did not prevent people from buying and selling goods in a market in Medina, which also consist of goods stolen.
 3. Third, doubt place: Any sin found in any cause making a item lawful relates to the item itself, or to its end, or to its beginning or to another thing in exchange of the item, but it is not such a sin which nullifies an agreement or any cause which makes a item lawful.
 4. The fourth place of doubt arises out of diversity of proofs of *Shari'ah* in order to distinguish between a lawful thing and unlawful thing.

The matters of doubts in business deals are summarized in table 1.

Table 1: The matters of doubts in business deals

The matters of doubts			
Doubtful in the cause of permissible and the impermissible.	Doubt the origin of mixing. (Doubt arises out of mixture).	There is impiety (sin) that relates the permissible cause.	Conflicts in the evidences (Differences).



<ul style="list-style-type: none"> - That the original prohibition is known, and then doubt ensues as to whether the procedure for rendering permissible has occurred. - That the original permissibility is known, and then doubt ensues as to whether some process rendering it <i>Haram</i> has occurred. - That the default prohibition is known, but reasonable conjecture suggests that the process of rendering <i>Halal</i> has occurred. - That the original permissibility is known, but reasonable conjecture suggests that a process of rendering <i>Haram</i> has occurred. 	<ul style="list-style-type: none"> - Where a finite quantity of <i>Haram</i> has become mixed with a finite quantity of <i>Halal</i>. - Where a finite quantity of <i>Haram</i> has become mixed with a nonfinite (I.e. extremely large) quantity of <i>Halal</i>. - Where a non-finite (i.e. very large) quantity of <i>Haram</i> has become Mixed with a non-finite (very large) quantity of <i>Halal</i>. 	<ul style="list-style-type: none"> - Existing an impiety in the parallel. - Occurring an impiety in the subsequent. - Occurred an impiety in the previous. - Occurred an impiety in the compensation. 	<ul style="list-style-type: none"> - Conflicting the evidences of the <i>Shari'ah</i>. - Conflicting the marks which Indicating of <i>Halal</i> and <i>Haram</i>. - Conflicting the similarities in the characteristics.
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2.1 A Mix of Finite Quantity of Haram and a non-finite extremely large Quantity of Halal

When there is a mix of two quantities of finite quantity of *Haram* and a non-finite (i.e. large quantity) of *Halal*, this mix is prohibited. This was mentioned by scholars of *Fiqh* (Jurisprudence) and origins (*Ausol*). Ibn Taymiya[11] states that if *Haram* was mixed with *Halal*, the *Haram* has the status of which is either totally forbidden or forbidden for external cause. This is because the money might have been obtained by force or forbidden contracts like *Riba*. If this is doubt and mingled with other has not been forbidden on all generally. Ibn Alqaym [12] states that: the doubtful with respect to matter of money between permissible and impermissible (i.e. *Haram*) that is taken forcefully or theft, etc. He said: this should not cause the avoidance of the *Halal* or forbid it ultimately, but if the money is mixing with *Haram* (even for few amounts) removing the amount of *Haram*, will make the remaining money as a *Halal* without unlikable (*Makrooh*).

Alkasany [13] states that: everything marred with *Haram*, but the majority is *Halal*, there is nothing wrong with the use and conduct. Moreover, Ibn Najeem says that if anyone suspects that sales of market is not free from *Haram* and was often purchases are more, however, entitled to purchase. And he also said: If mixing *Halal* with *Haram* in the country, permitted the purchase and sale. Except as explicitly prove that it is forbidden. Ezz Ibn Salam [14] states that: if one *Dirham* was mixed with one thousand *Dirham*, the dealing is permissible. Therefore, it is permissible to deal with the activity of the mixed money if *Halal* is the majority. If the *Halal* money is more, that is, one *dirham* of prohibited money is mixed with one thousand of permissible money, and then the transaction is allowed.

2.2 A Mix of Finite Quantity of Haram and a Finite Quantity of Halal

In this case, there are two quantities of Finite *Halal* and Finite *Haram*. If *Halal* part is greater than *Haram* part, the entire money mixture is granted as *Halal* and vice versa. In other words, the decision of considering a particular money mixture as *Halal* or *Haram* depends on the dominant part.

2.3 A Mix of Non-finite Large Quantity of Haram and Non-finite Large Quantity of Halal

Referring to this issue, Ibn Najeem states that: if one suspects that majority of the market sales are not free from corruption (i.e. dealing with *Haram*) and the purchases are high, however, the dealer will still be entitled to purchase. Example for this case as is the case nowadays, when money from *Riba*, bribery being widely circulated in the market. In this case, it is not forbidden to partake of something of the entire quantity; unless there is some indication that this particular amount or Portion is from the *Haram*. Differently, to abstain from it is precautionary, but not forbidden. There are some issues mentioned by Imam al-Ghazali [9] and by which they can know matters doubts.

Figure 1 below explaining the Shubuhah in Islamic Shari'ah.

Figure1: Shubuhah in Shari'ah

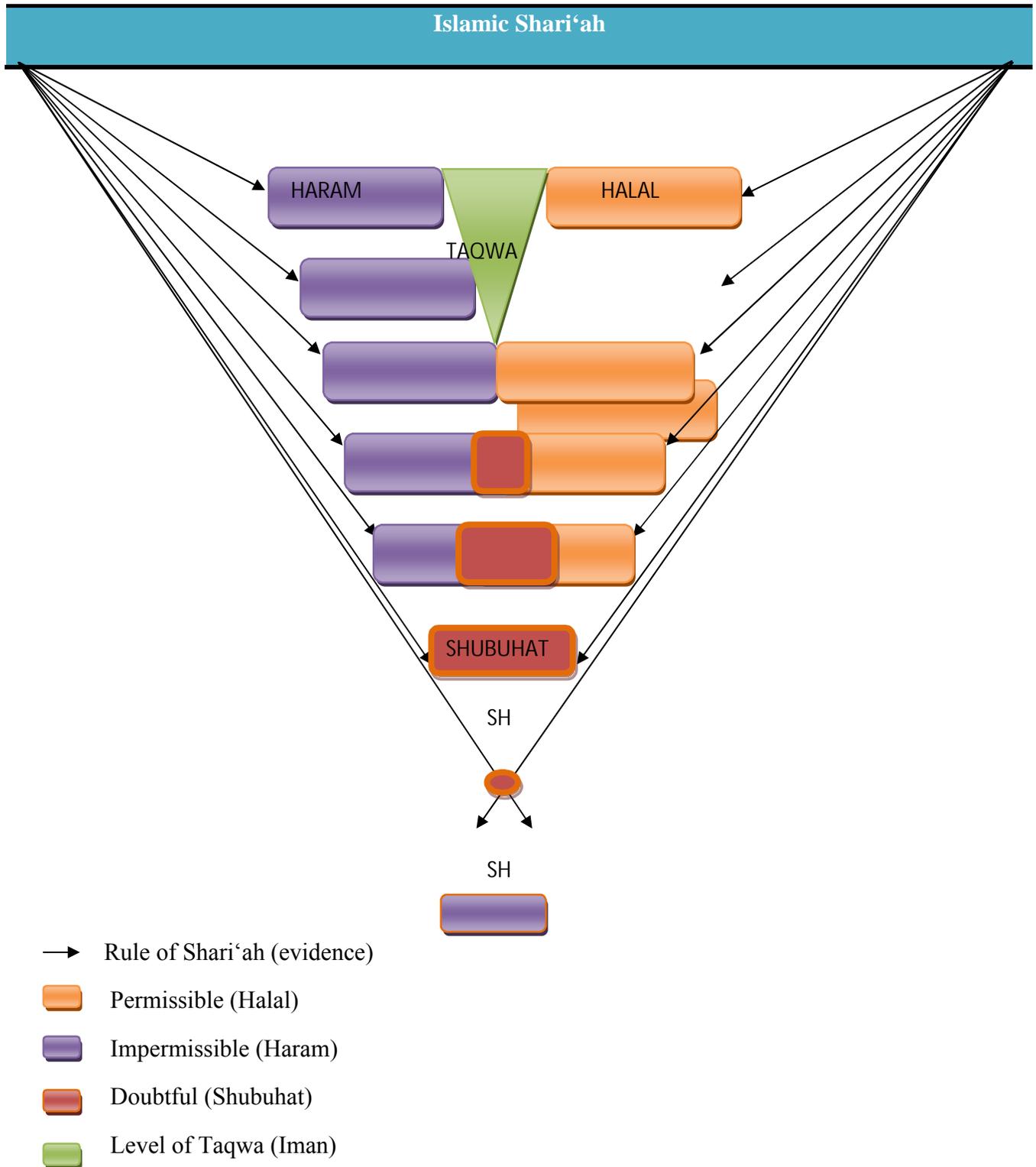


Figure 1: Shubuhah in Islamic Shari'ah

It is essential that all dealings and activities in the business must avoid *Shubhat* and also should be compliant to the rules of *Shari'ah*. For example, Muslims are required to work in *Halal* activities because "*Shari'ah* is a body of legal principles derived from Quran, the teachings of the prophet Mohammed (PBUH) and interpretations of those teachings by Islamic jurisprudential scholars" [15]. *Shari'ah* generally predicts benefits to the individual and the community, and its laws are designed to protect these benefits and to facilitate the improvement and perfection of the conditions of human life on earth. The *Shari'ah* encourages behaviors which reflect the basic values of Islam, including cooperation, thrift, and responsible economic and social justice. the objectives of *Shari'ah* known in Islamic laws as "*Maqasid As-Shari'ah*" which protect humankind from any problems whether its financial systems or other aspects of life, The commitment to Islamic law in the context of any action or decision leads to the final outcome of the objectives of *Shari'ah* "*Maqasid As-Shari'ah*"[16].

3.0 Methodology

This paper aims to investigate and detect doubtful business activities (*Shubuhah*) in corporate annual reports. Also, this paper seek to provide more tailed description of doubtful business activities made by public listed companies in various sectors for financial year 2008 by using content analysis.

3.1 Criteria of Shubuhah

The following criteria can be used to analyses whether activities of a particular company can be deemed involvement in Shubuhah or not. The criteria are suggested by referring to the Quran, Hadith and general Shari'ah principles, and formulated according to the activities of a particular company. The criteria are as follows:

First Criterion

The activity of primary of the company is based on usury (*riba*) as practiced by conventional financial institutions, including merchant banks, commercial banks, etc. evidence of. Quranic based on verses 275–276 in Surah al-Baqarah Meaning:

“Those who devour riba will not stand except as one whom the evil one by his touch hath driven to madness. That is because they say: ‘Trade is like riba,’ but God hath permitted trade and forbidden riba. Those who after receiving direction from their Lord, desist, shall be pardoned for the past; their case is for God to judge; but those who repeat (the offence) are Companions of Fire: they will abide therein (forever). God will deprive riba of all blessing, but will give increase for deeds of charity: for He loveth not creatures ungrateful and wicked.”

And also ijmak evidence the Islamic jurists from all the Mazhab unanimously view that *riba* is forbidden. Because consensus of opinion has become a forbidden *riba* unanimously(ijmak) (Ibnu Qudamah, Al-Syirazi, Ibnu Rusyd , Al-Zuhaili) [22].

Second Criteria

Companies that are its primary activities gambling such as companies running gaming, casinos, and others. The prohibition on gambling clear in the Holy Qur'an, where Allah s.w.t. ordered the faithful to avoid it, as decreed in verse 90, Surah al-Maidah:

Meaning: “O you who believe! Intoxicants, and gambling, (dedication of) stones, and (divination by) arrows, are an abomination of Satan’s handiwork: eschew such (abomination) that ye may prosper.”

Third Criterion

The activity of primary a company is the sale of goods and production and services that are prohibited in Islam, including:

- (a) Processing, producing and marketing alcoholic drinks;
- (b) Supplying non-Halal meat like pork, etc.; and
- (c) Providing immoral services like prostitution, discos, pubs, etc.

- Evidence regarding food, Islam urges the whole of mankind to eat food which is Halal and good. This exhortation is based on the decree of Allah s.w.t. in the Quran, verse 168, Surah al Baqarah: Meaning: *“O ye people! Eat of that which is on earth, lawful and good; and do not follow the footsteps of the evil one for, he is to you an avowed enemy.”* and verse:3 in Surah al-Maidah: Meaning: *“Forbidden to you (food) are dead meat, blood, the flesh of swine, and that on which has been invoked other than Allah’s name, that which has been killed by strangling, or by a violent blow, or by a headlong fall, or by being gored to death, that which has been eaten by a wild animal, unless you are able to slaughter it (in due form), and that which is sacrificed on stone altars.”*

- Evidence for prohibition of alcoholic drinks, Quranic evidence based on verses 90 in Surah al-Maidah; *“O you who believe! Intoxicants and gambling, and (dedication of) stones, and (divination by) arrows, are an abomination of Satan’s handiwork. So avoid such abomination that you may prosper.”*

It was narrated of a hadith: Meaning: *“Verily Allah s.w.t. curses intoxicants, those who squeeze grapes to produce, those who buy the grape juice for making the drinkers, suppliers of intoxicants, bearers of intoxicants, those who pour intoxicants into cups for drinkers, sellers of intoxicants, those who buy them and those who spend the money earned from the sale of intoxicants.”*(Hadith narrated by al-Hakim and Ibnu Hibban).

-Evidence for Prohibition on immoral activities, In the matter of adultery, Islam prohibits its followers from committing the abominable act, so much so that the perpetrator deserves the heaviest penalty should he or she be found guilty. Allah s.w.t. decrees: Meaning: *“Nor come high to adultery: for it is a shameful (deed) and an evil, opening the road (to other evils).”*(Surah al-Isra’: 32)

Similarly, with a company which carries out activities of immoral like selling alcoholic drinks, running pubs and discos, prostitution, etc. because such activities encourage vice. In order to determine the status of doubtful companies as a Shari'ah-compliant company/ securities, it is necessary to draw up specific conditions to ensure that doubtful elements are minimal and related to those excused by Shari'ah. In other words, the presence of doubtful elements does not affect the permissible part which is larger and more important. These conditions are:

1. Business of the investee company: The basic business of the investee company should be Halal. Accordingly investment in shares of traditional banks, leasing companies, insurance companies, companies dealing in alcohol, pornography, tobacco, etc. are not permissible.
2. Debt to total assets: There should not be any interest bearing debt of the Investee Company of the total assets. To measurement a company's financial risk by determining how much of the company's assets have been financed by debt. Calculated by adding long-term and short-term debt and then dividing by the company's total assets.

$$\text{Ratio of debt} = \frac{\text{Total Liabilities}}{\text{Total Assets}}$$

Indicates what proportions of the company's assets are being financed through debt. A ratio under 1 means a majority of assets are financed through equity, above 1 means they are financed more by debt. Companies with ratios of high are placing themselves at risk, especially in an increasing interest rate markets.

3. Investment in Shari'ah non-compliant business and income from Shari'ah non-compliant investments: The following two conditions for screening purposes:
 - a. The total investment should not include any Shari'ah non-compliant business.
 - b. The gross revenue (i.e. net sales plus other incomes) should not include any income from any Shari'ah non compliant investments.

The population is the *Shari'ah* compliant companies listed in Main Board of Bursa Malaysia. These companies comprised of 8 different sector industries, the total list of *Shari'ah*-Compliant Securities on May 2008 were 506 companies. A total sample of 218 public listed companies in accordance to the reference to (Sekaran) [17], when the population is between 500 and 549 the sample size should be 217. The data is collected from each individual company with regards to their firm attributes considered as individual data sources. The measurement and analysis is based on the evidences from the Quran and *Hadith* (also known as *Sunnah*). For example, the prophet (PBHU) said: "*What is lawful is clear and what is unlawful is clear, but between them are certain doubtful things which many people do not recognize. He who guards against the doubtful things keep his religion and his honor blameless, but he who falls into doubtful things falls into what is unlawful, just as a shepherd who pastures his flocks round a sanctuary will soon pasture them in it. Every king has a sanctuary, and God's sanctuary is the things he had declared unlawful*" [20]. Also, the measurement is based on what Imam Al-Ghazali divided the

matters of doubts as shown in the figure 1. Therefore the paper investigates the nature of the business of these companies which deal with business activities doubtful. This study will focus on two main activities to find out the doubtful activities of the companies. These activities are:

- I. A deal with conventional banks. Measurement are based on the amount of money deposited (revenue ,expenses, assets and liabilities) by the company with traditional banks or vice versa by measuring the total funds of the Company (i.e. its rate to total, that involves three cases:
 - Where a finite quantity of *Haram* has become mixed with a finite Quantity of *Halal*.
 - Where a finite quantity of *Haram* has become mixed with a non-finite (I.e. extremely large) quantity of *Halal*.
 - Where a non-finite (i.e. very large) quantity of *Haram* has become mixed with a non-finite (very large) quantity of *Halal*.
- II. Production, sale or purchase of suspicion products is measured based on the conflicts in the evidences (Differences), that involves three cases:
 - Conflicting the evidences of the *Shari'ah*.
 - Conflicting the *Halal* marks which Indicates of *Halal* and *Haram*.
 - Conflicting the similarities in the characteristics.

Scholars opinion may has a variety on the prohibited and permissible of a particular product, for example, Alabia' buthamn ajal (Credit sales) or the so-called bia' ala'inah. Where scholars who disagree, some of them said that *Halal*, and some said that it is *Haram*. Note that, every scholar has evidence for this issue. Imam Shafi'i said that it is permissible (*Halal*). As for The Imam Malik and Imam Ahmad, they said that it is *Haram*. And this study will take into consideration the amount of mixing in the origin of the product (mixing *Halal* with *Haram*), such as the arms industry or vessels that containing the harmful material melamine or products containing urea material containing compounds are harmful to the consumers.

According to Jamal Ahmed [7] “Related to the above issue is the issue of al-ma'kulat (food) where there are many doubtful matters about what we eat. If we check the ingredients that are used in many manufactured food today, e.g. biscuits, canned food and preserved food, there are ingredients that might raise the question of doubtfulness of what we eat. For example, lecithin is used in the manufacture of foodstuff especially in the west and Muslim countries import a lot of food from the west. If it is not specified otherwise then there is a high probability that the lecithin is derived from pigs (khanzir) because it is cheaper to produce. Otherwise, it should be mentioned whether it is derived from soya or plants or from *Halal* production”.

4.0 Data Analysis Techniques

SPSS (Statistical Package of Social Science) version 16.0 a software application, is used in the data analysis. The data collection is processed through different statistical techniques such as:

- I. Descriptive Statistics: Descriptive statistics will be used to describe the basic features of the data collected from the paper. Descriptive statistics provide some simple synopses about the measures and the sample.
- II. Correlations Analysis: This technique will be used for the purpose of testing hypotheses of the relationship between the variables.
- III. Regression Analysis: To evaluate any significant interaction between the independent and dependent variables, multiple regression analysis will be used.

5.0 Conclusions

This study is a novel study in the doubtful business activities (Shubuhah) classification for the Shari'ah-compliant companies since there are no previous studies, as to the authors' knowledge, have covered this area. Different measurements (other than the SAC measurements) have been employed to specify Shubuhah. Moreover, this study aims to clarify the Shubuhah fundamentals for further investigations. Corporate annual reports have been analyzed for the Shubuhah detection with more detailed description of the Shubuhah made by public listed companies in various sectors for financial year 2008 by using content analysis. The method conducted in this study and the measurements of Shubuhah have been discussed in details. This study contributes to both the academic and the practitioner.

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