



## Syariah Compliance Stock: Current Issues and The Way Forward

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**Abstract:** Shariah compliance stock shows promising growth in Islamic finance industry in the last three decades. It can be seen from the number of company listed in the Islamic capital market, issued by shariah committee. To be categorized as shariah compliance stock, stock screening will be conducted in ensuring that all company activities comply to shariah standard. The objective of this paper is to describe the shariah standar of stock screening in accordance with fiqh concept. In addition, this paper also illustrate some practice of stock screening in many countries. By conducting library research, this study found that shariah standard applied in stock screening is fully based on shariah and doesn't contravene with fiqh concept. Moreover, the practice of stock screening, still shows some differences which is affected by the difference of Islamic finance model.

**Keywords:** Shariah Compliance Stock, Stock Screening, Fiqh Concept, Shariah Committee.

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### Introduction

The stock market is one of the important instruments in the world economy today. Many industries and companies that use capital market institutions as a medium to absorb investment and to strengthen its financial position. For the development, large companies take advantage of the stock market as a means of strengthening the fund. Factually, the stock market has become the lifeblood of the modern world economy. Even the economic development of a country is often measured based on the facts that occurred on the trading floor. In this institution, every day has been a transaction worth millions of rupiah. It can be concluded, that the modern economy would not exist without the well-organized capital market.

As well as other modern institutions, capital markets can not be separated from the weaknesses and errors. The most alarming weakness in the stock market is the behavior of speculation. In practical side, many people found the processes of business transactions in the capital market is largely controlled by speculators. They always pay attention to market changes, make various analyzes and calculations, as well as taking action speculation in the purchase or sale of shares. These activities will ultimately lead to tremendous depression for the global economy.

History has told us that often the world economic recession caused by the practice of speculative transaction on the stock exchange's. Trading floor should be, -and at the beginning-, became a meeting place for investors and owners of the company (or its representative / agent / broker) as a means of raising funds for the development of the company, has been changed to "casinos" were solely oriented on the collection of capital, The impact is the emergence of various anomalies in the global economy.

Throughout the last century, the financial crisis continues to occur and recur. Having suffered a major crisis in 1929, the world economic crisis is never empty of the occurrences of more than 20 times of crisis. The most recent crisis in 2008, when the global economy again experienced tremendous shock. Starting from the subprime mortgage crisis in the United States

of America (USA) in 2007, in a relatively short time later, in 2008, turned into a financial tsunami that hit the system and global financial markets, not least the financial markets Indonesia (Agustianto, 2012).

Actually, the global financial crisis can be divided to two kinds of crises, first crisis in the capital markets (capital market) and the crisis in the money market (money market). Both forms of financial market that opens opportunities for transactions with a high degree of speculation. Both use "interest" as an instrument. Both also separates the monetary sector and the real sector as taught economic system of capitalism. In the conventional capital market, the distinct possibility of short selling and margin trading. The business activities are full of speculation motive. While in the money market, there are two big mistakes that result in the crisis, first, foreign currency transactions are motivated by speculation, either spot or not, such as forwards, options and swaps transactions. Both of that is the standard international finance is fiat money.

From this side, Islam through Muslim economists provide corrections and criticism. Criticisms made by Muslim economists, not solely based on the normative-religious aspects alone, but also consider the impact of speculative practices that occurred in the trading floor of the communal life. The emergence of such criticism is very logical and empirical, in tune with the needs of the regularity of natural law. So that the presence of "capital market alternatives", in addition to the conventional capital market which many practicing such speculation, is a necessity, and even necessary for a harmonious life together.

"The capital market alternatives" that are then known as "shariah stock market". It is a bid of Muslim economists are believed to be the solution of the adverse effects caused by the "conventional stock exchanges". As a tool that brings the owners of capital and the company, shariah stock market in idealism, dreaming of the practice of transfer of ownership in fairnes, transparent and based on the real value of the company. Syari'ah stock market wherever possible to avoid speculation practices that will ultimately lead to a wide range of economic contraction. Thus, what happens on the trading floor of Shariah is a representation of a real economic strength of a company representation.

However, there is a question, if a stock market fall into the category of Shariah stock exchange? What parameters are used to identify that it is the stock market Shari'ah? On the basis of these questions have been formulated a restriction and certain provisions as a filter, when a stock market fall into the category of Shariah stock exchange, which was then known as "shari'a compliant". Such provisions as ihtiar to ensure terpraktekkannya stock exchange is ideal. This paper will describe syari'ah compliant and real operations in several stock exchanges.

## **Overview of Stock Exchange**

### ***Definition***

Before discussing about the stock market and the efforts that the stock remains in the right corridor and give masalah for life along with the instruments "of Shariah compliant", it helps to be discussed beforehand about the understanding of the stock market. Most experts analyze that the word "exchange" comes from the French meaning "bag of money". The use of this word to refer to the current market because it has happened a wide range of transactions in which the perpetrators come to a certain place and they bring money in the pockets (Shabir, 1998).

Another source states that, said Bursa comes from a hotel in the city of Bruge, Belgium. At the front of the hotel there is the symbol of the currency. The hotel is usually used as a gathering place for employees of banks and agents from the rich to spend their wealth. Likewise, there is another opinion that says that the word "exchange" is attributed to a wealthy family in the city Bruge known by the name of Van De Burse (Barwary, 2007).

From the two origins of the word Exchange above can be drawn that the exchange refers to a place whereby people meet who have the intention to make a transaction, or in everyday life

is known as the market. Such inference is compatible with the notion of exchanges / markets from an economic perspective. It is a meeting place for those who do agreements and endorsements to transaksksi they do. Muhammad Farid Wajdy give a definition, that the exchange is a gathering place that is used for some time by the regional merchants, foreign merchants and their agents to conduct transactions (Wajdy, 1998).<sup>1</sup>

Meanwhile, the definition of shares is proof of the company's equity. stock represents part ownership of the company that issued the stock. On the basis of shares held, shareholders are entitled to a portion of the proceeds from the company's business. So in principle, the issuance of shares is a manifestation of terdeklarasiannya ownership of a company. In this sense, it should be if the value of a stock is compatible with the value of a company represented.

Furthermore, if the word "Exchange" combined with the term "stock", then it will form a new definition, namely the meeting place of certain parties who want to enter into transactions of ownership equity of the company. In therminologis, Islam Muhammad Sha'ban al-Ba'lawy, citing several sources, define the stock market in some point of view (Wajdy, 1998):

- a. A place that used to sell the shares, either by cash or credit through official agencies. Sometimes also called a transfer of wealth.
- b. Sustainable markets, there gathered the sellers and buyers who have a desire to carry out transactions by buying and selling government bonds and shares of companies that received at market prices. All transactions are conducted through official agencies.
- c. Specialized market for the stock market, where traders transact all protected by the Act.

The history of the rise of the stock market coming from Romania. Allegedly they were the first to know and practice the stock exchange, which is called "collegin Marcaterum" in the fifth century BC. Then the Greeks build a "barter market" in Athens. Likewise Arabs Ignorance, they conducted a winter trip to Yemen, and in the summer to Sham.

Then at the end of the thirteenth century AD in Italy appear a trading company and a bank to exchange money. The company traveled to the country "al-Fander" known by the name "al-Fimank". There they held exhibitions in famous cities and centers of trade between nations, which when it was one of which is the city Bruge in Belgium. The city is very famous among the Italian people, and is a haven for them. Then stood in the city Bruge Stock engaged in finance and trade up to the year 1485 AD, then stood up "Stock Anfras" City Antrop "al-Fander". In 1531 M Bursa in the city is very famous and become a center of trade.

Stock markets initially practiced in a way that is quite simple and not have a system and its own rules as it is today. Throughout the history of its development, shares passed certain phases aligned with the goods traded in the spot and control systems.

#### *Phase Good exchange*

It alleged that, the exchange of goods first appeared in Paris in 1304 AD Then in Amsterdam in 1608M, which is central to long-term trading. Shifting agricultural society to industrial society in Europe impacts the change of agricultural systems to the industrial system. The farmers sell their agricultural products to the city, which then creates the emergence of markets of goods in urban areas. This condition is used by traders to always be looking at changes in price. They play the price changes to reap the benefits. A group of local people, known as speculators. Tragically, many banks engaged in the financial sector to support and cooperate with this speculator. Then came the exchanges in various places called exchange of goods (Barwary, 2007).

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<sup>1</sup> Muhammad Farid Wajdy, *Dairah al-Ma'arif al Qarn al-'isyryn*, (Beirut: Daar al-ma'rifah, tt), Jilid 3 hlm 393.

*Phase Nota Exchange*

In the thirteenth century King Philip in France allow the agent banks to circulate a trade memorandum. Likewise, the British did the same in 1688. The Agent make a transaction using a credit bonds.

*Phase Stock Trading in the Stalls and Streets*

After experiencing the development of exchanges of goods into the stock market, traders are looking for a special place that is used for the transaction. At first they were looking for a place on the roadside, which is seen as strategic. In London umpanya, merchants gathered in the halls and stalls to drink when it rains.

In 1790M, in the United States was in the war for independence, the federal government issued debt instruments of unity. The transaction was carried out in taverns and on roadsides. The agents gathered under trees in wall street, then moved to the cafe Tonitin. In France, before the opening of the Exchange paris, transactions carried out in Kababu Street.

*Phase stock loose from the building and systems*

This phase is the period in which the stock is traded independently. Stocks traded in its own place and even as apart from the development of the industrial sector and the emergence of large-scale projects that make investors are not quite able to manage their investments alone. Investors need others to manage the turnover of capital, so companies need another agency to manage the influx of investment funds. Then came the investment institutions that operate with the company bring together financiers. This institution has its own system that does not represent the Vendor that need capital. London Stock Exchange, New York and Tokyo exchanges are very famous in the world and recorded for the first time has its own system.

Based on the history of stock exchanges mentioned above, can be taken the sense that it seems since the beginning of the meeting of the agent and the seller in a place that was then known as the exchange can not be separated from the element of speculation, although it must still be recognized that basically share sale is the sale of part ownership of an item (currently the company). In reality, envisaged that the condition is justified and even supported by the authorities and relevant institutions. What happened in Paris in the year 1304 AD, the first - when the emergence of exchange of goods, is to confirm the phenomenon. Therefore, if the current stock market is loaded with speculative behaviors, -which later became a point of criticism of the values syari'ah-, then immediately be understood as a necessity based on the historical background.

If, the phenomenon was agreed, then therminologi stocks lose substance. Stocks which basically represents a value of the company, no longer describes the real value of the company because no other motive when traded. He stands alone, apart from the real value. Surely it is becoming a concern. And at this point that substantially the presence of "stocks of Shariah" is a critique of the existence of conventional stock exchanges.

*Issue in Conventional Stock*

As mentioned above, the conventional stock market there is a worrisome thing for the economy, which is the motive of speculation. In the realm of the general, the actual behavior of derivatives and the impact of the speculative nature of this can be parsed more widely. For the purposes of this paper, only limit to the criticism directed at the conventional views on capital income (capital gain) based on the theory of interest and policies on risk management based on a view; that the risk can be traded off of its real activity. Speculative practice plural actor

performs conventional stock exchanges berkeliat kelindan with its view of interest and lack of proper risk management.

The next criticism came from the Muslim economists, also come from non-Muslim economists. J.M. Keynes for example; he mentioned that the stock exchange has failed to meet market functions. According to the trading floor provides an opportunity benefits to be derived from price fluctuations are not related to the economic performance of companies. The practice of speculation on the trading floor is an activity toy market psychology, and it contrasts with the activity of the company. Furthermore Keynes called, the bourse should be responsible for the resulting misallocation of resources. When examined more deeply, what Keynes disampaikan the capital denies that obtained without based on real assets, and that hakeket flowers.

Similar views submitted Seif El Taj. El-Din. He explained about the weakness of the stock market non-Islam (conventional). In his view, the stock market conventional produce speculative behavior that is not related to the real sector. The desire of investors (buyers of shares) which was dominated by speculation motive and desire to get a capital gain in the short-term transactions is the cause of the inefficiency of the stock. In the long term, are caused investors often toying with the stock price on the stock exchange which is not compatible with the real price (El-Din, 2000). Behaviour of investors (buyers of shares) as it was triggered by the interest rate system that is suspected to be because the advent of the economic bubble that is very dangerous for financial strength. Rate system will also thins the fundamentals. Flowers applied not based on real assets. therefore, he does not have an established system of hedging. No matter how anticipatory measures carried out, if the system is not well established hedge, it will be very easily lead to the collapse of the economy (Chapra, 2008). Thus, it became clear that the system of interest on which the operation of the stock market is considered to have a negative impact. Then he should be rejected and the need to get an alternative.

The other side which is has relationship with the system of interest and need to be criticized in conventional stock market is risk management. Analysis of KabirHasan said that in the conventional financial system, risk management by basing interest culminate in practice:

- a. Financiers tend not to take (avoid) the risk; This phenomenon is reflected in the system of interest. Where basically, the application of interest, congruent with the unwillingness of investors to accept risk
- b. The parties dared take excessive risk solely for profit. This phenomenon is reflected in the practice of speculation (gambling) is widely practiced by the derivatives market
- c. The emergence of risk transfer to the borrower; as a result of the system that gave rise to interest investors unwillingness to accept the risks that may occur, then the risk is fully transferred to borrowers who are not necessarily deserving of such risks (Hassan and Kayed, 2009).

Three of the above is a paradigm of risk management that develops behind a suit of interest system. consciously or not, the world financial crisis caused by the paradigm above. In the context of conventional stock exchanges, emerging practice is the occurrence of excessive self pemberanian against risk. The parties do teansaksi no longer consider the risks that will arise. In fact, the risk tends to be used as a commodity to be transacted. Risks to be addressed separately from real assets, and finally emerged speculative attitude.

Given this reality, Kabir Hassan suggests that, forever the economic crisis will continue to occur during the practice in the stock market is still perpetuating a mindset like that. Separation of the value of shares of real value will trigger the vulnerability of macroeconomic fundamentals. In harmony with this, in the realm of a more concrete, Kabir Hasan unravel the fundamental causes of vulnerability of the economy as follows:

- a. The game in the derivatives market are complex and redundant. Games on the derivatives market can already be categorized as gambling harm.

- b. Financial market conditions that show the imbalance between assets and liabilities. This is the result of practices in derivatives that have been turned into gambling.
- c. Rules that are not capable of controlling the banking world to apply a transparent and accountable.
- d. The existence of fraud, corruption and greed. extreme economic greed override the basic ethical considerations in investment.
- e. Domino effect caused by the collapse of financial institutions in the financial markets.

Some of the views above explained to economic actors about the dark side of practice that occurs in conventional stock exchanges. Market participants should be fully aware of this and is able to think clearly and fairness, if they want better economic conditions. They are required to be able to analyze in a fair and even provides an alternative solution that is deemed worthy of humanity can save the economy from a variety of crises caused by the behavior of the speculators.

### ***Stock Market in Islamic Perspectives***

Islamic stock market is one of the business organizations representing economic system of Shariah / Islamic. He is a derivative of a universal theory of Economics Sharia. To that end, the institutional operating system is manifest from the messages that are moral-religious ideal of the holy message religion understood. In addition, he has explored the philosophical framework of Shari'ah values.

Very fundamental foundation of the theory of Islamic economics is "monotheism". Before humans exert all his human ability, he was invited to trust "the presence of the Essence of the Supreme single in this life, as" Prima Causa "in any event. This belief is an absolute demand, bagaimana man should behave. The impact of this principle, people are no longer absolutizing what came from him, on the contrary they will seek what is most true that originated from outside himself. Thus, human interest is not to do something on the ground to meet the desires of the human person, but to do something because it is in line or diridlai by the Essence of the Supreme One.

Human behavior is a form of submission to divine authority and obey the commandments accept it as absolute truth. So dikenallah commands and prohibitions. The command to be executed and restrictions that must be shunned. That's where then there are limitations that must be recognized as a corridor behave. After recognizing private property, the profit motive and market forces, Islam has placed certain restrictions on economic activity Divine. These restrictions imposed by Allah, the One Who has the knowledge without borders, without being able to be removed by human authority. Prohibition of riba (usury or interest), gambling, hoarding, dealing illicit goods or services, the sale of short-term and speculative transactions are some examples of the limitations of the Divine. All of these restrictions are combined together have a cumulative effect to maintain balance, distributive justice and equality of opportunity.

Critics of the practice of conventional stock-centered flowers and risk management sebagaimana described above originated from the paradigm. From here later developed into a more practical realm of operational and financial systems of Islam. Refusal necessitates interest to see that Islamic finance has a built-in risk management mechanisms that allow the global financial system perform an orderly manner and avoid crisis. all financial activities must be carried out by relying on social justice and should take priority in the Islamic financial transactions, and the equity financing should be more dominant in the form of financing in the Islamic financial system.

One of the characteristics of Islamic finance is a view that there is a balance between finances and assets. Then the shares traded on the exchange is essentially an asset sharing. For that purpose the Islamic perspective the stock market, are as follows (Metwally, 2001):

1. Encourage saving to fully participate in the ownership of the company; they took part in sharing profits and risks.
2. Give the chance for shareholders to obtain liquidity by selling their shares in accordance with the role of the stock exchange.
3. Allows business enterprises to raise external capital to build and expand their production lines
4. Separating the business operations of the company's short-term fluctuations in the share price which is the main characteristic of the stock market non-sharia
5. Triggering investments in the economy are guided by the company's business performance is reflected in the stock price.

Meanwhile, Seif I. Taj. El-Din (2002) found some features that characterize Islamic model of stock exchanges include:

1. Financial Markets subordinated to the real sector of the market, in the sense that the movement should follow the financial markets and is strongly associated with the movement in the real sector. This means that the supremacy of the knowledge of the real economy is very significant in directing the movement of stocks.
2. The market value is based on expectations of long-term, not short-term changes, this will limit purely speculative tendencies and encourage long-term investment. The existence of a company that has growth expectations is the main aim of the stock market.
3. The motive of investors is not only limited to the desire for "capital gain" per se, but more than that, the desire to participate positively achieve the economic goals of the Muslim community.

The characteristics of the stock market in the perspective of Islam mentioned above illustrates that the exchange floor really is a place to improve the real sector. If these conditions can be maintained properly, then the increase in the value of shares on the stock exchange is menunjukkan strength of the real sector. So perekonomian will move in real time, instead of being in the shadow of gambling games.

While ihtiar to maintain that the practice of exchanges is always in the right corridor, it takes instrument control to oversee the compliance of market participants. Seif I. Taj. El-Din provide alternative models are worth considering:

1. The need for a special body to be given the authority to take control solely intended to cover gharar and juhalat (usulfiqh language: sad al-dzari'ah). The Board consists of experts who have skills in financial analysis and investment. They will expect the exchange rate of the shares through field studies based on the latest statistics to weigh all the economic objective indicators that affect the stock market. Nonetheless, the agency must remain cautious because they do not rule out the results of the analysis of the field will bias the statistical error.
2. The second alternative: Alternative Technical advice before it can be modified in the following way: the establishment of an independent technical body, -with the supply activity with all the technical expertise and analysis necessary-, that in order just to give free advice to shareholders and potential investors. After that, the exchange value of the shares will be determined by the business activity in the market as usual. The agency may be financed through fees charged to shareholders, setting that will direct them to benefit from consultancy services, as well as the price they will pay for, and ensure restrictions and jahalat gharar effects of exchange rates on the

market. This is probably the minimum limit required to formulate an Islamic stock market mode.

It is expected that the stock exchanges of sharia have major contributions, including:

1. It is possible to have a stock exchange in an interest-free economy based on the teachings of Islam
2. Speculation can be avoided.
3. The proposed structure of the stock market to avoid excessive fluctuations in stock prices and yet maintain a high level of liquidity and financial efficiency
4. Performance in Islamic economic exchanges will be connected directly and largely to the performance of companies that issue shares.

### **Syari'ah Screening in Islamic Stock**

As a place to trade stocks, stock exchanges are required to provide accurate information about the disclosure of investment through transparency and accountability index. Index encourage companies to disseminate information to investors, so investors can make intelligent decisions about how and where to invest by providing the opportunity to make measurements relative performance. If both of these are in a stock exchange, it has been consistent with the teachings of the Shari'a because they promote a decision on the part of investors who have a duty to be careful about where and how their money is invested.

Stock markets syari'ah course memilliki substantive difference with a conventional stock exchanges. The difference lies in adherence to the stock exchange values of the Shari'a. Stock markets syari'ah make every effort to comply with the Shari'ah values set specific guidelines. Thus, the stock market has raised Shari'ah screening for stock indices. Below will be briefed on matters related to Shari'ah screening.

#### ***Definition and Objectives***

As has been discussed earlier, that the distinguishing factor between the stock exchange and the stock exchange conventional Shari'ah is their adherence to Shari'ah values for stocks of Shariah. Compliance with Shari'ah values are a fixed price that must be met. For the stock market Shari'ah, there must be certainty that all activities can meet Shari'ah principles since the beginning of the creation of products, operations and up to aberakhirnya a product.

To ensure compliance with the required compliance with Sharia principles penyaringnya instrument called Shari'ah screening. He is an instrument established by the Institute which has the authority to oversee the index in order to stay in the corridors of shari'ah. Likewise, he is a "filter" on the stock exchange Shari'ah of indices considered not within their Shari'ah values. Through the instrument of indexes listing on the stock exchange are guaranteed syari'ah avoid things that are contrary to the principles of Shari'ah as usury, gambling, gharar, maksiyat and injustice. Its presence is very important for adherence to the values of the Shari'a.

The existence of Shariah screening will determine which indexes can be entered in the stock exchange Shari'ah. This will allow investors to invest in shares of Shariah. Investors will be fully believe in the company who passed by the Shari'ah Board on the basis of this instrument. So in general, Shari'ah screening instrument would deprive investors doubt that really wants investment in companies that fit the Shari'a.



## Syari'ah Screening

Before discussing the content of sharia screening, it helps a little for reviews about the theory of buying and selling in Islam. In hakekatanya, trading that occurs on the trading floor is the practice of buying and selling. So it becomes important to know how to look at the sale and purchase of Shariah. Al-Qur'an Al-Baqarah 194 and al-Nisa '29 states that in principle, the purchase is allowed as a means of seeking good luck. The general principle of sharia in buying and selling can be seen from some of the opinions Ulama 'fiqh in various fiqh literature. If specified, the principles relating to two things;

- a. Associated with the goods; the general principles that must be met include:
  - Goods or tradable instrument so it must be halal haram forbidden to sell traded goods such as alcohol, drugs, bank interest usury. (QS.Al-Maidah: 3, 90)
  - Goods helpful merchantability and bermaslahat with their value to the consumer or buyer and not harmful.
  - Goods are traded may be submitted, either directly or symbolically overall
  - Items that are traded must clear the situation, its properties, its quality, and its unit number and other characteristics.
- b. Related to the transaction process:
  - Offers should be accompanied by a process of "Islamic marriage contract" both in terms of traditional or modern. as in paper trading that displays the commercial documents in the form of paper or elektronik trading / e-commerce data display computers and other electronic data (paperless trading). Both media are substantially shows the nature of goods, quality, type, guarantee the accuracy of data and documents as well as proof of the transaction agreement (dealing).
  - Transactions carried out on the basis of mutual voluntary ( 'an taradhin), understanding and clarity. (QS. An-Nisa ': 29)
  - The process of contract there is no element of fraud or gambling (gambling). (QS.al-Baqarah: 278, al-Maidah: 90)
  - The process of contract conducted fairly, honestly and mandate (QS.al-Baqarah: 278)

Such principles that inspired the Muslim economists to formulate rules that must be met in all sale and purchase transactions, including the sale and purchase of shares, known as trading. To meet these general principles in the buying and selling at the top, the stock market has no provisions that used to download scerening companies that can be received in exchange. Such provisions are (Siddiqie, 2002):

- a. Prohibited industries; it must be ensured that the companies that issue stocks not companies engaged in the prohibited by Shari'ah. This bias is known from two things. First, in terms of whether he practiced usury or not. If a company is practicing usury, it includes companies that are prohibited and can not be included in the index. It is compatible with the principles of Shariah, particularly on aspects of the transaction process. Riba is the result of the process. Second, judging from the products they produce. A company included in the index of Shariah for not producing illicit goods such as liquor, containing pork, goods that endanger life together and others. It is compatible with the principles of Shari'ah that requires halal goods are bought and sold.
- b. Acceptable financial ratios; this instrument emphasizes the company's financial ratios. For companies that can get in the index must have the financial ratios as follows:
  - The ratio of total debt and assets; Firms were not included if the total debt divided by the average market capitalization of 12 months is greater than or equal to 33% (one third).

- The ratio of liquid and total assets; Companies are not included if the amount of cash and interest-bearing securities divided by average market capitalization is greater over 12 months equals 33 (third).
  - Total Revenue and Assets; Companies are not included if the account receipts divided by total assets is greater than or equal to 33%.
  - The ratio of non-kosher receipt of funds; basically the company is listed on the shariah stock exchange is not accept of interest. However, if forced (in DJIM) can be tolerated no more than 5%, (another opinion 10% or 15%), and contributed to social solely to "cleanse" the company of non-halal revenue.
- c. Monitoring, removal and replacement; the question is how the company is always able to maintain himself from Shari'ah compliance continuously. In this context, it must have authoritative institutions to ensure the sustainability of shariah compliance. The agency has the authority to give advice on Shari'ah excluded from the index. Vice versa, if the agency said a company continue to meet the principles of Shari'ah he can recommend to stay logged in Shari'ah index.

The three provisions will be able to filter the indices listed on the stock exchange Shari'ah. Thus, the practice of Shari'ah in the stock market will be able to avoid speculation which tends to be maysir namely gambling (gambling), data and information concerning the commodity unit is clearly good, quality, criteria, types and its properties as well as price and surrender, the use value bring serious benefits and no harm.

### **Shariah Compliance Stock Implementation.**

Adherence to the principles of Islamic finance has become an important agenda of some countries that want to implement a system of Shariah. In general, almost all countries adopt a model that uses the role of Shariah Advisor (Sharia Advisor) to ensure compliance with Sharia principles in the process of creating products and Sharia Supervisory Board (Sharia Supervisory Boards) to supervise compliance with the fulfillment of Sharia principles in the operational activities of Islamic finance , Below is described some of the efforts of the State in ensuring the consistency of the values of the Shari'a.

#### ***Europe and USA***

Based on the results of the study (research paper) conducted by the Financial Services Authority (FSA) entitled "Islamic Finance in the UK: Regulation and Challenges" written by Michael Ainley. et al. In November 2007, the Islamic finance industry has grown quite well in the European region. Several countries in Europe have started to introduce the concept of shari'a finance in the financial industry. One of the states in Germany even has published Sovereign Sukuk in 2006 ago. Among the countries in the European region, the State's most rapid development of the financial industry is the United Kingdom.

In terms of compliance assurance adherence to Islamic principles, in particular the UK and Europe and America in general, carried out by market participants asks the opinion of experts on sharia (Sharia Scholars). They are individuals who are considered to have sufficient knowledge to give an opinion or to supervise the financial activities of sharia. The shariah experts are not organized into an institution with the authority to issue an opinion on kesyariahan an Islamic financial product or activity. The responsibility for opinions issued is the responsibility of each individual.

Market participants who require expert at the creation of sharia compliant products usually use sharia expert who acted as Shariah Advisor. While the parties or Islamic financial institutions that conduct Islamic financial business using the services of sharia experts who act

as DPS. However, sometimes DPS on an Islamic financial institution also plays a role in both the product creation process and in overseeing the daily operations of Islamic finance.

Financial authorities in several European countries and the United States did not specifically regulate the existence of sharia experts, either as Shariah Advisor as well as DPS. Nevertheless, market mechanisms require their presence in order to ensure that the activities of Islamic financial business conducted in compliance with the Islamic principles.

To increase effectiveness and efficiency in the creation or new products, one of the solutions that can be used is to involve experts of sharia in the product development process. This resulted in syariah experts appear to have a managerial role in the company. Practice developed at this time, the company started to hire employees who understand sharia aspects. This can be helpful in identifying early the potential products that are not in accordance with sharia.

### ***GCC Countries***

The setting and the practice of sharia expert in this area can be identified into two parts, namely the countries that govern the existence of the advisory board of sharia (shariah advisory board) and sharia supervisory board (shariah supervisory board), as well as countries that do not regulate their existence. According to Dr. Aznan Bin Hasan in his presentation on Optimal Governance of Shariah and Islamic Finance describes several models of regulation and practice of sharia experts in the Middle East region which includes Kuwait, Bahrain, UAE, and Qatar.

In the state of Kuwait, Islamic financial institutions have the authority to regulate themselves (Self Regulation) where the existence of the Shari'a advisory board is not regulated in this country. However, in chapter 10, section 3 of the statute of the Central Bank of Kuwait No. 32 of 1968 regulates the existence of sharia supervisory board. In the law stated that any Islamic bank shall have an independent sharia supervisory board, with members of at least three people in one Islamic bank.

Setting a higher authority sharia (A higher Shariah Authority) conducted by the UAE state which has the authority to guarantee the legitimacy of each transaction made in accordance with the provisions of sharia. The arrangement stated in the Federal Law No. 6 in 1985. Structurally, this authority is in the law and Islamic affairs minister responsible for supervising Islamic banks, financial institutions, and investment companies. Furthermore, in the Constitution Act stipulates also the obligation of every Islamic banks, financial institutions and investment firms to include sharia supervisory authority (shariah supervision authority) in the articles of association or similar documents. The sharia supervisory authorities responsible for overseeing all the transactions and practices related to the principles and provisions of Islamic law.

In the state of Bahrain, where sharia advisory board or supervisory board of sharia is not specifically regulated. But in the Central Bank of Bahrain there is the National Islamic Council (National Shariah Board) whose task is to assist and verify the suitability of sharia on a product that is published and on any financial institution of sharia required to have Shariah Supervisory Committee and management shall be subject to the Standard governance AAOIFI for institutions islamic financial.

Almost the same as Kuwait, Qatar countries also practice self-regulation of Islamic banks, and no shariah advisory board at the central bank of Qatar. But they have shariah supreme council that is in Minister of Awqaf authorities for clarification on any issues or cases in kesyariahan aspect. In terms of the settlement on a case by case basis, the central bank pointed to sharia scholars to solve any of these problems.

### **South East Asia**

One of the countries in Southeast Asia is quite rapid development of the Islamic finance industry and also quite serious in addressing the sharia compliance is Malaysia. This country has pioneered the role of Shariah capital markets on equal terms with conventional capital markets. Shari'ah capital market in Malaysia is one component in the overall capital markets, which play an equally important role as a component of other capital markets drive economic growth in Malaysia. Islamic capital markets function in parallel with the conventional capital market, and talah play a complementary role to the Islamic banking system in broadening and deepening the Islamic financial markets in Malaysia.

In terms of compliance with Shari'ah, in Malaysia has established the Shariah Advisory Council (Majlis Shariah Adviser) in May 1996 to advise on the Shariah to Suruhanjaya in relation to the Capital Market Shari'ah. Members of the Shariah Advisory Council (SAC) are experts terdiri of individuals qualified to give their opinions on Sharia and has extensive experience in the use of the principles of Shariah, particularly in the field of Islamic economics and finance. Currently, a wide range of capital market products available for Muslims who will invest and bertansaksi in Islamic Capital Markets. Those products include a list of Islamic securities issued Suruhanjaya, Bonds, Mutual Funds Shariah, Shariah Index, warrants, futures contracts Crude Palm Oil.

Guidelines On The Offering Of Islamic Securities ( "Guidelines") issued Suruhanjaya Security dated July 26, 2004 is a guide for the issuance of securities based on Sharia or Islam. Any Person who issuance or offer to buy or make an invitation to purchase Islamic Securities shall be approved by the Securities Commission (SC) is based on section 32 Securities Commission Act 1993 (SCA).

### **Conclusion**

In Islamic economics, where there is the prohibition of interest and emphasis on correct risk pngelolaan, where stocks are functioning properly is very important. Simply put, the stock can be defined as a sign of ownership or possession of a person or entity in a company. In this context, in principle, the stock is one implementation of Musharaka contract with their equity participation in the form of a company. Stock emergence of Shariah is aihitai Muslim scholars after they are concerned about the behavior of the stock market has led to the conventional gambling.

Point of criticism in conventional stock exchanges is their speculative attitudes to profit as much as possible while harming other investors. Speculation is done through margin trading, short selling and option to exploit the opportunities the capital gains through speculative transactions. And that is the main point of criticism in conventional stock exchanges. If grouped, an outline of a conventional stock exchanges occurred based on the principle of interest and risk management right. Two things that triggered the emergence of various anomalies in the economy.

In contrast to the conventional stock market, the stock market Shari'ah fair market value of Islamic securities valuations reflect the actual condition of the assets on which to base the issuance of these securities in accordance with market mechanisms that are not engineered. When the market price of hard to tell, then in terms of Islamic securities are traded through the stock can use the weighted average price of transactions on the stock exchange last day as a reference.

Therefore, Islam has created a set of instruments that the stock market has always adhered to the basic shariah values . There then been recorded Shari'ah screening. In general, screening syari'ah outlined, that businesses that do not meet the standards prusahaanshari'ah will be rejected. These companies are measured viewed in two ways. First, mechanisms and operations performed; for example investments that are not in accordance with Islamic law in terms of the

instrument. Secondly, the products produced; eg investment into companies that have assets in accordance with the Islamic sharia. These industries are engaged in: Alcohol, narcotics, psychotropic and addictive substances and their derivatives; Unclean food and its derivatives; Pornography and the art of showing off the beauty of the female body; prostitution; Gambling; Companies that run their business and provide and obtain profits through interest (interest); Arms industry is clearly the product used against the world of Islam or Muslims.

All companies listed on the stock exchange of Shariah, must comply with the above. To that end, established a wide range of institutions with the authority to ensure the level of compliance of Shariah, known as Sharia Board. In countries whose companies syari'ahnya rapid growth. Sharia Board has a significant role. Institutions can provide advice on compliance with Shari'ah and also can evaluate whether a company actually meets the standards of Shariah or not. With dimunculkannya Sharia Board will have a positive impact particularly to investors.

## References

- Agustianto, *Bahaya Transaksi Derivatif*, [www.pesantrenvirtual.com](http://www.pesantrenvirtual.com),
- Al-Barwary, Sya'ban Muhammad Islam, *Bursa Saham menurut Pandangan Islam*, (Kuala Lumpur: Jasmine Interprise, 2007) Cet I
- Chapra, M. Umer, *Innovation And Authenticity In Islamic Finance*, A keynote address presented at the inaugural session of the Eighth Harvard University Forum on Islamic Finance held on 19-20 April 2008 in the Harvard Law School
- El-Din, Seif El Taj. *Toward an Islamic Model of Stock Market*, *J.KAU: Islamic Economi.*, Vol. 14, 2002
- Hasan, M. Kabir, dan Rasem N. Kayed, The Global Financial Crisis, Risk Management and Social Justice in Islamic Finance *ISRA International Journal of Islamic Finance*, Vol. 1, Issue 1, 2009
- Khodiri, Muhsin Ahmad, *kaifatata 'alam al-Bursah*, (Kairo: Daar al-Ifta, 1996) cet I
- Metwally, Mochtar M. "The Role Of The Stock Exchange In An Islamic Economy"; dalam *An Intruduction to Islamic Finance* Ch. 16 (Aboud Agildan Ghazali)
- Shabir, Muhammad Ustman, *al-Muamalat al Maliyah al-mu'ashirah li al Fiqh al Islami*, (Yordan: Dar al-Nafais, 1418H/1998 M) cet. II
- Siddiqui, Rushdi, *Islamic indexes: the DJIM framework*, dalam Sohail Jaffer, *Islamic Asset Management*, Ch. 4 Euromoney Books
- Tim Kajian Pemberdayaan Pelaku Pasar (Ahli Syariah) Pasar Modal Departemen Keuangan Republik Indonesia Badan Pengawas Pasar Modal dan Lembaga Keuangan tahun 2008. Lihat halaman 11 – 21.
- Wajdy, Muhammad Farid, *Dairah al-Ma'arif al Qarn al-'isyryn*, (Beirut: Daar al-ma'rifah, tt), Jilid 3