

## **Comparing the Concept of *Rahn* and Debenture in Islamic Finance Perspective**

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### ***ABSTRACT***

Debenture is one type of security adopted by Islamic bank in Malaysia for commercial and corporate customers. Same as *rahn*, debenture as security is not a stand-alone product but it is a supporting contract linked to financing contract. This paper aims to compare the concept of *rahn* and debenture in Islamic finance perspective. This paper adopted qualitative paper that adopts Shariah resolutions of Bank Negara Malaysia (BNM) and Accounting and Auditing Organization of Islamic Financial Institution (AAOIFI) as references. However, this paper does not conduct a specific case from any Islamic bank which only focusing on library research. This paper found that, debenture as security is one type of modern security instrument which is based on *rahn* contract where the similarity rate between *rahn* and debenture is 77% (10 out of 13 elements). From the analysis, it shows that AAOIFI Shariah Standard No. (39) on Mortgage and Its Contemporary Applications is more comprehensive than BNM Policy Document of *Rahn*. Out of 13 Shariah requirements, AAOIFI manage to have clear resolution on 85% (11 requirements) while BNM only highlighted 69% (9 requirements). Therefore, industry player should ensure that product structure and legal documentations of debenture are in compliance with *rahn* Shariah as highlighted by BNM and AAOIFI.

**Keywords:** *Rahn*, Debenture, Security, Shariah.

### **1.0 INTRODUCTION**

Debenture is one type of security requested by Islamic bank from their commercial and corporate customers. Other than debenture, there a few other types of security such as board director's guarantee, lien-security deposit, real estate mortgage and others. The benefit of having debenture is the recovery process is effectively faster where Islamic bank as debenture holder may liquidate customers' assets without having to go through the normal legal process (Mohammad Yusoff, 2002). Among the special characteristic of debenture is the pledgor is allowed to disposed debenture asset even it already being charged. Hence, the practice and nature of debenture as security is not similar with other normal security.

From Shariah point of view, supporting contract that aim to safeguards the interest of the debtor is *rahn* contract. In modern practice, financial security instrument should be developed based on *rahn* contract and must be complied with *rahn* Shariah requirements. However, as to date, there is no specific resolution by regulators or religious council on the permissibility of debenture where the practice of debenture is difference from one jurisdiction to another.

Therefore, the purpose of this paper is to compare and contrast the concept of security instrument of debenture with *rahn* contract and its Shariah requirements. In addition, this paper also will make an analysis on *rahn* contract and its Shariah requirements from BNM Policy Document and AAOIFI Shariah Standard.

## **2.0 RAHN FROM SHARIAH PERSPECTIVE**

*Rahn* is one of *uqud musamma* (nominated contract) contracts which are known amongst the scholars, mentioned in classical *fiqh* literature and precisely explained based on the primary sources of rulings namely Quran and Sunnah. In other hands, it is a contract which already practiced before Islam.

Literally, *rahn* can be define as evidence, endure, seizure, restrain and establish (Mustafa, Qader, Ziyat, & Najjar, 2004). Al-Maany dictionary also define *rahn* as claim on (property) as a security for payment of a debt or loan or the amount of money you owe on a pledge (Al-Maany, n.d.) .From technical definition, *rahn* defined as “transfer of asset from the creditor to debtor as a security (Imam Al-Juwaini, 2007).

There are five pillars of *rahn* contract namely *sighah* (the offer and acceptance to enter into the *rahn* contract), *rahin* (pledgor or party that provide the pledge asset), *murtahin* (pledgee or party that hold the pledge asset), *marhun* (pledged asset where the subject matter of the *rahn* contract where the asset is pledged to the pledgee) and *marhun bih* (obligation which is the debt that is owe by the *rahin* to the *murtahin*).

Essentially, *rahn* was exist before Islam (Hussin, 2013) and Prophet Muhammad does not prohibit it during his time. In Islam, the practice of *rahn* is permissible and its legality based on the Quran and hadith. In Quran Allah said that:

*“And if you are on a journey and cannot find a scribe, then let there be a pledge taken (mortgaging); then if one of you entrust the other, let the one who is entrusted discharge his trust (faithfully), and let him be afraid of Allah, his Lord”. [Al-Baqarah: 283]*

Ibn Hazm Az-Zhohiri’s in the opinion tht, the understanding from above verse can be understood that mortgage is only allowed when the transaction is executed during in travel or when the absence of witnesses to write down the debt. He also concluded that travel and the absence of witnesses are the condition for mortgage to be valid.

On the other hand, majority of the scholars does not consider travel and the absence of witnesses as the conditions for mortgage contract to be valid. They allow mortgage to be executed during not in travel and even with the presence of witnesses. Majority scholars

allow this practice based on hadith where The Prophet mortgage his armour to the Jews while he is not in travel (Musa, 2008). The permissibility of *rahn* also mentioned in the hadith:

It narrated from Aisyah, she said that: “*The Prophet bought some foodstuff on credit from a Jew and pledged an iron armour to him*”. [Muslim, Kitab al-Musaqat, No. 1603]

Based on the mentioned Quranic verse and hadith, practice of pledge is allowed based on the permissibility (*ibahah*) and not on the obligatory (*wajib*) since the verse is related to daily human activities. These commands show that it is permissible for Muslim to mortgage their asset to secure the creditor’s interest.

### **3.0 TYPE OF DEBENTURE**

In general, debenture is classified into two perspectives, debenture as a debt instrument and debenture as security instrument. Debenture as debt instrument can be defined as type of debt instrument that is not secured by physical asset or collateral. Debenture is backed only by the general creditworthiness and reputation of the issuer. Both corporations and governments frequently issue this type of bond to secure capital (Investopedia, n.d.).

Debenture from security point of view can be categorised into two either secured debenture or unsecured debenture. For secured debenture, it is a security document that is usually entered into when creating a fixed and floating charge over the assets and undertaking of a borrower (Sequerah, Jack, Ch’ng, & Lynn, 2016).

Fixed charge is a charge over a particular asset where the chargee controls any dealing or disposal of the asset by the chargor. A fixed charge ranks before a floating charge in the order of repayment on an insolvency (Thomson Reuters, n.d.-a). When a charge is created, the company cannot deal with that property without the consent of the holder of the charge. It is common for tangible movable property such as plant and machinery, motor vehicles (which are not the subject of a hire-purchase agreement) and equipment to be charged by way of a fixed charge.

The latter is floating charge where a charge taken over all the assets or a class of assets owned by a company or a limited liability partnership from time to time as security for borrowings or other indebtedness (Thomson Reuters, n.d.-b). It means the charge covers not only the present assets of the company but also covers the future assets of the company. Any asset charged by way of a floating charge will enable the borrower to continue to deal with it. Where specific property is the subject of a charge, it is common for a list containing details of such property to be attached to the debenture.

Unsecured debentures do not have a specific charge on the assets of the company. However, a floating charge may be created on this debenture by default. Normally, this kind of debenture are not issued (NCERT, 2013). Unsecured debenture also called as simple debenture. In the event of liquidation, unsecured debenture holders rank after secured debentures/ loans and is ranked as *pari passu* with other creditors and before share capital.

However, for the purpose of this paper, it will only focus on fixed charge and floating charge debenture which to analyse its permissibility and Shariah basis.

As mentioned above, debenture from security point of view is a type of security provided by the borrower to ensure the payment of debt to the creditor on the agreed maturity date. Debenture is a supporting contract which exist conjunction to the financing granted to the borrower.

When a commercial or corporate customer has been granted a financing by Islamic banks, they will request some collateral to safeguards their interest in the event of default. Instead of providing any real estate or deposit as collateral, customer also can provide a debenture. The party who get this debenture is called as debenture holder.

Debenture as security generally used *rahn* concept. Thus, debenture should fulfil with the pillars and conditions of *rahn*. Islamic banks will request this type of security in the event where commercial and corporate customers do not have sufficient security equivalent to the financing amount granted. By having debenture, customer will get higher financing amount without jeopardise Islamic banks' interests. However, Islamic banks are very selective to accept this type of security since debenture is riskier compared to other type of security.

#### 4.0 COMPARISON BETWEEN RAHN & DEBENTURE

Based on above literature, this part will make a comparison between *rahn* and debenture as security to evaluate whether *rahn* and debenture as security are having same elements. The comparison is based on main elements in both *rahn* and debenture as security which refer to its definition, type, contractual obligation, conditions, bindingness and reference. The details are explained in table below:

**Table 1: Comparison between *Rahn* and Debenture**

Item	<i>Rahn</i>	Debenture as Security	Remark
1. Definition	Make a financial asset or so tied to a debt so that the asset or its value is used for repayment of the debt in case of default.	A security document that is usually entered into when creating a fixed and floating charge over the assets and undertaking of a borrower.	Both definitions aim to safeguard the interest of the person who providing the debt.
2. Type	Two main types: <i>Rahn hiyazi</i> (pledge of physical possession) and <i>rahn ta'mini</i> (pledge of	Two main types: Secured and unsecured debenture. Secured is divided into fixed charge and floating charge.	No specific relation between <i>rahn</i> and debenture where <i>rahn</i> is classified by method of possession, while

	constructive possession).		debenture is classified by availability of charged asset and restriction of the owner in dealing with the asset.
<b>3. Contractual Obligation</b>	Assurance that the <i>marhun bih</i> (liability or obligation) owed by the obligor to the pledgee will be fulfilled in the event of a default as agreed in the terms and conditions of <i>rahn</i> .	A certificate evidencing the fact that the company is liable to pay a specified amount to the debenture holder.	<i>Rahn</i> is a type of contract that can be developed into a product. Meanwhile, debenture is a product that is based on <i>rahn</i> contract.
<b>4. Condition</b>	<ul style="list-style-type: none"> <li>i. Contracting parties: <i>rahin</i> (pledgor) and <i>murtahin</i> (pledgee).</li> <li>ii. <i>Ijab &amp; qabul</i> in <i>rahn</i> contract.</li> <li>iii. <i>Marhun</i> (pledged asset).</li> <li>iv. Requirement for pledged asset: The asset must be <i>mal mutaqawwam</i> which is asset that has commercial value and Shariah compliance asset.</li> <li>v. <i>Marhun bih</i> (obligation).</li> <li>vi. Possession of <i>marhun</i> (pledged asset).</li> <li>vii. <i>Fasakh</i> (dissolution) of <i>rahn</i>.</li> <li>viii. <i>Intiha'</i> (completion) of</li> </ul>	<ul style="list-style-type: none"> <li>i. Contracting parties: Issuer and debenture holder.</li> <li>ii. Offer and acceptance in debenture agreement.</li> <li>iii. Fixed and floating charged asset.</li> <li>iv. Requirement for charged asset: Any asset that have commercial value.</li> <li>v. Financing granted by Islamic bank.</li> <li>vi. Registration of charge.</li> <li>vii. Destruction or disposal of charged asset.</li> <li>viii. Release of charge by settlement of the</li> </ul>	<ul style="list-style-type: none"> <li>Same condition.</li> <li>Same condition.</li> <li>Same condition.</li> <li>Shariah has additional requirement that is the asset must not a prohibited asset.</li> <li>Same condition.</li> <li>Same condition.</li> <li>Same condition.</li> <li>Same condition.</li> </ul>

	<i>rahn</i> .	financing or liquidation of asset.	
5. <b>Bindingness</b>	Binding on the pledgor.	Binding on the issuer.	Same element.
6. <b>Reference</b>	Islamic Law.	Subdivision 10, Division 1, Part III of Companies Act 2016.	Ruling of <i>rahn</i> is from divine sources and debenture is enacted by human.

Based on the table above, this paper found that *rahn* and debenture as security is having same elements where the purposes of both is to protect the interest of the person who providing the debt where in the event of default, charged asset will be liquidated to pay the debtor. Then, contractual obligation further establishes that *rahn* is a type of Shariah contract that can be illustrated in modern financial product. From Shariah point of view, debenture as security is one type of modern collateral that is based on *rahn* contract. Then, there are 7 main conditions in *rahn* where its elements are same with debenture as security where Shariah requirements on *rahn* were translated into modern terminology in debenture as security. In addition, in term of bindingness, both are binding on the creditor which is the issuer and the pledgor.

Even there is difference between *rahn* and debenture in term of its classification, however, it's just varying in the structure without effecting the contractual obligation. Basically, the main difference between *rahn* and debenture as security is on their reference. *Rahn* is ruling by Shariah which is divine sources from Quran and hadith. Meanwhile, debenture is governed by legal act specifically by Subdivision 10, Division 1, Part III of Companies Act 2016 that is enacted by human being. However, another related section in the Act may apply from case to case basis. This act is open to changes from time to time to make in suitable and relevant with modern practice.

## **5.0 COMPARISON ON RAHN SHARIAH REQUIREMENT BY BNM & AAOIFI**

This part will make a comparison on *rahn* requirements in Shariah from *Rahn Contract Policy Document* (Bank Negara Malaysia, 2018) and Shariah Standard No. (39) on Mortgage and Its Contemporary Applications (AAOIFI, 2015a). However, other references from BNM's and AAOIFI's resolutions that related to *rahn* contract will be observed.

Based on the analysis, it is found that, there are 13 pertinent Shariah requirements related to debenture that can be compared which including definition, pillars, general conditions, and specific condition on *marhun* (pledged asset) such as possession, multiple charges on one asset, takaful and zakat. The details of each requirement are further explained below:

### **5.1 Rahn Definition**

BNM in PD *Rahn*, Section 8.1 defines *rahn* as “a contract where a party, as pledgor (*rahin*) pledges an asset as collateral (*marhun*) to another party, a pledgee (*murtahin*) to fulfill an obligor's liability or

obligation (*marhun bih*) owing to the pledgee in the event of default of such obligor". On the other hand, AAOIFI in Shariah Standard 39, Section 2 refers *rahn* as "to mortgage means to make a financial asset or so tied to a debt so that the asset or its value is used for repayment of the debt in case of default".

Basically, both of these definitions carry same meaning where the creditor provides some asset as security for debt provided by debtor. It is found that, BNM and AAOIFI have modern and comprehensive definition by using financial terminology.

## **5.2 Rahn Pillars**

BNM in PD *Rahn*, Section 10 summaries the components of *rahn* contract into three which is the (a) contracting parties; (b) the offer (*ijab*) and acceptance (*qabul*) to enter into the *rahn* contract; and (c) the subject matter of the *rahn* contract. Basically, *rahin* (pledgor) and *murtahin* (pledgee) is included in contracting parties and *marhun* (pledged asset) and *marhun bih* (obligation) is covered under the subject matter.

Contradict with the BNM, AAOIFI does not specifically mentioned the pillars of *rahn* in the Shariah Standard. This Shariah Standard was developed purposely to facilitate the transaction of *rahn* in Islamic banking. Therefore, the discussion of *rahn* in this standard is more on modern and commercial issues without mentioning its fundamental. Nevertheless, Dirasat Ma'ayir Shari'iyah on *Rahn* by (Mash'al, 2008) mentioned that there are five pillars of *rahn* same as the classical Scholars' classification above. Overall, BNM and AAOIFI mentioned same pillars of *rahn* but difference in the classification.

## **5.3 Rahn Intangible Asset**

From Shariah perspective, intangible asset is classified as *manfaah* (non-physical asset). The chosen opinion on this issue is from Maliki School of Thought where they mentioned that *rahn manfaah* (pledge of non-physical asset) is allowed based on legal maxim "**what is permissible to be sold is also permissible to be pledged**" (Ar-Radadi, 2012). In modern practice, possession *manfaah* can be transferred via registration or documentation (AAOIFI, 2015a). Hence, *rahn* intangible asset is also allowed. On top of that, neither BNM nor AAOIFI mentioned anything on *rahn manfaah* or *rahn* intangible asset.

## **5.4 Rahn Financial Asset**

*Rahn* financial asset is referring to pledge debt and financial investment. BNM in PD *Rahn*, Section 14.1(b) is in the opinion that, financial asset that is Shariah-compliant is accepted by Shariah. In addition, AAOIFI also have the same view where Shariah Standard 39, Section 4, 5, and 6 mentioned that pledge financial papers, sukuk, current accounts, cash securities, investment units and investment accounts is accepted. Therefore, *rahn* financial asset is allowed by BNM and AAOIFI.

## **5.5 Rahn Mixed Asset**

Mixed asset refers to mix of Shariah compliant asset and Shariah non-compliant asset. In modern practice, this usually exists in financial asset such as shares and financial papers. BNM in PD *Rahn*, Section 14.2 mentioned that where a Shariah non-compliant financial asset is used as collateral, the recognised collateral value must be limited to the principal amount of the financial asset.

Furthermore, (Shariah Advisory Council BNM, 2015) in its 160<sup>th</sup> meeting on 30th June 2015 resolved that; shares of companies with mixed asset may be accepted as collateral provided that the

core business of the company is recognised as Shariah compliant; and a mixed asset may be used as collateral provided that the Shariah compliant assets and Shariah non-compliant can be segregated.

However, AAOIFI has different opinion where Shariah Standard 39, Section 3/2/1 stated that, the mortgaged asset should be a Shariah compliant asset. Moreover, Section 4/3 said that it is impermissible to mortgage the financial papers and Sukuk that should not be issued or transacted according to Shariah. In other words, *rahn* mixed asset is not allowed by AAOIFI.

## **5.6 Constructive Possession**

In principal, physical possession should be adopted where the pledged asset is physically possessed by the pledgee which is the pledgor should handover the key for house and transfers the asset to pledgee for movable asset. However, BNM stated on the permissibility of constructive possession in PD *Rahn*, Section 14.8 where the possession of the asset by the pledgee according to the business customary practices of the asset.

Moreover, AAOIFI in Shariah Standard 39, Section 3/1/2 further explained that, in modern practice, constructive possession could be legal through registration and documentation. Hence, constructive possession is accepted in Shariah.

## **5.7 Delay in Possession**

In term of delay in possession, only BNM allows this practice as highlighted in PD *Rahn*, Section 14.7 but subject to pledgee's approval. However, the main principle is remained where the *marhun* (pledged asset) shall be immediately possessed by the pledgee upon entering into *rahn* contract. However, AAOIFI is silent on this issue.

## **5.8 Multiple Pledges on One Asset**

Multiple pledges on one asset is allowed by BNM and AAOIFI where PD *Rahn*, Section 14.12 and Shariah Standard 39, Section 3/2/3 adopt same opinion where one asset can be pledged to more than one pledgee under more than one *rahn* contract with certain conditions. First, the consent of all the pledgee has to be sought and the mortgage right in the asset is to be shared among them in proportion to their respective debts. Second, where the pledgees are ranked in a way that the right of claim of a preceding pledgee is prioritised over a subsequent pledgee, the consent of the succeeding pledgee shall be obtained. Therefore, multiple pledges are unanimously accepted by BNM and AAOIFI.

## **5.9 Appreciation of Pledged Asset**

AAOIFI in Shariah Standard 39, Section 3/2/8 stated that, appreciation in the value of the mortgaged asset as well as its income is own by the pledgor and it's considered to be mortgaged along with the principal, unless the two parties agree otherwise. Since AAOIFI did not mention about the ownership of the appreciated asset, this paper believed that the appreciated asset is belong to the pledgor. However, BNM doesn't have specific resolution on this issue.

## **5.10 Sell Pledged Asset by Pledgor**

In term of sell pledged asset by pledgor, AAOIFI in Shariah Standard 39, Section 3/1/6 highlighted that, the validity of the *rahn* also expire as a result of transfer of the ownership of the mortgaged asset (through sale, gift or will) on permission of the mortgagee; unless the new owner accepts to keep the mortgage contract. Then, Section 3/2/2 stated that pledged asset can be sold and replaced by their value. Therefore, pledgor can sell charged asset with two conditions that is with the consent of the



pledgee and the pledged asset be replaced by another asset or converted into cash with the same value. Nevertheless, BNM doesn't have specific resolution on this issue.

### **5.11 Rahn Asset Exist in Future**

Referring to BNM PD *Rahn*, it is clearly mentioned in Section 14.4 and 24.2 that, pledgor may pledge an asset that will exist and will be owned in the future. Meanwhile, (Shariah Advisory Council BNM, 2017) in 174<sup>th</sup> Meeting has ruled that an asset that will exist in the future may be pledged as collateral under a *rahn* contract with the agreement between the contracting parties. PD *Wa'd*, Section 13.9 (Bank Negara Malaysia, 2017) also mentioned that, a promisor may give *wa'd* (promise) to use any future asset as collateral for any debt obligation.

Then, AAOIFI in Shariah Standard 39, Section 7 resolved that it is permissible to mortgage an income which is still to be owned if the principal (income earning asset) is specified. In addition, Shariah Standard 31: Impact of *Gharar* on *Rahn* contracts stated that *rahn* can permissibly involve a degree of *gharar* (uncertainty) that is not allowed in sale based on the fact that the *rahn* contract is not meant in itself, since it is a corollary contract signed for documentation. Based on the above justification, the practice of pledge an asset that will exist and will be owned in the future is permissible.

### **5.12 Takaful for Pledged Asset**

Takaful coverage for maintenance of asset must be borne by pledgor and takaful coverage for safekeeping of asset must be borne by pledgee as stated by BNM in PD *Rahn*, Section 25.2. However, AAOIFI Shariah Standard 39, Section 8 cited that pledgor should bear the cost of takaful coverage. It elaborates that, if the compensation is received in the form of a cash amount such amount shall be mortgaged along with its returns by depositing it in a frozen investment account owned by the mortgagor.

This paper found that, BNM adopt same opinion with classical Scholars where expenses on living of pledged asset should be borne by the pledgor such as its food for livestock and irrigation for agriculture. Meanwhile, pledgee should bear the expense of preservation of the asset such as fence or safety box (Shamela, n.d.). However, AAOIFI mentioned that, only pledgor should bear the cost of takaful coverage.

### **5.13 Zakat for Pledged Asset**

In term of requirement on zakat, only AAOIFI mentioned this requirement in Shariah Standard 39, Section 9; it is stated that the owner of the mortgaged asset should pay zakat if it is payable on the asset and its income or on its income only. The fact that the owner cannot dispose of the mortgaged asset does not relieve him from payment of zakat. AAOIFI further explained that zakat is payable on all cash mortgages subject to stipulations of Shariah Standard 35 on Zakat, Sections 5/1, 5/2 and 5/3 (AAOIFI, 2015b). Meanwhile, requirement on zakat is not discussed by BNM.

Therefore, comparison on *rahn* Shariah requirement between BNM and AAOIFI can be summarised in the table below:

**Table 2: Comparison on Shariah Requirement on *Rahn***

<b>Item/ Requirement</b>	<b>BNM</b>	<b>AAOIFI</b>	<b>Remark/ Analysis</b>
<b>a. Definition</b>	Modern definition <b>PD <i>Rahn</i>, Section 8.1.</b>	Modern definition <b>Shariah Standard 39, Section 2.</b>	<b>Same opinion.</b> Both definitions using different terminology but carry same meaning. BNM and AAOIFI have modern and comprehensive definition.
<b>b. Pillars</b>	3 pillars <b>PD <i>Rahn</i>, Section 10.</b>	5 pillars <b>Dirasat Ma'ayir Shari'iyah, Version 3, page 2600</b>	<b>Same opinion.</b> BNM and AAOIFI mentioned same pillars but difference in the classification. AAOIFI only mentioned it in Dirasat Ma'ayir Shari'iyah.
<b>c. <i>Rahn</i> intangible asset (<i>manfaah</i>)</b>	-Silent-	-Silent-	<b>Same opinion.</b> Both BNM and AAOIFI silent on this issue. However, this practice is allowed from Maliki School of Thought only.
<b>d. <i>Rahn</i> Financial asset</b>	Allowed with condition <b>PD <i>Rahn</i>, Section 14.1(b).</b>	Allowed with condition <b>Shariah Standard 39, Section 4, 5 and 6.</b>	<b>Same opinion.</b> Allowed with certain conditions by BNM and AAOIFI.
<b>e. <i>Rahn</i> Mixed Asset</b>	Allowed with condition <b>PD <i>Rahn</i>, Section 14.2(b). SAC BNM 160<sup>th</sup> Meeting.</b>	Not allowed <b>Shariah Standard 39, Section 3/2/1 and 4/3.</b>	<b>Different opinion.</b> Allowed with certain conditions by BNM. However, AAOIFI adopt more stringent opinion not to allow this practice.
<b>f. Constructive possession</b>	Allowed <b>PD <i>Rahn</i>, Section 14.8(b).</b>	Allowed <b>Shariah Standard 39, Section 3/1/2.</b>	<b>Same opinion.</b> Unanimously allowed by BNM and AAOIFI.
<b>g. Delay in possession</b>	Allow with condition <b>PD <i>Rahn</i>, Section 14.7(b).</b>	-Silent-	<b>Mentioned by BNM only.</b> Allowed by BNM, but AAOIFI silent on this issue.
<b>h. Multiple pledges on one asset</b>	Allowed with condition <b>PD <i>Rahn</i>,</b>	Allowed with condition <b>Shariah</b>	<b>Same opinion.</b> Allowed with certain conditions by BNM and AAOIFI.

	<b>Section 14.12(b).</b>	<b>Standard 39, Section 3/2/3.</b>	
<b>i. Appreciation of Pledged asset</b>	-Silent-	Allowed <b>Shariah Standard 39, Section 3/2/8.</b>	<b>Mentioned by AAOIFI only.</b> Allowed by AAOIFI, but BNM silent on this issue.
<b>j. Sell pledged asset by pledgor</b>	-Silent-	Allowed with condition. <b>Shariah Standard 39, Section 3/1/6 and 3/2/2.</b>	<b>Mentioned by AAOIFI only.</b> Allowed by AAOIFI, but BNM silent on this issue.
<b>k. Future <i>rahn</i></b>	Allowed <b>PD <i>Rahn</i>, Section 14.4 and Section 24.2.</b> <b>PD <i>Wa'd</i>, Section 13.9.</b> <b>SAC BNM 174<sup>th</sup> Meeting.</b>	Allowed <b>Shariah Standard 39, Section 7.</b> <b>Shariah Standard 31, Section 6/1.</b>	<b>Same opinion.</b> Unanimously allowed by BNM and AAOIFI.
<b>l. Takaful</b>	Allowed with condition. <b>PD <i>Rahn</i>, Section 25.</b>	Allowed with condition. <b>Shariah Standard 39, Section 8.</b>	<b>Different opinion.</b> Allowed by BNM and AAOIFI with different conditions. BNM adopt same opinions with classical Scholars.
<b>m. Zakat of pledged asset</b>	-Silent-	Required <b>Shariah Standard 39, Section 9.</b>	<b>Mentioned by AAOIFI only.</b> Required by AAOIFI, but BNM silent on this issue.

Based on the above discussion, it shows that, in general, BNM and AAOIFI have same requirement on *rahn*. First, in term of definition, BNM and AAOIFI have modern and comprehensive definition compared to classical Scholars. These modern definitions will assist industry player to understand the concept of *rahn*.

Then, classical Scholars and BNM clearly stated the pillars of *rahn*. But, AAOIFI in their Shariah Standard 39 did not mentioned on *rahn* pillars. They only mentioned it in AAOIFI *Dirasat Ma'ayir Shari'iyah* (Mash'al, 2008). This paper is on the view that, *rahn* pillars should be clearly stated in the AAOIFI Standard since it is the main elements of *rahn*. Even AAOIFI stated it in *Dirasat Ma'ayir Shari'iyah*, however, this book is not widely used in industry.

In term of differences, this paper found that the practice of *rahn manfaah* (non-physical asset) or intangible asset is only allowed by classical Scholars from Maliki School of Thought. This paper is in the opinion that, BNM and AAOIFI should have clear stand on this issue.

In term of *rahn* mixed asset, AAOIFI adopt more stringent opinion where they didn't allow this practice. However, BNM stated that, *rahn* mixed asset is allowed with the condition that the permissible element should be eliminated.

Another important Shariah requirement on debenture is on the permissibility to pledge asset that will own and exist in the future. The analysis shows that, BNM and AAOIFI allowing this practice with the condition that, the principle asset should be identified.

Moreover, there is some additional requirement highlighted such as delay in possession of pledged asset where it is only allowed by BNM. In addition, only AAOIFI mentioned the requirement of the pledgor to pay zakat on the pledged asset even the asset is not in their possession.

This paper is on the view that, AAOIFI Shariah Standard on *Rahn* is more comprehensive than BNM PD *Rahn*. Out of 13 requirements highlighted, AAOIFI made a clear resolution on 11 requirements including 1 requirement extracted from *Dirasat Ma'ayir Shari'iyah* and they only silent on 2 issues which is *rahn* intangible asset and delay in possession on pledged asset. Meanwhile, BNM only stated 9 requirements and they silent on 4 issues that is *rahn* intangible asset, appreciation of pledged asset, sell pledged asset by pledgor and zakat of pledged asset.

## **6.0 CONCLUSION**

This paper found that, debenture as security is similar with *rahn*. Based on the comparison between *rahn* and debenture, the analysis shows that, out of 13 elements, similarity rate between *rahn* and debenture is 77% (10 out of 13 elements). Then, the non-similarity rate between *rahn* and debenture is 15% (2 out of 13 elements). While, there is only 8% (1 element) where *rahn* have additional condition compared to debenture.

In term of Shariah requirement, this paper is on the view that, Shariah Standard No. (39) on Mortgage and Its Contemporary Applications is more comprehensive than BNM *Rahn* Contract Policy Document. This is based on the analysis that AAOIFI Shariah Standard manage to have clear resolution on 85% which equivalent to 11 requirements. Meanwhile, BNM *Rahn* PD only have clear resolution on 69% which equivalent to 9 requirements.

Based on the comparison between BNM PD and AAOIFI Shariah Standard, the similarity rate between BNM and AAOIFI is 54% (7 out of 13 Shariah requirements). Furthermore, Shariah requirement that only mentioned by one party is 31% (4 out of 13 Shariah requirements) where 3 requirements highlighted by AAOIFI and 1 requirement by BNM. Meanwhile, the non-similarity rate is only 15% (2 out of 13 Shariah requirements).

This paper believes that, the analysis highlighted will assist those interested in Islamic banking sector in Malaysia to understand the concept of *rahn* from Shariah perspective. Therefore, industry player may get some relevant information in developing security instrument of debenture as well as to ensure the product structure and legal documentations are in compliance with Shariah.

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