

COMPARISON OF SHARIA SUPERVISORY REGULATIONS ON ISLAMIC VENTURE CAPITAL IN INDONESIA AND MALAYSIA

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Abstract

Indonesia and Malaysia are two countries that have the potential to become world Sharia financial centers. These two countries have enormous potential because they are countries with a majority Muslim population. One of the sharia financial institutions that is proliferating is sharia venture capital. Basically, sharia venture capital has the same business concept as conventional venture capital. Vanture capital is an institution that can fund a group of parties to develop their business. However, sharia venture capital must comply with Islamic law principles in all its activities. Therefore, it is necessary to monitor sharia compliance in sharia venture capital institutions. This is crucial because all sharia financial institutions must avoid things prohibited by Islamic principles. Therefore, the independence of the Sharia Supervisory Board must be guaranteed. So that it can carry out its supervisory function well. This article aims to compare the concept of sharia supervision in sharia venture capital in Indonesia and Malaysia. The data used comes from library data, both from literature and regulations. These data were analyzed qualitatively. Thus, it was found that there were differences between sharia supervisors in Indonesia and in Malaysia. Sharia venture capital institutions appoint sharia supervisors in Indonesia. Meanwhile, in Malaysia, the Sharia Supervisor is part of the Sharia Commission of Malaysia.

Keywords: *Sharia; Supervision; Venture Capital; Regulation; Comparison*

1. Introduction

Venture capital has a remarkable ability to contribute to business development. Small companies with reasonable expectations but need more capital and access to banking can develop by obtaining capital assistance from venture capital, which is very accommodating in company or business-related matters.¹ Until now, venture capital has been an excellent financing choice in addition to conventional financing and national banking. Venture capital aims to encourage the country's economic growth and foster innovation in business to grow and develop enterprises. Significantly advancing the potential growth of small entrepreneurs who always experience obstacles in their business, the most important thing is the relationship with capital, because capital is essential in business. Regarding the development of small businesses, companies that receive

¹ Fanglin Meng et al., "Study on Value Symbiosis and Niche Evolution of the Corporate Venture Capital Ecological Community for Innovation and Knowledge," *Journal of Innovation and Knowledge* 8, no. 3 (2023): 100363, <https://doi.org/10.1016/j.jik.2023.100363>.

capital assistance from venture capital companies are generally given conditions, especially those relating to buildings and the return on capital that has been given.² Economic growth itself cannot be separated from the business sector; Micro, Small, and Medium Enterprises are a form of small business because MSMEs have deficiencies or obstacles in capital both in the establishment and development, and venture capital plays a vital role in financing.

This venture capital company received encouragement from the Financial Services Authority to advance the company, for example in creative, modern, innovative industries such as online-based industries which have great potential for the development of venture capital companies; on the other hand, venture capital can also help companies to develop or revive return to the economic sector. The Financial Services Authority plays an active role in venture capital companies developing fee-based opinions. The important thing is that the Venture Capital system is a way to help especially young entrepreneurs who still need to get bank financing guarantee businesses.³ Although there is no evidence that venture capital is around 1% of the total investment, but the delayed effect of venture investment is significant.⁴

The establishment of PT Bahana Pembinaan Usaha Indonesia in 1973 marked the start of the development of venture capital, which at that time included institutional status in financing the development of small and large businesses. Since 2011, venture capital has had Sharia venture capital that puts forward sharia principles. Along with the times, venture capital itself is not only conventional but also sharia-based venture capital. In practice, conventional venture capital and Islamic venture capital have different principles and characteristics, one of which is in the distribution of company profits.⁵ That is supported by the results of a study that found that VC has a positive relationship with firm performance, and financial leverage has a negative relationship between venture capital (VC), financial leverage, and firm performance based on data from China GEM (Growth Enterprises Market) listed companies 2010-2014.⁶ Empirical results detail Venture-Capital Syndication (VCS) in the relationship between intellectual capital (IC) and portfolio firm

² Ting Feng et al., "The Impact of Venture Capital Funds with Foreign Limited Partners Investment on Enterprise Internationalization: Evidence from China," *Heliyon* 8, no. 12 (2022): e12281, <https://doi.org/10.1016/j.heliyon.2022.e12281>.

³ Ah Fathonih, Grisna Anggadwita, and Sadudin Ibraimi, "Sharia Venture Capital as Financing Alternative of Muslim Entrepreneurs: Opportunities, Challenges and Future Research Directions," *Journal of Enterprising Communities* 13, no. 3 (2019): 333–352.

⁴ Vladimir Vladimirovich Kolmakov, Aleksandra Grigorievna Polyakova, and Vasily Sergeevich Shalaev, "An Analysis of the Impact of Venture Capital Investment on Economic Growth and Innovation: Evidence from the USA and Russia," *Economic Annals* 60, no. 207 (2015): 7–37.

⁵ Andi. Soemitra, *Bank Dan Lembaga Keuangan Syariah* (Jakarta: Kencana, 2009).

⁶ Ruili Yang, Kui Xia, and Hongxing Wen, "Venture Capital, Financial Leverage and Enterprise Performance," *Procedia Computer Science* 91, no. Itqm (2016): 114–121.

performance (PFP); IC performance of firms invested by foreign principal investors rather than in private or government VCS, suggesting a more significant impact in particular reflected in innovation capital on the right PFP shows that IC and its components can increase PFP for VCS-backed enterprises in China.⁷

The existence of Venture Capital Financing in Indonesia is an alternative source of financing for community businesses, especially MSMEs. With this alternative financing, the Indonesian business community, especially MSMEs, can focus on developing their business well. According to Law no. 20 of 2008 concerning MSMEs, MSMEs have access to partner with Venture Capital Companies.⁸

Capital is within the scope of the purpose of building a business. However, for business actors, especially MSMEs, the big problem experienced by MSMEs is capital in running their business. Based on the research results of the Ministry of Cooperatives and Micro, Small and Medium Enterprises in collaboration with the Central Statistics Agency, it is stated that the main problem MSMEs face is capital. The study's results stated that capital problems dominated 51.09 percent, then marketing 34.72 percent, raw materials 8.59 percent, employment 1.09 percent, transportation distribution problems 0.22 percent and others at 3.93 percent. In 2013, the Ministry of Cooperatives and Small and Medium Enterprises stated that 99.99 percent of actors in Indonesia were MSMEs. The number of MSME actors reached 57,895,721 business units.⁹

Regarding venture capital companies, it can be interpreted that Sharia venture capital companies are business entities engaged in sharia venture capital businesses. Management of venture funds, and other business activities based on an agreement between the two parties or the financial services authority whose concept is implemented based on sharia principles by the provisions of Islamic law. Basically, sharia venture capital companies' business activities are the same as conventional venture capital companies, namely conducting investment activities or providing service activities to business partners within a certain period for business development.¹⁰ Incorporating a sharia-based investment system has the potential for Islamic Venture Capital

⁷ Yuzhong Lu et al., "Intellectual Capital and Firm Performance in the Context of Venture-Capital Syndication Background in China," *Complexity* 2021 (2021).

⁸ Edy. Nurcahyo, "Tinjauan Yuridis Melawan Pembiayaan Modal Ventura Syari'ah Terhadap Usaha Mikro Kecil Dan Menengah (UMKM) Dengan Sistem Perhitungan Bagi Hasil," *Jurnal Hukum Volkgeist* 2, no. 2 (2018): 9–25.

⁹ Carunia Mulya . Firdausy, *Peran Industri Keuangan Bukan Bank Melawan Perekonomian Nasional* (Jakarta: Yayasan Pustaka Obor, 2019).

¹⁰ Paolo Pietro Biancone and Maha Radwan, "Sharia-Compliant Financing for Public Utility Infrastructure," *Utilities Policy* 52, no. September 2016 (2018): 88–94, <http://dx.doi.org/10.1016/j.jup.2018.03.006>.

Investment to be carried out. On the other hand, higher-than-average returns may be offered. This action can be taken for the Islamic finance industry which focuses on financing equity-based products.¹¹ In addition, the lack of awareness among investors causes low investment growth so the impact on IVC investment growth is low for MSMEs.

With the development of the business world, the concept of Islamic economics has contributed to the development of the Indonesian economy. Although there is an opinion that this is not pleasing to the analysis results directly, in contrast, the presence of VC causes a loss in CSR performance.¹² Even though Indonesia and Malaysia have many similarities, there are differences between the development of Islamic banks in Indonesia and Malaysia. The development of Islamic banks in Indonesia is more bottom-up. The government then made regulations based on the public's interest in establishing Islamic banks. This can be seen from the emergence of Islamic banks in the 1990s and Islamic banking law in 2008. Meanwhile in Malaysia, the nature of development is more top-down. The government has previously facilitated sharia banks and then supported the public interest in the existence of sharia banks.¹³ One of these economic developments is that many have developed the concept of banking based on Islamic law. Even Islamic economics, including venture capital financing patterns, was developed and applied in non-banking financial institutions. Based on Islamic law and legal protection in terms of positive law, it is explained that MSMEs are based on profit sharing.¹⁴ The IVC relationship with MSMEs in the Islamic Shari'a concept is considered to be able to protect MSMEs from getting appropriate incentives without harming them through the stages of the IVC process aham preference, eternal *mudharabah*, *reduced musharakah*, *musyarakah* with *Murabaha*, *musharakah* with card, negligence clauses, liquidation preferences, warrants and.¹⁵

Islamic venture capital financing has a classic character with a *musyarakah* or *mudharabah* financing system.¹⁶ From an Islamic point of view, the utilization of equity financing in the

¹¹ Zaheer Anwer et al., "Islamic Venture Capital – Issues in Practice," *ISRA International Journal of Islamic Finance* 11, no. 1 (2019): 147–158.

¹² Yuzhong Lu and Yanqi Sun, "Mediation Path Study on the Effect of Venture Capital Support on Firm's Corporate Social Responsibility," *Kybernetes*, no. 332211805 (2022).

¹³ Suripto, "Earnings Management Determinants: Comparison between Islamic and Conventional Banks across the ASEAN Region," *Asia Pacific Management Review* 28, no. 1 (2023): 24–32, <https://doi.org/10.1016/j.apmr.2022.01.005>.

¹⁴ Nurcahyo, "Tinjauan Yuridis Melawan Pembiayaan Modal Ventura Syari'ah Terhadap Usaha Mikro Kecil Dan Menengah (UMKM) Dengan Sistem Perhitungan Bagi Hasil."

¹⁵ Abdul Jalil Ibrahim and Monzer Kahf, "Instruments for Investment Protection When Structuring Islamic Venture Capital," *Journal of Islamic Accounting and Business Research* 11, no. 9 (2020): 1907–1920.

¹⁶ Saad Azmat, Michael Skully, and Kym Brown, "Credit Risk in Islamic Joint Venture Bond," *Journal of Economic Behavior and Organization* 103 (2014), <http://dx.doi.org/10.1016/j.jebo.2014.03.020>.

framework of shares or perfunctory participation with profit sharing is a characteristic of the application of a *mudharabah* contract, *ainan musyarakah* or *ainan al-mutanakissa musyarakah*. Sharia venture capital is a financing business field for a certain period based on sharia principles. The principles of venture capital are similar to the principles of *mudharabah*. The venture capital company has a function that is identical to *shahibul maal* and the recipient of capital is similar to the *mudharib* function in the *mudharabah* contract. Thus, the applicable contract is not a debt contract but a cooperation contract. When the recipient of capital makes a profit, the venture capital company will receive a profit share, but if the business makes a loss, the venture capital company will also bear the loss. The application of venture capital that is carried out based on sharia contracts and switches to efforts that do not conflict with recognized sharia.¹⁷ Meanwhile, Sharia Venture Capital is a financing business in the form of equity participation in a company that receives financing contributions with a certain period of time and must also be based on Sharia Principles. In Sharia Venture Capital using *musyarakah* contracts, *mudharabah* contracts and *murabahah* contracts.¹⁸ A venture capital practice that is carried out based on a sharia contract and is also engaged in a business that does not conflict with sharia principles. Several policies are needed, including increasing the capital of a Sharia venture capital company, namely with regulations from the government by providing an adequate supporting policy and incentives and broader socialization and education about the existence and importance of venture capital. sharia.¹⁹ According to Financial Services Authority Regulation No/ 35/POJK/05/2015. Sharia Venture Capital Company is a business entity that carries out Sharia venture capital business activities. All business activities are carried out based on Sharia principles with the approval of the Financial Services Authority.²⁰

Sharia Venture Capital has its characteristics, namely, as follows²¹ Firstly, donors of financial funds in the form of venture capital do not just invest their capital. However, it is also involved in the management of a company that is formed; The investment made is not permanent, but only

¹⁷ Azwar Hamid, "Modal Ventura Syari'Ah," *Jurnal Ekonomi dan Keislaman* 3, no. 1 (2015): 144–145, <https://doi.org/10.24952/masharif.v3i1.1059>.

¹⁸ Darmawan. and Muhammad Iqbal. Fasa, *Manajemen Lembaga Keuangan Syariah* (Yogyakarta: UNY Press, 2020).

¹⁹ Dewi Mahrani Rangkuty and Alfian Zulmi, "Perbandingan Modal Ventura Konvensional Dan Syariah: Studi Literatur Model Pembiayaan Startup Dan UMKM Di Provinsi Sumatera Barat," *Ekonomi, Keuangan, Investasi dan Syariah (EKUITAS)* 1, no. 2 (2020): 74–78.

²⁰ Yuli. Astuti, *Layanan Lembaga Keuangan Syariah* (Jakarta: Gremedia Widiasarana Indonesia, 2019).

²¹ Nur Syamsiyah, Heriyanto Heriyanto, and Dedi Suhendi, "Analisis Pembiayaan Bagi Hasil Dan Pendampingan Manajemen Bagi Perkembangan Pasangan Usaha Dalam Perspektif Ekonomi Islam," *Syi'ar Iqtishadi : Journal of Islamic Economics, Finance and Banking* 3, no. 1 (2019): 1.

temporary, then until the time is up, the investment is made again; Motives and venture capital, namely business motives. Meanwhile, what is meant by business motive is to get the highest profit, even though the risk is relatively high; Venture Capital is an investment without collateral so that it requires caution and patience; and the last one, Venture Capital Investment is usually done to a company that has no access at all to get a bank loan.

As for Sharia venture capital companies, they also have unique characteristics, namely the fulfillment of sharia principles, which are as follows²²First, a Sharia Supervisory Board (SSB) is in charge of supervising the implementation of Sharia principles. Second, the activities of a business run by a venture capital company must apply Sharia principles, and they are not allowed to carry out business activities contrary to Sharia principles. Activities whose business is contrary to the principles of sharia, among others: gambling and games classified as gambling or prohibited trade; Conventional Financial Institutions, including conventional banking and insurance; makers, distributors, and traders of unlawful food and beverages; manufacturers, distributors, and people who provide goods or services that can damage morals and are detrimental; and the last, investing in a company whose transaction at that time was at the level (ratio) of the company's debt to a financial institution whose usury was more significant than the capital.

2. Method

This study analyzes sharia supervisory regulations in Islamic venture capital in Indonesia and Malaysia. The data analyzed are regulations and literature related to research issues.²³ Therefore, this research is included in normative legal research. Normative legal research is carried out by examining library materials or secondary data.

Secondary data is already available and compiled to make it easier for researchers to obtain data because they need to find and collect it from the source, and no longer need to look for the data from the source. Secondary data is often associated with legal research with normative/doctrinal types of research.²⁴ This study compares secondary data in the form of regulations related to sharia supervisors in Indonesia and Malaysia.

²² Darmawan. and Fasa, *Manajemen Lembaga Keuangan Syariah*.

²³ Zulfadli Barus, "Analisis Filosofis Tentang Peta Konseptual Penelitian Hukum Normatif Dan Penelitian Hukum Sosiologis," *Jurnal Dinamika Hukum* 13, no. 2 (2013): 307–318.

²⁴ David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–2478.

3. Results and Discussion

3.1. Concept of Islamic Venture Capital

Profit-sharing financing in Sharia venture capital companies has unique characteristics that are slightly different from venture capital companies in general, namely where there is a Sharia Supervisory Board whose purpose is to oversee Sharia principle activities. Not only that, other unique characteristics of sharia venture capital companies that venture capital companies do not generally own are having business activities based on established sharia principles. All acts of life consist of a comprehensive cosmology concerned not only with representing the canonical texts and Islamic laws that are called Sharia that connect with all.²⁵ The sharia contracts often used in the concept of Islamic venture capital are *mudharabah* and *musyarakah*.²⁶ It should be noted that several studies link Islamic Venture Capital with innovative business concepts in both the vehicle financing sector, the MSME sector, and the banking finance sector. The implementation of Venture Capital for Islamic Banks that *musyarakah* is a particular action that venture capitalists do not use because it is challenging to get business partners with adequate capital security guaranteed to defend against these risks. At the same time, the selection process, schedule of disbursement of funds, ongoing monitoring and skills training are appropriate steps.²⁷

Profit-sharing financing in Sharia venture capital companies also impacts these things. This impact can be in the form of profits, or it can also be in the form of deficiencies caused by the risk of profit-sharing financing in Sharia venture capital companies. The impact arising from the risk of profit-sharing financing in capital companies is similar to venture capital companies in general, namely the risk of losing the capital that has been provided. Even though venture capital companies have the authority to supervise the running of the business actively, there is still a risk that the business will result in bankruptcy. So, if this happens, the company will also lose its funds.²⁸

The advantages of Islamic venture capital are that for the short to medium term it is relatively cheaper and the payment system is quite easy; the management assistance provided by the venture capital company can help increase the company's progress; venture capital companies are usually very concerned about the progress and detriment of the state of a company; Can raise the degree

²⁵ Akhtar Mohammed, "The Convergence Between Islamic Venture Capital And Social Venture Capital," in *The Third Annual Conference of Islamic Economics & Islamic Financ*, ed. Inc. Organized by: ECO-ENA, The Third. (Canada, 2016).

²⁶ Masudul Alam Choudhury, "Islamic Venture Capital: A Critical Examination," *Journal of Economic Studies* 28, no. 1 (2001): 14–33.

²⁷ Aisyah Abdul Rahman, Shifa Mohd Nor, and Mohd Fadzli Salmat, "The Application of Venture Capital Strategies to Musharakah Financing," *Journal of Islamic Accounting and Business Research* 11, no. 3 (2020): 827–844.

²⁸ Ahmad. Muliadi, *Hukum Lembaga Pembiayaan* (Jakarta: Akademia Permata, 2013).

of companies that work with them because they have a reasonably broad relationship that the venture capital company owns.²⁹

As explained above, the risks in profit-sharing financing in Shariah venture capital companies may result in losses or profits for companies that partner with them. As for the impact of risks that occur in profit-sharing financing in sharia venture capital companies, such as defaulting, movements in currency exchange rates (markets) that are not appropriate, operational risks where there are incorrect or appropriate recordings, and the risk of debtor failure and or other related parties in the event of not being able to achieve the targets or needs and fulfill obligations to the financing company for the results of the sharia venture capital.³⁰

Management is an activity or rules regulated in an activity or other in a structured form. In Islam, management is like everything that is organized, neat, structured, regulated, and orderly, and carried out according to the applicable procedures.³¹ As for what is meant by risk are obstacles or obstacles that occur in the way of achieving the desired goal. These risks may make us unable to continue on our path, but there are also risks that we can take even though they are difficult.³²

The implementation of risk management of profit sharing in sharia venture capital companies is supervised directly by the Active Oversight Body of the Sharia Supervisory Board by the advice of the National Sharia Council of the Indonesian Ulema Council or better known as DSN-MUI. Supervised matters include assessing and certainty of the fulfillment of sharia principles, policies and venture capital activities, assessment of risk management policies related to compliance with sharia principles, and assessment of the board's accountability for risk management policy activities related to compliance with the principles. The shari'ah.³³

So with this, both banks and companies or others can provide evidence of information to managers responsible for possible losses occurring in the future, improving methods and decision-making that can be learned from previous cases or problems. With the implementation of this risk management, the people involved in the implementation of profit-sharing financing risk

²⁹ Rangkuty and Zulmi, "Perbandingan Modal Ventura Konvensional Dan Syariah: Studi Literatur Model Pembiayaan Startup Dan UMKM Di Provinsi Sumatera Barat."

³⁰ A. Wangsawidjaja, Z, *Pembiayaan Bank Syari'ah* (Jakarta: Raja Grafindo Persada, 2012).

³¹ Veithzal . Rivai and Rifki . Ismail, *Islamic Risk Management For Islamic Bank* (Jakarta: Gramedia Pustaka Utama, 2013).

³² A Sakouli et al., "Comparative Analysis Between Islamic Finance and Venture Capital: Do IFIS and Venture Capitalists Adopt The Same Investment Decision Process?," *International Journal of Management* 9, no. 4 (2018): 40–59.

³³ Agung. Nugroho, "Penerapan Manajemen Resiko Perusahaan Modal Ventura Syari'ah Pada Pembiayaan BMT (Studi Kasus Pada PT. Permodalan BMT Ventura)" (UIN Syarif Hidayatullah, 2018).

management in sharia venture capital companies will find it easier to assess and critique matters relating to the risk of loss faced that can affect these activities. Risk management can also make it easier to assess and form new strategies and controls for the future.³⁴ Risks may take great effort to eliminate but can be mitigated. According to a study conducted by Fafrej and Boujelbene (2001), if two financial instruments are combined with the two central contracts in Islamic finance, namely "Ijarah" and "Reducing Musyarakah" contracts, this can effectively minimize risk involvement in Islamic Venture Capital.³⁵

3.2. Regulation of Islamic Venture Capital Sharia Supervisors In Indonesia

The thing that distinguishes Islamic and conventional financial institutions is Sharia compliance. All activities of Islamic financial institutions must comply with the fatwa made by the National Sharia Council. The Sharia Supervisory Board supervises the activities of Islamic financial institutions.³⁶

People use Islamic financial institutions to avoid activities that are not in accordance with the principles of Islamic law. Thus, sharia compliance is essential for Islamic financial institutions. If sharia compliance is not adhered to, there is no difference between Islamic and conventional financial institutions. Users choose Islamic financial institutions because they want to avoid conventional financial institutions that contain things prohibited by Islamic law's principles. This is the reason why sharia supervision is essential.³⁷

The duties and functions of the Sharia Supervisory Board in sharia venture capital institutions are stated in the Financial Services Authority Regulation Number 34 of 2015 Article 1 Number 14. Based on the article, the Sharia Supervisory Board has the duties and functions of supervising the implementation of business activities by Sharia Principles. This means that every Sharia venture capital activity will be supervised by the Sharia Supervisory Board, especially in terms of compliance with Sharia principles.

The duties and authorities of the Sharia Supervisory Board in sharia venture capital are explained in more detail in the Financial Services Authority Regulation Number 36 of 2015.

³⁴ Zaheer Anwer, "Islamic Venture Capital Investment Style – Opportunities and Challenges," *Journal of Islamic Marketing* 10, no. 3 (2019): 848–859.

³⁵ Oussama Gafrej and Mouna Boujelbene, "An Alternative Model for Islamic Venture Capital Firms," *International Journal of Islamic and Middle Eastern Finance and Management* 15, no. 6 (2022): 1009–1018.

³⁶ Bagas Heradhyaksa and Ruzian Markom, "Mudharabah Financing Supervision Of," *Diponegoro Law Review* 03, no. 01 (2018): 1–14.

³⁷ Bagas Heradhyaksa, "The Jurisdiction of Sharia Supervisory Board in Indonesia Sharia Capital Market," *SALAM: Jurnal Sosial dan Budaya Syar-i* 7, no. 9 (2020): 763–774.

Chapter 7 of the regulation discusses explicitly the Sharia Supervisory Board. Article 26 states that every sharia venture capital company must have a Sharia Supervisory Board. The company appoints it based on recommendations from the National Sharia Council of the Indonesian Ulama Council (Majelis Ulama Indonesia).

The duties and authorities of the Sharia Supervisory Board are regulated in more detail in article 27. In that article, it is written that the Sharia Supervisory Board is tasked with providing advice and suggestions to the Board of Directors and supervising the sharia aspects of the operational activities of sharia venture capital companies that conduct business activities based on Sharia principles.

In more detail, article 34 of this regulation states that if the National Sharia Board assesses that there are policies or actions of members of the Board of Directors that are not by Sharia Principles, the National Sharia Council must request an explanation from members of the Board of Directors for policies or actions of members of the Board of Directors that are not by Sharia Principles. However, if the Board of Directors rejects the results of the assessment of the National Sharia Board, the National Sharia Council must report completely and comprehensively to the Financial Services Authority and copy it to the Board of Directors no later than 7 (seven) working days after the National Sharia Board receives the explanation of the members of the Board of Directors. Unfortunately, neither the SSB nor the SAC can impose penalties on the board of directors and its staff if they find sharia violations. The party that can impose penalties is the Financial Services Authority.

3.3. The Regulation of Sharia Supervisory in Malaysia Islamic Venture Capital

Malaysia is a country that is trying to become the center of world Islamic finance. The establishment of the Malaysia International Islamic Financial Center evidences this. The institution is regulated in the 2016 Securities Commission. The Securities Commission is the institution that regulates the establishment and activities of all financial institutions, including Islamic venture capital. According to the 2009 Malaysian Securities Commission, venture capital is included in the capital market sector. Regulations regarding Islamic venture capital are contained in the Capital Markets and Services Act 2007.³⁸ The framework of Islamic venture capital in Malaysia is similar

³⁸ Sharifah Faigah Syed Alwi et al., "Islamic Venture Capital in Malaysia: Operation and Challenges," *Malaysian Journal of Consumer and Family Economics* 24, no. S2 (2020): 135–155.

to conventional venture capital. So this makes it easier for Islamic venture capital to compete with conventional venture capital.³⁹

In Malaysia, venture capital is part under capital markets and services. So, the regulation is under the Capital Market and Services Act 2007. Identical to the duties of the sharia supervisory board, the sharia supervisor in venture capital is the Sharia Advisory Council (SAC). The definition and duties of SAC in Malaysia are under the Securities Commission Malaysia Act 1993 (incorporating latest amendment up to 24 November 2017). If there are Islamic financial institutions that do not comply with regulations, the Sharia Advisory Council can impose penalties. To oversee the implementation of the regulations, the Sharia Advisory Council places a Sharia Committee in every Islamic financial institution in Malaysia. The Sharia Committee is tasked with overseeing the activities of Islamic financial institutions. If there is a violation, the sharia committee can report it to the Sharia Advisory Council.⁴⁰ Various industries such as health, communications, agriculture, information technology and manufacturing are the focus of funding by CIMB Group subsidiaries. It offers special funding within the scope of private equity investment, especially in technology and agriculture companies in various stages of development in the Islamic Venture Capital system.⁴¹

There are at least two challenges in developing Islamic venture capital in Malaysia. First, the challenge of developing a business model for Islamic venture capital. Specifically, it is about how to raise funds and distribute them. So that it can provide benefits to all parties. This needs to be supported by clear regulations. The second challenge is about sharia compliance. There must be an explicit agreement between Muslim Scholars regarding the rules of Islamic venture capital.⁴²

4. Conclusion

Islamic venture capital is one of the non-bank Islamic financial institutions funded by including capital into a company that receives financing loans for a certain period using sharia principles. Sharia venture capital has its characteristics, one of which is that donors invest and participate in management in the form of a company. Sharia venture capital also has a unique characteristic, namely being supervised by the National Sharia Council (Sharia Supervisory Board), and it is also prohibited for its business activities not to be carried out according to sharia

³⁹ Anwer et al., "Islamic Venture Capital – Issues in Practice."

⁴⁰ Answer, "Islamic Venture Capital Investment Style – Opportunities and Challenges."

⁴¹ Rusni Bint Hasan, Sa'id Adekunle Mikail, and Muhamad Arifin, "Historical Development of Islamic Venture Capital: An Appraisal," *Journal of Applied Sciences Research* 7, no. Special Issue (2011): 2377–2384.

⁴² Ibid.

principles, for example the existence of usury, gambling activities or the like which have much harm. In Sharia, Venture Capital uses a *musyarakah* contract or *mudharabah* contract. According to the Islamic perspective, venture capital has only existed in the last century or is contemporary.

In profit sharing financing in sharia venture capital companies also have the impacts that these things have. These impacts can be in the form of profits or they can also be in the form of deficiencies caused by the risk of profit-sharing financing in sharia venture capital companies. As for the impact of risks that occur in profit-sharing financing in sharia venture capital companies, such as defaulting, movements in currency exchange rates (markets) that are not appropriate, operational risks where there are incorrect or appropriate recordings, and the risk of debtor failure and or other related parties in the event of not being able to achieve the targets or needs and fulfill obligations to the financing company for the results of the sharia venture capital.

There are differences in sharia supervisory regulations in Indonesia and Malaysia. This is particularly the case with Islamic venture capital. In Indonesia, the party that makes sharia compliance regulations is the Sharia Advisory Council. The Council is part of the Indonesia Council of Ulama. Meanwhile, the Sharia Advisory Council is part of Bank Central Malaysia in Malaysia. The next difference is regarding supervision in institutions. In Indonesia, the operations of Islamic financial institutions are supervised by a sharia supervisory board. The Islamic financial institution itself appoints this board. Meanwhile in Malaysia, supervision is carried out by the Sharia Committee. This committee is part of Sharia Commission of Malaysia.

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