

ABSTRACT

This thesis aims to study and analyze *sukuk al-mudharabah* in Malaysia by studying Principal Terms and Conditions of three companies, decisions of *Fiqh* Councils and views of jurists to know whether *sukuk* are consistent with legitimate *mudharabah*. The researcher used the approach of information gathering and the personal interview to obtain information and data and to know the views of experts about *mudharabah* in general and *sukuk al-mudharabah* in particular in Malaysia. He also used the approach of information analysis to analyze the views of jurists about *mudharabah* and *sukuk al-mudharabah* and to analyze results that can be achieved. He used the comparative approach to compare the views and opinions of jurists, too. The researcher concluded that *sukuk al-mudharabah* in Malaysia are consistent with some of the characteristics of legitimate *mudharabah*, but - at the same time - they are not consistent with the most important of those characteristics. *Sukuk* are consistent with legitimate *mudharabah* because there is a pre-agreed certain percentage of profit to be obtained by each party. Some companies stated that investors (*rab al-mal*) will bear any loss that might occur. This is not enough to consider *sukuk* consistent with legitimate *mudharabah*. *Sukuk* are not consistent with legitimate *mudharabah* because there is a commitment by two companies to refund all money at the end of *mudharabah*. Thus, capital is guaranteed. *Sukuk* were issued at a discount by one company. Thus, profit is guaranteed. *Sukuk* were amortized at nominal value not at market value by all companies. This is not consistent with the basics of legitimate *mudharabah*.