

ANALYSIS OF HALAL AND HARAM IN INVESTMENTS IN THE SHARIA CAPITAL MARKET

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ABSTRACT Many people are increasingly interested in investments as a financial strategy. Types of investments such as deposits, property, gold, foreign currency, and the capital market are gaining popularity. However, public views on investments in the Sharia capital market vary widely. Many assumptions circulate among the public regarding the halal or haram nature of these investments, often becoming a source of debate. Positive views usually come from individuals who have an in-depth understanding of the Sharia capital market, while negative views tend to arise from a lack of comprehensive understanding. The purpose of this article is to explain the halal aspects of investments, particularly in Sharia capital market instruments. Therefore, efforts are needed to enhance public understanding of investments in the Sharia capital market from all aspects, so that debates regarding the halal or haram nature of these investments can be avoided.

Keywords: *Halal And Haram, Investments, Sharia Capital Market*

1. INTRODUCTION

Indonesia has the largest Muslim population in the world, prompting many citizens to adopt Islamic Sharia principles in capital market investments. This has driven the formation of the Sharia capital market, which aligns with Islamic principles. Although integrated with the conventional capital market, the Sharia capital market has specific characteristics in its products and transaction mechanisms that adhere to Islamic Sharia principles. One of the Sharia capital market products is Sharia-compliant stocks, which do not violate Islamic Sharia principles. There are two types of

Sharia-compliant stocks in Indonesia: those that meet the Sharia stock selection criteria as per the regulations of the Financial Services Authority (OJK), and those listed as Sharia-compliant by companies operating in accordance with OJK rules.

The Sharia stock market in Indonesia has experienced significant growth over the past five years. The number of Sharia-compliant issuers increased significantly, with 434 issuers at the end of March 2021 compared to 318 issuers in 2015. About 60% of issuers on the Indonesia Stock Exchange (IDX) are listed under the Sharia category. The number of Sharia stock investors in Indonesia has also increased, reaching 85,891 at the end of December 2020, equivalent to 5.5% of the total investors on the IDX. The growth in the number of Sharia stock investors reached 1,650% in the past five years. Of the 51 new stocks listed on the IDX, 38 are Sharia-compliant. The market capitalization of Sharia stocks has also continued to increase, reaching IDR 3.43 trillion on March 31, 2021, indicating consistent growth over recent years.

The Indonesia Stock Exchange (IDX) has developed three Sharia stock indices as references for investment: the Indonesia Sharia Stock Index (ISSI), the Jakarta Islamic Index (JII) 30, and the Jakarta Islamic Index (JII) 70. The performance of Sharia stocks is reflected in the movement of these three indices.

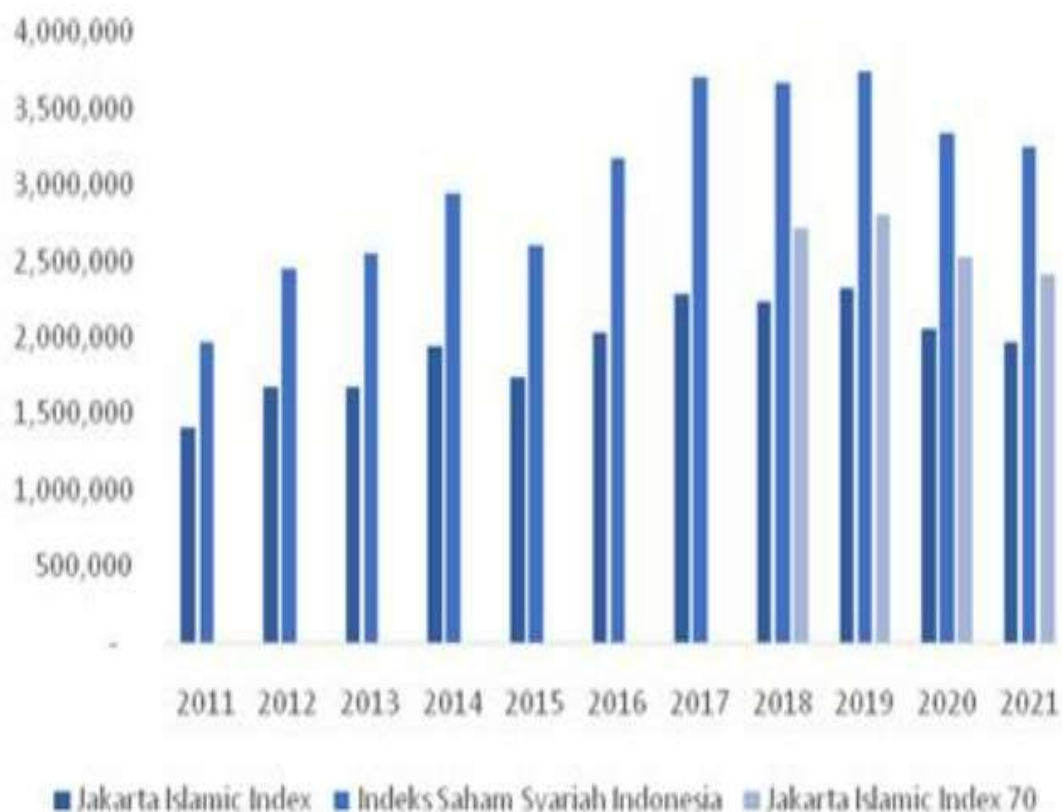


Figure 1. Development of Sharia Stock Index Capitalization (Sumber ; www.ojk.go.id)

Investment is the effort by an individual to allocate funds or capital with the expectation of gaining future profits. One financial strategy currently popular among the public is investment, which involves placing funds or capital to achieve returns in the future. Many people are attracted to investing because they are enticed by the idea of "making their money work" as a primary motivation to start investing.

Today, various types of investments have developed in Indonesia, including deposits, property, gold, foreign currency, and investments in the capital market, which are widely promoted on social media by prominent entrepreneurs, artists, celebrities, and other famous figures. Investing in the capital market is considered one of the safer forms of investment, where the capital market functions as a meeting place between those who need capital (issuers) and those who have capital (investors).

2. METHOD

In this study, the Asset-Based Community Development (ABCD) method was applied. The ABCD service process was conducted by providing assistance in several stages, which include: 1) Discovery (study) of aspects of halal, safe, and financially value-adding investments. 2) Dreaming (designing dreams) to build a future vision for the migrant worker community to meet their various needs. 3) Designing (procedures) to plan, implement, and evaluate the investments to be made. 4) Destiny (goal strengthening) to ensure that the migrant worker community can make investments that are halal, safe, and provide financial added value. 5) Determination (self-determination) ensuring that the migrant worker community in Malaysia has sufficient ability to reduce dependence on others.

This activity was carried out at the Indonesian Embassy (KBRI) in Kuala Lumpur, Malaysia, on May 19, 2024. The target of this service was the migrant worker community in Malaysia.

3. RESULT AND DISCUSSION

3.1 Understanding Sharia Investment

At the international level, the Sharia capital market is experiencing significant growth due to market demand for clear management within a Sharia-based economy. Before the existence of the Sharia capital market, economic activities were limited, especially in countries with a majority Muslim population. The Sharia capital market was created as an addition to Sharia financial institutions. Fitzgerald states that investment involves the effort to accumulate funds used to acquire productive assets currently, with the hope of generating new cash flows in the future. The definition

of investment includes the allocation of capital by investors, both domestic and foreign, into various business sectors open to investment, with the aim of achieving profits.

Abdurrahman states that investment has two meanings. First, investment is when someone buys stocks, bonds, and non-movable assets, with an analysis ensuring that the invested capital yields satisfactory returns. Second, in economic theory, investment means the purchase of production tools (including goods to be sold) using capital in the form of money.

3.2 Understanding the Sharia Capital Market

The Sharia capital market is a market where all activities, especially those involving issuers, the types of securities traded, and their trading mechanisms, have been adjusted to Sharia principles. This market operates in accordance with Sharia economic principles, aiming to avoid practices such as usury (riba), gambling, and speculation. In the Sharia capital market, all activities, particularly those related to issuers and types of securities traded, must comply with Sharia principles.

Sharia-compliant securities refer to financial instruments that meet Sharia requirements according to capital market regulations, in terms of contracts, company management, and issuance methods. Securities are considered to meet Sharia principles if they have obtained a Sharia Compliance Statement.

The introduction of Sharia products in the Indonesian capital market began on July 3, 1997, with the launch of Danareksa Syariah by PT Danareksa Investment Management. Official recognition of Sharia products in the Indonesian capital market occurred on March 14, 2003, through the signing of a Memorandum of Understanding between the Capital Market Supervisory Agency and Financial Institution (Bapepam-LK) and the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). This Memorandum of Understanding became the foundation for the development of the Sharia capital market in Indonesia, regulating coordination, consultation, and cooperation among related institutions.

3.3 Islamic Financial Instruments

Islamic financial instruments include Islamic stocks, Islamic bonds, Islamic mutual funds, and other financial instruments that comply with Sharia principles. Islamic stocks represent ownership in a company that meets Sharia criteria without special rights.

1. The Role of Islamic Capital Markets in the Economic Context:

- a. Providing opportunities for savers to fully participate in business ventures by investing in financial instruments that comply with Sharia principles, avoiding interest and business activities deemed unethical according to Sharia.

- b. Facilitating liquidity for shareholders and bondholders by providing a secondary market. Investors can sell their stocks or bonds to other investors in the secondary market to obtain liquidity if needed.
- c. Supporting entrepreneurs by providing access to external funds to finance their expansion and business activities. Companies can raise funds from investors who share a business vision aligned with Sharia principles.
- d. Allowing entrepreneurs to separate business operational activities from financial activities according to Sharia principles, which prohibit interest and high-risk transactions.

2. Perception of Halal Investment in Islamic Capital Markets

Islamic capital markets are considered halal because they have made efforts to comply with Sharia principles, although not perfectly.

a. Mechanisms Adjusted to Sharia Principles

Investment in Islamic capital markets is considered halal because all its mechanisms, especially those related to issuers, types of traded securities, and trading mechanisms, have been adjusted to Sharia principles. This means there are no elements of maysir (gambling), gharar (excessive uncertainty), or riba (interest), and there are elements of mutual consent (agreement and mutual acceptance).

This is consistent with the statement from an informant:

"Investment in Islamic capital markets is not considered haram because the products, transaction mechanisms, and outcomes comply with Sharia principles and do not contradict Islamic teachings."

The perception that investment in Islamic capital markets is halal arises because the majority of educated individuals on this matter hold this view. Some reasons supporting this perception of halal include market mechanisms adhering to Sharia principles. This is supported by the fact that investments in Islamic capital markets are deemed consistent with Islamic teachings because they prioritize religious values and are reinforced by Islamic law such as Hadith, ijma' (consensus of scholars), and qiyas (analogy based on Islamic law).

According to information provided by the Financial Services Authority (OJK), Sharia principles in capital markets originate from the Quran as the primary source of law and Hadith of the Prophet Muhammad SAW. In Islamic capital markets, profits must be clearly explained and must not contain elements of riba, and must avoid elements of gharar (excessive uncertainty).

Investments in Islamic capital markets are considered halal because they prioritize Islamic values, supported by Islamic law such as Hadith, ijma' (scholars' consensus), and qiyas (analogy based on Islamic law). These investments are conducted with mutual benefits between both parties,

without involving gambling elements. According to an interview with informant Reza Yulistia, investments in Islamic capital markets do not involve elements of gambling.

"Investments in Islamic capital markets are considered halal because they are a form of investment that does not involve gambling elements".

From this statement, investments are deemed halal because they do not involve elements contrary to Islamic teachings. This is in line with research conducted by Hana in 2018, which states that transactions in Islamic capital markets are considered halal if they adhere to Sharia guidelines. Additionally, an article published by Indopremier also emphasizes that investments in Islamic capital markets do not involve gambling practices such as maysir or qimar.

In Indonesia, capital market supervision is conducted by DSN-MUI. The mechanism for trading stocks is carried out on the regular stock exchange, according to explanations obtained from interviews with Rona Roikhana, Lana Kavida, and Siti Muslimah.

"Investments in Islamic capital markets are considered halal because all regulations related to Islamic capital markets have been approved by MUI and are supervised by the Financial Services Authority (OJK). Additionally, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) has issued 14 fatwas related to the Indonesian Islamic capital market since 2001."

This statement is consistent with information provided by OJK regarding the legal basis for Islamic capital market activities, where the Islamic capital market is part of the financial sector supervised by OJK. OJK's vision is also to be a trusted financial services industry supervisor. In Indonesia, the authority responsible for determining whether a stock complies with Sharia principles or is considered haram is the DSN-MUI (National Sharia Council of the Indonesian Ulema Council). In the Islamic capital market, there is a position known as the Sharia Compliance Officer (SCO) who is tasked with ensuring that a company remains compliant with Sharia principles. The SCO must obtain approval from DSN-MUI before being appointed.

Halal investment is a principle that is supported and recommended in Islam. The concept of halal in investment means that it must meet requirements in both substance and the method of acquisition. Recommendations for investing can be found in the Quran, specifically in Surah Yusuf, verses 46-49. These verses describe a dialogue between a servant and Yusuf, where the servant asks Yusuf to interpret a dream involving fat and lean cows, and green and dry wheat. Yusuf explains that the dream indicates seven years of good harvests, which should be stored to prepare for seven years of famine to come. After this period, a year of rain and abundance will follow.

Islam encourages and advocates for investment practices that align with halal principles. Halal investment must meet good requirements in both substance and method of acquisition. The Quran also advises on investing, as seen in the story of Yusuf (verses 46-49), where Yusuf advises on managing harvests over seven good years to prepare for the seven years of famine. This underscores

the importance of investing wisely and planning finances carefully in accordance with Islamic principles.

“Investment in Islamic capital markets is considered halal because the stocks of the companies traded meet the criteria for Sharia-compliant stocks. Additionally, in the process of buying stocks, securities companies do not facilitate transactions through borrowing, so no interest is incurred in the purchase of these stocks.”

b. Proper Knowledge of Investment

There is a good understanding among the public about the benefits of investing in Islamic capital markets, where they recognize the potential long-term gains from investing in these markets. This aligns with the views of Risalatul Mu'ayanah, Fachrizaman Izzulhaq, and Wilda Yusroh.

“...we know the rules that are traded in the Islamic capital market.”

Education has proven effective as it has met its targets, but there is still a need for improvement in various aspects of life. The Indonesia Stock Exchange (IDX) has responded to the need for enhanced investment literacy in the capital market by conducting initiatives, including the development of stock trading simulation games such as "Game Nabung Saham Go." Through this game, user literacy can be improved by teaching trading systems, transaction timing, portfolio information, and other relevant aspects. This approach has proven effective in helping to increase investment understanding among the public, especially the younger generation.

3.4. Perception of the Harām Nature of Investment in Islamic Capital Markets

Interest in Sharia-compliant stock investments remains low among the public because many do not have a clear understanding of the concept of Sharia-compliant stocks. Sharia investment is part of Sharia finance, where all its provisions are based on Islamic Sharia law. Trading in Sharia-compliant stocks is one of the products of Sharia investment. Many people perceive investing as a form of gambling and speculation, which contradicts Islamic teachings.

The perception that Sharia-compliant stock investments are considered haram arises because the majority of the public is still under-educated about investments in the Islamic capital market. One of the main reasons behind this view is uncertainty. This uncertainty relates to the lack of clarity regarding the amount of profit and loss from the transactions. Due to this uncertainty, many people are reluctant to participate in Sharia-compliant capital market investments. This was revealed in an interview with one of the informants, Roiazzaqia.

“Investment in the Islamic capital market is considered haram because it involves elements of uncertainty, especially regarding the clarity of profits and losses from such investments. Additionally, things that are haram in the Islamic capital market include those involving riba (interest).”

This perception arises because many people are afraid to take risks and there is a negative stigma associated with investments perceived as harmful. The opinion of one informant needs to be clarified through detailed education about investments in the Islamic capital market.

3.5 Products of the Islamic Capital Market

a. Sharia Products in the Capital Market

Sharia products in the capital market include securities or financial instruments. According to Law No. 8 of 1995 on the Capital Market (UUPM), securities are financial instruments such as debt securities, commercial papers, stocks, bonds, debt certificates, collective investment contract units, futures contracts on securities, and any derivatives of securities. In line with this definition, Sharia-compliant securities must not contradict Sharia principles. Therefore, such securities are referred to as Sharia Securities. According to Bapepam-LK Regulation No. IX.A.13 on the Issuance of Sharia Securities, Sharia Securities are those securities as defined in the UUPM and its implementing regulations, whose contracts, methods, and business activities do not contradict Sharia principles in the Capital Market. To date, Sharia Securities issued in the Indonesian capital market include Sharia Stocks, Sukuk, and Units of Sharia Mutual Funds.

b. Sharia Stocks

In concept, stocks are financial instruments that represent capital participation in a company. With this capital participation, stockholders are entitled to receive a share of the company's profits. This concept of capital participation with a share of profits is in accordance with Sharia principles. Sharia principles recognize this concept as *musyarakah* or *syirkah* (partnership). Based on this analogy, stocks are conceptually Sharia-compliant securities. However, not all stocks issued by issuers and public companies can be classified as Sharia stocks. A stock can be categorized as a Sharia stock if it is issued by:

1. Issuers and public companies that explicitly state in their articles of association that their business activities do not contradict Sharia principles.
2. Issuers and public companies that do not state in their articles of association that their business activities do not contradict Sharia principles but meet the following criteria:

The business activities do not contradict Sharia principles as regulated in regulation IX.A.13, specifically avoiding:

1. Gambling and games classified as gambling;
2. Trade without the delivery of goods/services;
3. Trade with false offers/demands;
4. Interest-based banks;

5. Interest-based financing companies;
6. Transactions involving uncertainty (gharar) and/or gambling (maisir), such as conventional insurance;
7. The production, distribution, trade, and/or provision of goods or services that are inherently haram (haram li-dzatihi), haram not by its nature (haram li-ghairihi) as determined by DSN-MUI, and/or goods or services that harm moral values;
8. Transactions involving bribery (risywah);
9. The ratio of total interest-based debt to total equity is no more than 82%, and
10. The ratio of total interest income and other non-halal income to total operating income and other income is no more than 10%.

3.6 Sukuk

Sukuk is a term introduced as a replacement for the term "Islamic bonds" (obligasi syariah). The term "sukuk" is the plural form of the Arabic word "sakk," which means certificate or proof of ownership. According to Bapepam-LK Regulation No. IX.A.13, Sukuk is defined as follows:

"Sharia Securities in the form of certificates or proof of ownership that are of equal value and represent an undivided (indivisible) share of:

- a) Certain tangible assets (ayyan maujudat);
- b) The benefits of certain tangible assets (manafiul ayyan), whether existing or to come;
- c) Services (al khadamat), whether existing or to come;
- d) Certain project assets (maujudat masyru' muayyan); and/or
- e) Specified investment activities (nasyath ististmarin khashah)."

a. Characteristics of Sukuk

As a type of Sharia Security, sukuk has characteristics distinct from bonds. Sukuk are not debt instruments but rather proof of joint ownership of an asset/project. Each sukuk issued must be backed by an underlying asset. Claims on sukuk are based on specific assets/projects. Funds from sukuk must be used for halal business activities. Rewards for sukuk holders can take the form of profit-sharing, returns, or margins, depending on the type of contract used in the sukuk issuance.

b. Types of Sukuk

According to AAOIFI Sharia Standards No. 17 on Investment Sukuk, the types of sukuk include:

1. Ownership certificates in leased assets.

2. Ownership certificates of benefits, divided into four types: certificates of benefits from existing assets, certificates of benefits from future assets, certificates of benefits from services of specific parties, and certificates of benefits from future services.
3. Salam certificates.
4. Istishna certificates.
5. Murabaha certificates.
6. Musyarakah certificates.
7. Muzara'a certificates.
8. Musaqah certificates.
9. Mugharasa certificates.

c. Sharia Mutual Funds

According to Bapepam-LK Regulation No. IX.A.13, Sharia Mutual Funds are defined as mutual funds as referred to in the UUPM and its implementing regulations, whose management does not contradict Sharia principles in the Capital Market. Sharia Mutual Funds, like conventional mutual funds, are an investment alternative for investors, particularly small investors and those with limited time and expertise in assessing investment risks. Mutual Funds are designed to pool funds from individuals who have capital, wish to invest, but have limited time and knowledge. Sharia Mutual Funds were first introduced in Indonesia in 1997, marked by the issuance of Danareksa Sharia Stock Mutual Fund in July 1997.

As an investment instrument, Sharia Mutual Funds have criteria that differ from conventional mutual funds. These differences lie in the selection of investment instruments and investment mechanisms that must not contradict Sharia principles. Other differences include portfolio management processes, screening, and cleansing. Like other investment vehicles, Mutual Funds present various opportunities for profit as well as risks, including:

1. Risk of Decreased Unit Value:

This risk is influenced by a drop in the price of securities (stocks, sukuk, and other Sharia securities) in the mutual fund's portfolio, which is related to the fund manager's ability to manage the fund.

2. Liquidity Risk:

This risk involves difficulties faced by the Fund Manager if a significant portion of unit holders simultaneously redeems their units, which can complicate the company's management in providing cash. This risk only occurs in open-end mutual funds and is known as the redemption effect.

3. Credit Risk:

This is the worst-case risk where the mutual fund's assets are typically insured by an insurance company. This risk can arise if the insurance company fails to promptly pay compensation or pays less than the coverage value in case of unforeseen events. Additionally, credit risk can occur due to issues with parties related to the mutual fund, such as brokers, custodian banks, payment agents, or natural disasters, which can lead to a decrease in the Net Asset Value (NAV) of the mutual fund.

4. Political and Economic Risk:

This risk arises from changes in economic and political policies that impact the stock exchange and companies simultaneously, thereby affecting the mutual fund's portfolio.

4. CONCLUSION

From the discussion, it can be concluded that public interest in Sharia stock investments is still low due to a lack of clear understanding of what Sharia stocks are and Sharia investment principles. The perception that Sharia stocks are considered haram arises because the majority of the public is still under-educated about Sharia Capital Market investments. One main reason for this view is the uncertainty related to the unknown amount of profit and loss from such transactions. Many are reluctant to participate in Sharia capital market investments due to fear of risk and negative stigma associated with investments perceived as harmful.

Providing detailed education about investments in the Sharia Capital Market is crucial to help the public gain a better understanding of Sharia investment principles. This will address uncertainties and clarify that Sharia stock investments are not prohibited when conducted according to Sharia principles that forbid *riba* and emphasize transparency in investment profits and losses. Proper education can change public perceptions of Sharia stock investments and increase interest in investing in the Sharia capital market.

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