

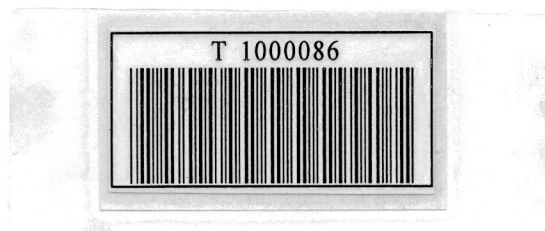
**INVESTING IN SHARIAH-COMPLIANT AND SHARIAH NON-
COMPLIANT COMPANIES: A CRITICAL REVIEW OF
SHARIAH SCHOLARS' OPINIONS**

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ABSTRACT

This study investigated the scholarly opinions about companies which their core activities are in line with Shariah but have a small amount of prohibited elements in their activities. Firstly the study briefly discussed the significance of investments and banking activities. Later it presented the discussions about mixed companies and provided justifications for carrying out such a research and the expected implication or contributions from the study. The research covered reasonably lengthy literature regarding the previous studies and outlined some key concepts which were important to the research. Then, the research presented a detailed discussion of the two scholarly views with their evidences and investigated the implications of the scholarly opinions regarding mixed companies. After the discussions of the scholarly standpoints, the research found that the overwhelming majority of the scholars –both from the proponents and opponents of the mixed companies –are of the view that these companies are not Shariah-compliant but the proponents approved them because of necessity, need or public interest. The research also found that there is no statistical evidence indicating the presence of a large-scale need or necessity for investing in mixed companies. Based on this, the study recommends that such companies should not be listed as Shariah-compliant but they should be listed separately to be allowable for necessity only as all scholars are in consensus that things which are clearly prohibited in the primary sources are not permissible except in a situation of necessity. The study also recommends that Muslim investors of mixed companies should undergo a screening process to determine the absence or presence of a situation that compels them to invest in mixed companies.

ABSTRAK

Kajian ini menerangkan tentang pandangan ulama' tentang syarikat-syarikat yang aktiviti utama adalah berlandaskan shariah tetapi mempunyai sedikit elemen perkara-perkara yang di larang. Pertama sekali, kajian ini menerangkan secara ringkas tentang kepentingan aktiviti pelaburan dan aktiviti perbankan. Seterusnya ia menyetengahkan perbincangan mengenai percampuran syarikat dan menerangkan sebab-sebab kajian ini di jalankan dan implikasi yang di diharapkan atau sumbangan dari kajian ini. Kajian ini juga merangkumi sebab-sebab berkenaan kajian terdahulu dan beberapa konsep utama yang penting untuk kajian ini. Kemudian kajian ini menerangkan secara meluas tentang perbincangan antara dua pandangan ulama termasuk bukti-bukti dan implikasi pandangan ulama tentang percampuran syarikat. Setelah perbincangan antara dua ulama, kajian ini mendapati bahawa kebanyakan ulama, samaada dari pembangkang dan pencadang oleh percampuran syarikat, di dapati syarikat-syarikat ini bukanlah dari kategori yang berlandaskan shari'ah akan tetapi pencadang menyetujuinya oleh kerana ianya satu keperluan terhadap kepentingan awam. Selain itu, kajian ini juga mendapati, tiada bukti statistik yang mengatakan dengan adanya skala besar keperluan untuk melabur dalam percampuran syarikat. Kajian ini mencadangkan supaya syarikat tersebut tidak sepatutnya tersenarai dalam kategori berlandaskan shariah akan tetapi ianya harus di senaraikan berasingan untuk di bolehkan bagi keperluan sahaja sebagaimana perselisihan pendapat dari ulama' bahawa perkara yang secara terang adalah di tegah dalam Al-Quran adalah tidak dibolehkan kecuali dalam situasi keperluan. Kajian ini juga mengesyorkan bahawa pelabur Muslim dari percampuran syarikat haruslah menjalani proses penapisan untuk mengetahui ketiadaan situasi yang memaksa mereka dari melabur dalam percampuran syarikat.

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