WAQF-LINKED UNIT TRUST FUND: RECENT DEVELOPMENT WITHIN THE MALAYSIAN ISLAMIC CAPITAL MARKET FRAMEWORK

Syahnaz Sulaiman1* and Aznan Hasan2

1Senior Lecturer, Faculty of Economics and Muamalat, Universiti Sains Islam Malaysia (USIM), 71800 Bandar Baru Nilai, Nilai, Negeri Sembilan, Malaysia
2Assoc. Professor, IIUM Institute of Islamic Banking and Finance (IIiBF), International Islamic University Malaysia, Jalan Gombak, 53100 Selangor, Malaysia
*syahnaz@usim.edu.my

Abstract: The historical evidence has shown the tremendous role of waqf institutions in the development and advancement of the Muslims. Today, waqf contributes to many spheres of life, including the mainstream economic development with the right structure and strategy. With the advancement of Islamic finance, the waqf concept has been structured to be linked with various financial products, including Shariah compliant investment instruments, such as unit trust. The aim of this paper is to highlight the recent development in the landscape of the Islamic capital market. This is in relation to the launching of the new framework aimed at facilitating the offering of Islamic funds that include the waqf features. The current study employed a qualitative research approach, which was designed through the use of document analysis of policy documents, journal articles, books, and online resources. In the last section, the paper concludes that the waqf-linked unit trust, which embraces a strong governance and robust investment framework can contribute to a sustainable development of the Islamic community’s socio-economy. In tandem with Industrial Revolution 4.0, waqf managers are encouraged to fully embrace the digital agenda in enabling a digitalized ecosystem and fintech inclusion in managing waqf funds to enhance the effectiveness of good governance and integrity in the waqf sector.

Keywords: Waqf, unit trust fund, Islamic finance, governance, FinTech

1. Introduction

Waqf can be defined as an absolute and voluntary parting of a person’s rights on his asset as the legal possessor, for the intention to dedicate the asset to be utilized in the way commanded by Allah, that is for the purpose of preserving the welfare of mankind (Iman & Mohamad, 2017). Such dedication of any property, either immovable or movable, is permanent in nature. The Muslim law recognizes that any dedication of property within the realm of waqf is for charitable or religious purposes. The practice of waqf was prevalent during the time of Prophet
Muhammad (PBUH) and amongst his companions. Jabir bin Abdullah confirmed the practice of *waqf*, which was widely implemented by the companions of the Prophet (PBUH), through his expression: “None of the companions of the Prophet Muhammad (PBUH) is not practicing *sadaqah* (*waqf*)” (al-Nawawi, t.t). *Waqf* is considered as *sadaqah jariyah*, of which benefit continues to flow until the Day of Recompense. The *waqf*’s continuous or perpetual feature can be further revealed through an approach that is progressive in the development of the property of *waqf*. In addition to the survival of *waqf* assets, according to Hasan and Sulaiman, (2016), all *waqf* assets should be fully utilized and attended for the purpose of ensuring that the returns to the *waqf*’s beneficiaries are sustainable. In the same manner, the recurring generation of benefits from the perpetual utilization of *waqf* is itself a mechanism that assists in increasing the ummah’s standard of living, and reducing difficulties and poverty amongst the poor and the needy (Kahf, 1999). *Waqf* assets should be mobilized for the financing of sustainable development goals (SDGs) in order to diminish poverty in all forms, overcome environmental and healthcare issues as well as fight inequalities, while ensuring that no one is left behind (UNDP, 2017).

A study on *waqf* and Islamic capital market integration is certainly a timely call for a sustainable socio-economic development, particularly amidst a difficult time of post COVID-19 pandemic. As stated in JAWHAR (2014), within the Malaysian context, in alignment with the rapid urbanization trend, the assets of *waqf* ought to be independent and self-reliant in income generation, of which income could be used in financing the assets’ development. Within this realm, the Malaysian government is currently undertaking the effort in the development of a National Waqf Masterplan to ascertain an endowment management that is more efficient that could maximise the future endowment assets’ mobilisation (National Budget, 2021). Previously, as stated by Cizakca (1998) and Mohsin (2013), as an economic and social tool, *waqf* flourished and efficiently supported many social and economic sectors with no reliance on the expenses of the government. Hence, ongoing research to integrate the *waqf* concept with contemporary financial instruments to finance the development of *waqf* assets as well as impactful community projects are always on high demand (Kahf, 1998). Contemporary financial applications, in particular the Islamic capital market has the potential to not only facilitate, but also accelerate the *waqf* assets’ development on a greater scale.

As a matter of fact, the diversification of *waqf* sources that is done through the venture into wealth in the contemporary forms, such as shares and cash, can enhance *waqf* not only in terms of its flexibility, but also the participation of the public into *waqf*. For example, such diversification could be carried out through the investment of the proceeds of *waqf* in less volatile and balanced portfolios of unit trust, of which the assets underlying these portfolios are primarily stable and are fixed income asset classes, such as money market instruments and sukuk (Sulaiman et al., 2019). As such, the integration of investment instruments, such as unit trust and *waqf* is an innovation that is highly called for and could be brought forward as an advanced mechanism for a sustainable investment model.

**2. Overview of Islamic Unit Trust in Malaysia**
Islamic mutual fund or Islamic unit trust fund is one of the types of collective investment scheme, which provides investors with an opportunity to invest in a diversified investment portfolio of shariah-compliant sukuk, securities, money market instruments, commodities or real estates. Islamic unit trust fund provides the investors with the opportunity of having diversified investments in various forms of financial assets. The unit trust funds are managed by professional fund managers by investing the money collected from a diversified portfolio comprising financial instruments that are shariah-compliant, of which investment depends on the funds’ objectives. There are two ways, which Islamic unit trust fund investors may earn income that is from a distribution of income and/or capital gains [Securities Commission of Malaysia (SC), 2009].

Simultaneously, the recent statistics, which the Securities Commission Malaysia (SC) provided has shown an increase in the number of shariah-compliant authorised funds that is from merely 17 out of a total of 127 funds in the year 2000 (13 %) to 239 out of a total of 696 funds (34 %) in the year 2020 (SC, 2020). This increase is accompanied by a three times growth in terms of the number of management companies that is from only 13 companies in the year 1992 to as many as 38 companies in the year 2020. In Malaysia, the Islamic unit trust funds’ huge size with total net asset value (NAV) estimated around RM 127.7 billion (SC, 2020a), obviously poses a significant impact of creating a superstructure source of waqf fund, and thus an avenue should be provided by the existing mechanics to enable unit holders or unit trust investors to allocate a part of their dividend or units in the form of endowment.

3. Recent Development of Waqf-Linked Fund Framework in Malaysia

Integrating *waqf* with the system of Islamic finance seems to be an optimal strategy in developing and empowering *waqf*. *Waqf*-linked unit trust has been identified as a viable mechanism in facilitating and accelerating the *waqf* assets’ development on a greater scale (Sulaiman et al., 2019). In response to this, using the Syariah-compliant Amanah Saham Nasional Berhad (ASNB) as a vehicle, Permodalan Nasional Berhad (PNB) will be introducing *waqf* services to ASNB unit trust holders without any exception. The *waqf* services will enable unit holders to endow part of their ASNB units into the ASNB *waqf* fund, of which endowment will be offset by a deduction in their income taxes. The returns generated from the *waqf* funds will be utilized to finance *waqf* projects that cater for the national interest and PNB will identify the respective projects (Bernama, 2020).

On the same development, on 12th November 2020, a new framework had been launched by the Securities Commission of Malaysia (SC), of which framework facilitates the Islamic funds offering that includes the *waqf* features, an implementation that enables the Islamic social finance segment’s growth, namely *Waqf*-Featured Fund Framework in the revised Guidelines on Unit Trust Funds and the Guidelines on Unlisted Capital Market Products under the Lodge and Launch Framework (SC, 2020b). *Waqf* development had been identified as a prominently potential area for wealth distribution, social development, and greater public good. In time, efforts has been made by the SC in facilitating the *waqf* development by way of a number of initiatives, for example, the introduction of the Sustainable and Responsible Investment (SRI) Sukuk framework, which incorporates the *waqf* assets’
development that makes it eligible for the SRI project, and facilitates the offering of the first *waqf* shares in the world (SC, 2020b).

Further requirements are stated under Chapter 14 of Guidelines on Unit Trust Funds for Islamic funds that have the *waqf* feature. The additional requirements laid out by the Chapter require the new or existing Islamic fund with the *waqf* feature to comply with these requirements. According to the revised guidelines, an Islamic fund with the *waqf* feature is an Islamic fund that permits the unit holders to reserve their rights over the units that they purchased and to *waqf* either part or all of the income that they received from the distribution. The guidelines clearly emphasize that only funds that are in compliance with this Chapter can present itself as a fund with the *waqf* feature.

The primary investment objectives of a fund with the *waqf* feature has also been underlined by the unit trust guidelines, which are not only to provide income, but also allow its unit holders to contribute part or all of the income received from the distribution for the purposes of *waqf*. It is imperative that the fund’s distribution policy includes the requirement that a percentage of the distribution to be channelled for the purposes of *waqf*. With regards to those who are eligible as the recipients of *waqf*, the fund is only permitted to channel part of the distribution that is declared for the purposes of *waqf* to specific recipients, which are (a) any state Islamic religious council (SIRC), or (b) any organisation or institution that the SIRC authorises to act as a *mutawalli* (*waqf* administrator) or collection agent for the purposes of *waqf*. From the provision, it can be deduced that the distribution of the *waqf* fund directly to individuals is strictly prohibited unless they are authorised by the SIRC as a collection agent. Whether the term “collection agent for *waqf* purpose” also covers individuals is still questionable and is opened for further deliberation and interpretation.

In assuring the transparency of the *waqf* distribution to the recipients, the guidelines stipulate that the fund is required to disclose in its product highlights sheet and prospectus, the detailed descriptions of information related to the arrangement of the *waqf*, of which this disclosure must include the *waqf* initiatives and the *waqf* recipients’ names. In addition, the fund must also disclose how the investors can obtain more information on the *waqf* recipients and the progress of the *waqf* initiatives. The fund is also required to disclose not only its policies, but also all the processes involved in selecting the *waqf* recipients and *waqf* initiatives as well as the circumstances that the fund will use as the bases to replace the existing *waqf* recipients or adding new *waqf* recipients. Apart from that, the company that manages the fund is required to publish on its website the information related to the *waqf*, the *waqf* recipients’ details, and the hyperlink to the website of the *waqf* recipients.

The provision clearly envisages the importance of transparency in *waqf* reporting to ensure a sound governance of *waqf* fund. Considering the trend in the management of *waqf* that has moved from land *waqf* to cash *waqf* and even to digital money, the requirement for transparency and accountability becomes crucial. Accountability in *waqf* is significant and is aimed at guaranteeing that social services are adequately released to the society (Kamarubahrin et al., 2019). As a matter of fact, *waqf* success stories in the past have been underpinned by accountability, and the decline of *waqf* has been ascribed to the degradation of the accountability of the trustee (Ayedh & Kamarubahrin, 2018).
In response to Industrial Revolution 4.0, the role of the digitalized-based waqf system is very much timely to increase accountability and transparency in waqf financial reporting (Syamsuri et al., 2019). The blockchain technology inclusion could also contribute to the improvement of the waqf management and the collection process of waqf towards a sustainable socioeconomic development (Mohsin, 2019). Meanwhile, the revolutionary application of artificial intelligence (AI) in generating the potential list of beneficiaries and facilitating the verification process to identify the beneficiaries’ needs may help in the outreach to a greater range of audience since the web-based platform is capable of reaching people throughout the world (Syed et al., 2020). Hence, the integration between waqf and financial technology will accelerate the financial reporting, including the list of waqf recipients in real time in enhancing the transparency between the stakeholders and endowers. Transparency works as a trust-building tool; increased transparency of non-profit organizations and better information would generate more confidence in the sector.

In Malaysia, Shariah ruling or fatwa on the permissibility of waqf unit trust was announced way back in 2017. The National Fatwa Committee for Islamic Religious Affairs in its 111th meeting has resolved that Shariah compliant unit trust as a subject matter of waqf as the asset is legally recognised under the Islamic law (Jakim, 2017). In an earlier development, the Majma’ Fiqh’s 19th meeting, which was held in the United Arab Emirates in 2009, a consensus was reached that waqf in the form of financial instruments is permissible, of which this includes shares, sukuk, intangible rights, unit trust, and benefits as follows (International Fiqh Academy, 2009):

“Endowing shares (which are Shariah-compliant), intangible rights, sukuk, unit trust, and benefits are permissible because they are assets that are recognized by Shariah” (Resolution No. 181)

From the legal perspective, several State enactments in the Malaysian legal framework permit the endowment of assets in the financial form, such as unit trust and shares. One of the crystal clear example is the Enactment Waqf (Perak) 2015, in section 10. This enactment exhibits that unit trust is permissible to be the subject matter of waqf, of which permissibility is according to the manner waqf of shares is defined that suggests the inclusion of “unit trusts”. The provision at the legal level demonstrates that the application of waqf in the modern society via contemporary mechanisms and contemporary financial assets has been acknowledged by several SIRCs in Malaysia.

4. Conceptual Model of Waqf-Linked Unit Trust Structure Within the Framework of Securities Commission’s Guidelines on Unit Trust Funds

In an earlier study, various conceptual models of unit trust waqf were proposed for implementation (Sulaiman et al., 2019).

These models can be summarised as follows:

a. The waqf is done on the whole unit trusts or part of it on a permanent basis.
b. Cash waqf is collected to purchase (or subscribe to) unit trusts.
c. Waqf on the whole dividend or part of the dividend.
d. *Waqf* by the fund manager on the whole or part of the fees obtained in managing the *waqf* unit trust.

As far as per the SC’s *Waqf*-Featured Fund Framework is concerned, the applicable model of *waqf*-linked unit trust is based on the *waqf*-dividend structure, which means that the endowed subject matter is the return or dividend of the unit trusts. Based on the guidelines, Securities Commission only recognises the *waqf* on the whole dividend or part of the dividend only. Undoubtedly, this is a very positive progress towards incorporating the practice of *waqf* in an Islamic capital market, especially in unit trusts and the wholesale fund, but a further refinement may need to be made to allow for the practice of other model of *waqf* unit trusts as suggested by Sulaiman et al. (2019).

Based on this model, unit trust holders may channel part or all of the income from the distribution for the purposes of *waqf* as enshrined in the Unit Trust Guidelines. Figure 1 illustrates the proposed conceptual model of unit trust *waqf*-dividend structure:

![Diagram](image)

*Figure 1: Proposed Conceptual Model of Waqf-Linked Unit Trust- Dividend Basis*

Source: (Syahnaz et al., 2019)

Step 1: Investment in unit trusts by investors (without endowing them).

Step 2: The management of the investors’ investment portfolio is the responsibility of the fund manager.

Step 3: The returns obtained from the investment in unit trust will be used for the purchasing of other units that will later be declared as *waqf* and held by *mutawalli*.

Another potential model that can be implemented to spur *waqf* drive among the unit holders is by introducing a temporary *waqf* feature. *Waqf muaqqat* or temporary *waqf*, which is permissible according to the Maliki School (Al-Dardir, 1991) should be encouraged to widen the *waqf* practice among the endowers. For example, a unit holder may endow the dividend for a specific recipient or purpose for 5 years and switch the *waqf* for other recipients or purpose
in the following year. A number of Shafii scholars deem the temporary \textit{waqf} as permissible (Al-Bujayrīmī, 1995), of which this means that a certain beneficiary may temporarily receive the benefit generated from the \textit{waqf}. Nonetheless, in terms of the \textit{waqf} ownership, it will not in any way be returned to the \textit{waqif} (endower) permanently. For instance, within the context of unit trust as a \textit{waqf}, another beneficiary may replace any particular beneficiary after a certain duration of time. Nevertheless, the temporary \textit{waqf} is not permitted for the \textit{waqf} of cemeteries and mosques.

Additionally, the \textit{waqf} \textit{muāqqaṭ}’s provisions can be traced in several State Enactments, for examples, Section 17 of the Rules of Waqf Johor 1983, Enactment Waqf (Terengganu) 2016, and Section 2 of the Administration of Islamic Law (Federal Territories) Act 1993 Section 2 of Majlis Sarawak Ordinance 2001. Figure 2 demonstrates the conceptual model of \textit{waqf}-linked unit trust with the temporary feature.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure2.png}
\caption{Proposed Conceptual Model of Waqf-Linked Unit Trust – Temporary Basis}
\end{figure}

Source: (Syahnaz et al., 2019)

Step 1: The unit trusts that a \textit{waqif} owns are endowed by the waqif for a pre-determined period of time.

Step 2: The endowed unit trusts are channelled to SIRC as the sole trustee.

Step 3: The investment of the \textit{waqf}-unit trusts and the management of the investment portfolio are the responsibilities of the fund manager.

Step 4: The returns from the investment will be distributed to \textit{waqf} beneficiaries. Depending on applicability, a certain portion of the returns can be allocated for the purpose of reinvestment.
Step 5: When the waqf period has ended, the original owner (waqif) will regain the unit trusts’ ownership.

5. Essential Aspects of Waqf-Linked Unit Trust

To narrow the scope of our discussion, three essential aspects should be focused on in establishing the waqf-linked unit trust, which are sound corporate governance, robust investment strategy by highly professional and skilled fund managers to secure perpetual benefit of the waqf recipients, and a digitalized-based waqf system, which are manifested in Figure 3.

![Figure 3: Essential Aspects of Waqf-Linked Unit Trust](image)

Source: Authors’ Own

A sound corporate governance structure is imperative in assuring a professional management of waqf to enable its perpetual operation. To reduce the discrepancy between waqf administrators and donors, the level of transparency in the operation of waqf management and its reporting is vital to enhance the confidence and trust of its stakeholders (Kamaruddin, 2018). When waqf is managed by a professional fund manager, the management of waqf would have a better transparency and accountability (Ramli & Jalil, 2014), of which these are added values toward promoting wealth. Meanwhile, a sustainable and robust investment strategy is also a focal point that needs to be addressed by fund managers. This approach will ensure that waqf-linked unit trust continues to remain in line with its objective to meet the aspiration of the endowers in generating sustainable benefits to the beneficiaries (Sulaiman et al., 2020). With the recent development of digital economy, the waqf sector in Malaysia should be revitalized to move towards digitalisation and fintech inclusion. As suggested by Rabbani (2020), Islamic
fintech has the capability in providing the solution to various stumbling blocks. As such, it can execute the services and obligations of the Sharia law efficiently, and create pathways that are innovative to enable the implementation of some of the highly crucial finance-related duties that are applicable to the Muslim community.

**Conclusion**

In this paper, the *Waqf*-linked unit trust conceptual model is proposed. The recent framework of *waqf*-linked unit trust in Malaysia for empowering a large-scale cash *waqf* fundraising for a sustainable socio-economic for the well-being of the ummah is highlighted. The implementation of *waqf*-linked unit trust in Malaysia is strongly supported by the decisive fatwa rulings along with a sturdy regulatory and comprehensive supervision framework. In tandem with Industrial Revolution 4.0 to enhance the effectiveness of good governance and integrity, *waqf* managers are encouraged to fully embrace the digital agenda in enabling a digitized ecosystem and fintech inclusion in managing *waqf* funds.

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