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**ACADEMIC PAPER**

## Evaluation of Venture Capital System In Turkey in Terms of The Investment Trading Processes and Islamic Law

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**ABSTRACT**

The funding system for cutting-edge innovations is the vibrant venture capital industry. To put it another way, it's an industry that has the potential to generate a lot of money and plenty of jobs for people. To engage in entrepreneurial activity means to go ahead into a novel and potentially lucrative field of commercial activity by making use of a particular method or set of tools. Most entrepreneurs are young, ambitious persons with unique skills and potentially lucrative ideas. Positive science owes a great deal to the Quran, which has several instances that served as a foundation. Examples of entrepreneurship include the methods employed by Yusuf, the achievements of Suleyman, and the use of wind energy. Islam recognises three types of partnerships used in the venture capital industry: contracts of exception (work contracts), faith partnerships (joint stock companies), and labor-capital partnerships (mudaraba). In this research, we assessed the efficacy of these cooperative arrangements by looking at instances from the Quran and Islamic history. There are partnerships or systems used in venture capital in Islamic law, such as contract of exception, partnership of faith and laborcapital partnership. It is important for the continuity of the system that the venture capital company creates a joint investment fund by investing in multiple areas (hybrid) instead of a risky area. The profit rate can be very high, but lies, fraud, monopoly formation and speculation should be avoided in the formation of this price.

**KEYWORDS**

Venture capital, entrepreneur, investment, fund, Islamic law

### 1. INTRODUCTION

Venture capital is financing that investors provide for start-ups and small businesses that are considered to have long-term growth potential. Venture capital is an important source of money for new investors. Venture Capital companies, established to invest in promising projects, are intermediary institutions that bring together capital owners and scientists who will produce advanced technology. They make joint investments in various fields with the fund they have created for these investments, and even if there are unsuccessful projects, the very profitable ones will protect the fund. Indeed, in the USA, the National Venture Capital Association (NVCA) is an organization made up of hundreds of venture capital firms that provide funds to innovators and entrepreneurs. They are a diverse group, often with



assets from a variety of sources, and they want to invest in risky but promising projects.

Entrepreneurs need funds to realize new ideas and technologies. Venture capital companies are the institutions that provide this fund to entrepreneurs (Perez, 1986). The developed and efficient risk capital market plays an important role in economic growth and job creation. Venture capitalists need experience to add value and select, monitor and support young and high-tech entrepreneurs. Venture capitalists also refer outside investors who have little knowledge of the profitability of venture capital investments to advanced Technologies (Schertler, 2002). Those who put capital into the business are usually Professional venture capitalists (Berk, 2003).

In this study, the importance of all these works and transactions explained above will be evaluated in terms of Islamic law. Especially in the context of Islamic economics and law, the possibility, importance, actual and potential examples of risk capital will be emphasized. Again, the analysis of excessive profit from venture capital investments in terms of Islamic law, the application of venture capital in our country and its relationship with asset leasing companies will be discussed.

## 2. SOME EXAMPLES OF ENTREPRENEURSHIP GIVEN IN THE QURAN

It is possible to evaluate various issues, which are described as miracles and experienced in the period of various prophets in the Qur'an, as examples that pave the way for positive science. While the prophets realized this with the help and support of Allah in their own time, scientists, using their entrepreneurial talents, put this into practice as a result of experimentation, experience and laboratory research. To do this, they need external financial support. Thus, these products, which are basically risky, but include discovery, invention and innovation, require risky but promising capital investments. Some events that took place in the historical process in the Quran are of a nature to shed light on entrepreneurs when we bring them up to date. We will give a few examples of these below:

Planet Earth is created for man, and it was put at the disposal of man with all kinds of underground and aboveground riches, vegetation, animal kingdom and sea products.

The following is stated in the Quran:

*"He created everything for you in that place. Then he turned to the sky and arranged them into seven heavens. He is all-knowing."* (Quran 2:29).

*"It is He who has subdued the earth to you. So walk around on the shoulders of the earth and eat from the sustenance of Allah! But the final turn It is to Him."* (Quran 67:15).

According to these verses, everything on earth is created for man. Natural events in the world are of such a nature that they will submit to human beings under normal conditions. Accordingly, mountains, rivers, lakes, seas and oceans are blessings that people can travel and benefit from and that they can keep under control by means of reason and science. In another verse, it is stated, *"He has put everything in the heavens and the earth at your service from Himself. Surely in this there are signs for a people who reflect!"* He makes the following request so that it can be done: *"Put me in charge of the treasuries of the country. Because I am a well-kept and wellknowing person."* (Quran 12:55). In fact, Prophet Yusuf established a just economic order in this turbulent period that spanned a quarter of a century, became the implementer of a balanced economic model and the symbol of Islamic economy. *"He created everything for you in that place."* (Quran 45:13).

As it is known, Joseph the dream of the king of Egypt; "There will be seven years of abundance in agriculture and animal husbandry in Egypt and its environs, followed by seven years of severe famine," he comments. When the king asked what kind of measures should be taken, he suggested that as a remedy for these economically depressed years, the people would be encouraged to save, and the surplus products should be taken into custody and stored in the years of abundance, and the needs should be met with these regularly in the years of famine (Qur'an 12: 47-49). He makes the following request from



the king so that this work can be done with a competent administrative staff: "Put me in charge of the country's treasuries. Because I am a well-kept and well-knowing person." (Quran 12:55). In fact, Prophet Yusuf established a just economic order in this turbulent period that spanned a quarter of a century, became the implementer of a balanced economic model and the symbol of Islamic economy.

In fact, some economic historians base the practice of the first paper money (representative money) with standard values on some experiences in the Egyptian region. This coincides with the time of the prophet Joseph. Indeed, the economic historian J. Dobretsberger, in Egypt, BC. He says that banknotes were in circulation in the 1600s. In this country, it was called the procedure for the state treasury and warehouses to accept escrow. The people deposited their gold, jewelery and grain here to be kept and they were given a receipt stating the value of the thing they had entrusted to them. Anyone with such a receipt could withdraw the type and amount of goods written on the document at any time. Traders accepted these receipts in exchange of goods or money. In fact, these documents were circulating in Phoenicia and Mesopotamia (Ergin, 1964).

It is stated in the verses that Solomon made long journeys using wind energy. It is stated that the wind was placed under his command and possession as follows: "*We placed the wind under his command. So much so that the wind would flow wherever it wanted at his command.*" (Quran 38:36). "*We gave the wind, which is a month's journey in the morning and a month's journey back in the evening, to Süleyman's command.*" (Quran 34:12-13).

The fact that he took Suleyman wherever he wanted, to an address, resembles today's navigation practice. It is clear that it points to the transition to the flying car era instead of the highway. If an entrepreneur develops a project that predicts that a vehicle can go anywhere by air, with the power and energy it consumes while traveling on the road, and with the same fuel, it would not be difficult to implement it with the support of risk capital.

At the time of the Doomsday, the Qur'an mentions that all seas and oceans will become areas of fire: "*When the seas become areas of fire... a person will know what he has brought.*" (Quran 8:6-14). Today's chemistry explains the fire and burning of the seas as follows. The waters, which are formed by the combination of two hydrogen and an oxygen gas, are in the process of breaking the apocalypse. It is not impossible for such a terrible fire to break out in the oceans, as the flammable hydrogen and the burning oxygen gas start to burn together.

### **3. PARTNERSHIPS USED IN VENTURE CAPITAL**

#### **3.1. Istisna' Contract (Contract of Works)**

The legitimacy of the "exception contract (orderwork contract)", which is related to the first production of a product whose qualifications have been determined, which has been revealed as discovery and invention on a project basis, and whose patent right has been granted, is istihsan (istihsan). On the other hand, It is reported that the Prophet also ordered the making of silver rings and minbars (Döndüren, 1992).

Without mass production, if the materials of the custom-made items belong to the orderer, the contract between the parties becomes a "labor contract". The contractor firm undertakes the labor for a certain price. In the order contract, the workmanship and the material of the contract are the craftsman and the contractor.

According to the majority of jurists, the order contract is a "promise contract" unless it turns into a salam contract by determining the date on which the goods will be produced and delivered. Therefore, each party has the right to withdraw before the work is done.

According to Ebu Hanife and Imam Muhammad, the person who orders the goods has the right of



choice when he sees the goods. Because he is like the one who buys what he has not seen. According to Abu Yusuf, the property is contractual.

If it is made in accordance with the order, the orderer does not have the right to choose when he sees the goods. This last view is more appropriate. Because today, considering that trains, ferries, and various machinery and equipment are produced to order, it is a great risk for those who have made the commitment for the customer to terminate the contract by just using the right of "visibility" in such expensive investments. Because, in cases where there is a production defect, low quality or generally not complying with the contract conditions, "defect and qualification freedom" is in question for all commercial contracts. The existence of such a right is sufficient to protect the rights of the order owner.

### **3.2. Inan Partnership (Joint Stock Company)**

Believe partnership; It is a company that has been signed by two or more people for commercial purposes by putting capital. Here, the capitals do not have to be equal, nor do the profits need to be shared according to the capital ratios. However, if a shareholder is to be given a share of the profit above the capital ratio, it is obligatory for this partner to work in the company business (Mecelle, art. 1370-1371). In any case, the liability of the partners against the loss is based on their capital ratio (Zeylaî, III, 475).

Here, the partners are only representatives of each other and are not considered as guarantors. Therefore, like a minor child who has been granted a trade permit, a person whose guarantor is not valid can be a partner in the company.

Inan partnership can be general for all kinds of trade, or it can be specific for certain trades such as textiles, iron, building materials, grain crops. On the other hand, the company of believe is also permissible between a Muslim and a non-Muslim. Because there is no equality condition in this partnership (Döndüren, 2004).

In the main contract of the Inan partnership, matters such as the management of the company, the working conditions of the partners, the wages they will receive in return for their efforts and the sharing of profits are specified. These are binding on partners. The following is stated in the hadiths: *"Muslims obey the conditions they set among themselves. However, the condition that renders haram halal and halal haram is an exception."* (Bukhari, *icare*, 14, 50; Tirmidhi, *Ahkam*, 17; Abu Davud, *Akdiye*, 12). *"The profit is shared according to the conditions freely determined by the partners. Bearing the loss is according to the capital ratios."* (Zaylai, III, 475). On the other hand, the Messenger of Allah forbade taking the profit of capital that does not bear the risk of loss (68; Nesai, "Buyu", 71, 72, 76; Ibn Mâce, "Ticaret", 20; Tirmidhi, "Buyu", 19; A. Ibn Hanbal, II, 175, 176, 205).

The profit sharing in the partnership is determined as a percentage. Hanafi, Hanbali and Zaydi according to their denominations, it is essential for the working partners to receive a share of the profit in return for their labor. Differences in qualifications such as mastery, art and skill among the working partners may lead to a different share of the profit to be paid for their labor.

According to Shafi'i, Maliki, Zahiri and Imamiyya sects and Imam Zufer, profit and loss should be calculated according to the capital ratios in the partnership of believers.

As a result of this, the labor of the partners working as managers or workers in their own company is paid as a salary. On the other hand, it is possible for the company management to give regular salaries to the partners working in their own company as an advance against the year-end profit. It can be said that a company structuring that encourages active work is aimed, since the shareholders' ability to receive capital profit and in addition to this, the return of their labor depends on the company's profit at the end of the period. However, it should be noted that, taking into account the common commercial practices in today's industry, it is possible to give regular salary to the working company partners in



return for their efforts, by preferring the ijihad of Imam Zufar (d. 158/775), one of the Hanafis. As a matter of fact, in the hadith that determines the way profits are shared in companies; The statement “Sharing the profits *takes place according to the conditions freely determined by the partners*” (Zeylaî, III, 475) indicates that the management and the working partners can solve this problem with the “business contract” they will conclude among themselves. The resolution of this point with an article to be included in the main contract does not contradict the hadith.

As a result, the company structure and status envisaged by Islam is strong enough to direct people's savings to investments without the intervention of banks or government loans. Both the belief partnership and the labor capital (Mudarabe) partnership, which we will examine later, are the methods that can be applied to join forces in the economic structure of the Islamic society and to finance new discoveries, inventions and projects.

### **3.3. Labor-Capital Partnership (Mudaraba)**

Mudaraba is a partnership made up of labor on the one hand and capital on the other. Profit is shared among them according to the rate to be determined. While the capital owner bears the

loss in principle, in such a case the labor of the labor side will be wasted.

The legitimacy of mudaraba is based on the evidence of the Book, the Sunnah and the practice of the Companions. In the general meaning of the verses in the Qur'an stating that it is legitimate to travel around the world, some verses expressing that trade is a legitimate way of earning in general also include mudaraba (Quran 73: 20; 62:10; 2:198; 106:1-4). For example, Abdullah Ibn Abbas said: “*When Abbas (d.32/652) gave capital through mudaraba, he stipulated that he not go on a sea voyage, stay in a dangerous valley, and trade livestock with this capital. would run. If he did these things and suffered damage, he would reimburse the principal. These conditions, which Hz. It reached the Prophet and he allowed it.*” (Zeylaî, IV, 114).

On the other hand, Omar's (d.23/643) property belonging to orphans. It is reported that Osman gave his own property to mudaraba and that Jabir Ibn Abdillah did not see any objection in the mudaraba partnership (Zeylaî, IV, 114, 115).

While his two sons Abdullah and Ubeydullah were in Iraq during the caliphate of Umar, on his way back, the governor of Basra, Abu Musa al-Ash'ari (d. 44/664) gives them the treasury money that he will send to the center of beytülmal and tells them that they can buy commercial goods with it and sell it in Medina and deliver the principal to the beytulmale (Zeylaî, IV, 113). In Medina, their father Omar and a few Companions evaluated the issue as "Mudaraba" and decided that half of the principal and profit should be given to the beytülmal. Accordingly, it is also possible for the public capital to be used by the entrepreneur in risky projects. However, the entrepreneur and the capital owner must comply with the conditions set out below.

Mudaraba is divided into two as absolute and muqayyat:

**3.3.1. Absolute mudaraba:** It is the release of the owner of the capital to the business of trade without any registration. Here, it is sufficient only to determine the way and time of sharing the profit.

**3.3.2. Mukayyet mudaraba:** When the capital owner gives the principal to the operator; It may put forward conditions such as determining the place to be traded, the type of trade, the project to be invested and the duration of the partnership, and requests that these be complied with. As a matter of fact, in the hadith of Ibn Abbas that we have mentioned above, Abbas put conditions similar to the one who carried out the work and It was stated that the Prophet also approved this (Heysemi, IV, 161).



According to Imam Shafii and Malik, conditions such as determining the time for mudaraba, determining the people to whom goods will be bought and sold, and attributing the contract to the future time do not apply. Because these contradict the understanding of free trade, where profit is aimed, and the interests of the operator (Ibn Kudame, V, 62; Shirazi, I, 386).

In mudaraba, the profit sharing is determined as a percentage. At the end of the accounting period, the principal is recognized first, after expenses and liabilities are deducted. Profit sharing is based on contractual principles. If the profit sharing ratios are not specified in the contract, the sharing will be half in principle (Serahsi, VI, 109; Kasani, VI, 85; Ibn Rushd, II, 234). In today's interest-free finance sector, the share of the owneroperator from the profit is around 20%. As a matter of fact, "Venture Capital", which consists of a modernized form of mudaraba with private financial institutions operating in Turkey. In the venture capital sector, the share of the operator from the profit is approximately at this rate.

If it is stipulated in the mudaraba contract that the damage will be entirely or partially to the operator, according to Hanafi and Hanbalis, such a condition will be invalid, and the mudaraba contract will remain valid. According to Shafi'i and Malikis, in this case, the mudaraba contract becomes vicious. Because this condition has been added as a state of risk that contradicts the nature of the contract (Ibn Rushd, II, 236; Ibn Kudame, V, 25).

Capital is subject to escrow (and dia/deposit) provisions in the hands of the operator. If the operator causes damage through his willful or faulty action or by not complying with the conditions specified in the mudaraba contract, he must compensate for this damage (Serahsi, XXII, 19; Kasani, VI, 87; Ibn Rushd, II, 234; Shirazi, I, 388). If the damage is caused without the intention, fault or negligence of the operator, there is no liability for compensation. However, in this case, the operator will be incurring a loss by not getting the reward for his labor. This situation forces the operator to make a profit continuously.

In order for the Mudaraba partnership to end in Islam, besides the end of the contract period, the principal and profit must be in cash, in other words, the result of the project in which the principal has been invested must have been received. Because it is not possible otherwise to separate the principal and profit. In this case, the *Mudaribe* (operator) is expected to conclude the project by giving additional time.

The operator can operate the capital that he will receive from a person or an organization with the labor capital partnership method, or he can operate it by collecting the savings of hundreds of people in a pool. Thus, an "interest-free institution or bank" is formed. It is not necessary for the entrepreneur to operate the capital himself. While it is possible for him to employ others while running the business, it is also possible for him to give the capital to someone else who will make it work better. Thus, alt mudarabe takes place. Since the first operator will be the addressee of the capital owner, his interest will not be violated. In fact, the profit margin may increase due to a more successful business (Döndüren, 2005).

## 4. THE RELATIONSHIP BETWEEN VENTURE CAPITAL AND MUDARABA

### 4.1. Venture Capital

The Mudarabe partnership entered Europe under the name "*Commenda*" from the 10th century and pioneered other types of partnerships in European commercial law (Çiller & Çizakça, 1989). The most important link of the labor-capital partnership in the 20th century was completed with venture capital.

Venture capital is a very dynamic financial system, a field of activity that finances cutting-edge technology, creates huge employment and increases export potential beyond expectations. For example, the venture capital sector invested \$131 billion in new venture capital firms at the end of 2018.

Venture capital is a method of financing that has been widely used especially in the United States of



America since the 1970s and that focuses on the latest technological innovations and provides financing for such projects. The emergence of this model, which is called Venture Capital, was as follows: While scientists in the USA and some other developed countries sold their projects, which are considered as discoveries and inventions and which give rise to patent rights, to the capital owners for a certain price, after the 1950s, they moved to the sales place. They started to form a “laborcapital partnership”. The scientist who is the owner of the discovery and invention, white goods, engines, electronic tools, computers, computer programs and so on. By undertaking to develop its Project continuously, it formed the “labor (mudarib)” side of the partnership, and the capital owners who invested in these projects and provided their production also formed the capital side (rabhu'l-mal).

Thus, the risk capital model has been a driving force in developing advanced technology in countries such as the USA, England, Japan, Canada and Germany. Because the scientist and the entrepreneur, forming the labor side of the company and taking a share of around 20% from the annual balance sheet profit, has been the factor of producing hundreds of new projects every day. 80% of the profit is reserved for the capital owners (Kaya, 2001).

#### **4.1.1. Operation of the System in the Selection of Entrepreneurs**

Entrepreneurs are engineers who are generally young, talented, broke, but hard-working and have ideas with great profit potential. Here's how the system works: Such a young person or a group of engineers apply to a venture capital company with their project. After that, a selection and screening process begins. To give an example of this stage, the Highland Capital Partners venture capital firm receives 10,000 project applications annually. It eliminates 9,000 of them in the first stage. It invites the owners of 1,000 projects to meet face to face. 600 of them are eliminated in these interviews. The remaining 400 young entrepreneurs are visited by company officials on site. Finally, the company provides financial support to 10 to 20 entrepreneurial engineers per year.

In the next process, these entrepreneurs are asked to establish a joint stock company as their first job. The stocks of these companies, whose names have not yet been heard in the market, will be very low. Because no one who does not know themselves wants to buy them from outside. Entrepreneurs or young people are supported by these purchases based on mutual consent and bargaining (Çızakça, 2019). When these technological products of the entrepreneurs start to be produced by obtaining the patent right and are recognized in the market, the company is registered to the stock exchange and the company shares find their real market value.

#### **4.2. Results from Venture Capital Companies**

According to one study, there are more than 400 high-tech Risk Capital companies in the United States. Large capital needs forced these companies to merge, investment pools were established first, and when this was not enough, Venture Capital companies became joint stock companies, registered on the stockmarket and went public. In this way, each of the companies raised between 15 and 800 million dollars (Çiller & Çızakça, 1989).

In Canada, instead of giving interest-bearing loans to government Venture Capital companies, he bought 48% of Canadian Development Corporation (CDC) and became a partner in this big company provided financing.

In the 20-year period between 1964-1984 in the USA, the average annual profitability rate of Venture Capital investments was around 25%, and in the same period, the average annual profitability of securities investments traded in the capital market was around 8% (annual inflation rate in this period was 7%). It becomes clear how profitable venture capital investments are (Sariaslan, 1989).

If we look at the state of Venture capital investments today, we see the following results: In 2018, 340 billion dollars of venture capital investments were made all over the world. This figure represents an increase of



205 from 2014 to 2018. 100 billion of this 340 billion investment has been made to entrepreneurs in the USA. Accordingly, this indicates that the entrepreneurial sector in the USA has regressed by one third. Meanwhile, China's venture capital amount approached 105 billion dollars in 2018, ahead of the USA.

Turkey's lagging behind in this regard was the introduction of the "paid capital requirement" for the entrepreneur when the draft law encouraging venture capital was being prepared for the first time in 1993 (Çızakça, 2019). Because the entrepreneurial scientist's capital consists of his mind and talent, he must be supported by external capital so that new projects, discoveries and inventions can be realized.

In England, Japan, Germany, Sweden and the Netherlands, venture capital is implemented as an important financial resource against interest-bearing loans, and it has been determined that positive results have been obtained (Sariaslan, 1989). Asset Management/ Leasing Companies (AYŞ or AKŞ) can be evaluated within this application.

As a result, economically developed countries have turned to the risk capital method instead of interest-bearing loans in the new world order. This model is nothing but the laborcapital partnership that Islam implemented centuries ago.

#### **4.3. Analysis of Excess Profit from Venture Capital Investments in Terms of Islamic Law**

In Islam, there is no limit on profit as a percentage, provided that lies, cheating and black market are not included, and the prices that occur as a result of the supply and demand balance are taken as basis. The seemingly excessive profit from venture capital investments in Western countries can be evaluated as the current market price of this new product.

However, since there is no competitor in the launch of such a first technological product and there is often no competitive environment, it is necessary not to exploit the market by creating a monopoly and opportunistically. As a matter of fact, the last prophet Hz. While Muhammad strongly forbade the black market, tampering with purchases (Ahmed b. Hanbal, 2/33; Ghazali, II, 72; Kamil Miras, 6/549), when asked to limit the rising prices from time to time, said: *"Surely, it is Allah who determines the price, gives poverty and abundance, and gives sustenance. I do not want to meet my Lord because of an injustice that I have done to the property or life of any of you, even though he asks me for his right."* (Ebû Dâvûd, "Magic", 49; Tirmidhi, "Magic", 73; Ibn Mâce, "Ticârât", 27; Ahmed b. Hanbal, II, 327, III, 85, 106, 286).

As a matter of fact, there are examples where a hundred percent profit is realized even in daily shopping. One day, the Messenger of Allah gave a dinar gold (approximately 4 grams of gold) Money to a Companion named Urwa al-Bârikî and told him to buy a sacrificial ram. Seeing that the prices were very low in the morning, the Companions bought two sheep for one dinar. In the evening, when the animals decreased in the market place, the prices increased and they sold one of them for one dinar and went to Hz. He handed over the money and the sheep to the Prophet. Hz. The Prophet said that you had a fruitful trade. In another narration, he wanted that money to be given to a poor person in the neighborhood (Abu Dawud, "Buyu", 27).

However, after a certain market price is established, if the customer is told a false and fraudulent price above the market, the customer is deemed deceived and this excess turns into an unfair advantage. These over-market prices, called exorbitant gain (excessive exploitation), were attributed to Nusayr b. by Yahya (d.268/881); It was determined as 20% in real estates, 10% in animals, and 5% in movable properties (Ibn Nüceym, 1334, VII, 169; Ibn Abidin, IV, 159). Annotating, Ali Haydar Efendi (d. 1935) stated that if an additional 2.5% is added to the highest rate that day in the money changer and foreign exchange offices, it should be considered exorbitant gain (Ali Haydar, I, 238, 247). However, in order for exorbitant gain to be a reason for the termination of the contract of sale, it must be accompanied by deception. The customer, who realizes that there is such a deception, has the right to demand the exorbitant excess of the gain back or to interrupt the shopping when necessary.





## 5. THE RELATIONSHIP BETWEEN VENTURE CAPITAL PRACTICE AND ASSET LEASING COMPANIES (VKŞ) IN TURKEY

Technological investments in Turkey are around 3.5% of GNP per year. In particular, it is stated that the resources allocated to information processing increase by more than 20 percent every year. Despite the great interest in new technology and technological products in our country, technology companies cannot be established due to lack of financing. Established companies, on the other hand, are closed within 2-4 years due to lack of finance or administrative problems, but only 1% of them can be successful (TTGV, 2022).

“Turkvca (Turk Venture Capital Association)”, a voluntary institution, was established in our country on October 17, 2000, in order to ensure the development of venture capital markets. The purpose is briefly; To expand the entrepreneurial framework in Turkey, to develop the venture capital and private wealth potentials of entrepreneurs, to ensure the development of corporate management, information standards and accounting knowledge and practices.

### 5.1. Asset Management/Leasing Companies (VYŞ or VKŞ)

In Turkey, in the “Regulation on Establishment and Operating Principles of Asset Management Companies (VYŞ)” published in the Official Gazette dated 01.11.2006 and numbered 26333, the establishment and operating conditions of AMCs are determined. Until 2017, some changes were made in this regulation. It is recommended that the public investment partnerships (RSYO) should be established and the public share should be at most 49%. In addition, it has been suggested that the management be in the private sector and TOBB, Development Banks, Capital Markets Board, Turkey Technology Development Foundation be partners. Partnerships that receive a long-term rating from rating agencies, f) May be established by partnerships whose capital is 51% or more directly owned by the Undersecretariat of Treasury. Asset leasing companies (VKŞ) are established to issue lease certificates only.

They are legal entities that have the characteristics of a joint stock company. These companies, which consist of only the Board of Directors, which do not have an executive body or employees directly affiliated with the parent company, separately record, monitor and amortize the lease certificates issued under the company.

Institutions that can establish VYŞ are as follows: a) Banks, b) Brokerage houses that will carry out any of the portfolio brokerage, general custody service or underwriting activities, c) Mortgage finance institutions, real estate investment trusts whose shares are traded in the stock exchange, d) Publicly held partnerships in the first and second groups determined within the framework of the Board's regulations on corporate governance, e) Partnerships that receive a long-term rating from rating agencies, f) May be established by partnerships whose capital is 51% or more directly owned by the Undersecretariat of Treasury.

However, the founders listed in subparagraphs (ç), (d), (e) and (f) may establish AMC only to issue lease certificates of which they are the fund users. Accordingly, AVS established by the real sector firm can only mediate the lease certificates to be issued by that real sector firm in line with its funding needs. A slightly wider authority has been given to AMCs established by financial institutions such as banks and intermediary institutions here, due to their field of duty.

### 5.2. Venture Capital Investment Trust

Official Newspaper on 6 November 1998 and 23515 published in the issue; In paragraph 2 of Article 22, titled partnerships, of the “Communique on Principles Regarding Venture Capital Investment Trusts”, the following restrictions are imposed on investments related to the subject: Venture capital company; “They have to invest at least 51% of the total assets of the partnership in venture capital



investments.” State supports (incentives) to be provided for the expansion of venture capital companies in Turkey can be listed as follows:

**5.2.1. Direct sourcing:** The first application here is stock investment. First of all, it was recommended to establish Risk Capital Investment Partnerships (RSYO) with the participation of Public Banks, TOBB, Chambers of Commerce, and to have a maximum public share of 49%. In addition, it has been suggested that the management be in the private sector and TOBB, Development Banks, Capital Markets Board, Turkey Technology Development Foundation be partners.

**5.2.2. Project selection:** In the selection of new and advanced technology projects; TTGV, KOSGEP and TEKMER, a project pool should be determined and the projects should be evaluated with the help of objective criteria. Among these are legal changes that allow institutions such as pension funds and insurance companies to be used as risk capital.

### **5.3. Providing Financing Through Sukuk Issuance**

The Persian word check, which is used as sakk (plural sukuk) in Arabic, lives on in western languages today. Check-drawing, which was known to exist in the time of Caliph Omar, could be made to beytulmale and more cehez. However, It is stated that Caliph Omer forbade the Exchange of sakk (cheque) documents, which ensure the purchase of foodstuffs from beytülmal, in order not to cause profiteering during the famine years (Tabakoğlu, 2012).

Today, these documents, which we can call “profit or income sharing certificates” based on Müsharake, Ijare and even Istisna contracts, have taken their place in the world stock markets. The use of sukuk or interestfree securities has become quite common in recent years.

Among the sukuk issued through Asset Leasing Companies in our country, especially the "mudaraba sukuk", can be used as venture capital in line with the preference of the investors. However, for this, the issuing company needs to establish a fund, invest in various risk areas and observe the profit and loss balance. Today, sukuk issuance has taken its place as an important investment tool in countries such as Malaysia, Qatar, and Bahrain.

## **6. CONCLUSION**

Entrepreneurs are generally young, talented, hardworking people with ideas that have great profit potential. There are various examples from the Qur'an that pave the way for positive science. Yusuf's rule, various subjects that are described as miracles such as Suleyman and wind energy are examples of the concept of entrepreneurship. There are partnerships or systems used in venture capital in Islamic law, such as contract of exception, partnership of faith and laborcapital partnership. If we summarize the subject; The human being is equipped with superior abilities in the universe and has the power to think, produce ideas and create continuous innovations on earth and extraterrestrial beings. There are various examples in the Qur'an that will shed light on positive science, discoveries and inventions. Scientists contemplating new technologies should also benefit from these examples.

There are sufficient investment tools in the Islamic economy to provide the financing needed by the scientists who have the project but do not have the capital to implement it. These include the istisna (work) contract, the partnership of faith, and the mudaraba. While a venture capital company to be established as a mudarabe partnership makes the funds to be collected from investors used for risky but profitable investments to be selected from the market, it is obtained as its first business (mudarib) as the labor side, and the project owner and scientist as subbusiness (sub mudarib). This can be determined as a share of 8%, 12%, with 20% of the profit for the labor side. The share of the capital owner is 80%. If there is no result from the project and loss occurs, it will belong to this capital, and the efforts of the venture capital company and the scientist will be wasted. Today, “mudarabe sukuk”, one of the sukuk issued through Asset Leasing Companies (VKŞ), can also be used as venture capital in line with the preference of investors. It is important for the continuity of the system that the venture capital company



creates a joint investment fund by investing in multiple areas (hybrid) instead of a risky area. In venture capital investments, since the risk is high, the profit rate can be very high accordingly. However, lies, fraud, monopoly formation and speculation should be avoided in the formation of this price.

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### REFERENCES

- Berk, N. (2003). *Finansal Yönetim*. Türkmen Publications, Istanbul.
- Çiller, T., & Çizakça, M. (1989). *Türk Finans Kesiminde Sorunlar ve Refom Önerileri*. İSO Publishing, Istanbul.
- Çizakça, M. (2019). *İslam Ekonomisi ve Finansına Giriş*. Konya: KTO Karatay Üniversitesi Yayınları.
- Dawud, A. (1994). *Sunan Abu Dawud, vol. III*. Beirut: Dār al-Kutub al-‘Ilmiyah.
- Döndüren, H. (1992). İslâm Bankacılığı ve Reform Önerileri. *Journal of Islamic Studies*.
- Döndüren, H. (2004). *Ticaret Rehberi*. Erkam Publications, Istanbul.
- Döndüren, H. (2005). *Delilleriyle Ticaret ve İktisat İlmihali*. Erkam Publications, Istanbul.
- Ergin, F. (1964). *İktisat*. Istanbul.
- Kaya, A. (2001). *Dünyada ve Türkiye’de risk sermayesi*. SPK Yeterlik Etüdüleri, Ankara.
- Perez, R. C. (1986). *Inside venture capital: Past, present, and future*. Praeger Pub Text.
- Sarıaslan, H. (1989). *Venture Capital (Risk Sermayesi) Finansman Modeli ve Türkiye’de Uygulama Olanakları*. Ankara Sanayi Odası (ASO), Ankara.
- Schertler, A. (2002). *What Drives Venture Capital Activity in Europe? Germany: The Kiel Institute for World Economics*.
- Tabakoğlu, A. (2012). *Türk İktisat Tarihi*. Dergah Publications, Istanbul.
- TTGV. (2022). *Türk Teknoloji Geliştirme Vakfı*. TTGV. <https://www.ttgiv.org.tr/en>
- Zeylaî, O. b. A. (1313). *Tebyinü ’l-hakâik şerhu Kenzi ’d-dekâik*. Bulak; Matbaatü ’l-kübra’l-emiriyye.





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