THE ESTABLISHMENT SADAQA HOUSE IN MALAYSIA: A BANK PERSPECTIVE

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ABSTRACT

Both the government and the Public Listed Companies have their roles to play in raising funds for the poor and the needy which responsibility is put under the social welfare sector. For that reason, it is suggested that Islamic banking and finance to actively embark on the pursuit to develop products and services that would take into account the welfare of the social sector. In this connection, Dato Dr. Abdul Halim Ismail proposed the establishment of Sadaqa House in Malaysia. This study is designed to explore the bank view on the establishment of Sadaqa House. This research adopts qualitative methodology, using interviews as the data collection technique. The researchers conducted a two-hour interview session with representatives from Bank A. From the interview session, the Bank A shared his opinion on motivating factors influencing the practice of sadaqah in Public Listed Companies and provided recommendations on governance and operations of Sadaqa House.

Keywords*: Sadaqa House, Sadaqa*

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1. Introduction

Islamic financial system is a set of rules and laws, collectively referred to as the Shariah which governs economic, social, political, and cultural aspects of the Islamic societies. On the other hand, conventional financial system focuses primarily on the economic and financial aspects of transactions. The main basic principle in Islamic financial system is economic justice. In the massive contemporary literature that has come to be known as "Islamic economics,"' the claim is repeatedly made that an Islamic economic system would achieve a greater degree of economic justice than existing capitalist and socialist systems. According to Zurina Shafii et al. (2013), economic justice is one of the most critical parts of our economic system. It refers to the application of ethical principles to economic relationships. In Islam, these principals are derived from Shariah, which refers to a code of law or divine decrees. One of the main objectives of Shariah is to protect the wealth and property of society and this is closely related to the establishment of justice and equity in society. It transcends everything that might divide society, and Muslims are commanded to be just to their friends and foes alike (Zurina Shafii et al., 2013). In view of Allah's command to uphold justice and eliminate exploitation in *muamalat*, Islam prohibits all sources of unjustified enrichment. For example, under the present banking scenario in order for the transaction to occur, there needs to be trust between the borrower and lender which is mostly dependent on the availability of collateral, something which the poor do not have. Lack of access to funds sometimes leads the poor to borrow from unscrupulous lenders (Soumik Majumdar, 2008). It can be witnessed in Malaysia in the case of loan sharks. This is not just or fair as these people take advantage of the poor and charge them exorbitant rates of interest, and this goes against Islamic principles as Islam condemns exploitation. Hence, all sectors in the economy have to play their roles to achieve economic justice and equality.

Both the government and the Public Listed Companies have their roles to play in raising funds for the poor and the needy which responsibility is put under the social welfare sector. Islamic banks are equally expected to play a leading role in promoting social-welfare (Wajdi and Irwani, 2006). The function of Islamic banking and finance in the economy is to develop products and services to facilitate the flow of funds. However, Islamic banking and finance are not yet complete in terms of answering the duties Muslims are called upon to fulfil because no facilities provide for the social welfare sector (Abdul Halim Ismail, 2014). For that reason, it is suggested that Islamic banking and finance to actively embark on the pursuit to develop products and services that would take into account the welfare of the social sector. At the Global Islamic Finance Forum 2014, Dato Dr. Abdul Halim Ismail presented the concept paper on Sadaqa House. According to him an entity like Sadaqa House can be more efficient in managing the donation funds from the Public Listed Companies (individual and Public Listed Companies) compared to the existing donation collection organisations. Sadaqa House is expected to do the business of providing products and services to collect various types of *sadaqah, waqf, hibah* etc. mainly from the Public Listed Companies and distribute them among the poor and the needy. He emphasised that Sadaqa House should be owned and controlled by the banking group or any other licensed organisations. Besides, it is crucial for Sadaqa House to be overseen and regulated by the Parliamentary Act and Bank Negara Malaysia guidelines which specifically spell out the important requirements such as licensing, financial requirements and duties of Sadaqa House ownership, power of supervision and control over Sadaqa House etc. As a matter of principle, it is the requirement of Shariah that the principal amount of charity or *sadaqah* must be eternally preserved, and only the income from the principal is regularly distributed to the needy.

2. Literature Review

Sadaqah in the Light of Maqasid Shariah

According to Ibn-Ashur (2006), *maqasid al-shari'ah* is "the intended means of Shariah to realize the people of the benefit or to nourish their general advantages at their specific dealings." In a lot of discussions among scholars, the application of *maqasid al-shari'ah* has always been linked to the idea of protecting or preserving *maslahah* (interest or benefit) as well as preventing *darar* (harm). Protecting interest alone without preventing harm would not give the net effect of *maslahah*; therefore the latter must go in parallel with the former.

The way in which *maslahah* could be materialized has also been elaborated in many literatures. Auda (2011) summarized that *maslahah* can be attained through the application of *maqasid* that is based on two levels namely (i) level of universality and (ii) level of necessity. Al-Shatibi, al-Raysuni (1997) claimed that the effect of *maqasid* could result in the protection of public interest (*maslahah `ammah*), group interest (*maslahah aghlabiyah*) and individual or specific interest (*maslahah khassah*) in the former. As far as the latter is concerned, the objectives or *maqasid* are to achieve fulfillment of three things in life i.e. necessities (*daruriyyat*), needs or complementary (*hajiyyat*) and embellishment/luxury (*tahsiniyyat*). Deriving from the idea of *daruriyyat*, al-Ghazzali (1937) further established five noble purposes that constitute the objectives of Shariah (*maqasid al-shari'ah*) *vis-à-vis* preservation of religion (*hifz al-din*), preservation of life (*hifz al-nafs*), preservation of intellect (*hifz al-`aql*), preservation of posterity (*hifz al-nasl*) and preservation of wealth (*hifz al-mal*). In other words, all teachings of Shariah (al-Quran and al-Sunnah) are aimed at accomplishing these noble purposes by order of priority.

In this connection, the Shariah objective of *sadaqah* falls within the ambit of preserving wealth. However, the question arises as to what mechanism of *sadaqah* that could be used to preserve wealth. In response to this problem, Budiman et al. (2015) suggested five dimensions in which wealth could be protected: (i) protection of ownership and property, (ii) protection of wealth from damage, harm and hardship, (iii) preservation of wealth through protection of its value, (iv) preservation of wealth through its circulation and (v) acquisition and development of wealth. According to them, *zakat* and *sadaqah* are among the instruments of wealth preservation that could be attained via circulation. Economically, by circulating or redistributing back the wealth to the society, it will create more demand on the basic needs consumption such as foods, clothes, shelters, education etc. which will in return increase the production of that items. Increased production will create a lot of economic opportunities to the society and this ultimately will contribute to achieving *maslahah `ammah*.

As far as Public Listed Companies are concerned, there is no literature that could indicate the direct application of *sadaqah* as a specific instrument to circulate wealth in society. Conventionally, any company be it public listed, private etc. initiates a tool or platform called corporate social responsibility (CSR) to redistribute wealth to the society.It is due to this fact that the instrumental theory which developed CSR as a strategic tool designed to achieve economic objectives seems to legitimize the corporation's role in society (Dusuki & Abdullah, 2008). On the same note, Zahid (2009) claimed that the practice of CSR by companies is not quite in line with Shariah as it only materially benefits the company more, but in another writings he contrarily stressed that CSR and *shariah* apparently share the common objective (*maqasid*) that is to achieve benefit and prevent harms in the society (Zahid, 2010). As such, it appears that the objective of CSR is in tandem with the objective of *sadaqah* for example to preserve public *maslahah* through the circulation of wealth. Furthermore, in an attempt to further legitimize the corporation's role in society, an instrumental theory has developed CSR as a strategic tool designed to achieve economic objectives (Dusuki & Abdullah, 2008). In the light of same objective commonly shared by CSR and *sadaqah*, this research will study a bank opinion on motivating factors influencing the practice of sadaqah in Public Listed Companies though their CSR programmes and provided recommendations on governance and operations of Sadaqa House.

Motivating Factors Influencing the Practice of Sadaqah in Public Listed Companies (PLCs)

There are many factors that influence the development of CSR worldwide such as globalisation, deregulation, mergers, privatisation, governance, ethics, positive brand reputation, customer loyalty, good employee relations, good customer services, environment-inclined products, products that are value for money, transparent financial disclosure, good practice of business ethics, changing social expectations and technological innovation (Jamilah and Suriati, 2015).

Some motivating factors that drive companies to do CSR practices may also be the motivating factors for companies to contribute to Sadaqa House too. These motivating factors are discussed below:

i. Positive Reputation

Studies done by Jamilah and Suriati (2015), Louise Manning (2013), Amran et al. (2007), Saiia et al. (2003), Sharma and Vredenburg (1998) show that positive reputation is one of factors which motivates the involvement of companies in CSR activities. Philanthropy may help to protect corporate reputations against negative stakeholder perceptions, gain stakeholder support and customer preferences (Amran et al., 2007 and Deegan, 2002). Furthermore, CSR activities extend organisational reputation to a wider range of constituencies (Louise Manning, 2013) and build relationships with local governments and non-profit organisations. Moreover, strategic corporate philanthropy also benefits the firm's strategic position (Saiia et al., 2003) and builds reputation to the development of valuable organisational capabilities (Sharma and Vredenburg, 1998).

Instead of benefiting companies' reputation, Deegan (2002) states that CSR enhances brand image; increases companies' ability to attract and retain employees and also distinguishes the companies from their competitors. Chomvilailuk and Butcher (2010), Hoeffler and Keller (2002) and Roll (2006) recognise the CSR-factors as being influential in brand building. Tingchi et al. (2014) suggest that companies can enhance customer brand preference by undertaking various CSR practices. His study also suggests that enhancing customers' understanding about service providers' CSR performance and strengthening customers' brand quality perception will be a good way to increase customers' brand preference. Corporate social reputation is important for companies to survive in their business. This is supported by Peloza (2009) who found that companies with poor social reputations suffer stock market declines twice the size of those experienced by firms with positive social reputations. Meanwhile, Prathaban & Rahim's (2005) study shows that the enhancement of a firm's corporate image or brand name has been the motivation for Malaysian companies to be more philanthropic.

Moreover, Ron Bird, Francesco Momenté & Francesco Reggiani (2012) found that CSR activities are highly valued by the investors in the European markets, where their findings clearly indicate that such activities lead to higher market valuations. In the US, Japan and Australia, expenditures on CSR activities have a neutral impact on company valuation, which is still a good outcome for a management who wishes to incorporate into their decision process the objectives of a wide spectrum of stakeholders and for investors wishing to tilt their investments towards the more socially responsible companies.

ii. Performance

Studies by Amran and Devi (2007), Zain (2004), and Ahmad, Sulaiman and Siswantoro (2003) show that the involvement of companies in CSR activities would indirectly increase their financial performance and long term sustainability. For example, Patnaree Srisuphaolarn (2013) found that Thailand companies conduct CSR for the sake of social contribution; the only business return is "immunity" that protects their businesses in times of economic downturns. The companies could gain this positive and unintended consequence through a strong grounding of recipient-based CSR records. Another study by Abaeian, V et al. (2014) conducted with local Malaysian hotel chains indicate that most of managers were engaged in CSR activities due to both endogenous and exogenous motivations, and exogenous motivations were economic advantage and profitability.

iii. Tax Incentives

Since 2006, most organisations in Malaysia have been highly encouraged to carry out their Social Responsibility activities, with the government providing support for CSR policies through its tax reduction incentives (UNICEF, 2009 and The Star, 2008) Tax incentives are given to businesses incurring expenses on charitable or community projects approved by the Ministry of Finance. The tax incentives cover a variety of actions, such as the setting up of child-care facilities, contribution to the community and setting up library services (UNICEF, 2009). As cited by Jamilah and Suriati (2015) according to Williams (2008), government tax incentives for the companies in Malaysia are one of the factors why Malaysian organisations stay competitive in the rapidly changing global landscape.

iv. Religiosity

Conroy and Emerson (2004) found that religiosity played an important determinant to a given ethical scenario. Angelidis and Ibrahim (2004) state that highly religious groups of people have higher concern on ethical dimension of CSR and a weaker orientation towards economic dimension of CSR. Dusuki and Tengku Mohd Yusof (2008) also found highly religious groups of people would place more value on legal, ethical and philanthropic dimension, however less weight on economic dimension. Religious influences make born-to-be CSR people to have positive attitudes towards doing good things. Patnaree Srisuphaolarn (2013) found the ‘‘implicit CSR’’ exists because of religious virtues, not because it is embedded in law. It is discretionary rather than legal obligation that expresses social responsibility.

v. Corporate Governance

Corporate governance is a fundamental framework to monitor companies’ corporate conduct. Islam itself encourages good governance within a firm. In Islam, corporate governance is aimed to protect the interests of all stakeholders with adherence to Shariah principles (Khuram Shahzad Bukhari, Hayat M. Awan, Faareha Ahmed, 2013). In addition, Karim Ginena (2014) mentions that a good governance of institution like banks not only enhances their performance and access to external finance, but also increases the stability of the financial system and benefits the community by contributing to people’s welfare. In the banking industry, corporate governance has a higher level of significance since banks mobilise public’s savings, depend on public’s trust, and have more diverse stakeholders. This implies that any misconduct on the part of the bank may have an adverse impact on its stakeholders and may possibly give rise to agency issues and conflict of interest between the management and those who have shown their trust in banking with the financial institution for better management of their funds (Khuram Shahzad Bukhari, Hayat M. Awan, Faareha Ahmed, 2013, Salim Darmadi, 2013). Salim Darmadi, (2013) states that the uniqueness of the regulated industry such as banks is due to the duty of managers to manage and safeguard the funds provided by various parties, including depositors. Economic behaviour of the banks can also affect economic outcomes, where in some countries banks act as a major source of external financing for firms. Furthermore, banks have more diverse stakeholders and thus monitoring costs tend to be high, leading to the importance of corporate governance mechanisms. A bank’s business is also risky due to the highly leveraged nature of its capital structure, where the bank may face many short-term claims and is relatively dependent on depositors’ confidence.

vi. Transparency

Transparency regulation aims at reducing financial fragility by strengthening market discipline. Corporate transparency, defined as the availability of firm-specific information to those outside publicly traded firms. Financial transparency captures the intensity and timeliness of financial disclosures, and their interpretation and dissemination by analysts and the media (Bushman, R. M., Piotroski, J. D. and Smith, A. J., 2004). Corporations want to appear credible and transparent in their reporting. Transparent in financial reporting is supported by specific reporting guidelines and assurance statements that authenticate the data (W. Timothy Coombs Sherry J. Holladay, 2013). Van der Cruijsen, C., &Demertzis, M. (2007) find evidence that transparency helps fixing private sector inflation expectations.

Banks are a significant source of financing in economies around the world, playing an important role in mobilizing savings, allocating resources, and monitoring firms. The importance of informational transparency of banks in promoting market disciplining of banks by outside investors as a fundamental lever of bank regulation that can both supplement and enhance the effectiveness of more traditional bank regulatory practices. (Bushman, R. M., & Williams, C., 2007). Banks disseminate significant amounts of information which is then publicly available for use by shareholders and other stakeholders. (Philip M. Linsley and Philip J. Shrives, 2005). Increasing accounting transparency may enhance ex-ante discipline on bank risk-taking activities by allowing investors in uninsured liabilities to better observe risk-taking behaviour and respond quickly to greater risks by demanding higher yields on their investments. Accounting transparency may also promote better supervisory oversight by regulators. However, according to Hyytinen, A., & Takalo, T. (2002), achieving transparency is costly for banks, as it dilutes their charter values, and hence also reduces their private costs of risk-taking. Although, Faust, J., & Svensson, L. E. (2001) said that increased transparency makes the bank's reputation and credibility more sensitive to its actions

vii. Reporting

A Study by Mohamed Zain and Janggu (2006) finds that the bigger the size and profitability of a company is, the more the company discloses its social and environmental information. However, financial leverage and size of audit firm do not influence the level of social information disclosed. Saat et al. (2009) reveals the relationship between CSR disclosure practices of 30 GLCs listed on Malaysian Stock Exchange with companies' performance measured by return on assets (ROA) and return on equity (ROE). CSR is found to be not significant to the performance of the companies. Only environment theme has a positively weak relationship with the ROA. However, Mustaruddin et al. (2008) and Rusnah et al. (2009) find that CSR is to be positively related to financial performance and suggested that local firms can achieve advanced levels of financial performance if they engage in social activities. Ab Manan and Mohd Iskandar (2003) investigated the quality of information reporting in the annual report of companies listed on the Malaysian Stock Exchange and they found out that the two main company characteristics that influence the quality of reporting are leverage and profitability.

As cited by Noor Emilina et al. (2015) according to Jamil et al. (2002) CSR disclosure level of 100 companies in Malaysia from all sectors was low where less than 30 percent of the companies disclosed CSR every year. Abul Hassan Sofyan Syafri Harahap (2010) found the overall mean CSR disclosure index of one Islamic bank out of seven to be above average and the issues of CSR were not of major concern for most Islamic banks. However, Amran &Devi (2007) and Janggu (2007) revealed that level of CSR reporting was increasing over time due to certain factors such as legislation enforcement, pressure groups' increased demand and ethical investors, establishment of awards for good CSR practice by companies, increased economic activities and societal awareness and politics. Amran & Abdul Khalid (2002) found that the increasing trend of CSR reporting by Malaysian companies could be due to the expectation that the companies would be accepted as the international players. Study done by Said, Sulaiman and Ahmad (2013) stressed that fund managers rated environmental reporting as an important disclosure since it would affect the firm's future performance and would also influence shareholders' decision. Studies by Auger, Devinney, & Louviere (2003), Dusuki & Tengku Mohd Yusof (2008), Maignan (2001), Ramasamy & Yeung (2009) conclude that active involvement of companies in CSR results in positive support by the stakeholders particularly consumers who purchase their products (Maignan, 2001; Ramasamy & Yeung, 2009). Thus, from companies' perspective, the engagement in CSR would affect the companies' long term success and sustainability.

Faizah Darus et al. (2014) reveals that Islamic financial institutions in Malaysia target their CSR activities towards the social development of the community, mainly concerned about improving the level of education of the community. Moreover, their focus towards the eradication of poverty by donating to the very poor and needy is consistent with the requirement of Shariah. The involvement of private corporations in community-based activities, specifically those involving CSR, is necessary not only to create a more competitive market and improve the economic status of the needy but also to contribute to the development human resource and also the community (Ismail et al., 2015). Firms that are practicing altruistic CSR help to alleviate various social ills within a community and society such as they can take care of the lack of sufficient funding for educational institutions, inadequate moneys for the arts, chronic unemployment, urban blight, drug and alcohol problems, and illiteracy among others (Lantos, 2003). For these reasons the establishment of Sadaqa House is very significant in order to meet the aim of *Maqasid al-shariah* in ensuring equality in Malaysian economy. Therefore, it is suggested that Islamic financial institutions should formulate a proper platform to collect donations from the public and Public Listed Companies. This platform would be the Sadaqa House.

3. Methodology

The researchers conducted a two-hour interview session with representatives from Bank A. This bank was selected because it ran quite a similar business to Sadaqa House. The purpose of this session was to obtain bank's opinion on motivating factors influencing the practice of sadaqah in Public Listed Companies and provided recommendations on governance and operations of Sadaqa House. As for data collection approach, the researchers employ structured method interview. The open-ended questions are designed to obtain data related to the research objectives.

4. Result

Bank A Experiences on Motivating Factors Influencing the Practice of Sadaqah in Public Listed Companies (PLCs)

The Bank A interview results show that there are five factors which could motivate PLCs to contribute in Sadaqa House. These factors include corporate governance, religiosity, CSR arm, tax incentives and transparency.

i. Corporate Governance

Sadaqa House as proposed to be financial institutions like banks, seems to be beneficial to its contributor since it has the responsibility to comply with governance rules. The good governance of Sadaqa House will result in obtaining contributors trust and encourage the contributors to give *sadaqah* or donation.

ii. Religiosity

In Malaysia, Muslim population is estimated around 18 million. It is expected that with the philanthropy sectors continue to grow, itwill increase philanthropic awareness of the Muslims throughout the country. Thus, this will create opportunity to encourage individuals or companies to contribute in Sadaqa House.

iii. CSR Arm

The establishment of Sadaqa House is proposed to act on behalf of the company through the company's contribution. Sadaqa House will do the CSR marketing for the company, hence this will reduce the CSR marketing cost of company and it will give benefit to the company. For instance, when companies donate for a specific project, Sadaqa House will market and advertise the companies' contribution through media. Meanwhile, through the collaboration of companies, huge capital and synergy would be mobilized to establish mega projects for community. Each company can contribute in a specific project. Furthermore, marketing activities will be indirectly executed by Sadaqa House on behalf of the contributors.

iv. Tax Incentives

Tax incentives seem to be one of motivating factors that drives companies to participate in Sadaqa House. Coincide with tax incentives objectives, the Sadaqa House activities and projects will bring benefits for community. Therefore, the companies which are Sadaqa House' contributor will get tax incentives for their donations in Sadaqa House projects.

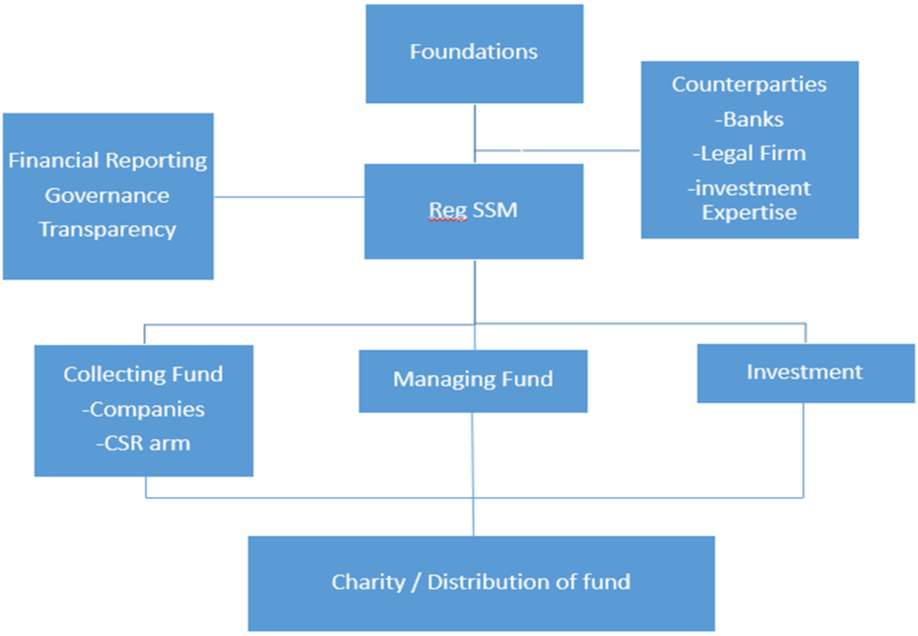
v. Transparency

Disclosure on the activities of Sadaqa House would provide assurance for its contributors that the donation funds are managed transparently and efficiently. This practice is similar to CSR reporting that provides information regarding their CSR activities. The Sadaqa House is expected to disclose all its activities and projects to reflect responsible behavior. All these information will be reported annually and will be published on Sadaqa House website.

Challenges to Establish Sadaqa House

The representative from Bank A is in opinion that there are two possible challenges in setting up Sadaqa House. Firstly, Bank Negara Malaysia has a strict regulation and procedure in banking operation. Therefore, financial institutions are required to follow their operations in accordance with BNM regulations and procedures such as Anti-Money Laundering (AMLA) and Anti-Terrorism Financing Act (TFA), Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2011, Islamic Financial Services Act (IFSA), Financial Services Act (FSA) etc. Should Sadaqa House be established as an entity similar to Islamic banks, this might discourage Sadaqa House's contributors to participate, especially when it comes to the screening process in which contributors need to disclose information. Furthermore, even though using sadaqah term is more flexible in fund management and law, the term waqf is a more familiar term in philanthropy practices among Malaysian Muslims. The benefit of waqf itself gives a perpetuity reward or sadaqah jariyyah. Thus, this may be a challenge in setting up Sadaqa House.

Sadaqa House Model Proposed by the Bank



Bank A recommends that Sadaqa House to be set up as a foundation (non-profit organisation) registered with Suruhanjaya Syarikat Malaysia (SSM) as a Company Limited by Guarantee and supervised under legal law or offshore. This is to avoid restriction in collecting funds and managing it. As a foundation, Sadaqa House will have more opportunities to collaborate with expert entities (e.g. investment experts) and make investments in secured funds such as property or other fixed income assets.

Bank A also suggests that only one Sadaqa House establishes throughout Malaysia. It is preferable to set up only one Sadaqa House entity that could service Malaysia entirely in order to reduce operation cost, overlap of function and effective fund distribution. Sadaqa House has to be established and designed under one roof, where many banks cooperate to run and manage fund from sadaqah to avoid anti- money laundering, establish a good governance and full of transparency.

Bank A proposed that promotion needs to and create awareness for companies to contribute in Sadaqa House by personal approach. From waqf contribution perspective, majority of the waqf contributions are made by individuals and only one percent of the waqf contributions come from companies. Even though the companies have been approached, there is still little response and supports from them. Bank A suggests Sadaqa House to execute three vital roles which are funds collector, funds manager and investment manager.

Bank A also suggests that sadaqah contribution to be part of the Malaysian Muslim culture. The sadaqah practice is suggested to be mandatory for all Malaysian Muslims. This mandatory sadaqah contribution may be implemented by deducting the salary of Malaysian Muslims for one-year period only. From the second year onwards, the salary deduction will no longer be compulsory with the expectation that Malaysian Muslims will continue to donate on a voluntary basis. Hopefully, this would be able to create the culture of sadaqah among Muslim community in Malaysia as well as the non-Muslims.

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