

## THE 288<sup>TH</sup> AND 296<sup>TH</sup> SHARIAH ADVISORY COUNCIL OF THE SECURITIES COMMISSION MALAYSIA MEETINGS (24 FEBRUARY 2025 AND 13 NOVEMBER 2025)

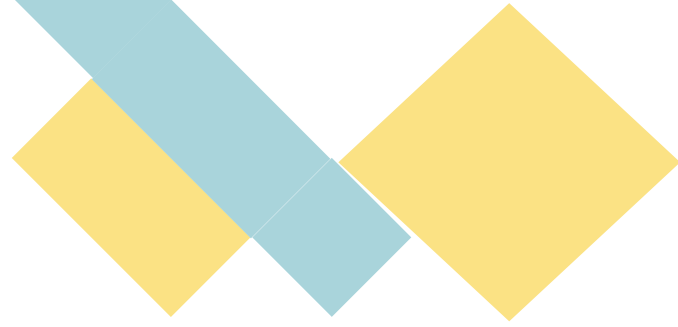
### REVISION OF BUSINESS ACTIVITY BENCHMARK IN SHARIAH SCREENING METHODOLOGY

#### INTRODUCTION

In the current Shariah screening methodology for securities listed on Bursa Malaysia, the Shariah Advisory Council (SAC) of the Securities Commission Malaysia (SC) adopts a two-tier approach i.e. quantitative and qualitative. For quantitative approach, the SAC of SC adopts both 5% and 20% benchmarks as the relevant business activity benchmarks in determining the Shariah status of listed securities.

The SAC of SC had deliberated on the following:

- (1) The introduction of a single business activity benchmark of 5% for the quantitative approach in determining the Shariah status of listed securities on Bursa Malaysia; and
- (2) The removal of 20% business activity benchmark.



## RESOLUTION

The SAC, in a series of meetings, has deliberated the revision of business activity benchmark in Shariah screening methodology. Subsequently, at its 288<sup>th</sup> meeting held on 24 February 2025 and its 296<sup>th</sup> meeting held on 13 November 2025, the SAC resolved the following:

- (1) Introduce a single business activity benchmark of 5% in determining the Shariah status of listed securities on Bursa Malaysia; and
- (2) Remove the 20% business activity benchmark.

The single business activity benchmark will take effect for listed companies with financial year ending on or after 31 December 2025.

## SHARIAH JUSTIFICATION

Shariah justifications for the SAC resolution above are as follows:

### **1 Establishing a Robust Benchmark Standard in Limiting Non-Permissible Income**

Islam permits investment in Islamic capital market products and instruments, particularly securities of listed companies whose primary business activities are permissible from the Shariah perspective. Such investments are crucial as they contribute to economic growth of a nation and the well-being of its people. This is in line with the following Islamic legal maxim:

## الْحَاجَةُ تُنَزِّلُ مَنْزِلَةَ الضَّرُورَةِ عَامَّةً كَانَتْ أَوْ خَاصَّةً<sup>1</sup>

*"A hajat (need) possibly falls under the category of necessity whether it is in general or specific form."*

On the other hand, Islam expressly prohibits investment in securities of listed companies whose primary business activities are prohibited under Shariah. This is based on the following hadith narrated by al-Nu`man ibn Bashir r.a. where Rasulullah ﷺ says:

إِنَّ الْحَلَالَ بَيِّنٌ وَإِنَّ الْحَرَامَ بَيِّنٌ، وَبَيْنَهُمَا أُمُورٌ مُشْتَبِهَاتٌ، لَا يَعْلَمُهُنَّ كَثِيرٌ مِنَ النَّاسِ، فَمَنْ اتَّقَى الشُّبُهَاتِ اسْتَبْرَأَ لِدِينِهِ وَعَرْضِهِ<sup>2</sup>

*"What is lawful is clear and what is unlawful is clear, but between them are certain doubtful things which many people do not know. So, he who guards against doubtful things keeps his religion and his honour blameless."*


The above hadith highlights that Islam provides clarity on Shariah rulings concerning matters of *halal* (lawful) and *haram* (unlawful). It emphasizes the importance of adhering to permissible practices and avoiding prohibited actions.<sup>3</sup>

In today's capital market, it is challenging for investors to invest in companies whose business activities are entirely Shariah-compliant and free from prohibited business activities. In most situations, listed companies are engaged in a mix of permissible and non-permissible business activities (Mixed Activities).

<sup>1</sup> Muhammad Mustafa al-Zuhaili, *al-Qawa'id al-Fiqhiyyah Wa Tadbiquatuha Fi al-Madhab al-Arba'ah*, Dar al-Fikr, 2006, vol. 1, p. 288.

<sup>2</sup> Ibn Rejab, *Jami' al-'Ulum Wa al-Hikam fi Sharh Khamsin Hadithan min Jawami' al-Kalim*, (Sahih al-Bukhari, Hadith 52 and Sahih Muslim, Hadith 1599), Dar Ibn Kathir, Beirut, Lebanon, 2008, p. 172.

<sup>3</sup> Ibid, p. 173.



Therefore, investing in securities of such companies is considered *'umum balwa'*<sup>4</sup> which is inevitable and justifiable under the Shariah. This is supported by the following verse:

وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ<sup>5</sup>

*"He has imposed no difficulties on you in religion."*

In this context, investment in securities of listed companies with Mixed Activities is permissible, provided that the primary activities of such companies are permissible from the Shariah perspective and the income from Shariah non-compliant (SNC) business activities remains minimal. Hence, adopting a 5% benchmark aims to establish a clear standard in limiting non-permissible income derived from SNC business activities. This threshold helps to determine the materiality of such income and its potential impact on the Shariah status of securities of listed companies.

Based on the above, any non-permissible income below the 5% benchmark is considered as minimal from the Shariah perspective. This is guided by the following Islamic legal maxim:

الْأَقْلُ تَبَعُ لِلْأَكْثَرِ<sup>6</sup>


*"The minimum is auxiliary to the abundance."*

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<sup>4</sup> *'Umum balwa* refers to an unfavourable widespread situation affecting most people and is difficult to avoid. Refer to Resolutions of the Securities Commission Shariah Advisory Council, 2<sup>nd</sup> Edition, 2006, p. 123.

<sup>5</sup> Surah al-Hajj 22: verse 78.

<sup>6</sup> *Ma'lamah Zayid li al-Qawa'id al-Fiqhiyyah wa al-Usuliyyah*, Muassasah Zayid ibn Sultan Ali Nahyan li al-'Amal al-Khairiyyah wa al-Insaniyyah wa Majma' al-Fiqhi al-Islami al-Dawli, 2013, vol. 11, p. 472-473.



This maxim signifies that the ruling of the larger portion takes precedence, making the ruling of the smaller portion irrelevant or insignificant.<sup>7</sup> In relation to the issue of mixed property from both *halal* and *haram* sources, Shariah scholars articulate that any *haram* sources do not make the *halal* sources prohibited, as long as the *haram* portion is minimal and can be separated from the predominant *halal* portion.<sup>8</sup> This is in line with the following Islamic legal maxim:

الْحَرَامُ لَا يُحَرِّمُ الْحَلَالَ<sup>9</sup>

*"That which is forbidden does not render forbidden that which is permissible."*

In the context of Shariah screening methodology, any non-permissible income below 5% benchmark is considered minimal and can be separated from the predominant permissible income.


## 2 Streamlining Shariah Screening Practice for All SNC Business Activities

The introduction of a single 5% benchmark aims to streamline and unify Shariah screening process for all SNC business activities. It ensures a consistent and uniform assessment of SNC business activities across all listed companies. This approach is aligned with Principle 6 of Aspiration 2: Justice and Benevolence under the Maqasid al-Shariah Guidance Islamic Capital Market Malaysia, which

<sup>7</sup> Adil `Abd al-Qadir Muhammad Wali Qutah, *al-Qawa`id wa al-Dhawabit al-Fiqhiyyah al-Qarafiyyah Rumzat al-Tamlikat al-Maliyyah*, Dar al-Bashair al-Islamiyyah, Beirut, Lebanon, 2004, vol. 1, p. 350.

<sup>8</sup> Ibnu Taimiyah, *Majmu` al-Fatawa*, Muja'mma` al-Milk Fahad li Taba`ah al-Mashaf al-Sharif, 2004, vol. 29, p. 273, 276; Refer also Qutub al-Raisuni, *Al-Haram fi al-Shari`ah al-Islamiyyah: Fiqhuhu, Dhawabituhu, wa Tatbiqatuhu*, Dar Ibn Hazm, Beirut, Lebanon, 2011, p. 124; `Ali Ahmad al-Nadwi, *Mawsu`ah al-Qawa`id wa al-Dhawabit al-Fiqhiyyah al-Hakimah li al-Mu`amalat Al-Maliyyah fi al-Fiqh al-Islami*, Dar `Alim al-Ma`rifah, 1999, vol. 1, p. 345-346.

<sup>9</sup> Jalal al-Din `Abd al-Rahman al-Suyuti, *al-Ashbah wa al-Nadzair fi Qowa`id wa Furu` Fiqhi al-Shafi`iyyah*, Dar al-Kutub al-`Ilmiyyah, Beirut, Lebanon, 1983, p. 115-116.



emphasizes the importance of upholding best practices, codes of conduct and ethical values. This Principle advocates for actions that are fair, of high quality, just and promotes wellbeing of society.

In addition, this single benchmark takes into consideration the continuous and significant growth of Shariah-compliant securities, Islamic capital market and Islamic finance in Malaysia. As the market has now reached its stage of maturity, it demonstrates that listed companies are well-positioned to comply with such single benchmark. This is in line with the following Islamic legal maxim:

لَا يُنْكِرُ تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَوْزَانِ<sup>10</sup>

*"Evolution of Shariah rulings (based on custom and norm) due to changing times is not to be denied."*

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<sup>10</sup> Ali Haidar, *Durar al-Hukkam Sharh Majallah al-Ahkam*, Dar al-Kutub al-`Ilmiyyah, Beirut, Lebanon, 2010, vol. 1, p. 43.