



## THE RELATIONSHIP BETWEEN SHAREHOLDERS AND SHUBUHAT: A STUDY ON THE ISLAMIC BANKS IN MALAYSIA

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### ABSTRACT

*One of the most important factors that affect the policies of banks is controlled by an investor or a group of investors, and a large proportion of the shares of the banks; this is so-called concentration of property Shleifer and Vishny (1986b; 1997). If the bank's shareholders majority is Muslims, they may influence the bank to comply with Shariah rules. In return, their customers will enjoy higher satisfaction, (Aziz, 2009). Therefore, the objectives of this paper are: first to find out if there are such things as shubuhahat in Islamic banks. If there are, second to determine the relationship between shubuhahat and the percentage of Muslim shareholders in the Islamic banks. A total of 21 Islamic banks in Malaysia representing the whole population were selected. Secondary data was used and sourced from the Banks' 2010 annual report. Using descriptive statistics, the existence and the extent of existence of shubuhahat in Islamic Banks operating in Malaysia were ascertained. It was found that shubuhahat do exist in a number of Islamic Banks, and the higher the percentage of Muslim Shareholders is, the lesser shubuhahat exists.*

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**Keywords:** Muslim Shareholders, Doubtful activities (*Shubuhahat*), Islamic banks

### INTRODUCTION

According to the principles of *Shariah*, all business activities must be in accordance with rules and regulations of *Shariah* and any activity against these rules and regulations will be *Haram* in Islam. Therefore, business activities are very essential in *Shariah* compliance criteria. In this study, business activities are referred to those business deals; only clear businesses and not dealing with *Shubuhahat* (El-Gamal, 2000).



Although the Islamic banking system is different from the conventional banking system, there are still some similarities between them. For instance, an Islamic bank conducts its activities in accordance with the Islamic *Shariah* principle that strictly prohibits any payment or receipt of interest. However, the Islamic bank can also offer products and services which are similar to those offered by a conventional bank (Gerrard and Cunningham, 2001). The difference mainly lies in the manner the banking transactions are conducted and the way money is mobilized and recorded. Nowadays, the institutions of Islamic banking operate in a very competitive and demanding industry. In order to survive in this challenging environment, they should be able to meet their customers' financial needs. Innovation of product is seen as the key successful factor in maintaining the current growth of business. Interestingly, the new products development can be seen more extensively in the institutions of banking in South-east Asia when compared to innovation within the Middle East.

Malaysia is considered to be one of the key players in the Islamic finance industry; not only in Asia but also globally. Malaysian government has introduced many rules and regulations that are complying with the provisions of Islamic *Shariah* (Mohamed, 2008). Islamic financial system in Malaysia has seen significant growth in terms of demand, acceptance and development since its first introduction in 1963. It simply started with the establishment of the Malaysian Pilgrims Fund Board *Tabung Haji* in 1963, which is considered the first Islamic financial institution in Malaysia (Thahirah, 2009). After that, several Islamic institutions were established including the Islamic Bank of Malaysia in 1983, followed by the development of the Islamic money market in 1993. *Shariah* approved securities were listed in the Kuala Lumpur Stock Exchange in June 1997. However, according to Prophet's Mohammed Hadith (PBUH) in *Sahih Al-Bukhari & Muslim* in which he clarifies as "*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 honour 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*" (Bukhari, No: 52), (Muslim, No: 1599). This Hadith is one of the major principles of Islam, which is under the provisions of *Halal* and *Haram*. In his Hadith, Prophet Mohammed (PBUH) explains what doubtful things mean, and he also prescribes a legitimate approach in dealing with them.

Despite the guidance that the Prophet's Hadith offers as it is one of the sources of knowledge in Islam, the literature on *shubuhah* with regard to *shariah* compliance is almost non-existent; much less in Islamic banking. Accordingly, the present paper is a humble contribution in the field. Hence, the objectives of the study are as follows:

1. To investigate the business *Shubuhah* for Islamic banks.
2. To determine the relationship between the percentage of Muslim Shareholders and *Shubuhah*.



## THE PERCENTAGE OF MUSLIM SHAREHOLDERS

One of the most important factors that affect the policies of the bank is controlled by an investor or a group of investors, and a large proportion of the shares of the bank as well; this is so-called concentration of property Shleifer and Vishny (1986b; 1997). The presence of a group of stakeholders is considered an efficient mechanism for the control of the company (AikLeng, 2004); where they have a greater amount of other investors to carry out oversight to improve and adjust the performance of managers, (Patibandla, 2006). There are several studies that have shown a relationship between stakeholders and the performance of a company. AikLeng (2004) concluded that increasing the participation of a group of investors leads to increased oversight role and increases the opportunity to improve the performance of the company. This finding is supported by Bahaa El Din (2009) who found that there is a relationship between concentration of ownership and financial performance as well as the study of (Chen *et al.*, 2006) which has reached a positive correlation between increasing percentage of ownership and financial performance of the company. If the company's shareholders majority is Muslims, they may influence the company to comply with *Shariah* rules. It is clear that if the majority of the company's shareholders is Muslim, this may lead the company to comply with *Shariah* principles, which will give their customers high satisfaction (Aziz, 2009). Thus, the majority Muslim shareholders is expected to be inversely related with *shubuhah*; i.e. the greater the number of Muslim shareholders is, the lesser the *shubuhah* in the Islamic banks exist.

Corporation is composed of owners who dictate its direction and policies. Corporation is an entity that legally functions separate and apart from its owners (Keown *et al.*, 2008). Ownership structures play an important role in determining the company's objectives; shareholders' wealth and how managers of a firm are disciplined (Porter, 1990; Jensen, 2000; Yammeesri and Lodh, 2004; Yammeesri *et al.*, 2006; Rashid and Lodh, 2008). The number of shares owned relative to the total number of shares outstanding determines the stockholder's proportionate ownership in the business (Keown *et al.*, 2008). Weetman (2006) found that family controlled companies continue to be more secretive about their activities. Customers in a bank represent an influential power in directing the bank practices as shareholders. Shareholders accordingly are expected to affect the bank practices in relation to Islamic banking. When the majority of the bank customers is Muslims and by practicing their power as shareholders, the bank practices expected to be closer to *Shariah*. Therefore, the relation between Muslim Shareholders and *shubuhah* is expected to be inversely associated.

**Shubuhah** (the plural of *shubhat*)

Linguistically, *Shubha* means likeness, which bears resemblance to two things.

Allah (swt1) says in the Quran:

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<sup>1</sup> Subhana wa ta'ala



“For surely to us the cows are all alike -*tshabaha*-” (Al-Baqarah: 70), i.e. It has become difficult for us to distinguish between the required cow and the others.

“And those who have no knowledge say: Why does not Allah speak to us or a sign come to us? Even thus said those before them, the like of what they say; their hearts are all alike -*tshabahat*-”. Indeed we have made the communications clear for a people who are sure” (Al-Baqarah: 118) i.e. they are alike.

“He it is Who has revealed the Book to you; some of its verses are decisive, they are the basis of the Book, and others are allegorical -*mutshabihat*-; then as for those in whose hearts there is perversity they follow the part of it which is allegorical -*tshabaha*-, seeking to mislead and seeking to give it (their own) interpretation. But none knows its interpretation except Allah, and those who are firmly rooted in knowledge say: We believe in it, it is all from our Lord; and none do mind except those having understanding” (Al-Imran: 7).

‘*Ash- shubhat*’ in the Islamic *shariah* means doubtful deeds or matters. Scholars have disagreed on how to define *shubha* according to *shariah*. Some say as ibn Rajab al-Hanbali "it is the doubtful deeds that occur whenever there are two different beliefs regarding a matter generated from two different reasons". Al Showkani said in *Nayl Al Awtar*, "it is that for which there is conflicting evidence". Some scholars said that is *mubah* (permissible) and others said it is *makrooh* (disliked) (Al-Shawkani, 1997). Ibn Daqeeq Al Eid explained it as "doubtful deeds is any matter supported by conflicting evidence from Quran and *sunnah*, and could carry more than one meaning, and it is devout to avoid" (Al-Nawawi, 1997).

Yusuf (1989) has clarified it as in the mind of a *mujtahed* (a scholar qualified to issue rulings) there is a region in between the obvious *halal* and the obvious *haram*, either due to conflicting evidence or due to doubt in the application of the evidence on a particular matter. It is devout as a Muslim to avoid these doubtful deeds so as not to be dragged into resembling what is known to be *haram*. Al-*Imam al-Suyuti* said in his commentary on *Sunan Al Nassa'i* while narrating this hadith, "The scholars have had a lot to say on the explanation of doubtful deeds, we can explain it in the best way, doubtful deeds is confusion (*iltibas*) and this term is used to describe something that resembles a certain base matter, while at the same time it resembles another matter conflicting with the former, as if it resembles the latter more closely; hence they say *ishtabaha*, i.e. it is a mixture of two different things as if it is one thing. Obviously, here it is devoutness to avoid this confusion and whoever does that is described as devout and conservative in his religion". Al Suyuti has also explained this matter in detail in his book *Al Ashbah wa al nathaer*.

As for those who said that doubtful deeds are the matters that are considered permissible (*mubah*), their reasoning is that these matters are neither explicitly *halal*, nor explicitly *haram*. Therefore, it is considered as *mubah*, especially as such excess in these permissible matters could lead to *haram*, for instance in food, drink and attire, etc. While those who defined it as *makrooh* have taken into



consideration that *shariah* has warned against doubtful deeds. Since there is no clear evidence of the forbidding, it is considered as *makrooh* and any excess of this nature would certainly lead to *haram*. In this study, *shubuhah* is defined as a mixture of *haram* activities and *halal* activities in Islamic banks, the details of which will be explained in the following section, methodology.

### **The Relationship between Shubuhah and the Percentage of Muslim Shareholders**

One of the most important factors that affect the policies of banks is controlled by an investor or a group of investors, and a large proportion of the shares of the banks; this is so-called concentration of property Shleifer and Vishny (1986b; 1997). The presence of a group of stakeholders is considered an efficient mechanism for the control of the company (AikLeng, 2004). If the institution shareholders' majority is Muslims, they may influence the institution to comply with *Shariah* principles. And it is clear that if the majority of the company's shareholders is Muslims, this may lead the company to comply with *Shariah* principles, which will give their customers high satisfaction, (Aziz, 2009). Thus, the majority Muslim shareholders is expected to be inversely related with *shubuhah*; i.e. the greater the number of Muslim shareholders is, the lesser the *shubuhah* in the Islamic banks will exist. Thus, the study hypothesizes that:

*H3: the more the percentage of Muslim Shareholders is, the lesser shubuhah exist.*

## **METHODOLOGY**

In this paper, the existence and extent of existence of *shubuhah* in Islamic banks were determined using the quantitative approach. The study was conducted on a population of the Islamic Banks in Malaysia. The quantitative data were collected from the annual reports of the identified Islamic banks. These Islamic banks were comprised of two different types: local and foreign (Association of Islamic Banks in Malaysia AIBIM (2010). Total Islamic Banks are 21 banks, as on March 2010 (see Table 1). Therefore, the entire population was studied without taking smaller samples for the analysis. The Percentage of Muslim Shareholders is measured based on the percentage of shareholders in the bank. Questionnaires were distributed by the researcher in person and they were also mailed directly to some respondents. The respondents are given three weeks to respond. Respondents can either fax or post back the questionnaire to the researcher. A cover letter is attached to the questionnaire to state and guarantee that the responses would be treated in the strictest confidence. Arguably, there are many places in which *shubuhah* may occur, but this paper uses one of the main yet unavoidable Islamic banks' activities - dealing with conventional banks as a proxy to measure *shubuhah*. *Shubuhah*, i.e. dealing with conventional banks: *Shubuhah* is measured using the mixture-proportion basis of the amount of deposited money (i.e. revenue ,expenses, assets and liabilities) by the Islamic banks with the conventional banks or vice versa over total funds of the Islamic banks (i.e. its rate to total). Two methods were used, of finance and revenue, for the mixture-proportion measurements in *Shubuhah* (Shehatah, 2009):

The first method is of analyzing the structure of finance to determine the proportion of the *Haram* mixture. This method was based on analyzing the elements of the structure of finance to the



elements of self-financing, and elements of finance based on interest, to determine the percentage. The proportion of financing was calculated based on interest to the total financing structure as in equation 1:

$$\frac{\text{Total finance by system of interest}}{\text{Total funding (self - financing + finance based on interest)}} \times 100\% \quad (1)$$

The second method is of analyzing the elements of income and expenses to estimate the ratio of income mixing *haram*. This method was based on the idea of separating income of *halal* activities (away from the doubtful) from income of forbidden activity. For example: for the earned bank interest, income from securities of the institutions shares dealing with *haram* operations, interest earnings resulting from debt rescheduling to others, demurrage and the interest of bonds (Shehatah, 2009). On the basis of this method, revenue from *haram* is divided on the total income and then percentage was calculated from equation 2:

$$\frac{\text{Revenue gained from the forbidden}}{\text{Total Revenues (income halal + income haram)}} \times 100\% \quad (2)$$

On the other hand, the average means of *shubuhah* (finance or revenue) by type of bank is calculated as follows:

Average means of *shubuhah* (finance or revenue) of local Islamic banks, equation 3:

$$\frac{\text{Total } shubuhah \text{ (finance or revenue) of local Islamic banks}}{\text{Number of local Islamic bank}} \quad (3)$$

Average means of *shubuhah* (finance or revenue) of foreign Islamic banks, equation 4:

$$\frac{\text{Total } shubuhah \text{ (finance or revenue) of foreign Islamic banks}}{\text{Number of foreign Islamic banks}} \quad (4)$$

## RESULTS

The descriptive analyses of *Shubuhah* (Finance and Revenue) and Islamic Banks characteristics are presented. Correlation analyses were used to study the relationship between the percentage of Muslim Shareholders of banks and *shubuhah* followed by simple regressions to verify whether the variation in the *Shubuhah* of finance; revenue is due to the variation of the percentage of shareholders.

### Descriptive Statistics on *shubuhah* of Finance and Revenue

As elucidated earlier, *shubuhah* is of two types, namely *shubuhah* of finance and *shubuhah* of revenue. The cross tabulation analysis was used to analyze *shubuhah* in the Islamic banks. Two banks did not have *shubuhah* based on finance (i.e. 9.5 percent), see table 2. On *shubuhah* based on



revenue, the findings showed that there were 6 Islamic banks that did not fall under this category, a percentage of 28.6 as illustrated in Table 3.

### **Descriptive Statistics on Percentage of Muslim Shareholders of Banks**

Table 4 shows that the Percentage of Muslim Shareholders in the Banks were 81.0 percent for the range: 0-49 (i.e. 17 banks), and 19.0 for the range 50-100 (4 banks), respectively. The descriptive statistic showed that most of the Islamic banks in Malaysia have a majority of non-Muslim shareholders.

### **Correlation Analysis**

Correlation analyses were applied to determine the degree to which the variables are related. It determines how well the estimated equation actually describes the relationship (Levin and Rubin, 2007). The correlation between *Shubuhahat* and shareholders based on finance is shown in Table 5. The report showed that Shareholders have a negative relationship with *Shubuhahat* based on finance, with values (-.495). Also the report showed that Shareholders have a negative relationship with *Shubuhahat* based on revenue, with values (-.382).

### **Descriptive Regression Analysis**

Table 6 with R square value of .056 for *Shubuhahat* of finance, the R square value based on finance explains 5.6% from shareholders on *Shubuhahat*. And with R Square value of .085 for *Shubuhahat* of Revenue. The R Square based on Revenue explains 8.5% from the percentage of Muslim shareholders on *Shubuhahat*. Table 7 shows that Shareholders have negative relationships with *Shubuhahat* of finance, (Shareholders -.479). Also, the results showed that there is a negative relationship between *shubuhahat* of revenue and Shareholders -.565).

## **DISCUSSION**

### **The Impact of Muslim Bank Shareholders on Shubuhahat**

Increasing the percentage of Muslim shareholders will have an effect on the policy and decision of the bank to comply more with the rules of *shariah* and reduce the *shubuhahat*, because considering the percentage of Muslim shareholders is one of the most important factors that influences the policies of the bank, which is controlled by a group of investors, a large proportion of the shares of the bank and this so-called concentration of property (Shleifer and Vishny, 1997). Accordingly, a number of studies have shown a relationship between shareholders and the company performance. AikLeng (2004) study concluded that increasing the participation of a group of investors leads to an increased oversight role and in turn increases the opportunity to improve the company performance. This study is supported by (Bahaa El Din, 2009) who found that there is a relationship between concentration of ownership and financial performance. Also, the study of (Chen *et al.*, 2006), which has reached a positive correlation between increasing percentage of ownership and financial performance of the institution. If the institution's shareholders majority is



mainly Muslims, they may influence the institution to comply with the *Shariah* principles. And clearly if the majority of the institution's shareholders is Muslim, this may lead the institution to comply with the *Shariah* principles, which will give their customers a high percentage of satisfaction, (Aziz, 2009). Shareholders accordingly are found to affect the bank practices in relation to Islamic banking. When majorities of the bank shareholders are Muslims and by practicing their power as shareholders, the bank practices found to be closer to *Shariah*. Therefore, the relation between Muslim Shareholders and *shubuhah* is found to be inversely associated. Percentages of Muslim shareholders have been large relationship in Islamic Banks based on *shubuhah* of finance and small relationship in Islamic Banks based on *shubuhah* of revenue. The shareholders variable has a negative relationship with *Shubuhah*. Thus, banks with a Muslim majority of shareholders have lower *shubuhah*. However, descriptive statistics showed that most of the Islamic banks in Malaysia have a majority of non-Muslim shareholders, and that was confirmed by the results from multiple regression analysis that showed a negative relationship between shareholders and *Shubuhah* in Islamic Banks in Malaysia.

### **Implication**

The findings highlighted earlier lead to several implications. The discussion on these implications will be divided into two perspectives, namely theoretical and practical.

### **Theoretical Perspective**

First, this study added a new discussion on the understanding of *shariah* compliance, i.e. *shubuhah* in the Islamic banking. This study also identified the relationship between *Shubuhah* and Muslim Shareholders. Both are novel findings of the *shubuhah* study. Besides, the importance of avoiding *shubuhah* has been mentioned repeatedly in the Holy Qur'an and *Hadith*.

### **Practical Perspective**

The Percentage of Muslim Shareholders has proved to be one of the essential control mechanisms for predicting the extent of existence of *shubuhah* in the Islamic Banks. This also gives a valid reason to the committee of *Shariah* Advisory Council in Central Bank for its on-going strategy of having more percentages of Muslim shareholders in Islamic banks.

### **Future Research**

The study is on *shubuhah* and shareholders of Islamic banks in Malaysia. Having known the relationship of *shubuhah* with shareholders (Muslim and Non-Muslim), it is recommended for future research to compare it with Islamic Banks in other countries. Furthermore, there are many other factors that would contribute to the differences in *shubuhah* in Islamic Banks. Therefore, future research may consider these factors. It is recommended for future studies to apply qualitative methods such as case studies, specifically on each of the factors for better understanding of *shubuhah* in Islamic banks. This study is descriptive in nature; it suggests that future studies employ inferential statistics, especially with regard to *shubuhah* in Islamic banks in the world.





## CONCLUSION

This study has established the existence of *shubuhah* and described the extent of existence of *shubuhah* in Islamic banks in Malaysia, and the extent of existence of *shubuhah* by bank shareholders. The study found that only a few Islamic banks are *shubuhah*-free, and the higher the percentage of Muslim Shareholders is, the lesser the *shubuhah* exist. Customers, Islamic banks and the relevant authority bodies can now literally turn to the annual reports to ascertain the existence of *shubuhah* in Islamic banks. The extent of the existence of *shubuhah* can be further specifically determined by looking at percentages of Muslim shareholders' origin.

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**Table-1.** Islamic Banks in Malaysia

Type of Banks	Number of Banks
Foreign Islamic Banks	4
Local Islamic Banks	17
Total	21

*Source: AIBIM (2010)*

**Table-2.** *shubuhah* of finance

Ratio	Frequency	Percent
0.000	2	9.5
0.001 to 0.010	5	23.8
0.011 to 0.030	5	23.8
0.031 to 0.600	9	42.9
Total	21	100.0



**Table-3.** shubuhat of revenue

Ratio	Frequency	Percent
0.000	6	28.6
0.001 to 0.010	1	4.8
0.011 to 0.030	6	28.6
0.031 to 0.201	8	38.1
Total	21	100.0

**Table-4.** Percentage of Muslim Shareholders

	Frequency	Percent	Valid Percent
between 0 and 49	17	81.0	81.0
between 50 and 100	4	19.0	19.0
Total	21	100.0	100.0

**Table-5.** Correlations Analysis

	Shareholders
<i>Shubuhat</i> finance	-.495*
<i>Shubuhat</i> revenue	-.382

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

**Table-6.** R Square of Shubuhat (Shareholders)

Model	Shubuhat of Finance	Shubuhat of Revenue
R Square	.056	.085
Sig F Change	.301	.201

**Table-7.** Regression of *shubuhat* of finance and revenue (Shareholders)

	Finance	Revenue
	Standardized Coefficients	Standardized Coefficients
Model	Beta	Beta
Shareholders	-.237	-.124