

Legal Challenges in the Trading of Sharia-Compliant Stocks in Indonesia: A Juridical and Sharia Perspective

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Abstract

This article examines the legal challenges associated with the trading of Sharia-compliant stocks in Indonesia from both juridical and Sharia perspectives. The study highlights the complexities arising from the intersection of Islamic law principles and national capital market regulations. Using a qualitative descriptive approach, the research analyzes regulatory frameworks, fatwas issued by the National Sharia Council–Majelis Ulama Indonesia (DSN-MUI), and provisions from the Financial Services Authority (OJK). The findings reveal that despite the existence of a Sharia capital market framework, several legal ambiguities remain—particularly regarding compliance verification, investor protection, and dispute resolution mechanisms. The study emphasizes the need for harmonization between positive law and Sharia principles to strengthen legal certainty and investor confidence in Indonesia’s Islamic capital market. The paper contributes to the ongoing discourse on aligning financial innovation with Sharia compliance within the national regulatory structure.

Keywords: *Sharia-compliant stocks, Islamic capital market, legal challenges, DSN-MUI fatwas, OJK regulation, juridical analysis, Indonesia.*

INTRODUCTION

The growth of Sharia-compliant capital markets in Indonesia reflects the increasing public demand for ethical and faith-based investments aligned with Islamic principles. The Indonesia Stock Exchange (IDX) and Otoritas Jasa Keuangan (OJK) have actively promoted Sharia-compliant instruments to support financial inclusion and economic justice (OJK, 2024). These efforts are reinforced by the issuance of fatwas from the National Sharia Board of the Indonesian Ulama Council (DSN-MUI), which define the legal framework and compliance criteria for Islamic capital market products (DSN-MUI, 2023). However, despite this progress, significant legal challenges persist in ensuring that stock trading activities remain fully compliant with both Islamic jurisprudence and national financial regulations.

The concept of Sharia-compliant stocks is rooted in the prohibition of *riba* (interest), *gharar* (uncertainty), and *maysir* (speculation), while promoting profit-sharing and real-sector linkages (Dusuki and Abozaid, 2023). Stocks that meet Sharia screening criteria must represent ownership in lawful business activities and avoid industries deemed *haram*, such as gambling, alcohol, and usury-based finance. Nonetheless, the practical enforcement of these principles often faces complications due to Indonesia’s dual legal system, where Sharia norms coexist with conventional financial regulations under secular commercial law (Shomad, 2017). This creates an intersectional challenge that requires harmonization between religious ethics and statutory compliance mechanisms.

Regulatory authorities such as OJK and the IDX have established specific frameworks for identifying and managing Sharia-compliant stocks. These include the Jakarta Islamic Index (JII) and the Indonesian Sharia Stock Index (ISSI), which serve as benchmarks for Islamic equity performance (OJK, 2024). Despite these innovations, inconsistencies often arise in the implementation of Sharia screening standards, especially in assessing financial ratios, debt thresholds, and revenue sources. The dynamic nature of corporate operations further

complicates compliance verification, requiring continuous monitoring and reevaluation by Sharia supervisory boards (IsDB, 2023).

From a juridical standpoint, Sharia stock trading in Indonesia is governed by Law No. 8 of 1995 on Capital Markets, OJK Regulation No. 15/POJK.04/2015, and several DSN-MUI fatwas related to stock trading and investment. However, the integration between these legal instruments is not always seamless. Juridical ambiguities often emerge when conventional financial instruments overlap with Islamic principles—particularly in cases involving derivatives, short selling, or margin trading, which are largely prohibited under Sharia law due to elements of speculation (Khan and Zahid, 2022). These discrepancies highlight the need for clearer regulatory synchronization between state law and Islamic jurisprudence.

In terms of market operations, Sharia-compliant stock trading must avoid speculative behavior and insider manipulation. Nonetheless, empirical observations indicate that speculative patterns can still occur, especially when investors treat Sharia stocks as short-term instruments rather than long-term value-based investments (Taupik et al., 2024). This behavior challenges the ethical foundations of Islamic finance, which emphasize stability, fairness, and risk-sharing rather than profit maximization through rapid trading cycles.

The OJK and DSN-MUI have issued multiple guidelines to enhance market transparency and ensure investor protection in Islamic capital markets. For instance, OJK's Sharia Capital Market Outlook 2024 outlines reforms for product certification, governance, and dispute resolution (OJK, 2024). However, the regulatory system still faces enforcement difficulties in monitoring Sharia compliance, particularly in verifying the actual business activities of listed companies. This gap often stems from limited coordination between the financial authorities, Sharia advisory boards, and market participants (Rusli and Rahmi, 2024).

One of the most persistent challenges lies in the differing interpretations of fiqh principles across Sharia scholars. Variations in fatwa rulings—especially concerning corporate financing, debt ratios, and trading mechanisms—can create uncertainty among investors (Khasanah, 2018). The lack of a unified interpretative framework sometimes results in conflicting guidance, undermining public trust in the integrity of Sharia capital market operations.

Another legal complexity concerns dispute resolution. When disputes arise in Sharia stock transactions, jurisdictional uncertainty often emerges between the Religious Courts, which handle Sharia economic disputes, and the District Courts, which oversee commercial cases (Shomad, 2017). This overlap in authority complicates enforcement and prolongs settlement processes, emphasizing the need for a more integrated judicial approach to Sharia finance disputes.

Recent innovations, such as the digitization of Islamic investment platforms and the integration of fintech, have also raised new regulatory and ethical concerns. While these technologies expand accessibility and participation, they also introduce risks of non-compliance in automated transactions, algorithmic trading, and digital asset management (Dusuki and Abozaid, 2023). Regulatory bodies must therefore adapt Sharia oversight mechanisms to address the complexities of digital trading environments.

To address these multidimensional challenges, scholars have proposed harmonizing Islamic legal reasoning (ijtihad) with modern financial governance principles. This requires collaboration between Sharia scholars, economists, and legal experts to develop a unified interpretive model that balances religious fidelity with financial practicality (Chapra, 2023). Furthermore, continuous public education about Sharia investing is vital to foster ethical investor behavior aligned with Islamic economic objectives.

Indonesia's growing role as a global leader in Islamic finance positions it well to refine its legal and institutional frameworks for Sharia-compliant trading. By strengthening cross-sectoral coordination between OJK, DSN-MUI, and the IDX, Indonesia can build a more robust, transparent, and trustworthy Islamic capital market ecosystem (IsDB, 2023). Aligning domestic regulations with global Sharia standards will not only enhance investor confidence but also contribute to the realization of *maqasid al-shariah* in the economic sphere.

In conclusion, while Indonesia has made remarkable progress in promoting Sharia-compliant stock trading, enduring legal and Sharia challenges continue to impede full implementation. The dual legal structure, interpretative discrepancies, and enforcement gaps highlight the need for regulatory refinement and scholarly collaboration. Addressing these challenges through coherent legislation, enhanced Sharia supervision, and ethical education will ensure that Indonesia's Islamic capital market develops sustainably within the framework of both national law and Islamic values.

LITERATURE REVIEW

The body of literature examining Sharia-compliant stock trading in Indonesia has expanded in tandem with the country's broader Islamic financial development. Researchers have approached the topic from various angles, including legal structure, Sharia jurisprudence, investor behavior, and institutional regulation. Each stream of study contributes to understanding the complexities surrounding the integration of Islamic principles within Indonesia's national legal and financial systems.

Early foundational research identified the dualism between conventional and Islamic regulatory systems as a central challenge in establishing a coherent Sharia capital market framework (Shomad, 2017). This duality generates overlapping jurisdictions, creating uncertainty about which legal authority governs specific capital market disputes. As a result, both religious and civil judicial institutions are often required to interpret cases involving Islamic financial instruments. The coexistence of secular and religious legal systems has therefore become one of the key determinants shaping the trajectory of Islamic capital market law in Indonesia.

In exploring the Sharia dimension, scholars have emphasized that Islamic stock trading must align with the principles of fairness, transparency, and risk-sharing. These values are rooted in the prohibition of *riba* (interest), *gharar* (uncertainty), and *maysir* (speculation), ensuring that transactions are based on tangible assets and mutual consent (Dusuki and Abozaid, 2023). Within this framework, Sharia screening methodologies are used to exclude companies engaged in unlawful activities and to assess their financial structures against debt ratio thresholds. However, researchers note variations in the implementation of these standards, particularly in how compliance is measured and monitored (OJK, 2024).

Several studies have discussed the institutional efforts of OJK and the Indonesia Stock Exchange (IDX) in developing Sharia-compliant investment indexes. The Jakarta Islamic Index (JII) and the Indonesian Sharia Stock Index (ISSI) are among the most cited examples of such innovations, designed to guide investors in identifying permissible equity instruments (OJK, 2024). Despite their success in attracting participation, these indexes still face criticism over inconsistent Sharia screening mechanisms and the periodic adjustment of component stocks. The dynamic nature of corporate finances means that a firm's compliance status can fluctuate, which may confuse investors and reduce market credibility (Rusli and Rahmi, 2024).

From the jurisprudential perspective, the National Sharia Board of the Indonesian Ulama

Council (DSN-MUI) has issued several fatwas that serve as normative foundations for Islamic stock transactions. Fatwa No. 40/DSN-MUI/X/2003 on Capital Markets and General Guidelines for the Implementation of Sharia Principles in the Capital Market is particularly significant. This fatwa delineates permissible trading practices and prohibits speculative transactions such as short selling. Yet, as some researchers highlight, gaps remain between these doctrinal rules and actual trading behavior in the market (Khasanah, 2018). This gap underscores the necessity of stronger supervisory systems and more precise alignment between religious guidance and financial regulation.

Comparative studies have situated Indonesia's Sharia stock market within the global Islamic finance landscape. Countries such as Malaysia and Saudi Arabia have developed more standardized approaches to Sharia compliance through unified regulatory bodies that integrate fiqh principles with modern financial governance (Chapra, 2023). By contrast, Indonesia's regulatory approach remains fragmented, with OJK, DSN-MUI, and IDX each maintaining distinct roles. While this pluralism encourages flexibility, it can also lead to interpretive inconsistencies that complicate compliance assessment and enforcement (IsDB, 2023).

The role of technology in Islamic stock trading has also emerged as a contemporary research focus. Digital investment platforms and fintech innovations have improved accessibility to Sharia-compliant instruments but also introduced ethical and legal questions related to automation and algorithmic decision-making (Taupik et al., 2024). Studies emphasize the need for adaptive regulation to ensure that technological efficiency does not compromise the Sharia values of fairness and transparency (Dusuki and Abozaid, 2023).

Economic and behavioral research adds another dimension by analyzing investor motivation and market psychology. Findings suggest that religious commitment and ethical awareness are primary drivers of participation in Sharia-compliant stock markets (Rusli and Rahmi, 2024). However, speculative tendencies remain a challenge, indicating a behavioral gap between ideal Islamic investment ethics and actual investor conduct. This tension demonstrates the importance of continuous Sharia education and investor literacy initiatives.

In sum, the literature consistently identifies three dominant challenges in Indonesia's Sharia stock trading system: legal ambiguity within the dual judicial structure, inconsistencies in Sharia screening and supervision, and the ethical risks of speculative behavior. The convergence of juridical, regulatory, and moral dimensions forms the central tension in Indonesia's efforts to institutionalize a genuinely Sharia-compliant capital market. Addressing these issues requires harmonized legislation, robust Sharia governance, and an informed investor base capable of upholding Islamic ethical standards within modern financial systems.

THEORETICAL FRAMEWORK

The theoretical foundation for analyzing the legal challenges in Sharia-compliant stock trading in Indonesia rests upon the intersection of Islamic jurisprudence (fiqh mu'amalah) and modern capital market regulation. These two frameworks collectively shape the normative, legal, and operational aspects of Islamic capital market activities.

From the fiqh mu'amalah perspective, stock trading in Islam is permissible (mubāh) as long as it adheres to the principles of justice (al-'adl), transparency (al-shafāfiyyah), and mutual consent (tarāḍin). Transactions must also avoid the prohibitions of riba (interest), gharar (excessive uncertainty), and maysir (gambling or speculation). These principles form the moral and legal backbone of Islamic economic activities, emphasizing balance between individual

profit-seeking and social welfare (Dusuki and Abozaid, 2023). The *muḍārabah* and *mushārah* concepts, which emphasize partnership and profit-sharing, inspire the ethical architecture of equity investments in Sharia markets.

On the other hand, Indonesia's positive law provides the regulatory infrastructure governing all financial activities, including Islamic capital markets. The authority of the Financial Services Authority (Otoritas Jasa Keuangan or OJK) is defined under Law No. 21 of 2011, which mandates OJK to regulate and supervise financial services to ensure fair, transparent, and efficient markets (OJK, 2024). Within this mandate, OJK cooperates with the National Sharia Board of the Indonesian Ulama Council (DSN-MUI) to ensure that all Islamic financial products, including stocks, comply with Sharia principles. This collaboration reflects Indonesia's unique dual legal system, where state regulations coexist with religious normative laws.

The Sharia compliance framework relies on Sharia screening, a mechanism for evaluating whether companies and their business activities meet Islamic legal and ethical standards. The screening involves both sectoral and financial criteria — excluding businesses involved in haram industries such as gambling, alcohol, and interest-based institutions — and imposing thresholds on debt ratios and interest-based income (Rusli and Rahmi, 2024). The theoretical justification for screening draws from the Islamic principle of *tathhīr al-māl* (purification of wealth), which mandates Muslims to ensure that their investments are derived from lawful sources (Chapra, 2023). However, scholars have noted that variations in screening methodologies across regulatory bodies create inconsistencies, which complicate the uniform application of Sharia law in stock markets (IsDB, 2023).

The concept of Sharia governance further underpins this framework. It represents the institutionalized system through which Sharia compliance is maintained, monitored, and enforced. In Indonesia, this governance structure involves multiple layers: DSN-MUI issues fatwas, OJK translates these into regulations, and internal Sharia supervisory boards (SSB) within financial institutions monitor ongoing compliance (Khasanah, 2018). This tripartite structure theoretically ensures holistic oversight; however, empirical studies reveal gaps in implementation and enforcement (OJK, 2024). The complexity of multi-agency coordination often leads to interpretive ambiguity, particularly in cases involving market misconduct or speculative transactions.

In economic theory, the Islamic capital market model emphasizes risk sharing rather than risk transfer. This model aligns with the *maqāṣid al-sharī'ah* (objectives of Islamic law), which seek to preserve wealth (*ḥifẓ al-māl*), promote justice, and prevent exploitation (Dusuki and Abozaid, 2023). The *maqāṣid* framework provides a higher moral justification for regulating financial transactions beyond legal formalism, ensuring that all economic activities contribute to societal welfare. In practice, however, the dominance of conventional market mechanisms—such as short-term speculation and margin trading—poses challenges to realizing this ideal (Rusli and Rahmi, 2024).

The juridical dimension of Sharia-compliant stock trading rests upon the integration of positive law and Sharia norms within Indonesia's plural legal system. The coexistence of the Capital Market Law (Law No. 8 of 1995) with Sharia-based fatwas creates a dynamic, though sometimes contradictory, legal landscape. Scholars argue that the resolution of this dualism depends on the state's ability to harmonize regulatory instruments with Islamic jurisprudence through codification and consistent enforcement (IsDB, 2023). The emerging concept of legal harmonization (*sinkronisasi hukum*) in Indonesia provides a theoretical model for reconciling civil and religious law frameworks.

Finally, behavioral finance theory also complements this framework by addressing how religious beliefs shape investor decision-making in Islamic stock markets. Empirical research suggests that Muslim investors are not solely motivated by financial returns but also by compliance with Sharia principles and ethical investment considerations (Rusli and Rahmi, 2024). This behavioral dimension highlights the sociocultural significance of Islamic capital markets as not merely economic systems but also expressions of religious identity and moral commitment.

In summary, the theoretical framework for studying legal challenges in Sharia-compliant stock trading integrates three interrelated dimensions: Islamic jurisprudence (*fiqh mu'āmalah*), regulatory governance under national law, and behavioral finance perspectives. Together, these dimensions illuminate the intricate relationship between religious ethics, legal structure, and economic behavior in Indonesia's evolving Islamic capital market landscape.

PREVIOUS RESEARCH

Research on Sharia-compliant stock trading in Indonesia has developed alongside the rapid growth of Islamic finance and the increasing sophistication of the country's capital market. Early studies mainly focused on the permissibility and conceptual foundations of Islamic securities, while more recent works emphasize regulatory challenges, market behavior, and legal harmonization.

Rusli and Rahmi (2024) explored the reconstruction of *muḍārabah* financing contracts within Bank Syariah Indonesia, identifying a broader implication for Sharia-compliant investment instruments such as stocks. They highlighted that contractual ambiguities and differing interpretations of profit-sharing mechanisms often lead to legal uncertainty, which could similarly affect the trading of Islamic shares. Their findings emphasize the need for unified guidelines that align Sharia principles with positive law enforcement mechanisms.

A study by the Islamic Development Bank (IsDB, 2023) found that variations in Sharia screening standards among countries—including Indonesia—create inconsistencies in investor confidence. The report underlined the necessity of developing a harmonized international framework that ensures comparability and transparency of Sharia compliance in equity markets. This finding is particularly relevant to Indonesia, where differing interpretations between the OJK and DSN-MUI occasionally result in regulatory fragmentation.

Dusuki and Abozaid (2023) analyzed the application of *maqāṣid al-sharī'ah* in Islamic financial regulation and emphasized that genuine Sharia compliance requires not only formal adherence to contracts but also fulfillment of ethical objectives such as fairness, risk sharing, and social justice. They argued that the proliferation of speculative trading practices in Sharia-labeled stocks can undermine these objectives, thereby calling for tighter supervision and ethical screening of stock market activities.

In the Indonesian context, Khasanah (2018) conducted a legal analysis of *muḍārabah* savings contracts in Sharia banking and identified systemic weaknesses in the implementation of Sharia-based agreements. Although her research did not directly address stock trading, her findings revealed that similar structural issues—such as a lack of legal harmonization and inadequate dispute resolution mechanisms—also apply to Islamic capital market operations.

OJK (2024) in its Sharia Capital Market Report emphasized that the implementation of Sharia-compliant products faces several operational and legal barriers, particularly in aligning DSN-MUI fatwas with state-enforced capital market laws. The report noted that while OJK has

introduced clearer product registration guidelines, ambiguities remain in the interpretation of what constitutes non-halal income, especially for companies partially engaged in interest-based transactions.

Chapra (2023) argued that the ethical dimension of Islamic finance—centered on justice and wealth purification—is often compromised by practices that mimic conventional financial speculation under the guise of Sharia compliance. He recommended a stronger role for Sharia supervisory boards in enforcing the ethical objectives of Islamic economic activity, a point that resonates with the Indonesian experience where supervisory boards sometimes lack authority or independence.

Taupik, Herdiana, and Prasetyo (2024) investigated product innovation in Islamic financial institutions and found that rapid innovation sometimes outpaces regulatory frameworks. Their research warned that introducing new instruments—such as Sharia-based derivatives or structured stocks—without a robust legal foundation risks violating core Sharia principles. This insight is critical for understanding the ongoing tension between innovation and compliance in Indonesia's Sharia capital market.

The study by OJK (2024) on the resilience of Sharia banking transformation further demonstrated that a holistic approach to Sharia governance is essential for maintaining investor trust and legal certainty. It highlighted that fragmented supervision between different regulatory entities has occasionally led to conflicting interpretations, thereby affecting market integrity and investor confidence.

Similarly, Iswanto, Fathurrahman, and Sari (2022) examined the determinants of Islamic savings growth and concluded that trust in institutional Sharia compliance significantly influences investor participation. Their findings imply that strengthening the regulatory legitimacy of Sharia stock trading could increase market participation among Muslim investors who remain cautious due to concerns about authenticity.

Shomad (2017) offered a broader legal perspective by situating Islamic economic principles within Indonesia's legal system, arguing that successful implementation of Sharia-based financial laws depends on harmonization with national legislation. His theoretical argument remains influential for interpreting the legal foundations of Islamic capital market operations and underscores the persistent challenge of integrating religious norms into state law.

Recent studies by the OJK (2024) and the IsDB (2023) consistently highlight that despite steady growth in Sharia-compliant stocks, unresolved legal ambiguities—particularly in dispute resolution, product registration, and Sharia screening—continue to hinder full integration of Islamic finance within the national market structure. These findings collectively suggest that future research should prioritize developing a unified legal and regulatory model that balances religious, economic, and juridical considerations.

Overall, the body of research demonstrates a consensus that Indonesia's Sharia stock market has achieved remarkable progress but still faces structural and legal challenges. The literature calls for stronger alignment between Islamic jurisprudence, financial innovation, and national regulation to ensure that Sharia compliance transcends formalism and reflects the ethical and economic spirit of Islamic law.

METHOD

This study employs a qualitative juridical-normative approach, which is appropriate for

examining the legal and Sharia dimensions of stock trading in Indonesia's Islamic capital market. The juridical-normative method emphasizes the analysis of laws, fatwas, and legal doctrines as the primary sources of data, while the Sharia normative perspective ensures that findings remain consistent with Islamic legal and ethical principles (Shomad, 2017). This dual lens allows for a comprehensive understanding of how legal rules interact with Sharia compliance mechanisms in the regulation of Sharia-compliant stocks.

The research design centers on a descriptive-analytical framework, aiming to describe existing legal provisions, analyze regulatory inconsistencies, and interpret them within the context of Islamic jurisprudence. Through this design, the study evaluates how Indonesia's regulatory authorities—particularly the Financial Services Authority (OJK) and the National Sharia Council–Indonesian Ulema Council (DSN-MUI)—interpret, codify, and enforce Sharia principles in capital market practices (OJK, 2024; Dusuki and Abozaid, 2023).

Primary legal materials include laws and regulations governing Islamic capital markets, such as Law No. 8 of 1995 on Capital Markets, Law No. 21 of 2008 on Sharia Banking, and various OJK regulations concerning the issuance and trading of Sharia securities. In addition, fatwas issued by DSN-MUI—such as Fatwa No. 80/DSN-MUI/III/2011 on the Implementation of Sharia Principles in Equity Trading—serve as the primary Sharia references for evaluating compliance.

Secondary materials are drawn from academic journals, policy reports, and books discussing Islamic finance, legal harmonization, and regulatory frameworks (IsDB, 2023; Chapra, 2023; Taupik, Herdiana, and Prasetyo, 2024). These materials provide interpretative depth by contextualizing the Indonesian experience within broader global discussions on Sharia-compliant investment systems.

The data collection technique involves a documentary study through a comprehensive review of official publications, scholarly articles, and online databases such as the OJK Library, SSRN Islamic Finance Repository, and the IsDB Knowledge Platform. Each document was assessed for relevance, publication reliability, and recency, ensuring inclusion only of sources published up to 2024.

Following data collection, the study applies qualitative content analysis, where legal texts and fatwas are systematically categorized based on themes such as Sharia compliance criteria, legal enforcement, and ethical governance. Through interpretative comparison, the research identifies congruences and contradictions between state law and Sharia principles as applied in stock trading (Rusli and Rahmi, 2024).

The analysis also employs hermeneutic interpretation to reveal the underlying objectives (*maqāṣid al-sharī'ah*) embedded in Sharia capital market regulations. This interpretive framework facilitates the understanding of how Islamic legal values—such as justice (*'adl*), transparency (*bayān*), and mutual consent (*tarāḍin*)—are embedded or neglected within Indonesian capital market practices (Dusuki and Abozaid, 2023).

To ensure the validity of interpretation, triangulation is conducted by cross-referencing DSN-MUI fatwas, OJK regulations, and scholarly opinions from contemporary Islamic legal scholars. This process enhances reliability by comparing doctrinal sources and modern policy interpretations.

Lastly, the study incorporates comparative legal analysis by examining best practices from other Muslim-majority countries with established Sharia stock frameworks—such as Malaysia and Saudi Arabia—to identify potential regulatory improvements for Indonesia’s legal structure (IsDB, 2023).

The final output of the analysis is a synthesis of juridical and Sharia perspectives that outlines the key legal challenges in regulating Sharia-compliant stock trading in Indonesia and offers recommendations for harmonizing state law and Sharia principles to enhance investor confidence, legal certainty, and ethical compliance.

RESULTS AND DISCUSSION

The growth of Sharia-compliant stock trading in Indonesia reflects both regulatory innovation and persistent legal complexity. The inclusion of Islamic stocks in the Indonesia Stock Exchange (IDX) under the Jakarta Islamic Index (JII) and the ISSI demonstrates the government’s effort to integrate Sharia principles into mainstream financial markets. However, the development also reveals fundamental challenges in harmonizing Sharia ethics with national capital market law (OJK, 2024). The dual authority structure—where the Financial Services Authority (OJK) regulates the market while the DSN-MUI defines its Sharia compliance—creates overlapping jurisdictions and potential interpretive tensions (Rusli and Rahmi, 2024).

From a juridical standpoint, the key challenge lies in the synchronization of positive law with Sharia law. Law No. 8 of 1995 on Capital Markets remains secular in orientation, with no explicit recognition of Sharia-compliant investment mechanisms. Consequently, Islamic capital market activities must adapt through secondary regulations, primarily OJK decrees and DSN-MUI fatwas (OJK, 2024). This framework, while functional, lacks strong legal enforceability, as DSN-MUI fatwas hold moral rather than statutory authority (Taupik, Herdiana, and Prasetyo, 2024). Therefore, the legal certainty of Sharia-compliant stock transactions depends heavily on the consistency of interpretation between regulatory and religious bodies.

A central issue arises from the legal enforceability of DSN-MUI fatwas in stock trading. While Fatwa No. 80/DSN-MUI/III/2011 outlines clear guidelines on Sharia-compliant stock trading—including prohibitions on *gharar* (excessive uncertainty), *maysir* (speculation), and *riba* (interest)—its application is not uniformly codified into OJK regulations (IsDB, 2023). As a result, disputes may occur regarding the Sharia status of certain transactions, especially in derivative trading, margin trading, or short selling, which remain controversial from a *fiqh* (jurisprudential) perspective (Dusuki and Abozaid, 2023).

The screening mechanism for Sharia stocks, although standardized by OJK and DSN-MUI, also presents conceptual and operational challenges. The criteria for inclusion in the *Daftar Efek Syariah* (DES) rely on both qualitative aspects—such as the nature of the business—and quantitative financial ratios, including debt-to-equity and non-halal income thresholds. However, these criteria often change, and interpretations vary between regulators and scholars (Abidin, 2023). For example, the 45% debt ratio benchmark has sparked debate among Islamic jurists who question its basis in classical jurisprudence (Chapra, 2023). This fluidity creates uncertainty among issuers and investors regarding long-term compliance.

Another legal concern relates to the contractual structure of stock ownership. From a Sharia perspective, stock trading must involve genuine ownership and risk-sharing, aligning with the principle of *al-ghunm bil-ghurm* (profit accompanies risk). Yet, certain market practices, such as day trading and speculative buying, may undermine this principle by promoting capital gains detached from real economic activity (Khan and Zahid, 2022). The absence of a detailed Sharia-compliant framework for secondary market transactions further complicates the

consistency of these practices.

Additionally, the dispute resolution system for Sharia stock trading remains underdeveloped. Although the Religious Courts possess jurisdiction over Sharia economic disputes under Law No. 3 of 2006, capital market conflicts often fall within the domain of the Capital Market Arbitration Board (BAPMI), which applies conventional arbitration principles (Shomad, 2017). This jurisdictional overlap may hinder effective enforcement of Sharia norms and limit investor protection for those seeking Sharia-compliant adjudication.

From an institutional standpoint, the capacity of regulatory authorities remains crucial. The OJK has established the Departemen Pasar Modal Syariah to oversee Sharia market operations, yet the integration of fatwa-based oversight remains limited by bureaucratic and interpretive boundaries (OJK, 2024). Strengthening coordination mechanisms between OJK, IDX, and DSN-MUI is necessary to ensure consistent supervision and enhance compliance monitoring (Rusli and Rahmi, 2024).

Another critical dimension concerns investor education and awareness. Studies show that many investors lack adequate understanding of Sharia-compliant principles and the operational mechanisms of Islamic stocks (Iswanto, Fathurrahman, and Sari, 2022). This limited literacy contributes to misconceptions about the permissibility and risks of Sharia-based investments. Enhancing public understanding through structured literacy programs and transparent disclosure practices could increase investor confidence and expand participation in Islamic equity markets.

The ethical dimension of Sharia stock trading also requires deeper integration into market governance. While formal compliance with fatwa-based criteria is essential, the true spirit of Sharia investment lies in promoting justice (*'adl*), transparency (*bayān*), and social welfare (*maṣlaḥah*). However, some listed companies continue to engage in practices that, while technically permissible, contradict Sharia's moral intent, such as excessive executive compensation or insufficient zakat disclosure (Chapra, 2023). Bridging this ethical gap demands both regulatory enforcement and corporate commitment.

Comparative analysis with Malaysia's Islamic capital market highlights significant lessons for Indonesia. Malaysia's Securities Commission has established a more centralized Sharia Advisory Council with legally binding authority, ensuring alignment between fatwa issuance and state regulation (Dusuki and Abozaid, 2023). Adopting a similar integrated model could enhance Indonesia's regulatory coherence and strengthen legal certainty for Sharia investors.

Moreover, the digital transformation of capital markets introduces new legal challenges in Sharia compliance. The rise of online trading platforms and fintech-based securities has created new issues related to transparency, risk control, and contract validity under Sharia law (Taupik, Herdiana, and Prasetyo, 2024). Regulators must develop adaptive frameworks that address these innovations without compromising Sharia principles or investor protection.

Ultimately, the results reveal that Indonesia's Sharia-compliant stock market operates within a complex legal pluralism, where religious and civil norms coexist yet occasionally conflict. The effectiveness of this system depends on continuous regulatory harmonization, enhancement of Sharia governance, and active investor engagement. Moving forward, Indonesia's challenge is not merely technical compliance but building a coherent legal ecosystem that embodies both juridical legitimacy and Sharia authenticity..

CONCLUSION

The study concludes that the trading of Sharia-compliant stocks in Indonesia remains a dynamic yet legally fragmented sector, shaped by the interplay of civil and Islamic legal frameworks. While Indonesia has made substantial progress through the issuance of DSN-MUI

fatwas, OJK regulations, and the establishment of the Daftar Efek Syariah (DES), the overall system continues to face challenges in harmonizing religious norms with statutory provisions (OJK, 2024). The absence of explicit Sharia recognition in the Capital Market Law (Law No. 8 of 1995) results in a reliance on interpretive mechanisms, creating regulatory ambiguity and uneven enforcement across institutions.

The dual authority between OJK and DSN-MUI represents both a strength and a weakness. On one hand, it promotes accountability and ensures religious integrity in financial governance. On the other, it introduces interpretive inconsistencies, particularly when fatwas lack formal integration into binding law (Rusli and Rahmi, 2024). As a result, legal certainty for Sharia stock investors remains dependent on institutional cooperation rather than statutory clarity. Strengthening the legislative framework by formally codifying key DSN-MUI principles could help address these inconsistencies and enhance juridical predictability.

From a Sharia perspective, the ongoing debate over the permissibility of certain trading mechanisms—such as margin trading and short selling—reflects a deeper concern regarding the ethical spirit of Islamic finance. True compliance requires not only formal adherence to fatwa criteria but also the embodiment of core Sharia objectives, including fairness (*‘adl*), transparency (*bayān*), and the avoidance of exploitation (*gharar* and *maysir*) (Chapra, 2023). Thus, the evolution of Indonesia’s Islamic stock market must move beyond procedural compliance toward a more value-oriented and *maqasid*-driven framework that prioritizes social justice and economic balance.

Furthermore, the study emphasizes that effective dispute resolution remains a crucial but underdeveloped area. Current mechanisms through the Religious Courts and BAPMI have yet to provide an integrated Sharia-compliant arbitration model suitable for capital market disputes (Shomad, 2017). Strengthening this aspect will be essential for protecting investor rights and ensuring that Sharia principles are substantively applied in judicial outcomes.

Finally, the findings reaffirm that sustainable growth of the Sharia capital market depends on three interrelated factors: legal harmonization, institutional coordination, and ethical commitment. A clear legislative foundation that recognizes Sharia instruments, stronger cooperation between regulatory and religious authorities, and enhanced investor education will together determine the maturity of Indonesia’s Islamic stock ecosystem. If these elements are realized, Indonesia can position itself as a global leader in Sharia-compliant equity markets, combining juridical legitimacy with authentic Islamic financial ethics.

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