***Tafriq Al-Halal 'An Al-Haram* Theoryin the Selection of Sharia Stocks in the Indonesian Sharia Capital Market**

**(Comparison of the Indonesian Sharia Capital Market and the Malaysian Islamic Capital Market)**

**Elsy Renie**

Faculty of Sharia, State Islamic University of Mahmud Yunus Batusangkar

**Syukri Iska**

Faculty of Sharia, State Islamic University of Mahmud Yunus Batusangkar

**Husein 'Azeemi Abdullah Thaidi**

Faculty of Sharia and Law, University of Science Islam Malaysia

**Ummi Annis binti Yusof**

Faculty of Sharia and Law, University of Science Islam Malaysia

Email: elsyrenie@iainbatusangkar.ac.id

**Abstract**

Sharia stock is one of the instruments of the Islamic capital market which is proof of shareholder ownership of the company, which does not conflict with the Qur'an and Sunnah of the Prophet Muhammad SAW and the Ijtihad of the Ulama. In order to make shares of a company  to be included in the sharia category, there are several criteria and a screening process that must be passed by the issuer. Indonesia and Malaysia are two developing countries that use the Shariah stock screening method. By using qualitative and quantitative methods. Qualitative research will examine the company's involvement in Riba activities, gharar, producing non-halal products, gambling and games, and other immoral activities that are not allowed. Quantitative screening is the criteria for the structure and financial ratios determined based on the POJK and the DSN-MUI *fatwa*, in which each country has a threshold for evaluating these stock criteria. This study will examine and analyze the theory of *tafriq halal wal haram* in qualitative and quantitative methods in the screening process in the Indonesian Islamic capital market. This research uses normative research, by reviewing library materials in the form of primary legal materials, in the form of *fatwa*, OJK regulations, as well as secondary legal materials in the form of Stock Exchange regulations and tertiary legal materials. The approach used is a comparative approach and the analytical technique used in this study is content analysis. The results of the study indicate that the Indonesian Sharia Capital Market uses an interest-based debt ratio limit compared to a maximum total asset of 45% while Malaysia uses a 20% limit, and the ratio of non-halal income to total income should not be more than 10%. Malaysia uses a limit of 10%, not more than 5%.producing non-halal products, gambling and games, and other immoral activities that are not allowed.

**INTRODUCTION**

Capital Market transactions are permitted as long as they do not conflict with sharia principles, and stay away from various prohibited practices such as usury, gambling (*maysir*), *gharar*, hoarding (*ihtikar)* and others. The existence of a Sharia Capital Market that is in accordance with sharia principles has an important role in economic growth and in realizing the objectives of sharia (*maqashid shari'ah*).

Stocks in Islam are part of investment activities that do not conflict with Islamic law. Therefore, every legal transaction is “*permissible*”, unless it violates the principles of Shari'ah, it is forbidden to do so. *Screening* is an effort to maintain shari'ah compliance of stock shares in the shari'ah capital market.screening has two stages, first, screening of *li zatihi*, second, screening of *li ghairihi haram stocks.*

The two methods above are screening methods used in Indonesia. Each country has a different approach in carrying out this screening process. Indonesia and Malaysia are two countries that use qualitative and quantitative methods in the stock screening process in the capital market. DSN-MUI stipulates and regulates the screening pattern using the *tafriq halal 'an haram* in its fatwa.

The patternof *tafriq halal ‘an haram* in the implementation of stock screening in the capital market is quite interesting, considering the different businesses of issuers, which consist of various elements of substances, both in the form of liquids that are easily mixed or dissolved as well as in the form of other goods. In addition, the issuer as a legal entity that has capital, is also connected to conventional interest-based financial institutions, because access to capital in Indonesia is still dominated by conventional financial institutions. The author will examine and analyze the use of the *tafriq halal 'an haram*  in screening sharia shares and the approaches used, as well as the quality of the resulting halal.

The fatwa that has been issued by the National Sharia Council-Indonesian Ulema Council (DSN-MUI) related to sharia capital market activities, has a very important role in shaping the Islamic capital market with the characteristics of the Indonesian business climate. In addition, DSN-MUI also conducts strategic cooperation with OJK so that many DSN-MUI fatwas regarding the Islamic capital market are converted into OJK regulations. This further provides legal certainty for market players in carrying out Sharia securities transactions in the Indonesian Islamic capital market. The existence of this fatwa institution is the same as that in Indonesia and Malaysia.

**RESEARCH METHOD**

This study uses a normative legal research methodology that examines literature sources as legal materials that become media for analyzing problems. This study also applies a comparative and conceptual approach. Legal material under study. What is analyzed in normative legal research contains Primary Legal Materials consisting of Laws, POJK, Bapeppam-LK Regulations, DSN-MUI Fatwas, Secondary Legal Materials Regulations of the Minister of Finance, tertiary in the form of Exchange regulations.[[1]](#footnote-1) The analytical technique used in this research is content analysis. This technique is used to analyze the permitted materials that have been collected to answer the problem formulation using indicators. The indicators used are several theories and concepts that were chosen as analytical tools in reviewing this paper. The analysis approach is carried out based on the content of the literature that aligns problematic problems with each of the literature that is used as a reference through narrative arguments.

**DISCUSSION**

Shari'ah shares are shares that meet the Shari'ah criteria as regulated in the regulation of the Financial Services Authority Number 35/POJK.04/2017 on the criteria and issuance of the List of Shari'ah Securities. [[2]](#footnote-2)

In fact, the concept of shares is the same as the principle of syirkah or musyarakah. The concept of Syirkah is a concept of cooperation done by two parties with the right to share the results of the business. Based on this, it applies the method called al-ghurmu bil ghurmi (along with the benefits there is a risk that must be borne by both parties who run *syirkah*, depending on the portion of the ratio set at the beginning.

Ibn Nujaim stated that in the field of property (also the activities of mu'amalah ) is to avoid harm, based on this, the scholars formulated the method of *ad-dhararu yuzal*. This method requires that the activities of human dealings always stay away from harm that may be caused by humans.This is almost in line with what is revealed by Qal'ahji[[3]](#footnote-3) that the purpose of mu'amalah activities is to realize the benefits of human life.

The object of the transaction of shares is the ownership of the company. Therefore, shares can only be issued by companies or corporations, while the state cannot issue shares. The relationship between investors and stock issuing companies (issuers) is an ownershiprelationshipso that investors are the owners or shareholders of the company, which then investors will get dividends.[[4]](#footnote-4)

Based on Prasetyo[[5]](#footnote-5), and Abdalloh[[6]](#footnote-6) The Indonesian Islamic capital market recognizes two types of sharia shares. Firstly, shares that pass the selection of shariah shares which are called sharia shares or active shares, and secondly, shares issued by issuers. Those that claim to be companies which comply with sharia principles are called syari'ah issuers, which are called passive shari'ah shares. According to Abdalloh[[7]](#footnote-7) the category of active sharia shares is still very limited in Indonesia.

In her research, Neneng Hartati[[8]](#footnote-8) concludes that the concept of shares is in accordance with sharia principles, namely the concept of *syirkah* or *musharaka*, in the form of *bai' musahamah*. This investment is considered in accordance with the principles of sharia and lawful because the development of assets is one of the *maqasid sharia* (*Hifdzul maal*). According to Zamir Iqbal[[9]](#footnote-9) the element of gharar is actually still contained in stock transactions in the capital market, this is acceptable because the transaction is based on a fundamental analysis of economic variables and it is subject to an acceptable level of uncertainty. For that, the stock screening that violates the law of Islam is important.

However, not all shares can be directly categorized as sharia shares. Shares can be categorized as sharia if they are issued by:[[10]](#footnote-10)

1. Companies which in their articles of association state that their business activities are based on sharia principles, for example shares of PT Bank Muamalat Indonesia Tbk, PT Bank Panin Dubai Syariah Tbk, and PT Sofyan Hotel; or
2. Companies that do not declare their business activities based on sharia principles, but meet the criteria of the Financial Services Authority (OJK) as sharia shares. The criteria for selecting or screening sharia shares set by the OJK are contained in the Financial Services Authority Regulation Number 35/POJK.04/2017 concerning Criteria and Issuance of Sharia Securities Lists. The criteria referred are also in accordance with the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN MUI) No. 40 concerning the Capital Market and General Guidelines for the Implementation of Sharia Principles in the Capital Market Sector.

There have been many studies that reveal the pattern of screening of shari'ah shares in the Indonesian and Malaysian capital markets. Regarding the *tafriq halal wal haram* method, which is used by DSN-MUI clerics in separating the mix of halal and haram assets in sharia financial institutions, there are still many rarely done, and in the following study the author will reveal in detail the *tafriq halal wal haram* method as a new ijtihad method used by the MUI DSN in answering problems in the field of the shari'ah capital market which is rapidly changing.

**1.**    **Selection Criteria for Sharia Stocks in Indonesia and Malaysia**

Ramadhani and Aziz[[11]](#footnote-11) reveal that there are many differences in the screening process due to legal differences in various countries, due to different regulators and capital market authorities, thus it provides different indicators for determining sharia.

In general, the criteria for sharia shares, both in Indonesia and abroad, consists of two selection components, those related to selection which is based on business activities and financial ratios.[[12]](#footnote-12) For the selection of business activities, there is relatively no significant difference from the criteria for shares that are categorized as sharia shares. The shares must be issued by a company that is not engaged in usury finance, risk trading, gambling, production of non-halal food and beverages. Meanwhile, from the selection of financial ratios, there are differences between the criteria for sharia shares in several countries or sharia index providers. This is understandable, because the financial ratios are the result of the ijtihad of the scholars of each country or the provider of the shari'ah index. One of the considerations of the ijtihad is the general condition of the company in each country. Therefore, regarding this financial ratio, it is flexible and can be changed according to circumstances.

The Indonesian Capital Market uses three stages of sharia stock selection as stipulated in the Financial Services Authority (OJK) regulations. The *first* is the selection of the halal or haram type of issuer's business, while the *second and* *third* are the selection of the amount of usury by the company in managing its business. The criteria currently used by OJK to select sharia shares are as follows[[13]](#footnote-13):

1. Issuers or public companies do not carry out business activities or produce goods/services that are not in accordance with sharia principles, such as: gambling, non-sharia financial institutions (usury), doing *riswah* (bribes), and cigarette companies.
2. The ratio of usury-based debt to the company's total assets is not more than 45%. What is meant by usury-based debt is corporate debt originating from conventional banking, bond issuance or similar debt that uses interest calculations. The company's source of funds originating from sharia-based financing is excluded from the calculation, because it is not usury-based debt. For example, companies issue sukuk or have debt financing from Islamic banks. This ratio measures how big the ratio of usury to the company sourceof funds used to carry out its business activities.
3. The ratio of total interest income and other non-halal income compared to total operating income (*revenue*) and other income is not more than 10%. This ratio measures how much the ratio of usury to the company's sources of income is.

Currently, the criteria for sharia shares in Indonesia is regulated in the Financial Services Authority regulation Number 35/POJK.04/2017 concerning criteria and issuance of the Sharia Securities List. In this regulation, securities that can be included in the DES are selected based on screening of business activities/transactions and screening of financial ratios. Regarding financial ratios, Indonesia uses an interest-based debt ratio limit compared to total assets of maximum 45% and the ratio of non-halal income to total income should not be more than 10%.[[14]](#footnote-14)

There are various methodologies used in selecting Islamic stocks in various countries. However, in general, the methods used have similarities, namely using business activity criteria (*business screening*) and company financial ratios (*financial screening*). First*,* it is carried out by regulators, such as those done by Indonesia and Malaysia. The second is carried out by index providers, such as Morgan Stanley Capital International (MSCI), Dow Jones Islamic Market (DJIM), and the Financial Times Stock Exchange (FTSE).

Likewise, the Malaysian State Experience, which adopted two main approaches, namely quantitative and qualitative, in determining the Sharia status of listed securities. The quantitative approach is as follows:[[15]](#footnote-15)

1. In determining the Shariah status of securities listed on the Bursa Malaysia, the contribution of non-Sharia-compliant activities to the company's profit before tax will be calculated and compared with the relevant benchmarks of business activity, not exceeding 5%, as in the business:
2. Conventional Banking and lending;
3. Conventional insurance;
4. Gambling
5. Liquor And liquor-related activities;
6. Pork And pork-related activities;
7. Non-halal food and beverages;
8. Daily non-compliant entertainment;
9. Tobaccoand tobacco-related activities;
10. Interest Income from conventional accounts and instruments
11. Including Interest income awarded arising from a court judgment or arbitrator;
12. Dividends\_ from Shariah non-compliant investments; and
13. Other activities deemed non-compliant according to Shariah principles as determined by the SAC
14. The 20% benchmark is applicable to the following businesses/activities:
15. Share Trading;
16. Stockbroking Business;
17. Rental received from Shariah non-compliant activities; and
18. Other activities deemed non-compliant according to Shariah principles as determined by the SAC.

**2. THEORY OF *TAFRIQ AL-HALAL 'AN AL-HARAM***

1. **Classification of Islamic Law**

Ibn Qoyyim classifies Islamic law into two parts, first, Islamic law which is static-permanent (*tsabitat*), and second, Islamic law which is dynamic (*mutaghayyirat*). Permanent Islamic law is law that does not change from its original position. Laws like this cannot be renewed, despite changes in social, cultural, economic, etc. For example, related to faith, worship of *mahdhah*, and so on. Against permanent law, the door of ijtihad is closed. As for dynamic law, it is defined as a law that changes following changes in socio-cultural, economic, and so on. Against laws like this, the Shari'a has provided an opportunity to make changes in accordance with the development of benefit.[[16]](#footnote-16)

It is a sign of change in society. This statement is interesting to note, because the prophet Muhammad SAW. once said that every one hundred years (one century) there will be people who make a renewal in the understanding of religious teachings. This means that every hundred years, there will be religious experts who will correct previous legal fatwas which are considered no longer relevant due to social, cultural, economic and other changes. Of course, not all Islamic law can change based on socio-economic changes. culture, economy, etc. In this case, Ibn Qoyyim classifies Islamic law into two parts; first, Islamic law which is static-permanent (*tsabitat*), and second, Islamic law which is dynamic (*mutaghayyirat*).

Permanent Islamic law is law that does not change from its original position. Laws like this cannot be renewed, despite changes in social, cultural, economic, etc. For example, related to faith, worship of *mahdhah*, and so on. Against permanent law, the door of ijtihad is closed. As for dynamic law, it is defined as a law that changes following changes in socio-cultural, economic, and so on. Against laws like this, the Shari'a has provided an opportunity to make changes in accordance with the development of benefit. Law in the field of sharia economics is classified as dynamic law (*mutaghayyirat*), so it will experience changes according to changes in the *'illah*.

Therefore, law in the field of sharia economics is a large area for conducting ijtihad, because its development is so fast and the law has not been discussed by previous scholars, and there are still few contemporary fiqh experts' opinions on this issue. For the purpose of reforming Islamic law (fiqh), the scholars have actually provided a solid *manhaj.* Understanding  fiqh which is limited to a collection of Islamic law is not in accordance with religious teachings. Therefore, the renewal of Islamic law is a necessity, especially in this very fast changing era. The extraordinary movement of change as a result of advances in industry, trade, services, contractual agreements, technology, communication, and others requires constant development and renewal in Islamic law.

Especially in sharia capital market activities, a pattern is needed to identify stocks that are in accordance with sharia principles, requiring a screening method by separating halal and haram funds.

Puspita[[17]](#footnote-17) and also Anand revealed that since 2015 there have been disclosures of non-halal funds from Islamic financial institutions in accordance with PSAK 109, but they have not been able to trace the origin of these non-halal funds.

**b.** **The Theory of *Tafriq Al-Halal 'An Al-Haram*  in the Selection of Sharia Stocks**

Anand, et al,[[18]](#footnote-18) and also Rahmawati, et al[[19]](#footnote-19) reveal the theory of *tafriq al-halal 'an al-haram*  which was developed with the consideration that in the Indonesian context, Islamic economic activities cannot be completely separated from the conventional economic system which is usurious. At least Islamic economic institutions are related to conventional economic institutions which are usurious from the aspect of capital, product development, and profits. The separation between the halal from the haram can be done in the case that what is forbidden is not considered haram because of its substance (*haram lidzatihi*). This theory can be formulated that property or money in the perspective of fiqh is not haram because of its substance *('ainiyah*) but haram because the method of obtaining it is not in accordance with sharia (*ligairih*).

The rules regarding halal and haram that have been stated above are the rules used by scholars in determining something that is not legally determined in the Quran-sunnah. The problem which was later developed by the ulama was about the mixture of what was lawful and what was unlawful. In order to explain the law on the mixing between the halal and the haram, the ulama revealed the rule "if it is mixed between the halal and the haram, then the mixing is considered haram" (*idza ijtama' al-halal wa al-haram ghuliba al-haram*). Rule of `*idza ijtama' al-halal wa al-haram ghuliba al-haram*" is derived from a hadith which states that "there is nothing mixed between what is lawful and what is unlawful, except that what is forbidden overpowers what is lawful" (*ma ijtama'a al- halal wa al-haram illa ghalaba al-haram al-halal*).

However, the quality of the hadith does not reach the degree of saheeh. Abu al-Fadhl al-Iraqi argues that the source of the hadith is not clear (*la ashl lah*) Al-Subki quoted the hadith from Imam al-Baihaqi narrated from Jabir al-Ju'fi, he (*al-Ju'fi*) is weak (*dha'if*) while the line of narration of the hadith from al-Sya'bi and Ibn Mas'ud, considered *munqathi* 'and Imam al-Subki explained that the hadith is narrated from the line of Abd al-Razzaq in his book mushnaf, the hadith is included mauquf to Ibn Mas'ud (*not marfu '*). Nevertheless, al-Subki argues that the rule of "*idza ijtama '* *al-halal wa al-haram ghuliba al-haram*” is substantively authentic, although the hadith used as a reference is seen in terms of the line of narration, including weak.[[20]](#footnote-20) The rule of jurisprudence " *idza ijtama 'al-halal wa al-haram ghuliba al-haram*" is also related to the rule of ushul on the contrary evidence (*ta'arudh al-adillah*). In the rule of ushul it is stipulated that if there are two contradictory propositions, one stipulates haram (forbidden) and the other proposition allows it, then what is preferred to be practiced is the proposition that forbids (*idza ta'aradha dalilani*, *ahaduhuma yaqtadhi al-tahrim wa al-akhar yaqtadhi al-ibahah quddima al-tahrim fi al-ashahh*).[[21]](#footnote-21)

Discussions about mixing lawful things with unlawful things, or mixing unclean things with holy things as part of discussions about the rule of "*idza ijtama 'al-halal wa al-haram ghuliba al-haram*," continue to roll among experts in Islamic law. Shaykh al-Islam Taqiy al-Din Ahmad Ibn Taimiah al-Harani (d. 728 H) who in Indonesia is better known as Ibn Taimiah, he is strongly believed to have enriched the rule of "*idza ijtama 'al-halal wa al-haram ghuliba al-haram*” by creating a new rule as an “extension” of that rule.

According to Jaih Mubarok,[[22]](#footnote-22) This rule is considered appropriate to be applied to liquid, and soluble objects; therefore, the mixing of halal objects with other haram objects or the mixing of sacred objects with other unclean objects, where those objects include liquid objects, thus allows for a soluble mixture to occur. While the mixing of halal objects with other haram objects or the mixing of unclean objects with other sacred objects that do not include liquid objects, can be done using another approach.

Ibn Taimiyah explains as follows:

As for people who transact with usury, then the dominant is halal unless it is known that the dominant is makruh, because if someone sells 1,000 for 1,200, then what is haram is only the margin. If his income consists of mixed halal and haram funds, then this unlawful part does not prohibit the lawful part. He can take the lawful part, just as if the funds belonging to two syariks, the syirkah funds have mixed and become the property of both, then the funds are divided between the two syariks. Likewise, halal funds are mixed with haram funds, then the percentage of haram funds is issued, then the rest is halal funds.

Ibn Taimiyah[[23]](#footnote-23) was asked about two things:

1) the legal status (halal or illegitimate) of the property of an entrepreneur whose majority of his wealth comes from the proceeds of the business sectors/business fields that are unlawful, including entertainment businesses featuring *striptease* or gambling and

2 ) the legal status (halal or illegal) of the assets of leaders who obtain assets illegally (through corruption or gratuities). In answering these questions,

Ibn Taimiyah explained that:

1) If the property of the entrepreneur or leader is mixed between lawful assets and lawful assets because of the business sector, it is considered as *syubhat*, then it should not be condemned as haram unless it is known for certain about the prohibition. and it should not be judged to be halal unless it is known for certain about its halalness. If the majority (most) of their assets include lawful assets, then it should not be considered unlawful, whereas if the majority of their assets include unlawful assets, then they may be considered unlawful (according to one opinion) and

2) If in their assets there are unlawful and lawful, and everything has been mixed (*ikhtilath)*, then the unlawful property is legally forbidden, while the lawful property is lawful legally what may be used is the lawful property by sorting (separating) and/or taking the property based on analysis. factual property, including assets obtained in a lawful way to be used. The explanation is then framed in the rule of "*man ikhtalatha bi malihi al-halal wa al-haram ukhrija qadr al-haram wa al-baqi halal lah*" (anyone whose wealth is mixed between lawful assets and unlawful assets, remove the level of unlawful assets. , and the remaining assets [after being separated and/or removing the level of unlawful assets] are legal assets for him.[[24]](#footnote-24)

Ibn Arabi al-Maliki in the book of Ahkam al-Qur'an in line with the rules put forward by Ibn Taymiyyah, he even criticized the opinion that states that "if lawful property is mixed with unlawful property so that it can not be separated/distinguished/separated, then the content the haram property mixed with the halal property is taken (issued, separated), then the remaining property remains non -halal and not thayyib, because it may be that the part issued is a halal part and the rest is part of the haram property. " Ibn Arabi al-Maliki asserted that this opinion is an excessive attitude in implementing-a deviation from the teachings of Islam (*ghulww fi al-din* ).

Athiyah Adlan Athiyah Ramadhan in the book of *Mausu'at al-Qawa'id al-Fiqhiyyah*, explains the rule of "*man ikhtalatha bi malihi al-halal wa al-haram ukhrija qadr al-haram wa al-baqi halal lah*" that if in the property of someone who is the result of halal business mixed with property that is the result of business is not halal, then it can be done in the following two ways:

1) in case the property is property that can be divided (read: separated, distinguished which is halal and which is haram) , then the unlawful property must be removed (separated), and

2) if the mixed property is an indivisible property (e.g. money), then it must be calculated carefully, then the content of the unlawful portion must be separated and the rest is property that is lawful for him. The illegal part of the property - meaning obtained in a way that is not allowed by Islamic law - must be returned to its rightful owner, if the owner is not known, then the property is donated in the name of the owner.

Athiyah Adlan Athiyah Ramadhan[[25]](#footnote-25) explains the accuracy of the use of two rules that seem somewhat *ta'arudh*, namely "if mixed between the halal and the haram, then the mixing is punished haram" (*idza ijtama 'al-halal wa al-haram ghuliba al -haram*), and whoever whose property is mixed between lawful property and unlawful property, remove the rate of unlawful property, and the remaining property [after being separated and/or removed the rate of unlawful property] is lawful property for him (*man ikhtalatha bi malihi al-halal wa al-haram ukhrija qadr al-haram wa al-baqi halal lah*)."*idza ijtama 'al-halal wa al-haram ghuliba al-haram*" is used against the mixing of property that can no longer be distinguished or separated from one another, either essentially or legally while the rule of "*man ikhtalatha bi malihi al-halal wa al-haram ukhrija qadr al-haram wa al-baqi halal lah*”is used against the mixing of property that allows differentiation or separation between one and another. This method in the view of Athiyah Adlan Athiyah Ramadan is considered fair and moderate (*al-'adl wa al-wasath*), and in line with the characteristics of Islamic law which is full of convenience (*yusr al-syari'ah al-Islamiyah*).

Companies listed in Sharia shares in Indonesia still use corporate debt with an interest mechanism. In Islamic economics, the interest system is prohibited, but because its use is still difficult to avoid, the Sharia Council agreed to limit the amount of debt with the interest system. The limit on the amount of debt that still uses the interest mechanism is different in the Sharia index.[[26]](#footnote-26)

Dow Jones and Malaysia, the interest tolerance limit on debt is 33%. This shows that the tolerance limit in the two countries is smaller than in Indonesia where the tolerance limit is 45% or the equivalent of 0.82. Therefore, the level of corporate debt needs in Indonesia is relatively higher so that companies fund operations with loan funds that are still dominant with the interest system. The high tolerance limit in Indonesia indicates that the number of companies listed on the stock exchange is still small. Such flexibility can provide a greater opportunity for companies to be listed as Shariah shares. Such considerations are better understood as a form of benefit in investing based on Shariah.

Interest -based debt of 45% is attributed to the opinion of Imam Al Gazali who said that in a venture capital must be greater than debt. DSN-MUI explains that the concept used to determine the percentage is *tafriq al halal wa al-haram*, which is to separate the halal from the haram with the halal portion must be more than the haram portion.

Tolerance of non-halal income in companies incorporated in the capital market sharia in Indonesia refers to the opinion of scholars. Ibn Taymiyyah argued that if there is a mixture of halal and haram property, then the haram property does not make the halal property haram. Illegal property is removed until it becomes halal.[[27]](#footnote-27)c

**CONCLUSION**

Selection of Syari'ah Stocks (stock screening) in the Indonesian Islamic capital market uses two selection methods so that they can be categorized as Syariah, and that is qualitative and quantitative screening. Quantitative selection according to the company's business activities consists of Riba and Gharar, producing non-halal products, gambling and games, and other immoral activities that are not allowed. As for the quantitative method, it is assessed from the structure or financial ratios set by regulators or institutions.

Related to the financial ratio, As regulated in POJK No. 35/POJK.34/2017 on Criteria for the issuance of Sharia securities, also as regulated by fatwa DSN-MUI 40/DSN-MUI/X/2003. Indonesian Sharia Capital Market Indonesia uses an Interest -based debt ratio limit compared to a maximum total assets of 45 % while Malaysia uses a limit of 20 %, and the ratio of non -halal income to total income should not be more than 10 % and Malaysia uses a limit of not more than 5 % . This condition is quite logical if studying the corporate financing ecosystem in Indonesia is still dominated by the conventional system, while Malaysia puts a lower ratio than the Indonesian capital market, because sharia shares listed on the Malaysian stock exchange have reached 70%.

Selection of Shari'ah Shares (stock screening) in the Indonesian Shariah Capital Market uses the method of tafriq halal 'an haram, man ikhtalatha bi malihi al-halal wa al-haram ukhrija qadr al-haram wa al-baqi halal lah. It is understood that halal and haram properties that are mixed are still possible to be separated.

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