Using venture capital in the investment of Zakat funds

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Abstract: This study gives a detailed description of the possibility of using the venture capital financing in the investment of Zakat, taking into consideration the origins of this technique in Islam, which makes it an optimal technique not just for investing the Zakat funds but also in developing our economy, therefore, by defining the capital resources, the venture capital investors and the types of entrepreneurs who get that financing.

Keywords: Venture Capital, Zakat, Islamic Venture Capital, Financing, Small and Medium Enterprises.

Jel Classification Codes : G24, P31, P34, E61.

I- Introduction :

Most countries aim to promote their economy, by exploiting all available resources as the skilled labor and financial resources in the right way, However, the improvement of the economic situation for these countries is not linked only to the economic factors, and the dynamic model presented by Ibn Khaldun proves. So, the improvement of one sector depends on the improvement of the other sectors simultaneously, which require a united and concerted effort of both government and citizens.

The big Attention that scholars had given to the development of economy, and its various problems, Highlighted the importance of the investment of Zakat funds, and its role in achieving this development, in addition, Zakat had two important targets in Islam, The first is social target, through the four categories that deserve Zakat funds, (1) the poor,(2) the indigent, (3) the administrators of the Zakat funds and (4) debtors, the second target is the call for Islam, through the other four categories, (5) bringing hearts to Islam, (6) slaves abolition, (7) in the cause of Allah and (8) the traveler. Zakat may have also another target, the economic target, which is linked to the previous targets, and it includes some previous categories, especially the first four.

The investment of Zakat funds counts from the most important issues in the economy of the Islamic countries, the investment of Zakat funds by its beneficiaries after reaching them is not a problem. But there is a problem with the investment of Zakat funds by those who collect it before distribute. We can find two points of view, there are those who see the inadmissibility of investment of Zakat funds, and there are a considerable part of scholars who had permit the investment of Zakat funds in investment projects. The second point of view, Requires us to look for different ways to invest Zakat funds as a necessity imposed by the economic reality, and the growing needs of those who deserve Zakat money.

The question that this study aims to answer is: *How can we use the venture capital financing to invest El- Zakat funds?*

This study provides through its various axis's the theoretical aspects of the venture

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capital financing, and illustrates their compatibility with the Shari'a (Islamic law), this study also provides detailed information on how can we adopt the venture capital financing to invest Zakat funds, taking into consideration the various expenditures that deserve Zakat money.

II- The investment of El- Zakat funds

In this axis, the focus will be on Zakat definition, the categories that deserve Zakat money and the investment of Zakat funds, as well as its economic effects. This axis will link also these concepts with the use of the venture capital to invest Zakat funds, and its resulting effects.

II.1. Definition of Zakat

Zakat is a right and duty, a right to a specific range called the beneficiaries, and duty on every Muslim who have private capital.[1] Zakat is a known right in the Muslim capital, imposed on the total net value of developing wealth, or viable to develop in every complete year, to the beneficiaries who deserve it.[2]

II.2. The beneficiaries of Zakat

God specifys The beneficiaries of Zakat by saying:

(ومنهم من يلمزك في الصدقات فإن اعطوا منها رضوا وإن لم يعطوا منها إذا هم يسخطون. ولو أنهم رضوا ما آتاهم الله ورسوله وقالوا حسبنا الله سيؤتينا الله من فضله ورسوله إنا إلى الله راغبون. إنما الصدقات للفقراء والمساكين والعاملين عليها والمؤلفة قلوبهم وفى الرقاب والغارمين وفى سبيل الله وابن السبيل، فريضة من الله، والله عليم حكيم) [3]

"And among them are some who criticize you concerning the [distribution of] charities. If they are given from them, they approve; but if they are not given from them, at once they become angry. If only they had been satisfied with what Allah and His Messenger gave them and said, "Sufficient for us is Allah ; Allah will give us of His bounty, and [so will] His Messenger; indeed, we are desirous toward Allah ," [it would have been better for them]. Zakah expenditures are only for the poor and for the needy and for those employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah . And Allah is Knowing and Wise."

In the next following paragraphs we will briefly explain and clarify the expenditures of Zakat.

II.2. 1. The poor and the indigent

The two first expenditure of Zakat are the poor and the indigent, they are mentioned first because of their importance. The main goal of imposing Zakat is to fight poverty and need in the community.

The poor and the needy are two different expenditures, the poor is the one who does not have the food of a day or half a day. However, the needy is the one who finds a half adequacy or most, he does not reach the point to ask for help, for this purpose, no one will pay attention to him and no one will help him.[4]

II.2. 2. The collectors of Zakat

The third expenditure of Zakat is all who work in the administrative system of Zakat; they took their wages from the amount of Zakat, this importance that is given to the workers on Zakat proves that the Zakat is a function of the state.[5]

The Worker on Zakat take his wage from Zakat money, and he can’t take anything else than his wage, as he hadn’t accept anything from those who pay Zakat.

The administrative system of Zakat is divided into two parts, the first is the collection direction of Zakat, which is interested in the collection of Zakat and makes statistics about those who should pay Zakat; what they own and how much they should pay. The second part is the distribution direction of Zakat, that is had the same role as the social security bodies, his major role is to search for the best ways to find out the expenditures of Zakat, and the amount they need.[6]

II.2. 3. bringing hearts together [for Islam] and freeing captives [or slaves]

the money of Zakat can be given for bringing hearts together for Islam and for freeing slaves, but the latter does not exist nowadays.

II.2. 4. debtors

Debtors, those who have a debt and they can’t pay back, either they made that debt for their own benefit or for the benefit of the others. They had given from the money of Zakat to be able to pay off their debt.[7]

II.2. 5. The cause of Allah and the traveler

The cause of Allah all intended the things that please Him Glory of science and work; meant that the money of Zakat can be also given for building schools or laboratories…

The traveler, who travels from country to country, and which is no longer able to spend on himself, he had given from the money of Zakat to give him a ride to his country.

II.3. The investment of Zakat funds

The Researcher and the president of the Islamic science studies in Turkey Ali Usak, see that we can make Zakat money as capital, for example, we can buy shares of companies, and then distribute the returns of those shares of companies on Zakat expenditures.[8]

Zakat money can be also a capital for those who can work from the poor. Most views of scholars confirm that it is possible to give the poor a great deal of Zakat money, to be a capital for him.[9]

II.4. The economic impact of Zakat

Zakat has some effects on the national economy, including the following:

II.4. 1. The impact on unemployment

The fundamental function of Zakat is enabling the poor to enrich himself, to get a stable source of income, by giving him from the Zakat Fund what it takes him to practice a profession or a trade, and this role of Zakat has very positive implications on unemployment in the community.[10]

II.4. 2. The impact on investment

Pays of Zakat on economic resources untapped in the production process impose owners to sell these resources, in favor to Avoid paying the amount of Zakat on it, like the cash money, because Zakat will decrease it gradually, it is supposed to invest that money in order to obtain a return on it, and so that it will invest in activities which are not imposed to a high rate of E-Zakat like the industrial and commercial projects, that gives an opportunity to increase employment, as there will be an incentive to increase investment despite lower revenue.[11]

II.4. 3. Zakat against poverty

Poverty is one of the main economic problems; it means a deficit of financial resources of the individual or society to meet on their economic needs. The first task of the Zakat is to address the poverty problem, and to realize this task we should treat first the causes of poverty. Treatment of poverty that is caused by unemployment and Abstention from work, or because the wrong search for a work, it is not the same treatment of poverty caused by inability to work and poverty caused by frequent birth control and the lack of income.[12]

II.4. 4. The role of Zakat in education and scientific research

As well as the spending of Zakat in the treatment of poverty may also employ a part from the money of Zakat funds in investment projects, like the educational projects. The scholars permitted the researcher who does not work to take from Zakat money.

III- The venture capital

This axis explains some basics of venture capital financing, by providing the definition of venture capital, and the different institutions that provide this funding, as well as the process of venture capital investment and the different government policies that can be used to promote the venture capital market.

III.1. The definition of venture capital

There are several definitions of venture capital. One is that venture capital is "the combination of early-stage financing of new and young companies' investment projects through equity participation, and the provision of ongoing expertise and advice to the management of those companies", [13] Thus, what distinguishes venture capital from traditional investment is not just where funds are invested, but rather the monitoring and management of investments after they are made. In particular, venture capital is identified by three keys characteristics:[14] equity participation, long-term investment orientation, and ongoing active involvement in the company.

In this study, we define the venture capital as an investment linked to a high and variable degree of risk, based on investment stages in the firm,[15] in this financing the investors support the entrepreneur with the necessary funding and management skills to exploit the available opportunities in the market, in order to make a profit in the long term.[16] The venture capital is a financial intermediary between sources of funds (typically institutional investors) and high-growth and high-tech entrepreneurial firms.[17]

III.2. firms could be financed through venture capital

Some venture capitalist Invest in firms from all sizes and sectors, but most venture capitalist invests only in firms within a specific stages and sectors. Therefore, we can divide firms that receive a venture capital financing by life stages as shown in Figure (01). It comes first, seed capital, to cover the costs of research, product development ,and testing, it cares with new institutions that are active in the field of research and development, followed by start-up firms and the early stage financing, which is the most prevalent, and includes a wide variety of venture capital firms, and finally the middle stage financing, which cares with firms that have products in the market, and know a fast growth.

III.3. The process of the venture capital investment

Assuming that a venture capital firm has a clear, focused strategy, good and balanced staff to implement them, the firm's third requirement will be to have disciplined investment processes that are covering the identification, evaluation and approval, completion, monitoring and the realization of investments.

III.3. 1. Origination

The first phase is origination. While venture capitalists generally wait for deals to come to them, they do make themselves known to companies through industry directories.[18]

Deal flow comes to the venture capital in a number of ways. Entrepreneurs can directly solicit venture capitalists, often by sending them a business plan, executive summary, or a PowerPoint slide deck.

Trusted friends may refer a business opportunity to the venture capital; other venture capitalists may refer a project to a different venture capital or to approach each other to co-invest in a particular opportunity.

Finally, venture capitalists may actively seek for deal flow by attending networking events, judging business plan competitions, or prospecting for exciting opportunities and then approaching the entrepreneur.[19]

III.3. 2. Screening

The net result of this phase is that most proposals which pass through the examination process are rejected with minimal investment of time.[20]

Many researchers have investigated how venture capitalists make their decisions, focusing heavily on the decision criteria that distinguish those ventures that have a greater chance of providing strong returns. The underlying justification for these studies is that a better understanding of the venture capital process may lead to better decisions and more successful ventures. The criteria derived from these studies appear to fit four categories: (1) entrepreneur/team capabilities, (2) product/service attractiveness, (3) market/competitive conditions, and (4) potential returns if the venture is successful.[21]

III.3. 3. Evaluation

After proposals pass through the generic screen, the venture capital begins to gather additional information about the proposal. At this phase the amount of venture capital time spent on the proposal increases dramatically, and the venture capitalists goal changes. While in the previous phase the goal is to determine whether there is serious interest in a deal, in this phase the object is to determine what the obstacles to the investment are and how they can be overcome.[22]

In the evaluation phase, the focus will be on the team's ability to complete the investment, in addition to both the feasibility of the product, and the viability of the product to adoption by consumers.

The evaluation process is divided in terms of the investment risks, to internal risk, which is based on the evaluation of the human capital and the monitoring in the entrepreneurial firms. In regard to the use of investment, there is risk related to the foreign market acceptance of the product and the reaction of the competition. And finally there is a risk related to the development of a successful product strategy. The investment evaluation process would reduce these risks.[23]

III.3. 4. Negotiation

After the evaluation phase, if the proposed project was accepted, the venture capitalist will enter in negotiations with the owner of the project (the entrepreneur). During this phase, every step that the venture capitalist makes will be based on the information that has been collected and translated in the previous phases, as this phase determine the terms of the contract, which represents protection from the Agency risk.

Valuation for a new venture is quite different from formal corporate valuation. the importance of new venture valuation comes from the two facets that make venture capital investments distinctive: relatively high uncertainty compared to investments in mature companies and rapid growth. Techniques anticipating steady future developments and constant earnings on the basis of the company's history cannot entirely capture the potential inherent in such investment. In the venture capital context the absence of a performance history by which to judge the company and uncertainties about the young business particularly hamper the use of conventional valuation methods such as benchmark valuations on the basis of Price/Earnings (P/E) ratios of public companies, or calculation of a company's Discounted Cash Flow (DCF).

Since venture capitalists have more negotiating power and deeper knowledge of previous deals, it is likely that their valuation will took in consideration. If the venture capital and entrepreneur are in agreement on the project value, it is more likely that they will take action and fund the deal.[24]

IV- Islamic Venture Capital

Venture capital is risk capital, and risk-taking involves a willingness to commit to a course of action that leads to rewards or penalties associated with success or failure.

IV.1. Motivations to find a general framework for Islamic venture capital

Islamic finance has not been linked to economic development to the same extent as venture capital, and there have been very few innovations in Islamic financial instruments. Over 65 per cent of Islamic funds are currently invested through murabaha *(*an Islamic debt instrument that is used to purchase real assets for onward sale at a fixed mark-up rate).[25] In 1995, there were a small number of Islamic financial instruments in the market, compared to what there is now, and this was a result of the realization of Islamic banks, which need to provide different alternatives for investors, to face competition in the banking field.

In setting out a framework for Islamic venture capital, there are primarily two reasons to justify this form of finance. First, the state of economic development in the Muslim world has remained at the lower end of the scale for more than a century. As this article highlights, the benefits associated with entrepreneurial assistance point to venture capital as a vital contributor to a long-term strategy of economic growth. Second, it is believed by Islamic economists that venture capital finance has its original roots in the Islamic world, especially in the concept of mudarabah.[26] This funding mechanism provides support to those with entrepreneurial skills but lacking financial resources. The entrepreneur or the recipient of capital is termed the Mudarib while the provider of capital, the venture fund, is known as Rabb al-mal.

The Islamic financial instrument for extensively co-operative and co-ordinated participation must attain two results. First, it must yield prospective returns from resource mobilisation into shari'ah-approved possibilities. These would then be causally related with the productivity of capital and risk diversification. Second, the ethical recommendations and productivity of financial resources in possibilities acceptable to shari'ah must generate developmental effects.[27]

From the joint effects of these two expectations, Islamic participatory financing would generate extensively co-operative and co-ordinated interrelation ships among agents, and the table (01) point the Shari'ah View of Some Key Practices in Venture Capital Financing.

IV.2. The application of Islamic contracts in the venture capital framework

There are several methods in Islamic finance can be used to mobilize funds to finance high-risk projects (financing through venture capital), like mudarabah and musharakah. In this point we will explain the requirement of these various contracts and how they are applied.

IV.2. 1. sharing

In Islamic transactions, the demanded of money is for exchange value and it is not for the money itself. In Islam There is a difference between trade and usury,[28] the first is desirable, but the second is not, Islam support also the participation rather than risk transfer. The principle of risk-sharing means, that the part that finances the entrepreneur should get a part of profits, in the case of successful project. In case of loss, the owner must share capital loss. It appears that a large consensus between the principle of venture capital financing and Islamic finance.

IV.2. 2. Islamic contracts that can be implemented in the venture capital market

Venture capital in its traditional sense is very close to the Islamic concept of profit and loss sharing.[29] And the Figure (02) illustrates the application of main Islamic contracts in the venture capital concept.

According to the figure (02), it appears that the relationship between the company of venture capital and investors can mainly through mudarabah, or musharakah, or wakalah bij-ujrah or combination of these three contracts. In the case of the relationship between the venture capital company and enterprise benefiting from the funding, the main Islamic contract between them is musharakah, which includes contributing capital and / or labor /skill and / or reputation, in addition to some necessary conditions for these contracts, conform to Islamic law, such as the nature/method of investment that is adopted by the Venture Capital company, as well as the conditions and regulations stipulated between the company and investee.

Wakalah bil-ujrah (agency contract with fee) takes place in the venture capital concept when other external companies/managers, usually experts in the business area undertaken by the investee, are hired to consult and help the investee company. If the venture capital company operates on fee-based contracts, wakalah bil-ujrah will also come into the picture.

Other Islamic contracts can be used, when the company of venture capital is active in the agricultural sector as almuzara'ah and al-mugharasah contracts.

IV.2. 3. Mudaraba contract in the Islamic economy

A mudaraba is a form of commercial contract whereby an investor or a group of investors – entrust capital to an agent (mudarib), who trades in it and then returns the principal along with a predetermined share of the profits to the investors. The investors generally are not liable for any transactions the agent enters into with third parties, beyond the sum of money they provided. The agent, on the other hand, also shares in the success of the business venture based upon a previously agreed share of the profits. However, any losses incurred in the venture are the sole responsibility of the investors, with the agent losing his time and effort, and any anticipated gains she or he would have made had the venture been successful.[30] Furthermore, the agent is also entitled to deduct legitimate business-related expenses from the capital sum provided.

The mudaraba form of financing a venture has developed in the context of the pre-Islamic Arabian caravan trade for the Hejaz region. More importantly, with the Arab conquest, the mudaraba spread to Northern Africa and the Near East, and ultimately to Southern Europe. With its introduction as the commenda in the Italian seaports, it laid the foundation for the expansion of European trade in the Middle Ages. In fact, Udovitch (1962) has demonstrated a very strong correlation between the structures of the commenda and the Arabian mudaraba.[31] The commenda was the common legal structure known to medieval Italian merchants commissioning their ships to carry cargo across the Mediterranean. In a typical arrangement, the contracting partners of a trade venture were comprised of the investor (the commendator) and the manager (the tractator). The usual profit share split 3 : 1 between investor and manager. Losses, however, were wholly borne by the investor.[32]

The separation between capital and labor is the most important character in the mudaraba, and it is the same character in the venture capital financing.

IV.2. 4. musharaka contract in the Islamic economy

In the case of a musharaka contract, all partners (investors) contribute in the capital of risky project, and then they will share profits and losses according to agreed percentages at the end of the period for holding the investment.[33]

Musharaka contract can be permanent, and we can apply the previous definition on it, and it can be also decreasing, which is one of the new methods developed by Islamic banks which differ from the permanent musharaka in one element is continuity.

In decreasing musharaka method, the Islamic bank has all its rights and all its obligations as a normal partner, but the bank will be replaced by the partner in the ownership of the project, when the period for holding the project finished.[34]

IV.2. 5. Combining Mudarabah and Musharaka contracts

In the case of musharaka contract, profits are distributed according to a pre-agreed ratio in the investment contract, and the same for the mudarabah contract. When wages are combined with dividends, a new payment mechanism arises, as a result of combining mudarabah and musharaka contracts.

The difference between wage contract and a pure mudarabah and musharaka contracts is that, Wage contract is based on a fixed payment to labour by capitalists (or owners of capital), whereas mudarabah and musharaka offers ex post payment of shares of profits. However, it is perfectly permissible under Islamic law to combine wage payment with mudarabah and musharaka contracts. These contracts then interact with each other when wages forgone or proportionately invested in the enterprise, enable a new mudarabah and musharaka contract to emerge.[35]

V- The use of venture capital financing in the investment of Zakat money

This axis gives a detailed explanation of how we can use the venture capital financing to invest Zakat money.

V.1. The basic inputs of the model

The venture capital financing Process requires three basic inputs, are mainly: (1) the capital, and (2) a special intermediaries represented by the venture capital companies and finally (3) the entrepreneurs. To invest Zakat money through this technique, we must identify these three inputs in regard to the Islamic law, which set the third pillar of Islam (Zakat), as shown in the figure (03).

V.1. 1. Ressources of capital

Most time, companies of venture capital get their capital from shareholders, they are usually institutional investors (insurance companies, banks…) and some government institutions like donations which support this technique of funding because of its high returns and its positive impact on the economy of the state.

Using venture capital technique to invest Zakat money gives a clear idea about the source of capital that will be used in funding, but the responsible direction on the collection of Zakat cannot invest directly in the venture capital company, it must titled that money to the eight expenditures of Zakat, in condition of invest that money in the venture capital company.

V.1. 2. Limited partnership investors in the venture capital Company

Provides Zakat money to an entrepreneur in condition to invest it in a venture capital company, is not possible with all expenditures of Zakat, it can work only with the poor, the needy, the workers on Zakat and debtors. Zakat will be offered to those with three methods, (1) when the venture capital company is established for the first time, (2) in the extension of venture capital Company through the introduction of new shareholders, (3) to pay off debts of an existing venture capital company.

Getting a stake in the venture capital company gives the beneficiaries the right of control, which can be authorized to the institution that administrate Zakat, and these categories can be linked through a musharaka contract as we have explained before.

Getting a stake in the venture capital company gives also these groups a return on their funds invested.

V.1. 3. The beneficiaries of venture capital funds raised from Zakat

Venture capital funds raised from Zakat can provide the financing for projects of entrepreneurs fall within the eight beneficiaries of Zakat. Venture capital financing is suitable for innovative projects. However, innovation has a strong link with education, which imposes on institutions that administrate Zakat funds to allocate a part from Zakat money to spend it on education of the poor and the needy, in order to make the poor and the needy capable to propose projects or work within these projects to be an active actor in the community.

The venture capital company that raised its capital from Zakat evaluates and selects the projects, taking in consideration the social standard (the poor and needy).

V.2. The facilities that can be offered at the exit stage of investments

The Institution that administrate Zakat Can intervene in the exit stage of the investments by buying a stake in the entrepreneurial firm, and then titled it to one of the expenditures of Zakat, in order to enable these expenditures to benefit from the profits of entrepreneurial firm.

V.3. The desired results from venture capital funds rose from Zakat money

It is sufficient to show only the positive effects of the investment of Zakat money through venture capital. It appears that the most important is the impact on the employment, and instead to give Zakat money directly to the expenditures, venture capital technique permits to the expenditures to contribute in the establishment of venture capital fund. The latter requires a set of qualified workers, and the financing of entrepreneurial projects the need for additional workers, to work within these projects, and the number of workers is linked to the number of projects funded.

Each venture capital company fund a number of projects with the goal of profit, the success of these projects means submission in Zakat, and that's what elevates the amount of Zakat money that is provided to be re-invested.

The use of venture capital in the investment of Zakat money requires other projects such as education and training centers, in order to provide the labor needed by the entrepreneurial projects. The low unemployment rate has a positive impact on the rate of poverty and crime.

VI. Conclusion :

The Importance of Zakat money and its role in the economic and social life of Islamic countries make the search for new ways to invest these funds very important. On the other hand, the increasing interest of governments across the world of venture capital funding and its acceptance in the Islamic law, was a two major motivates to search how can we use this technique in the investment of Zakat money, through providing all the necessary inputs for the success of this technique, which are the capital through Zakat money and entrepreneurs through the beneficiaries of Zakat money, financial intermediaries through the venture capital company.

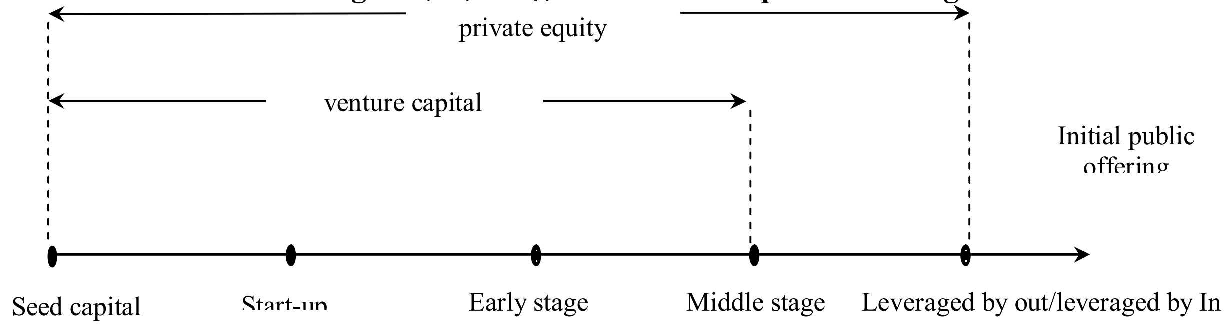
- Appendices :

Table (01): Shari’ah View of Some Key Practices in Venture Capital Financing

Conventional Venture Capital Practice	Islamic View
Limited partnership structure	Acceptable
Long terms contracts	Acceptable
Contracts can be nullified	Acceptable
Restrictions placed on the activities of fund managers	Acceptable
Equity ratchets to entrepreneurs	Acceptable
Investments in equity, fully convertible bonds (zero coupon)	Acceptable
Preferred stocks, preference shares or convertible debt	Not Acceptable
Greater control rights through restrictive covenants	Acceptable
Board seat	Acceptable
Staged financing	Acceptable
Replacement of management (CEO)	Acceptable
Liquidation rights	Acceptable
Provision of non-financial services (strategic advice etc.)	Acceptable
Application of discount rate for valuation	Acceptable

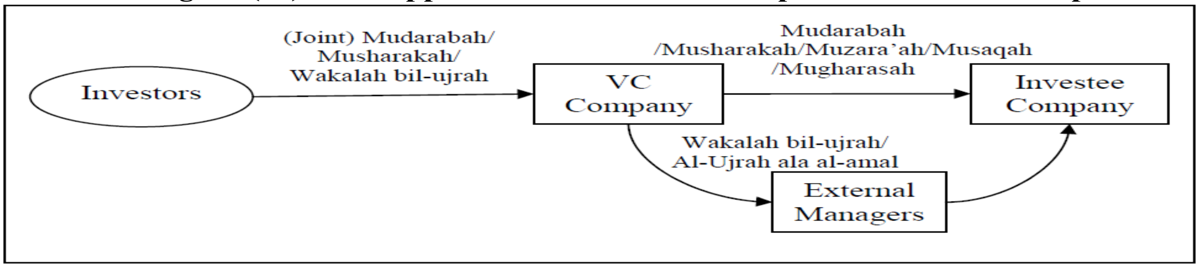
Source: Mansoor Durrani & Grahame Boocock, Op-cit, 2006, pp: 166.

Figure (01): stages of venture capital financing



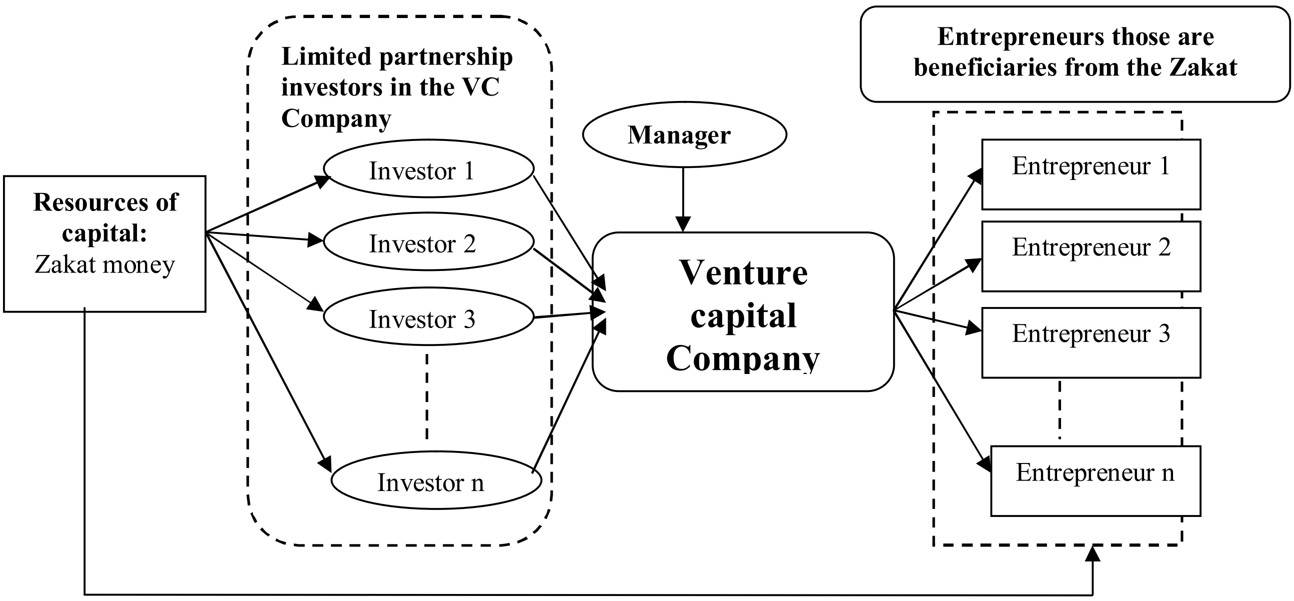
Source: Cherif Monder, Ingénierie financière et private equity, Revue Banque Edition, Paris, France, 2003, p:21.

Figure (02): The Application of Islamic Concepts in the Venture Capital



Source: Abdullaah Jalil, Islamic Venture Capital: A New Source of Islamic Equity financing, Seminar Ekonomi dan Kewangan Islam, ESSET. Bangi, 29-30 August 2005, p: 7.

Figure (03): The adoption of the venture capital technique in the investment of Zakat money



Source: the figure based on the theoretical aspects of Zakat and venture capital financing from the previous axis's.

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