

QABD AND SPECULATION ISSUES ON CONTRA TRADING IN STOCK TRANSACTIONS: SHARIAH OUTLOOKS

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ABSTRACT

Contra Trading is a stock purchase transaction that occurred within four days (T + 3) and does not require a capital even can be borrowed from the broker. Investors are allowed to start selling stocks on the first day of the transaction (T-day), while the possession (*qabd*) of stocks to the investor's account will only be valid on the last day of the transaction (T + 3). Consequently, the question arises regarding to the practice of *qabd*, if investors sell stocks to a third party before the stocks credited to his account. Moreover, it related to the speculation, because applicants can buy and sell stocks in a short period with the expectation of gain. This led them dealing with the risks if the market price changes against expectations. Does this activity legalize or equal to gambling in the Islamic perspectives? Therefore, this study aims to examine when does the validation of *qabd* ownership happened and to examine the speculation existed in contra trading and analyse the position of contra trading in stock transactions according to Islamic perspective. This study is a qualitative approach using content analysis, while semi-structured interviews data is only to support this study. The study found that the *qabd* status and the speculation that exist were Shariah-compliant, whereas the implementation of *qabd* in contra trading is subject to the sale of stocks, whilst the speculation existed is allowed in Islam. The implications of this study will provide useful contribution to the relevant institutions such as Bursa Malaysia towards an effort to make the contra trading transaction of Shariah-compliant.

Key Words: Shariah, Qabd, Trading, Transactions

1. Introduction

Contra trading is one of the investment mechanisms in Bursa Malaysia involving sales and purchases of stocks that occurs within four days (T+3) without requiring capital, even can be borrowed from the broker. This transaction allows investors to start selling stocks to third parties starting on the first day of transactions, however, stocks will only be credited to the investor's account only on the last day transactions i.e. (T+3). Thus, a question arises when the *qabd* occurs if the investors sell to the third party before crediting the stocks into their account. This transaction is also associated with the practice of speculation because the investors can sell stocks within a short period with the expectation to earn a profit. So, does this activity legal or identical to gambling?

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Therefore, to answer the questions that arise, this study will review and discuss the issues in further detailed. This study is divided into three main parts; the first part discusses Shariah perspective on the status of *qabd* in contra trading. Next, to explains about the status of speculation exist in contra trading according to Shariah perspective, and the last part is the analysis of the status of contra trading based on Shariah Therefore, to answer the questions that arise, this study will review and discuss the issues in further detailed. This study is divided into three main parts; the first part discusses Shariah perspective on the status of *qabd* in contra trading. Next, to explains about the status of speculation exist in contra trading according to Shariah perspective, and the last part is the analysis of the status of contra trading based on Shariah perspectives.

2. Shariah Views on the Status of Qabd in Contra Trading

The study of *qabd* in contra trading transaction is based on the argument and proof in the Qur'an, Hadith, Jurist's view, the opinion of the contemporary scholar, a statement was issued by AAOIFI and based on semblance of akad through evidence in written documentation. Below are the arguments that were adapted in assessing the issue of *qabd* in contra trading.

2.1. Al-Quran and Hadith

One of the verse from al-Quran provides a proof that shows that the guarantee (contract) should be something that can be held. As the opinion of Imam Syaf'iyy and jumhur scholars that use the verse in Quran as a basis and proof the the guarantee items should be in the hands of the person incharge who gave the pawn ([Ibn Kathir, 1981](#)).

“And if you are on a journey and cannot find a scribe, then a security deposit [should be] taken. And if one of you entrusts another, then let him who is entrusted discharge his trust [faithfully] and let him fear Allah, his Lord. And do not conceal testimony, for whoever conceals it - his heart is indeed sinful, and Allah is Knowing of what you do” (Al-Quran, al-Baqarah, 2:283).

While there is a statement from a hadith that was used as a root source to the argument. The following are the statement of Hadith from Sunan Tirmidhi which is conscious to the element of *qabd* in the transaction:

“The man comes to me asking me to sell what I do not have. I buy it from the market and then sell it. He said: "Do not sell what you do not have." Narrated by al-Tirmidhi (1232)

Based on the excerpts from the kitab al-Muhazzab, the Hadith mentions that someone should not sell the goods or items which is not in their ownership because there is no right on someone to deliver the goods as long as the goods are not in their possession (ownership). Meaning that, Prophet forbade clearly against purchase transaction that does not contain the *qabd* elements and it's clear that *qabd* in buying and selling is mandatory and leads to imperfect (*fasid*) if the elements of *qabd* were ignored.

2.2. *Opinion of contemporary scholar that convenient with the current context* ^Uruf

Qabḍ usually depends on the current customs of a society, according to the procedure of full ownership and control of a commodity (Hammād, 1993). The statement was supported by the Securities Commission (2006), which states that local ^Uruf as a foundation and guidelines for determining the status of *qabḍ* in a transaction. Similarly, Lahsasna (2014) also mentioned that the handover (*qabḍ*) can be done according to regular practice of ^Uruf, either through physical delivery or constructive.

The use of *qabḍ ḥukmi* is viewed as laterally and appropriate to the *maslahah* context and current ^Uruf (Antara, 2018, Lahsasna 2014; Hammad 2001). In addition, according to Al-Awqaf Wizarah (1995), Şawaş (2000) and Hammad (2001), the *qabḍ ḥukmi* in detail is everything that led to ownership of goods and allow to be used based on local ^Uruf to ease the commodities without having to hold it in hand or physically hold (legal ownership). Although, *qabḍ ḥukmi* in certainty is not the same as *qabḍ haqiqi*, but when the scholars assume the role *qabḍ ḥukmi* is equal *qabḍ haqiqi* (Hussein Azeem et al., 2013; Khilmy et al., 2014; OIC, 2000; Sawas, 2000) because the contemporary scholar perceive that all difficulties that lead to harm should use *qabḍ ḥukmi* (beneficial ownership) in a transaction which mainly involved the investments and *murābaḥah* (Hammād, 2001). This coincided with a *fiqh*iyah method that is المشقة تجلب التيسير (Zaidān, 2014).

2.3. *AAOIFI's view*

Below here is the statement issued by AAOIFI in Shariah Standards no.21 in Stocks and bonds) 3/7 phase which was tell the authorization of *qabḍ ḥukmi* (constructive possession) in a transaction involving the sale and purchase of stocks prior to completion of the last transaction date (final settlement).

...it is permissible to the buyer of a stock to undertake transactions in it by way of sale to another and the like after the completion of the formalities of the sale and the transfer of liability to him even though the final settlement in his favour has not been made...

The above quote means that the buyers (investors) can carry out transactions involving the sale or other similar, to other parties (third) after the completion of formalities sale and transfer of liability to him (buyer) even still did not made a final settlement. This is explained further by AAOIFI (n.d.) in a more detail;

...the basis for the permissibility of undertaking transaction in stocks even though the final registration formalities have not been completed is the transfer of the liability for loss (*daman*) to the buyer. This is attained through constructive possession that is granted through the transacting in what he has purchased...

The above quote means, the basic permissions to perform transactions in the stocks despite of the final registration formalities has not been done, thus the liability losses (*damān*) is transferred to the buyer. It is done through a given constructive ownership over transaction

for any deal of items has been purchased.

2.4. Evidence that shows a written documentation as a prove for validity of a contract

[Ghani \(2017\)](#) mentioned that ownership transfer is considered done after *ijāb* and *qabūl* occurred in a sale and purchase agreement. It is also certified by Ibn [Taymiyyah \(n.d.\)](#) who explained that the documentation of a written transaction is a *sighah* of execution *ijāb* dan *qabūl*. In accordance with the proposition adapted from the Quran from Surah al-Baqarah verse 282-283 suggests taking note (as record) of all business transactions which involve debts. Furthermore, [Laldin \(2013\)](#) also pointed out that all the written documentation will become a strong evidence to a particular transaction especially involving a huge amount. Here is a description of the analysis that was made based on the application of *qabd* in two situations of handover in contra trading transactions.

The study found that the application of *qabd* in a contra trading transaction is based on two situations, namely, (i) if the investor sells the stocks to third parties at the last transaction day (T + 3) after 10:00 am before 12:30 noon and the next situation is (ii) if the investors began selling the stocks to third parties before their account are credited with stocks (T + 3), i.e. on day T, T + 1 or T + 2. Based on research, the study concluded that the implementation of *qabd* in contra trading transactions conform to the Islamic law. Here is a further description.

2.4.1. First situation

The first situation occurs when an investor sells stocks to a third party on the last day (T + 3) after 10:00 in the morning before 12.30 pm, whereas the investor's account has been credited with commodity stock (stocks), therefore the transaction is considered to have met the guidelines of Islamic law from term *taqabudh* by *haqiqi*. This can be proven based on duration of contra trading takes place which is on the third day (T + 2), at 4.00 pm the stock seller is required to ensure that the commodity stocks already available in his account, and the buyer in the need to ensure that the money is available in the account on the last day of transaction (T + 3) after 10:00 am. Once the money and stock available in their accounts, both handovers will occur simultaneously on the last day of the transaction.

Thus, the study observed that the situation does not have any problem from the point of handover (*qabd*) because it meets all the requirements from the perspective of stock ownership before selling or when the delivery of commodities. This was further supported by an interview by [Kasari \(2018\)](#) which mentions that the transaction is no longer such a transaction involving the handover (*qabd*) in term of *hukmi* (constructive), but it is handover (*qabd*) in term of *haqiqi* (actual possession). Similarly, in a review by [Engku Rabiah \(2018\)](#), in her interview said the situation showed that the *qabd* for *haqiqi* has occurred. [Wan Muazah & Azlin Alisa \(2018\)](#) also indicates that this situation had complied with the terms of *taqabudh* legally for having a stock in ownership before selling it again.

2.4.2. Second situation

The second situation is when investors began selling stocks to the third party before their

accounts are credited with stocks (T + 3), i.e. at T or T + 1 or T + 2. Based on the analysis from information obtained data, the transaction is classified under the circumstances prevailing *qabḍ* by *hukmi* (constructive possession). Naming the *qabḍ hukmi* in the second situation is very relevant to the current situation because it simplifies the transactions, especially those transactions related to investments and *murābaḥah* (Hammad, 2001). Furthermore, Hussein Azeem et al. (2013); Khilmy et al. (2014) and OIC (2000) mentioned that *qabḍ hukmi* also equal to *qabḍ haqiqi* role, eventhough the terms of its application are different. AAOIFI (n.d.) in Shariah Standard No.21 (Stocks and Bonds) phase 3/7 have stated permission for *qabḍ hukmi* (constructive possession) in transactions involving the sale and purchase of stocks prior to completion of the last day of transaction (final settlement). Here is the statement,

...it is permissible to the buyer of a stock to undertake transactions in it by way of sale to another and the like after the completion of the formalities of the sale and the transfer of liability to him even though the final settlement in his favour has not been made...

The above quote means the buyers (investors) can carry out the transactions involving the other sale or similar, to other parties (third) after the completion of sale formalities and liability transfer to him (buyer) even though still not made a final settlement. This is explained further by AAOIFI (n.d.) in a further detailed statement;

...the basis for the permissibility of undertaking transaction in stocks even though the final registration formalities have not been completed is the transfer of the liability for loss (*daman*) to the buyer. This is attained through constructive possession that is granted through the transacting in what he has purchased...

The above quote means, the basic permissions to perform transactions in the stocks despite the final registration formalities has not been done and it became the liability losses (*damān*) transferred to the buyer. It is done through a constructive ownership under a deal in what has been purchased

Ghani (2017) argues that the transfer of ownership has occurred as soon as the *ijāb* and *qabūl* occurs in a sale and purchase agreement. It is supported by Ibn Taymiyyah (n.d.) which states that the written documentation is one *sighah* implementation *ijāb* and *qabūl*. National Bank (2009) also noted the submission by *hukmi* can be proved by the existence of the contract note. This was further supported by Kasri (2018) in an interview which states that the contract is a valid contract because the investors have agreed to the terms, price and date of delivery of such stocks. It also coincides from Allah says of Surah al-Baqarah verse 282-283 were commanded to make the written documentation of the transactions involving debt to avoid any fraud and so on. Ghani (2016) said *cillah* to the writing of a transaction which is related to the debt is the documentation. And it also can be analogized to the issue of registration of ownership. This written documentation assists to prevent irregularities and fraud from both contracting parties (Ghani, 2017). Furthermore Laldin (2013) in his review agreed on the importance of documentation of any contractual transactions as they have a

major impact on the verification of a transaction.

The relevance of the above statement is significant as conducting a contra trading transaction which on the first day of transaction (T-day), the investor will be given a contract note that records all transaction data in detail as the transaction date, name and code number of commodities, the quantity of commodities, commodity prices, the total full payment and final receipt of the commodity and the date of full payment (Kasri & Lukman, 2016). Based on the proof of transaction in form of a receipt in the contra trading, therefore indirectly it shows a valid contract in contra trading transactions had occurred since the first day, which is the Exchange side already produce a receipt for investors. It also proves the validity of the total transfer of stocks. The statement was issued by AAOIFI (n.d), reinforces that this situation occurred as *qabd hukmi*. It is reviewed again by Burhanuddin (2018) in an interview that the percentage of failures in delivery of the commodity stock transaction contra trading is very small, which may only isolated cases only because of technical problems that cannot be avoided. It is proved that the transfer of stocks will indeed happen in total on the last trading day (T + 3).

Table 1: Implementation *Qabd* in Contra Trading Transactions According to the Situation

	<i>Qabd Haqiqi</i> (actual possession)	<i>Qabd Hukmi</i> (constructive possession)
Justification	Full ownership or possession of legally legally (<i>legal ownership</i>) where the occurrence of a change of name for the official owner of the above grants	Everything led to ownership of the goods and permit the use of which is based on local ' <i>uruf</i> without having to hold it (commodities) in your hand or hold physical
Situation implementation <i>qabd</i>	Situation 1 If the investor sells the stocks to a third party on the last day (T + 3) after 10:00 in the morning before 12.30 pm, whereas the investor's account has been credited with commodity stocks	Situation 2 If the investor sells the stocks to a third party before the investor's account is credited with the stocks at T, T + 1 or T + 2
The existence of a contract for detailed receipts	√	√

3. Islamic perspectives on the position of speculation in contra trading

The statement issued by the Securities Commission (2006a) concerned handle links must speculate, "... the Shariah Advisory Council (SAC), in its 10th meeting on 16-17 October 1997 and its 11th meeting on 26 November 1997, while discussing the issue of futures contracts of crude palm oil, decided that speculation is one that is required under the laws of Islam ... "(2006a: 121).

Next is a description of the analysis made to identify forms of speculation in a transaction contra trading: Collaboration on the issue of short-selling are raised in a transaction contra trading, by definition short-selling put forward by [Investopedia \(2018c\)](#) itself is the act of an investor who sells stocks not already owned or actions of investors borrow stocks of any party (investor or broker) and sell it to third parties with allegations of stock price will fall and then buy it back at a low price, if the allegations are correct then that will bring benefits to the investors the last sale and purchase variances of price. Therefore, by definition short-selling set by [Investopedia \(2018c\)](#), the fact [Burhanuddin \(2018\)](#) and [Kasri \(2018\)](#) explained in an interview said that short-selling is nothing to do with the transaction contra trading as a way of implementation.

Table 2: Comparison of Contra Trading with Short-Selling

	Contra trading	Short-selling
Definition	Purchases made without the issuing of any stock capital by a third-party investors and even <i>brokers</i> who will spend capital (investors borrow money to buy stocks). Stocks will only be credited to the investor's account on the last day of trading on T + 3. Investors may sell the stock from today-T to a third party. However, there was no transfer of stocks (<i>qabd</i>) occurs in day-to-T. If the assumptions made right (market price rise) then the investor will obtain profit from the contra purchase price and cost variances.	Action investors sold stocks not already owned or action that investors borrow stocks of any party (investor or broker) and then sell it to a third party with the alleged stock price will drop and then buy it back at a low price.
Purpose	Borrowing to buy stocks (acquired assets in ownership) then invest using such stocks	Capital borrowed from a broker solely to invest and do not acquire any assets in ownership

Application	Buying stocks with borrowed capital in advance and when the market rises, investors sell the stocks at a price higher than the purchase price of the next benefit variances or price and have to pay capital back to the broker, but investors may choose not to sell the stocks if the market price falls last keep these stocks to receive dividends as ordinary investment	Borrow stocks and then sell it for such and such, when the market price falls, the investor buys back the stock at a lower price thus gain variances or price and must return the stocks to the broker
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Based on the table 2, short-selling is the act of an investor borrows stocks from a broker or any other party without buying any assets intended to make investment. If the market price falls, investors receive benefits without any capital. However, if market prices rise, then investors have to bear the repayment of borrowed stock in the brokerage and price variances or losses of such investments. In contrast, contra trading, where investors borrow stock from a broker to purchase stocks for not having enough money in the account of CDS. So, after buying these stocks, investors will automatically have the right of ownership of these stocks as an asset. Investors can choose whether to continue his intention (to invest in counter) or not. If the market price shows a positive increase in the part of investors may choose to sell the stocks for a counter and gain on sale and purchase price variances. However, if the market shows that the depreciation rate is negative, then the investor may choose not to proceed with its intention to invest cons can even save these stocks (long investment) to receive annual dividends and bonuses. So clearly visible difference between the contra trading with short-selling.

However, there is also an opinion stating that there are some similarities between the contra trading with short-selling. The equation is based on the presumption that the transaction involved contra trading with stock lending and borrowing money rather than capital before investing. Furthermore, contra trading transactions took place in the last four days. It was seen to coincide with the practice of short-selling, which involves investment in a short period of time (Ali, 2016). In addition, short-selling is also said to be present contra trading because generally both these transactions allow investors to sell the stock when the stock not in possession of the investor. Next, the type of speculation that existed in contra trading is speculative investments allowed. This is because on the first day of the exchange transaction been handed a contract note as proof of purchase of stocks. So, indirectly, a valid contract in contra trading transactions alleged to have occurred, as soon as investors took delivery of contract notes as proof of purchase of stocks. It is based on the opinion of Ibn Taymiyyah (n.d.) explained that the documentation in writing is one of sighth that proves ijāb and qabūl.

Zakaria (n.d.) also said the acquisition of property ownership and permitted by Islam requires the existence of elements of approval which can be seen in the existence of elements such as contract, khiyar and so on. Furthermore, the contract note serves as proof of transfer of stocks

that will take place on the last trading day (T + 3). Receipt of this contract also lists some important transaction information. Thus, there is no issue of *gharar*, *fahish* and *jahalāh* due to evidentiary documentation in writing where the contract note was handed over to the investor on the first day of the transaction.

Speculation that exists in contra trading is not categorized as gambling also due to there are some investors who buy the commodity with the purpose of invest in cons but did not necessarily end with the do the investment in cons. In fact, such investors can keep the commodity in the long run to acquire the annual dividend (long investment) ([Kasri & Lukman, 2016](#)). In the event that the market price shows an improvement, then that's when the investor can act to invest in contraindications, but if the market price steadily drops then the investor can choose to keep a stock of the past acquire dividends as investment-common investment. Therefore, speculation like this is absolutely not equal to element zero-sum game involving the acquisition of profit on the defeat of the others ([Hayward, 2013](#); [Investopedia, 2018b](#), [Alshannag, 2018](#)). Furthermore, the act is also not a competition between two parties for a profit. This coincides with the conclusion made by [Hammād \(2008\)](#), noted gambling is something that involves a bet that is the party that gets the victory will be given all the results of bets, while the party suffered a defeat will suffer a loss completely. This clearly shows the concept of gambling is contrary to the concept of transactions contra trading itself.

[Burhanuddin \(2018\)](#) in an interview also noted a parable which explains that contra trading is not a zero-sum game, the following is the parable, the purchase of household assets by an individual with expected house prices will rise in the future but in the event that the market price contrary to the expectations, the buyer is still holding the assets of the home as well as can still resell it and use the benefits of the assets of the home in the future. It shows that the act of buying the asset of the home is not equal to the act of zero-sum game.

Moreover, should the investor wish to continue his intention to invest by cons, the risk taken is based on the wishes and the willingness to bear the losses by the investors themselves. Then, the speculation that exists in contra trading is conform to the features of the method of *fihiyyah*, *al-ghunm bi al-ghurm*. In other words, no risk no gain that is no risk then no profit ([Chapra, 2008](#),). Thus, in this context, the risk taken by the investor contraindications is the fulfillment of the concept of *al-ghunm bi al-ghurm*. To coincide with the opinion of the [Burhanuddin \(2018\)](#) in the description of the interview noted the speculation literally is *murābahāh*, which involves the act of taking the risk to get profit. According to [Engku Rabiah \(2018\)](#) in the reviews an interview also noted speculation that is taken in contra trading is equal to the speculative habit to invest.

Furthermore, the Securities Commission (2006) stated that the element of speculation is one that is permissible according to Islamic law based on the arguments of the adoption of the principle of *bay' muzayadah* and *murābahāh* ([al-Kāsāni, 1996](#); [Ibn Qudāmāh, 1994](#)). *Bay' muzayadah* is the actions of sellers offer merchandise sales at the market, then followed with the request of some buyers who are racing to offer a higher fee while *murābahāh* about is the

consumption of profits from the price difference of the original allowed by Islam (Securities Commission 2006). The necessity of taking risks in investment activities because it is part of the economic activity (Fadahunsi, & Barake, 2016). Al-Suwāylim (2007) also noted the risk that can be accepted by Islamic rules is the risk of producing returns and improve the condition of development of the economy.

According to the statement in the interview, Burhanuddin (2018) also noted that in the event of market price rises, investors will get variance of profit cons yet in the event that the market contrary to expectations then the investor will not suffer significant losses due to the system on the stock market of Bursa Malaysia will continue to sell such stocks quickly without waiting for the price to fall so badly. This means there is a standard that has been set in the system on Bursa Malaysia to continue to sell stocks without waiting for the market price falls with more severe. Therefore, the practice of speculation in contra trading is not categorized as a speculative high-risk. Furthermore, the risk of speculation is high in a transaction contra trading can be minimized with the advent of meticulous research and wide experience of the background of the movement of the stock market. This coincides with the reality explained by the scholars of the economy; Kamali (1996), Salamon et al, (2015), Salamon, (2000), Friedman (1987), Investopedia (2018) explained that the element of speculation can be distinguished with gambling is due to a deep research done while speculation gambling only risking the fate without any survey data (blind speculation).

Blind speculation this is actions of speculators who are just simply examine the trend of price movement and market sentiment, even they make decisions based on rumors (Samuelson, 1958; Salamon 2000; Razif & Alisa, 2015). This is amplified further with the statement Burhanuddin (2018) in an interview, noted that the risk in contra trading can be minimized with the availability of research and a deep study about the ups and downs of the market. He also argued that the interests of the transaction contra trading from the angle of guaranteeing the liquidity of the economy is enormous especially to the flow of buy and sell in the stock market. The following is a summary of the results of the analysis of the elements of speculation inherent in the transactions contra trading based on the principle of speculation and the risk according to the perspective of jurisprudence and contemporary scholar (al-Bāji, 1999; Sirajul 2010; Laldin, 2013; Sandel, 2013; El-Ashkar, 1995; Kamali, 1996; Friedman, 1987):

Table 3: Analysis of the Elements of a Speculation which exists in the Transactions of Contra Trading on the Basis of some of the Elements Listed

Speculation in contra trading	
<i>Gharār fahish</i> and <i>jahālah</i>	X
Zero sum game	X
Gambling	X
Evidence documentation	√
Risk based on the study	√
<i>Al-ghunm bi al-ghurm</i>	√

The following table is a comparison between the speculative investment that is permitted and speculation gambling:

Table 4: Comparison between the Speculative Investment that is Permitted and Speculation is Gambling

Speculation in Investment	Speculation in Gambling
Profit based on the study	Profit based on luck
Shaped positive	Shaped negative
Bring wealth	Take advantage
Free zero sum game	Zero sum game
Keep the concept of <i>al-ghunm al-ghurm</i>	<i>Does not meet the al-ghunm bi al-ghurm</i>
Validity of contract (documentation)	<i>Gharār fāhish and jahālah</i>

It can be concluded that the speculation inherent in transactions contra trading is shaped a speculative investment because it has fulfilled the method of *al-ghunm bi al-ghurm*. This is because the profits earned in contra trading is based on the will of the covering of risks by the investors. Besides, the transaction is said to be not involved with gambling as well as a zero-sum game because these transactions do not involve the acquisition of a profit on the defeat of the other side. Contra trading is also not involved with *gharār fāhish* as well as *jahālah* because of the availability of proof documenting the contract note in writing has been delivered to the investors on the first day of the next transaction to prove the infallibility of the reviews have occurred. This shows the strengthening of attestation deliverables will occur. Furthermore, the risk inherent in a contra trading is named speculative investment because it is done based on the study and research deep about the background of the volatility of the market price before making the investment.

4. Analysis of the Position of the Contra Trading according to the Islamic Perspective

Transactions contra trading involves 4 working days (T+3) including the day the transaction takes place (T-day). The purchase of the stocks starting on the first day of the transaction known as T-day where investors will get the transaction receipt as proof of purchase (Kasri & Lukman, 2016). In time period T+3, the investor can start selling stocks to third parties and also need to complete the payment of the purchase stock (Alwi et al., 2005). The last time the allows investors to sell the stock is at the latest at 12.30 pm on the last day of transaction (T+3). But the investor's account will only be credited with the stocks only on the last day of transaction (T+3) at 10.00 am.

Based on the statement above, after having carefully analyzed, this study found the implementation of the elements of the *qabḍ* in contra trading, which is divided into two situations; where in the first situation the investor is selling stocks to a third party on the last day (T+3) after 10.00 a.m. before 12.30 noon, and when the investor's account has been credited with commodity stocks, then the transaction is calculated to have meet the guidelines in terms of *taqabudh* in *ḥaqiqi* due to the time of payment and the submission of stocks to the

account of each occurs simultaneously. Different about the second situation, where the investors began to sell stocks to third parties before the day of the received stocks (T+3), i.e. on day T, T+1, or T+2. The study found, this situation said to be relevant in the event named occurs *qabḍ* in *ḥukmi* is based on arguments submitted among them the truth of the [AAOIFI \(n.d.\)](#) to sell something before the expiration of the period of the transaction as well as supported further by the occurrence of one of the valid as well as the submission of the contract note to the buyer (investor). Therefore, this situation is strengthening the submission for *ḥukmi* will happen without the need of doubt. It can be concluded that the two situations applications of *qabḍ* in a transaction contra trading has been adhere to the hadith with respect to the handover that is لا تبيع ما ليس عندك.

Next, issues related to speculation that practicing in contra trading does involve gambling or not? Then this study found that speculation is inherent in the contra trading is a speculative investment which allowed. This is because speculation in transactions contra trading is not involved with the zero sum game and absolutely not equal to gambling. In addition, this transaction also was not involved with the *gharār fāhish* and *jahālah*. It meets the features of *al-ghunm bi al-ghurm* and happen one that is valid in addition to having proof of submission of the documentation of the detailed accounting of the contract note. Then, it can be concluded that the speculative investment that exists in contra trading has been fulfilling the principles of speculation and risk according to the perspective of jurisprudence and scholar of contemporary.

5. Conclusion

As a conclusion, this study found that contra trading transaction in Bursa Malaysia is Shariah compliant. With the necessity of the use *qabḍ hukmi* which role is to facilitate coincides with a method of *fiqhiyyah* that is المشقة تجلب التيسير. The use of *qabḍ hukmi* also parallel with the context of the *maslahah* and current *ʿuruf*. Furthermore, this evaluation is also made based on the statement of the AAOIFI which allows selling the stock before the completion of the last day of the transaction. In addition, the objectives of the study the second analyzed based on the principle of speculation and the risk according to the perspective of jurisprudence and master of contemporary. These principles are formulated guided by the Qur'an, the Hadith, and the opinion of the scholar of contemporary on speculation. Therefore, the form of speculation in contra trading which is traded in Bursa Malaysia is a speculative investment.

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