

Beneficial Ownership in Islamic Finance: The Need for Shari'ah Parameters

Authors : Nik Abdul Rahim Nik Abdul Ghani, Mat Noor Mat Zain, Ahmad Dahlan Salleh

Abstract : Ownership of asset is an important aspect in ensuring the validity of sale contract. Nevertheless, in Islamic finance, the issue of beneficial ownership as practiced in the current system is seriously debated among Shariah scholars. It has been argued as violating the real concept of ownership (milkiyyah) in Shariah law. This article aims at studying the status of beneficial ownership from the Shariah perspective. This study begins with examining the meaning of ownership and its attributes from the Islamic point of view and followed by the discussion on the origin of beneficial ownership from the legal perspective. The approach that is applied to clarify the concept of beneficial ownership is content analysis. Subsequently, this study explains some current applications of beneficial ownership in Islamic finance to be analyzed further from the Shariah aspect. The research finding suggests that beneficial ownership should be recognized as a real ownership due to the fact that Shariah allows the transfer of ownership after the execution of offer (ijab) and acceptance (qabul).

Keywords : beneficial ownership, ownership, Islamic finance, parameter

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