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Shariah Ethical Investment Products in Indonesian Capital Market: The Debates on Their Integration Process in the Transitional Stage

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Abstract

Islamic investments are a unique form of socially responsible investments because Islam makes no division between the spiritual and the secular. The Shariah ethical investment products do not only provide opportunities for moslem community to apply their religion and belief in business sector, but also provide investment opportunities for universal investors. Investors will not only look at investment performance or Shariah compatibility alone. They will demand *both* Shariah compliance *and* good returns. The Shariah ethical investment products in Indonesian capital market as investment instruments play vital role at this sense. However, to realize the ultimate goals of Shariah ethical investment in Indonesian capital market the process will be not easy. In one side, there will be a tendency to bring Shariah ethical investment products in a legal-formal approach and in the other side there will be a tendency to bring Shariah ethical investment products to a more substantive approach in term of realizing the objectives of shariah. This paper argued that the Shariah ethical investment products in Indonesian capital market are still in the transitional stages. The tendency of imitating conventional products will be more dominant. However, the regulator needs to step forward to develop a more substantive investment products based on Islamic true objectives.

Keywords: capital market products, ethical investment, Shariah objectives

Introduction

Many studies have proved that there is a close link between the rate of economic growth and the development of financial institutions.¹ Islamic finance is governed by the law of shariah which basically prohibits the interest rate (*riba*) as well as a kind of structured uncertainty within financial contracts called *gharar*. Hence, Islamic capital markets are more relevant in an Islamic economy because prohibition of interest and *gharar* entail a greater reliance on equity and asset based finance.² The Shariah ethical investment foundations such as the prohibition of *riba* (interest) and *gharar* (uncertainty/speculation) are believed will bring more stable economic and financial system rather than interest based and more speculative conventional economic and financial system.³

¹ Mohsin S. Khan and Abdelhak S. Senhadji, "Financial Development and Economic Development: An Overview." *IMF Working Paper*, WP/00/209 (2000): 3-7. Michael Thiel, "Finance and Economic Growth: A Review of Theory and the Available Evidence." *Economic Paper European Communities*, Number 158, July (2001): 14-20. Andri Soemitra, *Bank and Other Islamic Financial Institutions* (Jakarta: Prenada Media Kencana, 2009). 116-117.

² Salman Syed Ali, "Introduction: Islamic Capital Markets: Current State and Development Challenges." in *Islamic Capital Market: Products, Regulation & Development*, Salman Syed Ali, ed. (Jeddah: Islamic Development Bank Islamic Research and Training Institute, 2008), 1.

³ Critics towards interest based conventional financial system have been done by a number great economists such as Hans Singer, Paul Baran, Paul M. Sweezy, Joan Robinson, Gunnar Myrdal, Nicholas Kaldor, Dudley Seers, Jan Timbergen, Irma Adelman, Michael Lipton, Paul Streeten, Amartya Sen, Douglas North, Lester Thurow, Joseph Stiglitz, Gustav Ranis, Susan George, Franck Ackerman, Andrew Hurrell dan Ngaire Woods, J.W. Smith, Kaika Bashu, Andre Gundar Frank, Samir Amin, Theotoneo Dos Santos, Hernando de Soto, Ranjit Sao, C.T. Kurien, Vandana Shiva, Celso Furtado, Hernando Hendrique Cardoso, Raoul Prebisch, Kwame Sundaram, Suthy Prasartset, Renato Constantino, Mohammad Hatta, Sritua Arif, Mubyarto, Sri Edi Swasono and others. Sri Edi Swasono, *Ekspose Ekonomika: Mewaspadai Globalisasi dan Pasar Bebas* (Yogyakarta: Pustep-UGM, 2010), 25-27. M. Umer Chapra, "The Global Financial Crisis: Can Islamic Finance Help Minimize the Severity and Frequency of Such a Crisis in the Future?" *Paper presented at the Forum on Global Financial Crisis*, Islamic Development Bank, 25 October 2008.

However, the Islamic financial system along with its all ethical basics and principles are still in progress. Therefore, it is particularly interesting to see how Shariah ethical investment products are integrated within Indonesian capital market which is still dominated by conventional system in the primary market as well as the secondary market. Bapepam and Shariah National Board as regulator apply two models in developing shariah capital market instruments in Indonesia. *First*, shari'ah compliant which makes conventional instruments as the model. *Second*, shari'ah based which make the original Islamic contracts as the basis of the Shariah ethical investment products. This paper will analyze the integration process of Shariah ethical investment products. Then, this paper will compare the regulator's policies with other prominent Islamic scholars in the related issues.

The Shariah Ethical Investment Products in Indonesian Capital Market

Capital market consists of primary and secondary market. The primary market is the fulcrum of capital formation whereby liquid funds are effectively mobilized, pooled and channeled through the financial system to finance the production of goods and services in the economy, and hence, effectively contribute to real economic real.⁴ The secondary market provides an element of liquidity, provides pricing and valuation of assets on a continued basis that eliminate arbitrage and inefficiencies.⁵

Touriq argued that the primary market and the secondary market by nature do not conflict with shariah principles. He explained that in the primary market the corporate that intended to expand its business and need more liquidity invites people to invest in the corporate equity (ordinary shares). Hence, the investors who buy the corporate equities become the owner of the corporate. This practice by concept does not conflict with shariah principles as long as the equity is offered by the corporate which the products and the transaction mechanism do not conflict with Islamic principles. The basic idea of stock is called musyarakah or syirkah in Islam. Bapepam LK has set criteria regarding with corporate business activities which do not conflict with shariah principles in the capital market i.e. (a) gambling; (b) trading with non deliverance of goods or service; (c) trading with counterfeit offering/demand; (d) conventional banks; (e) conventional leasing companies; (f) trading of risk that contain uncertainty (gharar) and or gambling (maysir), e.g. conventional insurance; (g) producing, distributing, trading, and or providing products or services that are forbidden because of its contents; products or services that are forbidden not because of its contents but because they are stated forbidden by the National Sharia Board-MUI; (h) and or products or services that can deprave one's morals and are useless; (i) doing transaction that contains bribe substance. The issues also must fulfil some ratio i.e. (a) Total interest-based debts in comparison with total assets less than 45%; (b) Non-permissible contribution income to revenue less than 10%.⁶

National Shariah Board has issued some Guidance concerning with the permissibility of investment in shariah equity based (stocks, sukuk mudharabah/musyarakah) and shariah debt-based securities (sukuk ijarah/istisna'/murabahah) i.e. Number 20/DSN-MUI/IV/2001 regarding Guidelines for investment of shariah mutual funds, Number 32/DSN-MUI/IX/2002 regarding to shariah obligation, Number 33/DSN-MUI/IX/2002 regarding Mudharabah Shariah Obligation (sukuk), and Guidance Number 40/DSN-MUI/X/2003 regarding Capital Market and General Provisions Shariah Principles Implementation in Capital Market.⁷

Touriq further explained that after the primary market activities has been finished, the investors can sell their equities to other investors. This is called the secondary market. Such equities trading is lawful in fiqh muamalah and do not conflict with shariah principles. For equity trading in the

⁴ Seif I. Tag el-Din, "Capital and Money Market of Muslims: The Emerging Experience in Theory and Practice." *Kyoto Bulletin of Islamic Area Studies*, 1-2 (2007): 54. See also Peter S. Rose, *Money and Capital Markets: Financial Institutions and Instruments in a Global Marketplace*, 8th Edition (New York: McGraw-Hill Irwin, 2003), 11-15. Frederic S. Mishkin, *The Economics of Money, Banking, and Financial Markets*, 8th Edition (Boston: Pearson Education Inc., 2007), 151. Linda Allen, *Capital Markets And Institutions: A Global View* (Canada: John Wiley & Sonc Inc., 1997).

⁵ Salman Syed Ali, "Introduction: Islamic Capital Markets: Current State and Development Challenges." 1.

⁶ Muhammad Touriq is the Head Division of Islamic Capital Market Policy Development of Bapepam-LK. Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Bapepam LK, *Capital Market and Non Bank Financial Institutions Master Plan 2010-2014*, 82-85. Muhammad Touriq, "The Direction of Islamic Capital Market Development." 17. Bapepam LK, *Basic Concept of Shariah Capital Market*, <http://www.bapepam.go.id/syariah/introduction.html> (downloaded Januari 12th, 2012).

⁷ Muhammad Touriq, "The Direction of Islamic Capital Market Development." *Sharing Magazine*, March (2011): 17-20. Bapepam LK, *Basic Concept of Shariah Capital Market*, <http://www.bapepam.go.id/syariah/introduction.html> (downloaded on Januari 12th, 2012).

secondary market Accounting and Auditing Organization for Islamic Financial Institution (AAOFI) headquartered in Bahrain has issued the regulation on the permissibility of equity trading. Moreover in 2011, National Shariah Board issued Guidance Number 80/DSN-MUI/III/2011 regarding The Application of Shariah Principles in Trading Mechanism of Equity Securities at Stock Exchange Regular Market.⁸

Touriq admitted that the shariah capital market practice in the primary market as well as in the secondary market applied in the existing “conventional” system which is based on the Law Number 8 Year 1995 regarding Capital Market. However, he argued that The Law Number 8 Year 1995 does not conflict with shariah principles. The Law also prohibits fraud in article number 90, market and price manipulation in article number 92, insider trading article number 95 to 98. Hence, Touriq concluded that the conventional system based on the Law Number 8 Year 1995 does comply with shariah system even though there is no shariah label on it. However, Bapepam has focused on identifying the capital market products and the transaction mechanism to ensure that shariah principles are applied in the existing conventional capital market.⁹

Recently, the range of shariah compliant products in Indonesian capital market consist of shariah stocks, shariah mutual funds, shariah corporate sukuk, and sovereign sukuk. Touriq¹⁰ and Gunawan Yasni¹¹ stated that principally Islamic capital market in Indonesia is the capital market which apply shariah principles as basis of its activities. Hence, capital market complies with shariah if the transaction mechanism, the pricing method, and the instruments do not conflict with shariah principles.

1. *Shariah Stocks*

The number of Shariah ethical investment products increase after List of Shariah Equity Securities (Daftar Efek Syariah – DES) was launched in 2007 with 164 Shariah equity securities. The number keep increasing 191 Shariah equity securities in 2008, 198 Shariah equity securities in 2009, 210 Shariah equity securities in 2010, 234 Shariah equity securities in 2011, and 280 Shariah equity securities in 2012.¹² All of the 280 equities issuers do not declares its business activities as well as its business management are conducted based on the shariah principles in the capital market. Therefore, there is no shariah labelled on the company name. They are included in the Shariah Equities List after Bapepam reviewed them and they can be classified as shariah stocks according to Bapepam criteria.

2. *Shariah Mutual Funds*

Shariah mutual funds was the first shariah capital market instrument in Indonesia that was launched at July 3rd 1997 by PT. Danareksa Investment Management. The concept of mutual funds is investment and this concept does not conflict with shariah principles. In 2001, National Shariah Board – Indonesian Council of Ulama issued guidance (fatwa) Number 20/DSN-MUI/IV/2001 regarding Guidelines for investment of shariah mutual funds. Until June 15th, 2012 there are 51 shariah mutual funds in Indonesia. All of the 51 shariah mutual funds declare its business activities as well as its

⁸ Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, “The Direction of Islamic Capital Market Development.” 17-20.

⁹ Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, “The Direction of Islamic Capital Market Development.” 17.

¹⁰ Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, “The Direction of Islamic Capital Market Development.” 17.

¹¹ M. Gunawan Yasni is a member of capital market division of National Shariah Board - Indonesian Council of Ulama. Interview with Gunawan Yasni at the headquarter office of National Shariah Board Indonesian council of Ulama Jakarta at July 25th, 2012. See also M. Gunawan Yasni, “We Keep on Improving Shariah Securities Criteria.” *Sharing Magazine*, Edition 63 year VI, March (2012): 16-17.

¹² Bapepam LK, *History of Indonesian Islamic Capital Market*, <http://www.bapepam.go.id/syariah/HistoryofIndonesianIslamicCapitalMarket.html> (downloaded January 12th, 2012). Bapepam LK, *Statistik Saham Syariah September 2012*, <http://www.bapepam.go.id/syariah/statistik/saham.html> (downloaded October 7th, 2012). Ety Retno Wulandari, “Indonesia Shariah Capital Market.” *Paper* presented at International Conference on Islamic Capital Market, Jakarta, June 19-20, (2012). Ety Retno Wulandari is the Director for Accounting Standards and Disclosure Bureau Capital Market and Financial Institutions Supervisory Agency. Frederica Widyasari Dewi, “Shariah-Compliant Products, Regulations and Fatwa.” *Paper* presented at International Conference on Islamic Capital Market, Jakarta, June 19-20, (2012):39. Frederica Widyasari Dewi is the Director of Business Development Indonesia Stock Exchange.

business management are conducted based on the shariah principles in the capital market as clearly stated on in its article of association and shariah is labeled on their mutual funds name.¹³

3. Sukuk

According to Bapepam's data June 15th, 2012 there are 31 series of corporate sukuk that still on the market and 18 series of sovereign sukuk. From 31 series of corporate sukuk, according to the statistic 6 corporate sukuk (19,36%) apply mudharabah as their underlying contracts, 25 other corporate sukuk (80,64%) apply ijarah as their underlying contracts. According to the data per 28 September 2012, there were 21 corporate sukuk that have been matured. 8 corporate sukuk (38,09%) applied mudharabah as their underlying contracts, 13 others corporate sukuk (61,90%) apply ijarah as their underlying contracts. So far, total sukuk that have been issued by Bapepam are 52 series of corporate sukuk, 14 corporate sukuk (26,92%) applied mudharabah as their underlying contracts, 38 others corporate sukuk (73,08%) apply ijarah as their underlying contracts. All 18 series of sovereign sukuk (100%) apply ijarah (sale-lease back) as their underlying contracts.¹⁴

Regulator's Perception on Shariah Ethical Investment Products Integration into Existing National Capital Market in Indonesia

In Indonesian capital market master plan 2010-2014, it is stated that the development of the Shariah capital market industries will be done through several programs, two of which are developing Shariah capital market products and service schemes and aligning Sharia-based products with conventional products. The steps taken to deliver these two approaches include composing a standard guidebook for Sharia products, evaluating and transforming conventional capital market products to be Sharia-compliant products, as well as researching and developing new Sharia products.¹⁵

Regulator's opinion on the instruments engineering in Indonesian shariah capital market, Touriq¹⁶ stated that in the eye of regulator all Islamic contracts are equal depends on the market needs. Shariah based approach and shariah compliance approach are permissible according to Islamic law and designed to meet market needs. The instrument structure will vary. For the primary market, the instruments of common shares can be based on equity partnership (musyarakah), while the instruments of sukuk can be based on contracts of ijarah, salam, murabahah, musyarakah, mudarabah, and istisna', and mutual funds can be based on wakalah, musyarakah, and mudharabah.

Touriq¹⁷ and Yasni¹⁸ argued that all Islamic contracts are equally important. Profit and loss sharing contract based such as musyarakah and mudharabah as well as fixed based income such as murabahah, istisna', salam and ijarah are equally important. It depends on the nature of the business needed by the market. Nothing is more Islamic or less Islamic among these contracts. They point out that what important is the product is beneficial for the market players as long as be done in a manner that comply with shariah principles and contracts.

Regulator's opinion on the tendency the issuance of shariah securities which tend to be fixed based income such as sukuk ijarah that dominated the issuance of sukuk rather than

¹³ Bapepam LK, *Introduction to Indonesia Sharia Capital Market Product*, <http://www.bapepam.go.id/syariah/IntroductiontoIndonesiaShariaCapitalMarketProduct.html> (downloaded January 12th, 2012). See also Bapepam LK, *Statistik reksadana syariah September 2012*, <http://www.bapepam.go.id/syariah/statistik/reksadana.html> (downloaded October 7th, 2012). Ety Retno Wulandari, "Indonesia Shariah Capital Market." 6-11. Frederica Widyasari Dewi, "Shariah-Compliant Products, Regulations and Fatwa." 39.

¹⁴ Bapepam LK, *Introduction to Indonesia Sharia Capital Market Product*, <http://www.bapepam.go.id/syariah/IntroductiontoIndonesiaShariaCapitalMarketProduct.html> (downloaded January 12th, 2012). See also Bapepam LK, *Statistik sukuk September 2012*, <http://www.bapepam.go.id/syariah/statistik/sukuk.html> (downloaded October 7th, 2012). Ety Retno Wulandari, "Indonesia Shariah Capital Market." 6-11. Frederica Widyasari Dewi, "Shariah-Compliant Products, Regulations and Fatwa." 39.

¹⁵ Bapepam LK, *Capital Market and Non Bank Financial Institutions Master Plan 2010-2014*, 87.

¹⁶ Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, "The Direction of Islamic Capital Market Development." 17.

¹⁷ Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, "The Direction of Islamic Capital Market Development." 17.

¹⁸ Interview with Gunawan Yasni at the headquarter office of National Shariah Board Indonesian council of Ulema Jakarta at July 25th, 2012. See also M. Gunawan Yasni, "We Keep on Improving Shariah Securites Criteria." 16-17.

mudharabah/musyarakah, Touriq¹⁹ and Yasni²⁰ argued that as long the underlying transaction is permissible there should be no problem with the sukuk. If the underlying transaction of shariah security is partnership contract such as mudharabah and musyarakah there will be profit and loss sharing with variable rate of returns. However, if the underlying transaction of shariah security is exchange contract such as murabahah, ijarah, istisna' and salam there will be fixed rate of returns. It has been the nature of the contracts.

Regulator's opinion on the assumption that shariah products are similar to conventional products, Touriq argued that it is the "selling point" for shariah products because the products have been familiar to investors. It has been a part of Bapepam master plan to encourage the equality of shariah products with its conventional counterpart. As long as shariah products in the process have been through their unique criteria and characteristic according to shariah principles, if then the result shows that shariah products seem similar to its conventional counterpart, Muslim investor should prefer to choose shariah products. Touriq argued that the argument makes sense because shariah products is not only permissible but also competitive for Muslim and non Muslim investors.²¹

Regulator's opinion on people argument that secondary market instrument do not have direct impact to economic growth and tend to be closer to speculative transaction (gambling) which is prohibited in Islam. Touriq²² and Yasni²³ argued that the practice of sale and buy equity securities is lawful because it represents a lawful certificate of ownership on a corporate which its core business is lawful. Gunawan argued that Bapepam and National Shariah Board through Guidance Number 80/DSN-MUI/III/2011 regarding The Application of Shariah Principles in Trading Mechanism of Equity Securities at Stock Exchange Regular Market has tried to ensure the trading mechanism is fair and transparent. In the trading mechanism that is called continuous auction the price can be up and down. If we check the Law Number 8 Year 1995 and other Bapepam's rule and regulation always mentioned that the objective of the regulation is to maintain fair and transparent price in the market. In fiqh terminology the creation of fair and transparent price is called bay' al-musawamah. Therefore, to make sure the price is fair and transparent Shariah National Board and Bapepam regulate 14 prohibited activities in the Guidance.²⁴

Finding and Discussion

There are two options for Muslim society towards contemporary financial system in the Islamization process i.e., integration or separation.²⁵ It seems that most of Muslim countries choose integration of Islam in their mainstream financial system rather than separation. M. Umer Chapra,²⁶

¹⁹ Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, "The Direction of Islamic Capital Market Development." 17.

²⁰ Interview with Gunawan Yasni at the headquarter office of National Shariah Board Indonesian council of Ulema Jakarta at July 25th, 2012. See also M. Gunawan Yasni, "We Keep on Improving Shariah Securities Criteria." 16-17.

²¹ Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, "The Direction of Islamic Capital Market Development." 17.

²² Interview with Muhammad Touriq at July 23rd, 2012 in Sumitro Djojohadikusumo Building, 11th floor Capital Market and Financial Institutions Supervisory Agency. See also Muhammad Touriq, "The Direction of Islamic Capital Market Development." 17.

²³ Interview with Gunawan Yasni at the headquarter office of National Shariah Board Indonesian council of Ulema Jakarta at July 25th, 2012. See also M. Gunawan Yasni, "We Keep on Improving Shariah Securities Criteria." 16-17.

²⁴ Interview with Gunawan Yasni at the headquarter office of National Shariah Board Indonesian council of Ulema Jakarta at July 25th, 2012. M. Gunawan Yasni, "The Lawful and Fair Stock Exchange." *Sharing Magazine*, March Edition (2011): 13-14.

²⁵ Michael Saleh Gassner, *Exchanges and Islamic Finance, The Handbook of World Stock, Derivative and Commodity Exchanges*, 2. Frank E. Vogel and Samuel L. Hayes III, *Islamic Law and Finance: Religion, Risk and Return* (The Hague: Kluwer Law International, 1998), 11. Mahmoud Amin El-Ghamal, "Global Strategies for Islamic Banking and Finance." *Kuala Lumpur Talk*, February 19 (2001): 1-2. Zubair Hasan, "Islamization of Knowledge in Economics: Issues and Agenda." *IJUM Journal of Economics & Management*, Volume 6, Number 2, (1998): 3. Waleed J. Ajdass, *Methodology of Economics: Secular vs Islam* (Kuala Lumpur: International Islamic University Malaysia Press, 2008), 29-31. Arif Hoetoro, *Ekonomi Islam: Pengantar Analisis Kesenjangan dan Metodologi* (Malang: Badan Penerbit Fakultas Ekonomi Universitas Brawijaya, 2007), 250-251.

²⁶ M. Umer Chapra, *The Future of Economics: An Islamic Perspective* (Leicester: The Islamic Foundation, 2000), 130. M. Umer Chapra, "Comments on Islamic Economics and Finance: Where Do They Stand For? by M.A. Choudhury." *Islamic Economics and banking in The 21st Century, Paper on 6th International Conference on Islamic Economics and Finance*, Jakarta, November 21-24, 2005: 62-63. M. Umer Chapra, *What is Islamic Economics* (Jeddah: IRTI - IDB, 1996).

M.A. Mannan,²⁷ M. Nejatullah Siddiqi,²⁸ Monzer Kahf,²⁹ Syed Nawab Haider Naqvi,³⁰ Abdullah Saeed,³¹ Muhammad Akram Khan,³² Muhammad Arif,³³ Muhammad Anwar,³⁴ Muhammad Anas Zarqa,³⁵ Zubair Hasan,³⁶ and M. Aslam Haneef.³⁷ are proponents of the Islamization of banks and other financial institutions as an effort to integrate mainstream financial system into Islamic finance. They emphasized the need for building economic and its institutions consistent with Islamic values and norms.

The integration approach opens the door to interact with conventional system and practices as long as they do not conflict with shariah principles. This approach put emphasized on “step by step” approach to modify modern socio-economic order to be more ideal with Islamic principles. The integration approach now become the mainstream in developing Islamic financial institutions,³⁸ including shariah capital market³⁹ in the world. The integration of shariah finance into existing national as well international financial system take place in various Shariah ethical investment products introduced and developed in the existing “conventional” system.⁴⁰

²⁷ M.A. Mannan, *Islamic Economics: Theory and Practice* (Delhi: Sh. M. Ashraf, 1970), 13, 363. M.A. Mannan, *The Making of An Islamic Economic Society* (Cairo: International Association of Islamic Banks Egypt and International Institute for Islamic Banking and Economics Turkish-cyprus, 1984), 25, 51. M.A. Mannan, *The Frontiers of Islamic Economic* (Delhi: Idarah-i Adabiyat-i, 1984), 25. M. A Mannan, “Islamic Economics as a Social Science: Some Methodological Issues.” *Journal of Research in Islamic Economics*, 1 (1); 1983: 56. M.A. Mannan, *Understanding Islamic Finance: A Study of the Securities Market in an Islamic Framework* (Jeddah: IDB IRTI, 1993), 5.

²⁸ M. Nejatullah Shiddiqi, “Islamizing Economics”, 255. M. Aslam Haneef, “Muhammad Nejatullah Siddiqi.” *Contemporary Islamic Economic Thought*, 32. Muhammad Nejatullah Siddiqi, “Restructuring the Study of Economics in Muslim Universities.” in *Social and Natural Sciences: The Islamic Perspective*, Isma’il R. Al-Faruqi and Abdullah Omar Nasseef, eds. (Jeddah: King Abdulaziz University, 1980), 81.

²⁹ Monzer Kahf, “Islamic Economics: Notes on Definition and Methodology.” *Review of Islamic Economics*, 13, (2003): 23-47.

³⁰ Syed Nawab Haider Naqvi, *Islam, Economics, and Society* (London and New York: Kegan Paul International, Ltd., 1994), xxii. Nawab Haider Naqvi, *Ethics and Economics: An Islamic Synthesis* (Leicester, UK: the Islamic Foundation, 1981), 61, 71.

³¹ Abdullah Saeed, *Islamic Banking and Interest*, 140.

³² M. Akram Khan, “Islamic Economics, Nature and Need.” *Journal for research in Islamic Economics*, Jeddah: The Center for Research in Islamic Economics, (1984): 52-53.

³³ Muhammad Arif, *The Shari’ah Paradigm of Islamic Economics: The Beginning of A Scientific Revolution* (Herndon, Virginia: The American Journal of Islamic Social Sciences, Vol. 2, No. 1, July (1985): 79-99.

³⁴ Muhammad Anwar, “Islamic Economic Methodology.” *Journal of Objectives Studies*, 2, 1, (1990): 28-46.

³⁵ Muhammad Anas Zarqa, Methodology of Islamic Economics.” in *Lectures on Islamic Economics*, Ausaf Ahmad and Kazim Raza Awan, eds. (Jeddah: IRTI IDB, 1992), 54. Muhammad Anas Zarqa, “Islamization of Economics: The Concept and Methodology”, in *Jurnal J.KAU: Islamic Econ.*, Vol. 16, No. 1, (1424 A.H / 2003 A.D): 3-42. M. Anas Zarqa, “Islamic Economics: An Approach to Human Welfare.” in *Studies in Islamic Economics*, K. Ahmad, ed. (Jeddah: International Centre for Research in Islamic Economics, King Abdulaziz University and the Islamic Foundation, U.K., 1980), 3-18.

³⁶ Zubair Hasan, “Islamization of Knowledge in Economics.” 4. Zubair Hasan, “Islamic Finance: What Does It Change, What It Does Not? Structure-Objective Mismatch and Its Consequences.” *Munich Personal RePEc Archive Paper*, No. 21224, 08 Maret (2010): 1-4. Zubair Hasan, *Islamic Finance: Structure-Objective Mismatch and Its Consequences*, Workshop on Islamic Finance at the Business School Strasbourg University, France, on March 17, 2010.

³⁷ Mohamed Aslam Haneef, “Islam, the Islamic Worldview, and Islamic Economics.” *IJUM Journal of Economics and Management*, 5 (1), (1997): 39. Mohamed Aslam Haneef and Hafas Furqan, “Usul al-Iqtisad: The Missing Dimensions in Contemporary Islamic Economics and Finance.” in *Readings in Islamic Economics and Finance*, Nurazura Sanusi, ed. (Sintok: UUM Publications, 2007), 1-16. Mohamed Aslam Haneef and Hafas Furqan, “Methodology of Islamic Economics: Typology of Current Practices, Evaluation and Way Forward.” *Paper presented on the 8th International Conference on Islamic Economics and Finance*, Center for Islamic Economics and Finance, Qatar Faculty of Islamic Studies, Qatar Foundation: 1. Mohamed Aslam Haneef, *A Critical Survey of Islamization of Knowledge* (Kuala Lumpur: IIUM Press, 2nd edition, 2009). Mohamed Aslam Haneef, *Islamisasi Ilmu Ekonomi: Apa yang Salah?* in *Jurnal Islamia*, Tahun II No. 6 Juli-September (2005): 47-48.

³⁸ Zubair Hasan, “Islamization of Knowledge in Economics: Issues and Agenda.” 4.

³⁹ Noor Mohammad Osmani dan Md. Faruk Abdullah, “Towards an Islamic Stock Market: A review of Classical and Modern Literatures.” *International Review of Business Research Papers*, No. 5 (2009): 126. See also Muhammad Hasyim, “Bursa Efek Dalam Konteks Pemikiran Fiqh.” *Problematika Hukum Islam Kontemporer: Buku Ketiga* (Jakarta: Pustaka Firdaus and LSIK, 2004), 32. Nasroen Haroen, *Perdagangan Saham di Bursa Efek: Tinjauan Hukum Islam* (Ciputat: Kalimah, 2000), 102-103. M. Raquibuz Zaman, “The Operation of the Modern Financial Markets for Stocks and Bonds and its Relevance to an Islamic Economy,” *The American Journal of Islamic Social Sciences*, September, 1986, 125-140. Husein Syahatah and Athiyah Fayyadh, *Bursa Efek: Tuntunan Islam dalam Transaksi di Pasar Modal* (Surabaya, Pustaka Progressif, 2004), 118-120.

⁴⁰ Shamsad Akhtar dkk., “Understanding Islamic Finance: Local Innovation and Global Integration.” *Asia Policy*, Number 6 (July 2008). Hari Bhambara, “Integrating Islamic Finance in the Mainstream European Banking Sector: The Need for Regulation, Standardisation & Transparency”. *Praesidium*, 31 Oktober 2007. The Seventh Harvard University Forum on Islamic Finance, *Integrating Islamic Finance into the Mainstream: Regulation, Standardization and Transparency: A Short Report*, Cambridge: Massachussets, April, 22-23, 2006. The First Oxford Islamic Finance Round-Table *Integrating Financial Management in Global Finance*, Dar al-Istithmar, Ditchley Park Conference Centre, 24-25 Maret, 2006.

However, the integration process which apply step by step approach in applying shariah principles in Islamic finance and shariah capital market and open the door to interact with conventional system through shariah compliant process has been critized. According to some prominent Islamic scholars such as Monzer Kahf⁴¹, M. Fahim Khan,⁴² M. Nejatullah Siddiqi,⁴³ Nazim Zaman and Mehmet Asutay,⁴⁴ M. Aslam Haneef,⁴⁵ Volker Nienhaus,⁴⁶ Mohammad Obaidullah,⁴⁷ M. Amin El-Ghamal⁴⁸ and Abdullah Saeed,⁴⁹ Salman Syed Ali⁵⁰ Asyraf Wajdi Dusuki,⁵¹ Sudin Haron and Wan Nursofiza, Al-Amine,⁵² Wafica Ali al-Ghoul,⁵³ and Ali Adnan Ibrahim⁵⁴ the integration has resulted a paradox. According to their opinions there is no significant distinction between shariah model compared with conventional model. Islamic economics and finance are presently no more than the result of applying the Islamic rules and injunctions, i.e. Islamic fiqh, to secular economics. The recent reality shariah application which dominated by taking conventional finance as the model is just duplicative efforts which overemphasis to the "form" rather than to the shariah "substance" (*maqasid shariah*).⁵⁵

⁴¹ Monzer Kahf, *Islamic Economics: What Went Wrong?*, http://monzer.kahf.com/papers/english/ISLAMIC_ECONOMICS_what_went_wrong_SEPT_03_IRTI.pdf, (diunduh 20 April 2011).

⁴² M. Fahim Khan, "Islamic Science of Economics: to Be or Not to Be", *Islamic Society for Institutional Economics*, www.i-sie.org (diunduh 03 April 2011). Tulisan ini merupakan ringkasan hasil diskusi yang diadakan oleh Islamic Research and Training Institute of Islamic Development Bank, Jeddah diikuti oleh M. Nejatullah Siddiqi, M. Anas Zarfqa, Mabid Jarhi, Monzer Kahf, M. Umer Chapra, and El-Ghari

⁴³ M. Nejatullah Siddiqi, "Islamic Banking and Finance in Theory and Practice: A Survey of State of the Art", *Journal Islamic Economic Studies*, Vol. 13 No. 2, http://www.ses.ac.ir/files/takmili/islamic_econ./islamic_banking/vol_13_2..m_n_siddiqi..isl_banking_and_finance...pdf. (diunduh 02 Januari 2011).

⁴⁴ Nazim Zaman and Mehmet Asutay, "Divergence Between Aspirations and Realities of Islamic Economics: A Political Economy Approach to Bridging the Divide", *IJUM Journal of Economics & Management* 17, No.1 (2009).

⁴⁵ M. Aslam Haneef, *Islamisasi Ilmu Ekonomi: Apa yang Salah?* dalam *Jurnal Islamia*, Tahun II No. 6 Juli-September (2005): 48.

⁴⁶ Volker Nienhaus, "Islamic Finance-From Opposition to Opportunity" *Journal Orient*, Vol. III (2008): 25-33. Volker Nienhaus, "Profitability of Islamic PLS Banks Competing with Interest Banks: Problems and Prospects" in *Jurnal Res. Islamic Econ.*, Vol. 1, No. 1, (1403/1983). 31-39. Volker Nienhaus, *Islamic Economics-Policy between Pragmatism and Utopia* (Tubingen: Institute Scientific for Co-operation, 1982). Volker Nienhaus in roundtable on *Islamic Finance and the Public Good*, the Securities Commission of Malaysia (SC), the securities regulator and the Oxford Centre for Islamic Studies (OCIS), <http://www.halaljournal.com/article/5618/united-kingdom:-has-islamic-finance-contributed-to-the-public-good>, (diunduh tanggal 03 Januari 2012).

⁴⁷ Mohammad Obaidullah in Ali Sakti, *Ekonomi Islam Mazhab Indonesia*, <http://abiasqa.blogspot.com/2011/05/ekonomi-islam-madzhah-indonesia.html> (diunduh 19 Desember 2011).

⁴⁸ Mahmoud Amin El-Ghamal, *Islamic Finance, Law Economics, and Practice* (New York: Cambridge University, 2006), xii.

Mahmoud Amin El-Ghamal, "Interest" and the Paradox of Contemporary Islamic Law and Finance." *Fordham International Journal*, Volume 27, Issue 1, (2003): 3-4. Mahmoud Amin El-Gamal, "The Economics of 21st Century Islamic Financial Jurisprudence", *Proceedings of the Fourth Harvard University Forum on Islamic Finance*, Cambridge: Center for Middle Eastern Studies, Harvard University, 2002: 7-9. Mahmoud Amin El-Gamal, "Limits and Dangers of Shari'ah Arbitrage." *Islamic Finance: Current Legal and Regulatory Issues*, S.Nazim Ali ed., (2007): 1. Mahmoud A. El-Ghamal, "Incoherence of Contract-Based Islamic Financial Jurisprudence in the Age of Financial Engineering." 3-4.

⁴⁹ Abdullah Saeed, "Idealism and Pragmatism in Islamic Banking: The Application of Shari'ah Principles and Adjustments." *Journal of Arabic, Islamic and Middle Eastern Studies*, Vol. 4, No. 2, (1998): 89-111. Lihat juga Mervyn K. Lewis, "In What Ways does Islamic Banking differ from Conventional Finance?" *Journal of Islamic Economics, Banking and Finance*, Vol. 4, No. 3, Sept-Dec, (2008): 9-21.

⁵⁰ Salman Syed Ali, "Introduction: Islamic Capital Markets: Current State and Development Challenges." *Islamic Capital Markets: Products, Regulation and Development* (Jeddah: Islamic Research & Training Institute, 2008), 9-13.

⁵¹ Asyraf Wajdi Dusuki, "Challenges of Realizing Maqasid al-Shariah (Objectives of Shariah) in Islamic Capital Market: Special Focus on Equity-Based Sukuk." *3rd USM-ISDEV International Islamic Management Conference on Islamic Capital Market*. Centre for Islamic Management Studies University Sains Malaysia, Penang, 28th-29th October, 2009. Asyraf Wajdi Dusuki and Nurdianawati Irwani Abdullah, "The Ideal of Islamic Banking: Chasing A Mirage?" *Paper presented in INCEIF Islamic Banking and Finance Educational Colloquium*, Bank Negara Malaysia. Kuala Lumpur, 3rd-5th April 2006.

⁵² Muhammad al-Bashir Muhammad al-Amine, "Sukuk Market; Innovations and Challenges." *Paper*, Presented at The International Conference on Islamic Capital Markets: Regulations, Products and Practice with Relevance to Islamic Banking and Finance. Muamalat Institute and Islamic Research and Training Institute, Jakarta: 27-29 Agustus 2007: 4-8.

⁵³ Wafica Ali Ghoul, "Shari'ah Compliant Derivative Instruments: Is Product development Keeping Up with the High Growth Rate of Islamic Finance?" *Paper*, presented at the International Conference on Islamic Capital Markets, Muamalat Institute and IDB IRTI, Jakarta, 27-29 Agustus (2007):118.

⁵⁴ Ali Adnan Ibrahim, "Convergence of Corporate Governance and Islamic Financial Services Industry: Toward Islamic Financial Services Securities Market."401.

⁵⁵ Zubair Hasan, "Islamic Finance: What Does It Change, What It Does Not? Structure-Objective Mismatch and Its Consequences." *Munich Personal RePEc Archive Paper*, No. 21224, 08 Maret (2010): 1-4. Rodney Wilson, "The Development of Islamic Finance in GCC." *Working Paper Kuwait Programme on Development, Governance and Globalisation in the Gulf States* (2009): 30. Mahmoud A. El-Ghamal, *Islamic Finance, Law Economics, and Practice* (New York: Cambridge University, 2006),

Ghamal and Dusuki⁵⁶ mentioned that the paradox emerge for a reason. There are two different opinions between the shariah experts in understanding the structure and the objectives of Islamic financial institutions. On one hand, the shariah jurists and academicians demand that Islamic finance should place greater social economic welfare responsibilities and religious commitment in order to achieve the Islamic economic objectives including social justice, equitable distribution of income and wealth, and promoting economic development. They argued that Islamic finance is demanded not only to comply with shariah contracts, avoiding prohibited business, but should also play important role as a means to realize the shariah objectives in economy.

This view even goes further to argue that "Profit and Loss sharing" with equity based contracts is the only principle representing a true spirit of Islamic financial system which departs significantly from the interest based system. M. Umer Chapra⁵⁷ and many other scholars subscribe to this view including Sadr,⁵⁸ M.N. Siddiqi,⁵⁹ Ziauddin Ahmad,⁶⁰ Khursid Ahmad,⁶¹ Siddiqui,⁶² Haron,⁶³ Rosly and Bakar,⁶⁴ Haron and Hisham,⁶⁵ Naqvi,⁶⁶ Choudhury,⁶⁷ Wahbah al-Zuhali,⁶⁸ Waled Hegazy⁶⁹ and Taqi Usmani.⁷⁰

On the other hand, the practitioners view that Islamic finance should act as a normal commercial entity aims at maximizing profits as long as it is done in a manner consistent with Islamic law. This second view also stresses the equal importance of profit and loss (equity-based) contracts and other debt-based contracts which have a clear indicative of permissibility based on shariah rulings in the Quran and Hadis. The debt-based contracts encompass murabahah (cost-plus sale), bay' bitsaman ajil (deferred payment sale), bay' al-salam (purchase with deferred delivery), bay' al-Istisna' (commissioned manufacturing), and ijarah (leasing). Hence, overemphasis placed on Profit and Loss sharing modes of financing is believed to be inappropriate and unfounded to any Quranic text and

xii. Ibrahim Warde, *Islamic Finance in The Global Economy* (Edinburgh: Edinburgh University Press, 2000), 240. Charles Tripp, *Islam and The Moral Economy: The Challenge of Capitalism* (Cambridge: Cambridge University Press, 2006), 150. Mahmoud A. El-Ghamal, "Interest" and the Paradox of Contemporary Islamic Law and Finance." *Fordham International Journal*, Volume 27, Issue 1, (2003): 3-4. Timur Kuran, "The Economic system in Contemporary Islamic Thought: Interpretation and Assessment." *International Journal of Middle East Studies* (1996), 18. Javed Ansari, "Gerakan Islamisasi: Sebuah Pengantar." *Islamisasi Ekonomi: Suatu Sketsa Evaluasi dan Prospek Gerakan Perekonomian Islam*, A.E. Priyono dkk. (Yogyakarta: PLP2M, 1985), 16. Waleed J. Ajdass, *Methodology of Economics: Secular vs Islam*, 126.

⁵⁶ M. Amin El-Gamal, "The Economics of 21st Century Islamic Financial Jurisprudence", *Proceedings of the Fourth Harvard University Forum on Islamic Finance*, Cambridge: Center for Middle Eastern Studies, Harvard University, 2002: 7-9. Asyraf Wajdi Dusuki and Nurdianawati Irwani Abdullah, "The Ideal of Islamic Banking: Chasing A Mirage?" *Paper presented in INCEIF Islamic Banking and Finance Educational Colloquium*, Bank Negara Malaysia. Kuala Lumpur, 3rd-5th April 2006: 3. Salihu Abdul Waheed, dkk., "Concept of Profit Maximization Model in Islamic Commercial Banking System and its Weakness." *Arabian Journal of Business and Management Review*, Vol. 1, No.3; October 2011: 69-72.

⁵⁷ M. Umer Chapra, "The Islamic Welfare State and Its Role in Economy." in *Studies in Islamic Economics*, K. Ahmad (ed.) (Jeddah: International Centre for Research in Islamic Economics, King Abdulaziz University and the Islamic Foundation, U.K., 1980), 143-170. M. Umer Chapra, "Objectives of the Islamic Economic Order." in *An Introduction to Islamic Economics and Finance*. Sheikh Ghazali Sheikh Abod, dkk (ed.) (Kuala Lumpur: CERT Publications Sdn Bhd., 2005), 3-25.

⁵⁸ M. Baqir al-Sadr, *An Introduction to Principle of Islamic Banking*, terj. Bazban-Rad (Tehran: Bunyad Be'thet, 1982).

⁵⁹ M.N. Shiddiqi, *Issues in Islamic Banking* (Leicester: The Islamic Foundation, 1983). M.N. Shiddiqi, *Partnership and Profit Sharing in Islamic Law* (Leicester: The Islamic Foundation, 1985)

⁶⁰ Ziauddin Ahmad, "Concept and Models of Islamic Banking: An Assesment." *Paper* dipresentasikan pada Seminar on Islamisation of Banking, Karachi, (1984).

⁶¹ Khursid Ahmad, "Islamic Finance and Banking: The Challenge and Prospect." *Review of Islamic Economics*, 9 (2000): 57-82.

⁶² S.H. Siddiqui, "Islamic Banking: True Modes of Financing." *New Horizon*, 109, May-June (2001).

⁶³ Sudin Haron, "The Philosophy and Objectives of Islamic Banking: Revisited." *New Horizon* (1995).

⁶⁴ Syaiful Azhar Rosly and M. A.A. Bakar, "Performance of Islamic and Mainstream Banks in Malaysia." *International Journal of Social Economics*, 30 (12) (2003): 1249-1265.

⁶⁵ Sudin Haron and B. Hisham, "Wealth Mobilization by Islamic Banks: The Malaysian Case." *Paper* dipresentasikan pada International Seminar on Islamic Wealth Creation. University of Durham (2003).

⁶⁶ S.N.H. Naqvi, *Perspective on Morality and Human Well-Being: A Contribution to Islamic Economics* (Leicester: The Islamic Foundation, 2003).

⁶⁷ M.A. Choudury, "What is the Scope of Islamic Economics and Finance? *Journal of Islamic Economic, Banking and Finance*, Vol. 2, No. 1, January-June, (2006). M.A. Choudury, "Islamic Economics and Finance: Where Do They Stand?," *International Journal of Accounting and Finance*, vol. 1, issue 2, (2008): 149-167. M. A. Choudhury, "Venture Capital in Islam: A Critical Examination." *Journal of Economic Studies*, 28 (1), 2000: 14-33.

⁶⁸ Wahbah al-Zuhayli, *Al-Fiqh Al-Islami wa-Adillatuh*, Jilid IV (Beirut: Dar al-Kutub al-Islamiyyah, 1991), 350.

⁶⁹ Waled Hegazy, "Fatwas and the Fate of Islamic Finance: A Critique of the Practice of Fatwa in Contemporary Islamic Financial Market." in *Islamic Finance: Current Legal and Regulatory Issues*, 141

⁷⁰ Muhammad Taqi Usmani, *An Introduction to Islamic Finance* (Karachi: Maktabah Ma'arifur Qur'an, 2005), 24.

even incompatible with the methodology of shariah. The main Islamic financial institutions responsibilities are towards the shareholders or investor and not to be burdened with other responsibilities. The social welfare responsibilities of Islamic financial institutions should be fulfilled by other bodies such as the government. Islamic financial institutions pay zakat as part of their social contribution while complying with the shariah requirements. The use of Islamic financial institutions funds for other social activities which are not required by the law may jeopardize the viability of Islamic financial institutions.⁷¹

Indonesian shariah capital market instruments seem to face the same dilemma. It seems that Islamic economics and finance are presently no more than the result of applying the Islamic rules and injunctions, i.e. Islamic fiqh, to conventional economics. Islamic economics is not yet, contrary to what some scholars would want Muslim to believe, a discipline that replaces conventional economics. Instead, Islamic economic and finance complement and converge with existing mainstream conventional economics and finance.⁷² It can be traced from the regulator policies that try to integrate shariah products into mainstream national conventional capital market under the Law Number 8 Year 1995. In Capital Market Master Plan 2010-2014, the steps taken to increase the number of shariah products are by evaluating and transforming conventional capital market products to be Sharia-compliant products as well as researching and developing new Sharia products.⁷³

The phenomena applying shariah principles in conventional practices can also be traced in primary market when Bapepam review existing stocks according to certain criteria. All of shariah stocks in the Equity Securities List came from the issuers that do not declares its business activities as well as its business management are conducted based on the shariah principles in the capital market. In the issuance of sukuk, total sukuk that have been issued by Bapepam are 52 series of corporate sukuk and the majority i.e. 38 corporate sukuk (73,08%) apply ijarah as their underlying contracts. All of 18 series of sovereign sukuk (100%) apply ijarah (sale-lease back) as their underlying contracts. It showed that majority of sukuk issuance are fixed based returns under ijarah contract. These are some indicators that show shariah instrument converge into Indonesian existing conventional capital market.

In the secondary market, Bapepam also has the task to ensure that speculative behaviour that close to gambling ruled out from the market. Bapepam should provide secondary capital market as an element of liquidity and as fair and transparent pricing and valuation of assets on a continued basis that eliminating arbitrage and inefficiencies. The price of the stock should be fair and transparent all the time to make sure that the trading mechanism of shariah securities are in the right direction in accordance with the Guidance Number 80/DSN-MUI/III/2011 regarding The Application of Shariah Principles in Trading Mechanism of Equity Securities at Stock Exchange Regular Market.

This paper argued that principally under the "step by step" approach in integrating Shariah ethical investment products into existing national conventional capital market in Indonesia, the policies have been taken by Bapepam and National Shariah Board can be accepted as long as all the processes have been through in a manner consistent with shariah principles. The integration and convergence are needed to put Shariah ethical investment products development fulfil the national and international standards while applying shariah principles. The reality now should be understood as transitional stages to go forward to a more ideal application of shariah principles in economics and finance.⁷⁴

As a part of step by step approach in integration process, Bapepam need to step forward to maximize the Shariah ethical investment products contribution towards Indonesian economy. Bapepam LK need to develop their regulation regarding shariah capital market instruments in

⁷¹ M. Amin El-Gamal, "The Economics of 21st Century Islamic Financial Jurisprudence", 7-9. Asyraf Wajdi Dusuki and Nurdianawati Irwani Abdullah, "The Ideal of Islamic Banking: Chasing A Mirage?" 3. Salihu Abdul Waheed dkk, "Concept of Profit Maximization Model in Islamic Commercial Banking System and its Weakness.", 69-72.

⁷² Waleed J. Ajdass, *Methodology of Economics: Secular vs Islam*, 126.

⁷³ Bapepam LK, *Capital Market and Non Bank Financial Institutions Master Plan 2010-2014*, 87.

⁷⁴ Muhammad Taqy Usmani, *An Introduction to Islamic Finance*, 9-11. M. Umer Chapra, "Comments on Islamic Economics and Finance", 62-65. M. Umer Chapra, *The Future of Economics*, 366-376. M. Akram Khan, "Methodology of Islamic Economics." 26-27, 31. Waleed J. Ajdass, *Methodology of Economics: Secular vs Islam*, viii. Sayed Nawab Haider Naqvi "Interest Rate and Inter-Temporal Efficiency in an Islamic Economy." in *Monetary and Fiscal Economics of Islam*. M. Ariff, ed. (Jeddah: International Centre for Research in Islamic Economics, King Abdulaziz University, Saudi Arabia), 75-100. M.A. Chowdhury, "Interest Rate and Inter-Temporal Efficiency in an Islamic Economy: Issue Revisited." *Discussion Paper No.6*, International Centre for Research in Islamic Economics, King Abdulaziz University, Jeddah: Saudi Arabia (1982).

Indonesia within five objectives. The shariah objectives in islamic capital market must follow the three IOSCO objectives of securities market i.e. (i) investor protection, (ii) transparency and disclosure, (iii) avoidance of sistemic risk.⁷⁵ The objectives should also be completed with specific shariah objectives i.e. (iv) keeping a constant link of financial asset with real economy activity, and (v) ensuring the key prohibitions such as *riba* and *gharar* are implemented.⁷⁶

Therefore, Bapepam LK need to consider Iqbal and Mirakhor's opinion. They argued that shariah based or innovative approach requires a deep understanding of the Islamic economic and financial system as well as the risk/return characteristics of each basis building block, it is a long term-solution and requires extensive research and commitment. Many writes argued that shariah based is better aligned with the essence of the shariah. Pioneering new frontiers in a different paradigm always poses new challenges and takes time. Therefore, it is conceivable that due to the pressing need for innovation, the imitative (shariah compliant) approach will dominate in the short time, and an adoption of some combination of reverse engineering and innovation will take place in the medium term. However, the full potential of the system will only be achieved if serious efforts are made to introduce new instruments (shariah based), which provide unique risk/return characteristics that are equality desirable for Islamic and non Islamic capital market.⁷⁷

Conclusion

The recent reality has shown that the imitative model has become the majority in issuing Islamic capital market insruments. The tendency to generate fixed based income has become common phenomena in Islamic capital market instruments such as the popularity of sukuk based on *ijarah* at most compared to sukuk based on *mudharabah* or *musyarakah*. Besides, Islamic capital market instruments in secondary market are still debatable in spite of there has been fatwa from Shariah National Board regulating trading stocks in secondary market. Many people argued that these instrument did not have direct impact to economic growt and tend to be closer to speculative transaction (gambling) which is prohibited in Islam.

Pioneering new frontiers in a different paradigm always poses new challenges and takes time. This paper argued that principally under the "step by step" approach in integrating Shariah ethical investment products into existing national conventional capital market in Indonesia, the policies have been taken by Bapepam and National Shariah Board can be accepted as long as all the processes have been through in a manner consistent with shariah principles. The integration and convergence are needed to put Shariah ethical investment products fulfil the national and international standards while applying shariah principles. The reality now shoud be understood as "transitional stages" to go forward to a more ideal application of shariah principles in economics and finance. As a part of step by step approach in integration process, Bapepam need to step forward to maximize the Shariah ethical investment products contribution towards Indonesian economy.

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⁷⁵ IOSCO, "Islamic Capital Market Fact Finding Report" 10.

⁷⁶ Salman Syed Ali, "Introduction: Islamic Capital Markets: Current State and Development Challenges." 11

⁷⁷ Zamir Iqbal and Abbas Mirakhor, *An Introduction to Islamic Finance: Theory and Practice*, 208.

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