INGOT BROKERS

# Islamic Investments

**Introduction**

**Overview**

Muslim represent 21.01% of world's population growing at 1.84% annually according to CIA world's fact book 2007, and they have between USD 205 billion and USD 1 trillion to invest growing at 15% annually (chow 2006).

Islamic finance is a new power in financial market, since the Islamic banking in 1990s grew at 15% (Hamid and Azmin 2001). And it expected to be a dominate growth engine in banking and finance in this century. Islamic finance and banking grew rapidly in the past decades, and this growth made it one of the fastest growing niches in global finance (Aggarwal and Yousef, 2000).

Recently, many conventional financial institution in western countries sell Islamic financial products such as (Citibank, Merrill Lynch, Morgain Stanelly and HSBC). In London and New York exchange organized FTSE global Islamic index series (GIIS). GIIS defined as equity benchmark indices organized to lane the performance of trading companies who their activities are consistent with the principles of investment and Islamic trade.

However, Islamic finance has been developed during the past years due to many reasons (El-Qurshi, 2005), such as; (1) the demand of Islamic financial product has been increased by Muslims all over the world. (2) The demand of oil rich countries especially from Middle East nations. (3) Islamic finance has been attracted from Muslims and non-Muslims investors.

Islamic markets developed the methods to differentiate between Islamic and conventional investments by introduce qualitative and quantitative criteria for screening. By quantitative criteria Islamic markets introduced benchmarks in purpose of screening the investment. There are four benchmarks: (1) 5% benchmark: which means that the profit derived from clearly prohibited activities e.g. (liquor, pork, interest…etc.) should not exceed 5%. (2) 10% benchmark: the profit from activities enrolling a prohibited elements and hard to avoid such as tobacco should not be more than 10%. (3) 20% benchmark: the revenue from mixed contribution from rental income derived from haram activities e.g. liquor should not be higher than 20%. Last benchmark is 25%; revenues from activities which has benefits to the public and has mix contribution Hotels for example should not exceed 25%.

Moreover, for business sector financial ratios can be used as models in in quantitative criteria for screening, such as liquidity ratio debt ratio and interest ratio. However, some of index use market capitalization as their dominator (Dow johns and S&P), and some of them use total assets as a dominator (FTSE and MSCI). For example when calculating liquidity ratio under Dow John index method, by dividing account receivable over market capitalization the result should not exceed 33% as threshold level, FTSE 49% and S&P 50%.

**Sharia compliance investments definition:**

The investments which meet the requirements of sharia lows. Islamic investments should follow the rules of sharia, such as invest in sharia compliant companies which are not involved in any prohibited activities by Islam such as interest (Riba).

**Requirements of Islamic investments:**

- Absence of interest (Riba); Riba means that when lender lends something to borrower and the borrower promise the lender to give back the thing with growth. In simple words the Reba is the growth of something borrowed.

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*"Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt – like for like, equal for equal, and hand-to-hand (spot); if the commodities differ, then you may sell as you wish, provided that the exchange is hand-to-hand or a spot transaction."*

*{Muslim}*

- Absence of haram activities such as; trading in alcohol, pig meet, tobacco….etc. However the schools put some benchmarks for these activities and will discuss these benchmark in more details later.
- Absence of Gharar (default risk): the contract between two parties should be clear for both and ensuring that all conditions and terms of investment contract are detailed in a manner in which no disputes can arise in future.

***Islamic index:***

The equity index allow investors to measure the performance of a company and other investment vehicles such as, ETFs, mutual funds and unit trust. While Islamic index is an index provider should include stocks that are approved by Sharia Supervisory Board.

**Index Screening:**

According to most of Islamic jurists such as Maliki, Hanbali and Shafie School of thought, in case of the manipulation is mixed with exploitation and deceit, can give the right to cancel the contract or the transaction. However, according to Hanafis school of thought, if it is happened there are three benchmarks to excuse: 1) 5% for ordinary order, 2) 10% for animal and 3) 20% for fixed assets. These benchmarks is the upper limits for exploiting and deceit.

In general, nowadays the trading in investments in securities are permissible. The firms that are fully in compliance with Sharia principals are few, also some degrees of tolerance are required. However, there are some process to identify investments which are in compliance with Sharia represented by Sharia's stock screening.

There are five elements addressed to perfume Shari's stock screening:

- Sector screening.
- Debt finance screening.
- Cash and receivable screening.
- Income purification.

**Sector screening:**

For first element; Dow Jones classify business sector into ten categories; Conventional finance and insurance, Gamboling and gaming, Alcohol production and sale, Pork related products Tobacco manufacturing and sale, entertainment, hotels, Weapons and defense, real state holding and development. Also, FTSE Sharia's index classify business sector same as Dow jones except hotels, weapons and defense, real state holding and developments are not mentioned. However, S&P Sharia's index classify business sectors into seven categories such as; conventional finance and insurance, Alcohol, pork, Tobacco, gambling, advertising and Media except: 1) if the percentage of revenue from GCC countries is higher than 65%, 2)News channels, 3)Newspapers and 4)sport channels, cloning and finally trading on gold and silver as cash on differed basis.

However, for mixed business FTSE Sharia index claimed that the total interest rate and non-compliant income should be lower than 5%. S&P Sharia index claimed that the non-compliant income other than interest should be lower than 5%. However, Dow jones didn't allow the interest rate or non-compliant income.

Moreover, it should be noted that the provider of index don't provide details of rational for criteria of screening thus, they can only be implied.

Some probable reasons for excluding media is the media could include materials with nudity or obscene image, for hotels, the hotels serve alcohol and non-halal food, for weapons and defense, the weapons might be used against Muslim interest, for real state holding they claims that real state have high level of leverage.

**Debt financing screening:**

For second element, Dow Jones claimed that the total debt over trailing 24 months average market capitalization should not be higher than 33%. However, FTSE Sharia's index claimed that the total debt over total assets should not be higher than 33%, S&P claimed as Dow jones but they took 36 months trailing instead of 24 months.

**Interest earning screening:**

Dow Jones claimed that the cash and interest based securities divided by trailing 24 months average market capitalization should not be higher than 33%, Dow jones took the trailing 24 month average market capitalization as their indicator. While FTSE took Total assets as their indicator and S&P took trailing 36 months average market capitalization as indicator. However the three index claimed that the percentage should not be higher than 33%.

**Cash and receivables screening:**

Dow Jones total receivables divided by trailing 24 months average market capitalization should not be higher than 33%. FTSE claimed that the cash plus total receivables should not be higher than 50%, while S&P said that the accounts receivables divided by trailing 36 months average market capitalization should not be higher than 49%.

**Dividend Income Purification:**

For last element, Dow Jones didn't mention anything about dividends or income, while FTSE said that investors should pay 5% of their dividend.

***Sharia Compliant Equity:***

The Islamic equities have almost the same characters of conventional ones and serve the same functions. However, Islamic securities tied by some rules such as; the investments or underlying products should be free from interest and other haram activities. The second rule is; Islamic investments or equities should be structured according to sharia law, where the features should follow specific rules of underlying contract or concepts of the products.

**Sharia stock screening:**

Not all the listed companies in any stock exchange is sharia compliant; also we need to differentiate between Islamic securities and non-Islamic securities. However, Bursa Malaysia is one of the most developed Islamic stock exchange, the Security Commission in Malaysia has their own sharia body known as Sharia Advisory Council (SAC of SC). The main role of this body is to make ensure the Sharia compliance of all products. However, SAC of SC allowed the investments in ordinary shares based on Musharakah concepts, while it allowed the investment in preferred stock based on Tanazul concept (voluntary waive of right). Under this concept, the holders of common stock are willing to give a portion of their right or income to preferred stockholders.

Moreover, SAC of SC established a methodology to screen or filter the products to separate between Islamic and non-Islamic investments. The purpose of this methodology is to help Muslim investors to avoid the prohibited elements of their investments and to let them differentiate between Islamic and non-Islamic products to let them run the permissible activities in the business.

First, companies which significantly involved in these following activities are excluded from the list;

- Financial services based on riba (interest)
- Gambling
- Manufacture and or sale of non-halal products
- Conventional Insurance
- Entertainment
- Manufacture or sale of tobacco-based products or related products
- Stock broking or share trading in Shariah non-compliant securities
- Other activities which are deemed to be non-permissible
- Interest income from conventional fixed deposit/interest bearing instruments
- Dividend received from investment in Shariah non-compliant securities.

Second, some companies have mixed business which involved in some haram activities and their revenue is mixed between halal and haram revenues. These companies would be assessed in two phases such as; quantitative and qualitative phases.

Under qualitative phase, SAC of SC will compute the contribution of non-Islamic or harm activities and compare it with Turn Over (TO) group and Profit before Tax (PBT) group. Where, SAC of SC will assess the image of the company before status is given.

Moreover, there are five benchmarks are using in quantitative phase such as;

- 5% benchmark, the revenues which derive from activities that are clearly prohibited –riba, liquor, pork, or non halal food- should not be higher than 5%.

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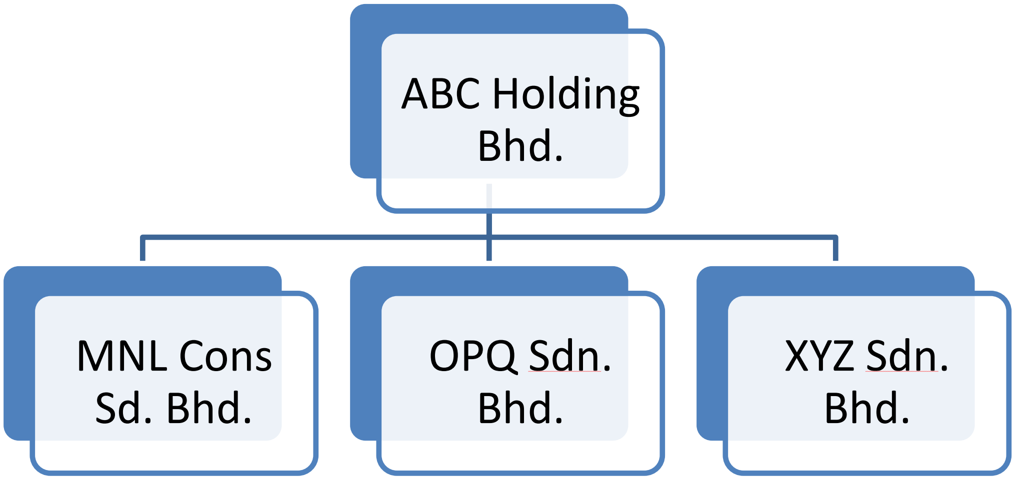
- 10% benchmark, the revenues which derive from prohibited elements and that affects most people and is difficult to avoid (umum balwa) such as, Tobacco or interest from fixed deposits placed in conventional bank, should not be higher than 10%.
- 20% benchmark, this benchmark is used to assess the level of mixed contributions from rental income derived from activities that are not Shariah-compliant, e.g. Prostitutions, selling liquor, etc.
- 25% benchmark, this benchmark is used to assess the level of mixed contributions from the activities that are generally acceptable according to Shariah and have the elements of maslahah to the public, but there are other elements that may affect the Shariah status of these activities. E.g. hotel, resort operation, stock broking, etc.

How it is working:

CASE 1:

- ABC Holding BHD. The principal activity is Construction and civil engineering.
- Related Information:
- Group Info:
- Group TO – RM 10 M
- Group PBT – RM 5 M
- Non permissible activities info:
- TO tobacco: RM 900 k
- PBT tobacco: RM 400k



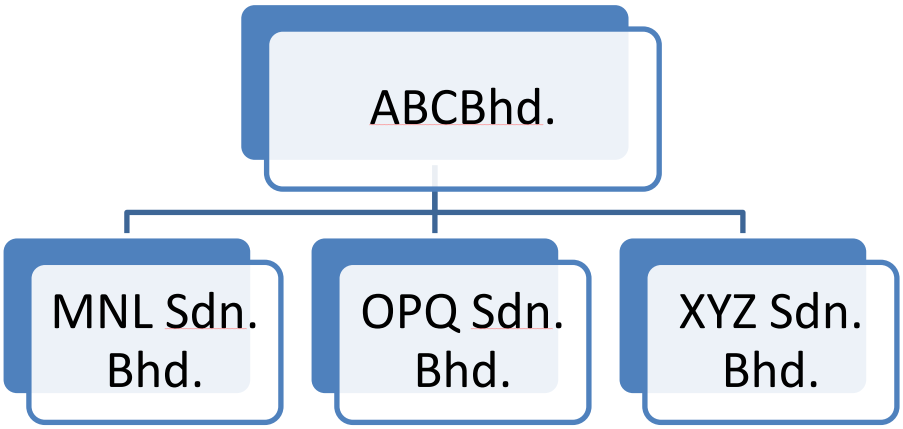

- XYZ is involving in tobacco business.

The percentage of Tobacco to turnover group is 9% (900K/10M) and the percentage of tobacco to profit before tax group is 8% (400K/5M). Since the benchmark of tobacco is 10% of both groups, the pre-compliance result is this business is sharia compliant.

Case 2:

- ABC BHD.
- Related Information:
- Group Info:
- Group TO – RM 10 M
- Group PBT – RM 5 M
- Non permissible activities info:
- TO Liquor: RM 400 k
- PBT Liquor: RM 120 k
- TO Gaming: RM 200 k

- PBT Gaming: RM 100 k




❖ MNL is involving in Liquor Business.

❖ XYZ is involving in Gaming business.

The percentage of Liquor to turnover group is 4% (400K/10M), and the percentage of Liquor to profit before tax group is 2.4% (120K/5M). While the percentage of gaming to turnover group is 2% (100K/10M), and the percentage of gaming to profit before tax group is 2% (100K/5M).

The contribution from haram activities in turnover group is 6% (4%+2%), while in profit before tax group is 4.4% (2.4%+2%). Since the benchmark for Liquor and gaming is only 5%, the pre compliance result is this business is Non-sharia compliant.

Qualitative method, SAC takes other factors in consideration before final resolution is made. These factors are mentioned below:

- Image.

- Public need (maslaha)
- Custom (urf)
- Coomon plight (umum balwa)
- Rights of non-muslim.

To sum up, there are three steps to screen the islamic invesments. First step is to filter the primary activities; if the business are significantly involve in haram activities, SAC of SC exclude it. The second step is quantitative analysis; they filter the business or mixed bisiness according tyje four benchamrks (5%,10%,20% and 25%). The final step is qualititave analysis; the SAC of SC filter business coording other elements such as; Image, Maslaha…etc. if the business passed these steps then it takes the Sharia Approved Security from SAC of SC.

***Islamic ETFs:***

ETF is a marketable securities underlying by diffierent financial instruments and its performance reflect the performance of the underlying assets. It has advantages such as; Diversifcation, lower expense ratio, lower transaction cost and it could be boughy or sold at anytime during trading hours of the stock exchange. However it has some risks as well such as; it exposed to the market risk, tracking errorm lack of manager's discretion and liquidity risk.

Islamic ETFs have the same features of conventional ones, but it should be underlying by islamic financial instruments and its requireed to appoint a sharia adviser/committee to provide expertise and guidance to ensure its structure, investment and all matters related to the funds' activities are comply with Shariah.

***Islamic Financial Derivatives:***

Derivatives ingeneral is an agreement between two or more parties based on underlying assets such as, index, stocks, bonds or any financial instruments. Also these derivatives could be applied on commodities, currencies and energies. Futures and options are the most common derivatives. Moreover, the value of these derivatives affected by the performance of the underlying assets. These derivatives are used for speculation and hedging purposes.

**Futures contracts:**

Futures contract is an agreement between two or more parties to buy or sell a specific assets at a specific price on a specific date, futures contracts are standardized to facilitate trading.

However, futures contracts are prohibited under islamic low due to many reasons such as;

- Selling what you don't own: these contracts is generally debt-inducing contracts, the buyers sell something they don't own it. According to the prophet Mohammad says:

  *"Don't sell what you don't own"*

  *Al—Termethi*

- Debt for Debt: even in case you have the commidity in the exchange that you are buying or selling in a future contracts, it becomes debt for debt. You owe some money, and the seller owes some commodity.
- Gharar: the seller may failur in delivering the underlying assets and the buyer may not pay the amount.

**Bay al salam:** Islamic banking and institution could use bay al-salam contracts instead of futures. Bay al salam is an agreement btween two parties to buy or sell some assets. The asset could be deliver in future but the payment should be paid on spot. However, it should be writen in the contract the specification of the underlying asset such as, quality, quantity, date, and location. Bay al salam created to protect the buyer from the price's movenment and to protect the goods of seller from expiring.

**Options:**

Option contracts give the right (not obligation) to the buyer or seller to purchase or sell a specific assets at a specific price on or before particular date. The spcified asset could be currencies, commodities, stock, metals, index…etc. the spcisif price called as excersise price and the particular date known as expiry date.

The option's fee known as premium, it should be paid by the buyer to the seller, and the option writer grants buyer to buy the asset at a fixed price. However, the transaction would be vise versa in which the seller pay the buyer the premium and the option writer grants the seller to sell to buyer. Moreover, it should be noted that the option contract gives the right to the premium payer and the obligation to the other party.

In actual practice, there is no specific asset involved at the time of the contract being concluded and the real subject matter in the contract is the option itself and not the asset. Also, option contract is a tradible contract which means that, the option contract might be purchased or sold to a third party before the expiry date. However there are two types of options, call option and put option.

In islamic finance, there are two level for ruling option contracts, iniating level and trading level:

- Initaing level:
  1. Gambling.

2. Riba.
3. Ignorance & complexity of the product
4. Combination of two transactions in one transaction.

(1) Gambiling: a call gives the right to the buyer to buy a financial instruments at a specific price on a specific date. However, the investor genarates profit when the price of the market is higher than the price which agreed upon, so investors are in the money positon when market price is higher than the agreed price. However the option writer face some losses due to the asset will be sold at lower price than the market. However, if the market price is higher than the agreed price investors would be in out of money position and they will lose the premium payment, on the other hand, call writer will gain the premium price against no counter value, which is a nature of a gambling and eating other's wealth for nothing. Moreover, in both situations, the zero some game is existing.

(2) Riba: some scholars claimed that options contracts are involving in riba since investors pay premium of option which is typically in form of money, they are anticipating a margin between the agreed price and market price. The margin might be higher or lower than the premium which paid by investors and it would be in the same form of money. Also, if the underlying asset didn't deliver to the parties the transaction would be as exchange of money to money trasnsaction.

(3) Ignorance and complexity of the product: some islamic scholars such as Taqi Uthmani, claimed that the financial derivative including option contracts are very complicated to be fully understood by stackeholders, so it is not transparent.

(4) Combination of two transactions in one transaction: option contracts combines the right to purchase from one party and the right to sell from another party in one transaction. According to the prophet Mohammad (peace be upon him), the

prophet prohibited two sales in one contract.

- Trading level:

1. Gharar (uncertinaty)
2. Sale prerior taking possession
3. Illegitimate underlying asset and sale debt for debt

(1) Uncertinaty (gharar): the sale requires an assets as a subject matter, while riba requires a money as subject matters, options became a deemed problimatic due to the uncertinaty and inefinite nature of the subject matter.

(2) Sale prerior taking possession: the sale in islam requires that the buyer should not sell the goods until its in his possession. The Prophet Mohammad (Peace be upon him) said that:

> "*The proviso of a loan combined with a sale is not allowable, nor two conditions relating to one transaction, nor the profit arising from something which is not in one's charge, nor selling what is not in your possession.*"
>
> *Termithi*

(3) Illegitimate underlying asset and sale debt for debt: selling debt for debt is prohibited by islam due to:

a- it leads to disputes and litigation.

b- It increases *gharar* level (attributed to Ibn Rusyd).

c- It is a useless contract as neither party gets a counter value that it can benefit from.

d- It is, in a way, similar to prohibition of selling one currency for another on a deferred basis.

- **Why financial derivatives are in need:** Market risk arise from the unfavorable movenment of price such as; rate of return, rate of return risk (benchmark), forign exchange rate, the price risk of commodity and equity and Islamic bank is further exposed to market risk pursuant to the volatility in the value of tradable, marketable or leasable assets. However without hedging tools, the finacial institution would suffer losses. However, it is stated in a legal maxim: *Attending the lesser harmful* -This wisdom by Sahih Al Bukhari-. Moreover, Most of the sharia compliant options-like products are indisputably contentious if they are being evaluated from the Islamic law and contract in isolation of their healthy purposes and the current needy circumstances.
- **How could be or make the financial derivatives Halal:**

1- Buy and sell what exists.
2- Mak it promice not a transaction.
3- Pay a deposit (urbun).
4- No reselling.

***<u>Bonds versus Sukuk:</u>***

Bonds is a debt investments, in which investors lend money to an institution and the institution gives back the money to the investors with fixed interest rate on a specific time (debt for debt). Sukuk have same features of bonds but the investors have a partial ownership in the purchased assets. However there are five differnces between bonds and sukuk such as;

- Susuk based on Musharaka (ownership), bonds based on debt; sukuk are backed by a tangible assets while bonds might be backed by nothing.
- Sukuk are backed by assets which is sharia compliantm while bonds might be

backed by assets which might be prohibited by islam.

- Sukuk are priced by the backed assets while bonds prices backed by credit rating.
- The value of sukuk increased when the value of the backed assets increasem while the profit of bonds based on fixed interset rate (money on money) making them riba.
- When the investor sells sukuk he sell the ownership of the backed assets, while if investor sells bond he sells debt.

> *Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein * Allah destroys interest and gives increase for charities. And Allah does not like every sinning disbeliever.*
>
> *Al Baqara {2:275-276}*

***<u>Islamic V.S Conventional Banking:</u>***

In conventional banks lenders lend money to borrowers to genarate profits from the interst charged on the lending amount, however this interest rate could be fixed or floating rate. On the other hand, islamic banking avoids interest rate, but it allows to buy something on the borrower behalf and resell it to the the borrower at profit. Also, like conventional banking this profit rate could be fixed or floating.

The most popular islamic financing contracts are; Murabhah, Musharakah, Bay Bithaman Ajil (BBA) and Musharakah Mutanaqisa (MM). Murabahah is a contract of sale some coomidity with profit, while Mudarabah is the lender supply some money to other part, the other party will provides management expertise to under take a specific trade. If there is a profit under Mudarabah principle, the profit would be shared in any proportion agreed between the two parties, while if there is a loss, the loss would be completely born by the lender and the agent will lose his efforts only. BBA is the bank buys the property and sell it to the borrower on an agreed price (cost + profit) to be paid on deffered period, while MM; is a partnership between the bank and the borrower, the bank leases the property to the borrower at an agreed rental amount and the shareholding of the bank decreases overtime.

- The table bellow shows the uniqe features of the islamic and conventional banking:

| ***Conventional banks*** | ***Islamic Banks*** |
|---|---|
| The functions and operating are based on manmade priciles | The functionand operations are based on shariah principles. |
| The transactions are based on a rate of interest | Provides risk sharing between money supllier and money demander |
| Investors can maximize their profit without any restrictions. | Investors can be maximize thwir profits with shariah resrictions. |
| It does not deal with zakat | In sialmic banks ther is a center to coleect zakat from investors and pay the zakat out |
| | |

| | |
|---|---|
| The fundemantal function of conventional banks is compounding interest rate | The fundemantal function of islamic banks is partnership function |
| In case of default conventional banks can charge extra money | Cant charge extra money only small amount and this amount should be given to a charity |
| There is no effort to make sure of growth with equity due to the interest of banks's own becoming prominent | It gives due importance to the public interest. Its ultimate aim is to ensure growth with equity |
| Boroowing from money market relatively easier | It should be based on shariah approved underlying transaction |
| Due to the income is fixed, it makes the importance of devoloping any projekt and evaluation is little | Pays more attention to devolop projects due to the profit and risk are shared. |
| Should guarantee all its deposit | Can oly gurantee the deposits under Wadiah account. |
| Non-muslim investors can deal | Muslim and non-muslim investors can be deal |
| Countries all over the world provide conventional finance | Only few countires provide islmaic finance |
| Money is a commodity, medium of exchange and store of value. | Money are not a commodity but it is a mdeium of exchange and store of value. |

However, in the last decades specially after the 2008 financial crises the islamic finance shows a rapidly growth and faster growth than conventinal finance (Hasan and Dridi, 2010).

According to Beck, demirguc and Merrouche 2013, islamic banks have higher intermediation ratio but it is less cost effective. Also, they found that during crises Islamic bankshave higher asset quality, better capitalized, and are less likely to disintermediate. The better stock performance of listed Islamic banks during last crisis is also due to their higher capitalization and better asset quality. In addition they found that large cross-country variation in the differences between conventional and Islamic banks as well as across Islamic banks of different sizes.

***Consclusion:***

Islamic finance based on mudarabah and murabaha principals. Islamic finance has been developed due to the increase of demand from musilms all over the world. London and New York exchange organized FTSE global Islamic index series (GIIS). However there are three requirements of Islamic investment such as, absence of riba, any activity prohibited by Islam and absence of gharar. There are five elements to screen investment such as, Sector screening, Debt finance screening, Cash and receivable screening and Income purification. However, for stocks screening there are four benchmarks to screen stock known as; the 5% benchmark, 10% benchmark, 20% benchmark and 25% benchmark. Stocks could be screened by two methods such as, quantitative method and qualitative method. According to some scholars, derivatives are prohibited in Islam since investors are trading something they don't own. While ETFs are permissible under Islam law if the underlying assets are sharia compliant. The main difference between sukuk and bonds is sukuk are backed by tangible assets and based on ownership principle while bonds based on deb.

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