

Legal Basis for Conventional and Sharia Investments in the Indonesian Capital Market

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Abstract

This article examines the legal basis for a conventional investment as well as sharia investment in the Indonesian capital market. This study focuses on the history of the formation and legal basis of investment in the capital market and is then continued by classifying conventional investment regulations and Islamic investment in Indonesia. This study aims to explain the history of the formation, basis, and legal basis for sharia and conventional investment in the Indonesian capital market. This research is a qualitative study using a normative jurisdiction approach. This article is a document study and library research. The data analysis techniques used were data reduction, data presentation, and conclusion drawing. The analysis results show that investment can be interpreted as the investment of money or capital in a company or project that aims to make a profit. The Indonesian capital market system, activities in the conventional investment capital market, and sharia investment initially referred to Law Number 8 of 1995 concerning the Capital Market, which technical regulations for its implementation are regulated in Bapepam-LK (Financial Services Authority) Regulations, Government Regulations, Stock Exchange Regulations and others.

Keywords

Legal Basis; Conventional Investment; Sharia Investment; Capital Market; Sharia Capital

Abstrak

Artikel ini mengkaji tentang landasan hukum investasi konvensional maupun investasi syari'ah di pasar modal Indonesia. Kajian ini difokuskan pada sejarah terbentuknya dan landasan hukum investasi di pasar modal kemudian dilanjutkan dengan mengklasifikasi peraturan investasi konvensional maupun investasi syari'ah di Indonesia tersebut. Penelitian ini bertujuan untuk menjelaskan sejarah terbentuknya, dasar, dan landasan hukum investasi syari'ah maupun konvensional di pasar modal Indonesia. Penelitian ini merupakan penelitian kualitatif dengan menggunakan pendekatan yuridis normatif. Artikel ini bersifat studi dokumen dan studi kepustakaan (library research). Teknik analisis data yang digunakan adalah reduksi data, penyajian data, dan penarikan kesimpulan. Hasil analisis menunjukkan Investasi secara sederhana dapat diartikan sebagai penanaman uang atau modal dalam suatu perusahaan atau proyek yang bertujuan untuk memperoleh keuntungan. Sistem pasar modal Indonesia, kegiatan di pasar modal investasi konvensional maupun investasi syari'ah pada awalnya mengacu kepada Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal, yang peraturan teknis pelaksanaannya diatur dalam Peraturan Bapepam-LK (Otoritas Jasa Keuangan), Peraturan Pemerintah, Peraturan Bursa dan lain-lain.

Kata-kata Kunci

Landasan Hukum; Investasi Konvensional; Investasi Syari'ah; Pasar Modal; Pasar Modal Syari'ah

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1. Introduction

In Islam, investing is a muamalah activity that is highly recommended because investing the assets that are owned becomes productive and brings benefits to other parties. One form of investment is investing in securities through the capital market [Isf09]. The capital market is a forum for raising funds for companies and an alternative means of investment for the public (investors). The capital market (Capital Market) in the

classical sense is defined as a field of trading in securities such as stocks, share certificates, and bonds or securities in general [Hai15].

Investment in Islam can be seen from three angles, namely individuals, society, and religion. For individuals, investing is a natural need where each owner of money (capital) always wishes to enjoy his wealth in the broadest possible time and field. For the community, investment should positively contribute to the community at large and the surrounding environment, both for present and future generations. As for religion, investment should be the essence of science and charity [Tun16]. As it is known that Indonesia is a country with a majority Muslim population [SW20] [Wit20], Therefore, the capital market industry sector is expected to be able to accommodate and the same time, involve the participation of the intended Muslim community directly to become active players in the market, of course as local investors in the Indonesian capital market [Bat16].

Several things that are considered to encourage and develop sharia investment activities in the capital market are the need for an intensive outreach program on sharia investment activities in the capital market, which includes basic princi-

ples, products, and transaction mechanisms, regulations, and patterns. Supervision, preparation of a more straightforward regulatory framework in the context of issuing sharia securities and sharia investment activities in the capital market and forming an efficient institutional pattern in its functions and roles in regulating, fostering, supervising, and carrying out sharia investment activities in the capital market Indonesia [Rah19b].

Research on Islamic investment in the capital market has been carried out. Rahmarisa regarding Sharia capital market investment [Rah19b]; Nurlita about investing in the sharia capital market in Islamic studie [Nur15]; Basrowi and Ma'rifah about the sharia capital market investment system [BM18]. Batubara about fuqaha thoughts and ulama's fatwas on investing in the sharia capital market [Bat16]. Likewise, research on law or investment regulations in the sharia capital market has been carried out. Irawan about strengthening of the legal framework related to the settlement of sharia capital market disputes in religious courts [Ira16]; Prasetya regarding the implementation of sharia capital market regulations on the Sharia Online Trading System (SOTS) [Pra17]; Wiyanti regarding the perspective of Islamic law on the sharia capital market as an alternative investment for investors [Wiy13]; Haidar about legal protection for investors against insider trading crimes in the capital market in Indonesia [Wiy13].

All of the above studies have something in common with this research: both discuss sharia investment in the capital market and its legal basis. All of the above studies also discuss the capital market in Indonesia. The difference between all of the above research with this research is that some of the research above discusses sharia investment in the Indonesian capital market and partly discusses case studies on the law of investment in the capital market. Meanwhile, this research discusses sharia investment in the Indonesian capital market, which is detailed by classifying it into several points: the history of its formation, the foundation, and what laws exist and are issued related to sharia investment in Indonesia.

This article examines the legal basis for a conventional investment as well as sharia investment in the Indonesian capital market. This study focuses on the history of the formation and legal basis of investment in the capital market and is then continued by classifying conventional investment regulations and Islamic investment in Indonesia. The discussion begins with an overview of investment and the capital market to describe the two meanings of these points. This study aims to explain the history of the formation, basis, and legal basis for sharia and conventional investment in the Indonesian capital market.

2. Method

This research is qualitative research using a jurisdictional normative approach, namely legal research that fully uses secondary data and its analysis. This article is a document study and library research. The data in this study are presented with descriptive analysis because it is done to search for data care-

fully and completely about the characteristics of a situation or symptoms that can help strengthen the theory of investment and the sharia capital market. The data collection was carried out by using the technique of reading, analyzing, and understanding the collected data, namely about the fundamentals of investment and the capital market. The data analysis techniques used were data reduction, data presentation, and conclusion drawing [MH84].

3. Results and Discussion

3.1 Overview of Investments in the Capital Market

3.1.1 Sharia Investments and Investments

The word investment comes from the English investment, which means "to plant" [Fie17], or *istathmara* in Arabic, which means to make fruitful, develop, and increase in number [Par17]. In the dictionary of the term Capital Market and Finance, the word investment is defined as an investment of money or capital in a company or project that aims to make a profit. Meanwhile, according to Islamic financial investment terminology, investment is a combination of investors who contribute a surplus of money to obtain a lawful income that is following the perspective of sharia [Fie17]. Investment is a sacrifice made today in order to expect future benefits. Investment can generally be divided into two, namely investment intangible assets (real asset/real investment) and investment in financial assets (financial assets/financial assessment) such as investment through stocks (securities) in the capital market [Per16].

According to Alexander and Sharpe in Hidayah et al., investment is an inevitable value sacrifice used to obtain value in the future, but the amount is unknown [HAH20]. Investment by definition is investing or placing an asset, either in the form of assets or funds, in something that is expected to provide income or will increase its value in the future. Meanwhile, financial investment, according to sharia, can be related to trading activities or business activities, where business activities can be in the form of a business related to a product or asset or service business. In order to implement this investment recommendation, a means to invest must be created. One of them is the capital market [Isf09].

3.1.2 Sharia capital market and Capital Market

According to Article 1 number 13 of Law Number 8 of 1995 about the Capital Market (State Gazette of 1995 Number 64, Supplement to the State Gazette Number 3587), a more specific definition of the capital market, namely activities related to public offerings and securities trading, public companies related to the securities that are published, as well as institutions and professions related to securities [Hai15]. According to John Downes and Jordan Elliot Goodman in Basrowi and Ma'rifah, a capital market is a market in which capital debt and equity funds are traded [BM18]. It includes private placement of sources of debt and equity and organized markets and exchanges [Faq18].

Capital market activities aim to accelerate the process of expanding public participation in company share ownership, equitable distribution of community income through share ownership intermediaries, and stimulating community participation in mobilizing funds so that they can be used productively [RKE17]. The capital market, in general, is a place where sellers and buyers meet to carry out transactions to obtain capital [Kha19]. Sellers in the capital market need capital (issuers), so they try to sell securities in the capital market. Meanwhile, buyers (investors) are parties who want to buy capital in companies that they think are profitable [Awa16].

The capital market has several strategic functions that make this institution attractive, especially for transacting parties, namely those who need funds (borrowers) and those who lend funds (lenders), including even the government. The core function of the capital market is as a source of raising funds (funding), in addition to the banking system, which has been known as a conventional fund-raising medium [Isf09]. Contextually, there is no significant difference between the conventional capital market and the sharia capital market because the sharia capital market is part of the capital market, except for prohibited things, both in the type of securities and the transaction mechanism. In general, the sharia capital market can be interpreted as a muamalah economic activity that trades securities according to the sharia investments, namely stocks, bonds, and the sharia mutual funds. The sharia capital market was developed to accommodate the needs of Muslims in Indonesia who wish to invest in capital market products following the basic principles of sharia [Per16].

In principle, the sharia capital market is different from the conventional capital market. A number of the sharia instruments have been rolled out in the Indonesian capital market, such as in the form of stocks and bonds with specific criteria under the principles of sharia. The sharia capital market is a capital market whose entire mechanism of activity, especially regarding issuers, the type of securities traded, and the trading mechanism, is by the principles of sharia. Meanwhile, what is meant by the sharia effect is the effect referred to in the laws and regulations in the capital market that contract, company management, as well as the way of issuing it comply with the sharia principles, as for what is meant by the principles of the sharia are the principles based on the sharia of Islamic teachings which are determined by the DSN-MUI through fatwas [Awa16].

The principles of sharia in the capital market are the principles of Islamic law in activities in the capital market based on the fatwa of the National Sharia Council of the Indonesian Ulama Council (DSN-MUI) as long as the fatwa is not contrary to Bapepam LK regulations which are based on fatwas DSN-MUI [Nur15].

The function of the sharia capital market according to Metwally in Rifai in Awaluddin [Awa16]:

1. The community can participate in business activities by obtaining a share of the profits and risks.

2. Allows shareholders to sell their shares in order to obtain liquidity.
3. Allows the company to raise outside capital to build and expand its production line;
4. Separates the operation of business activities from the short-term fluctuations in share prices that are a common feature of conventional capital markets; and
5. It allows investment in that economy to be determined by the performance of business activities as reflected in share prices [Sap14].

3.2 History of the formation of the capital market in Indonesia

The development of the capital market in Indonesia began in 1912 in Jakarta as a branch of Amsterdamse Effectenbureurs [Fao13] [SFA⁺19]. The traded securities are stocks and bonds owned by Dutch companies and bonds owned by the Dutch government. This activity stops at the role of the second world. Entering the era of independence, the stock exchange was reactivated with government bonds of the Republic of Indonesia in 1950. This activation was supported by the Emergency Law on the Stock Exchange Number 13 of 1951, which was later stipulated by Law Number 15 of 1952 [Fad18]. The capital market at that time served as a source of corporate financing and sought financing for Dutch-owned plantations growing in Indonesia. Until finally, Law Number 8 of 1995 concerning the Capital Market was born as a juridical basis for the activities of the Indonesian Capital Market [Wiy13].

Apart from containing the operational arrangements for the capital market in Indonesia, various terms related to the capital market are also defined. Among them are the definitions of the capital market, securities, and stock exchange [Rid19]. Apart from that, it is also regulated by several Government Regulations, among others, Government Regulation Number 45 of 1995 concerning the Implementation of Activities in the Capital Market Sector, Government Regulation Number 46 of 1995 concerning Procedures for Investigations in the Capital Market Sector, Decree of the Minister of Finance, Regulation of the Financial Institutions Bapepam (LK)), and the Exchange Rules [Wiy13].

On the official website of the Financial Services Authority, it is stated that as part of the Indonesian capital market system, activities in the capital market that apply sharia principles also refer to Law Number 8 of 1995 concerning the Capital Market, the implementation of which is regulated in a Bapepam Regulation-LK, Government Regulations, Exchange Regulations, and others. As a regulator of capital market regulators in Indonesia, Bapepam-LK has several specific regulations related to the sharia capital market, namely:

1. Rule Number II.K.1 concerning Criteria and Issuance of Sharia Securities List;
2. Rule Number IX.A.13 concerning Issuance of Sharia Securities; and

3. Rule Number IX.A.14 concerning Akads used in the Issuance of Sharia Securities [Ira16].

Launching of the first sharia mutual funds in Indonesia on July 3, 1997, by PT. Mutual Funds Investment Management. Then on July 3, 2000, PT. The Jakarta Stock Exchange and PT. Danareksa Investment Management launched the Jakarta Islamic Index (JII), which facilitates investors who wish to invest following sharia law [Rah18]. With the presence of this index, investors have been provided with stocks that can be used as a means of investing under sharia principles. On April 18, 2001, for the first time, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) issued a fatwa directly related to the capital market, namely Fatwa Number 20/DSN-MUI/IV/2001 concerning Guidelines for Investment Implementation for Sharia Mutual Funds.

Furthermore, sharia investment instruments in the capital market continued to grow with the presence of Sharia Bonds PT. Indosat Tbk in early September 2002. This instrument is the first Sharia Bonds, and the contract used is the mudharabah contract. The history of the sharia capital market can also be traced from the institutional developments involved in regulating the sharia capital market. This development began with the MoU between Bapepam and DSN-MUI on March 14, 2003. The MoU indicated an understanding between Bapepam and DSN-MUI to develop the sharia-based capital market in Indonesia. From the institutional side of Bapepam-LK, the development of the Sharia Capital Market was marked by the formation of the Sharia Capital Market Development Team in 2003 [Ira16].

Furthermore, in 2004 the development of the Sharia Capital Market was included in the organizational structure of Bapepam and LK. It was carried out by echelon IV level units which specifically had the task and function of developing the sharia capital market. In line with the development of the existing industry, in 2006, the existing echelon IV unit was upgraded to an echelon III level unit. On 23 November 2006, Bapepam-LK issued a Bapepam and LK Regulations package related to the Sharia Capital Market. The package of regulations is Bapepam and LK Regulations Number IX.A13 concerning Issuance of Sharia Securities and Number IX.A.14 concerning Akads used in the Issuance of Sharia Securities in the Capital Market [Ira16].

Subsequently, on 31 August 2007, Bapepam-LK issued Bapepam and LK Regulation Number II.K.1 concerning Criteria and Issuance of a Sharia Securities List and was followed by the launch of the first Sharia Securities List by Bapepam and LK on 12 September 2007. The development of the Sharia Capital Market reached a new milestone with the passing of Law Number 19 of 2008 concerning State Sharia Securities (SBSN) on May 7, 2008. This law is needed as a legal basis for the issuance of Islamic securities. ah state or state Sukuk. On August 26, 2008, for the first time, the Government of Indonesia issued SBSN series IFR0001 and IFR0002. On June 30, 2009, Bapepam-LK made improvements to Bapepam-LK Regulation Number IX.A.13 concerning Issuance of Sharia

Securities and II.K.1 concerning Criteria and Issuance of List of Sharia Securities [Ira16].

A complete set of regulations does not guarantee that the Indonesian capital market will be free from adversity. The collapse of the United States capital market at the end of 2008 as a result of the global economic crisis, which affected the investment climate in Indonesia and the national economy, proved how fragile the legal system and the capitalist economic system adopted by Indonesia [Wiy13]. Sharia capital market products available until the end of 2016 consist of sharia stocks, Sukuk, sharia mutual funds, and sharia Exchange Traded Funds (ETF) [Pra17].

Based on data from the Financial Services Authority (OJK), as of December 31, 2016, the development of the sharia capital market was quite encouraging, namely, sharia shares with a value of 3,170.06 Trillion market share of 55.10 percent, sharia mutual funds 11.88 Trillion market share 4.40 percent, corporate Sukuk 313.39 Trillion market share 3.79 percent and state Sukuk 411.37 Trillion market share 14.82 percent. For sharia capital market players, investment managers managing sharia mutual funds with 45 actors, nine issuers of sharia securities lists, 11 custodian banks and sharia mutual funds, two sharia account administrators, Sukuk underwriting securities 11 corporations, four Sukuk issuance trustees, and 32 Capital Market Sharia Experts (ASPM). It can be seen that the market share of financial assets and products still has to be increased in terms of the number of Islamic financial institutions, the variety of products must be increased to provide more choices for the public, and people's understanding of Islamic finance needs to be increased so that they feel the need for Islamic financial products/services [Rah18].

The legal basis and regulation of the capital market in Indonesia Historically, the regulation regarding the capital market began to be carried out through the Emergency Law Number 13 of 1951 concerning the Exchange, which was later stipulated as Law Number 15 of 1952 concerning the Stipulation of the Emergency Law concerning the Exchange. Based on the Decree of the Minister of Finance Number 289737/UU dated November 1, 1951, the Exchange was handed over to the Money and Securities Union (PPUE) [Rah19a].

In addition to making arrangements to recognize capital market activities, in 1972, the government formed the Capital and Money Market Supervisory Agency (Bapepum). Subsequently, on December 28, 1976, several arrangements were issued:

1. Presidential Decree Number 52 of 2976 concerning the Establishment of a Capital Market Advisory and Implementing Body (Bapepan);
2. Government Regulation Number 25 of 1976 stipulated by PT. Danareksa as the first state-owned company to go public with state capital participation of IDR 50 billion;
3. Decree of the Minister of Finance Number 1670 of 1976 concerning the Implementation of the Exchange;

4. Decree of the Minister of Finance Number 1672 of 1976 concerning Procedures for Offering Securities to the Public through the Exchange; and
5. Decree of the Minister of Finance Number 1673 of 1976 concerning the Regulations for Securities Trading at the Exchange [Rah19a].

On August 10, 1977, the Jakarta Stock Exchange was officially reactivated. The activation of the stock exchange does not automatically stimulate capital market activities due to several obstacles:

1. There is a minimum profit requirement of 10 percent for two consecutive years for companies wishing to go public;
2. Foreign investors cannot participate;
3. The maximum limit of stock price fluctuation is 4 percent from the initial price/day; and
4. Income tax on dividends is more significant than deposit interest, so many invest in deposits.

The existence of obstacles that cause sluggish capital market activities, prompting the government to deregulate in order to stimulate capital market growth:

1. The December 1987 package (Pakdes) which contains: elimination of minimum profit, new instruments in the form of show shares, opening a parallel exchange for securities transactions of small and medium-sized companies, eliminating the fluctuating maximum limit of 4 percent;
2. The October 1988 package (Pakto) contains tax imposition on deposits, savings; the limit of bank credit issuance is a maximum of 20 percent and 50 percent of the capital of the lending bank;
3. Minimum capital for the establishment of a bank;
4. The December 1988 package (Pakdes) contains: private opportunities to establish and organize exchanges outside Jakarta to facilitate investors investing;
5. Decree of the Minister of Finance Nomo 1055/KMK.013/1989 regarding the purchase of shares by foreign investors in the capital market, with a maximum limit of 49 percent in the primary market and 49 percent in the secondary market (on the stock exchange parallel exchanges); and
6. Decree of the Minister of Finance Number 1548/KMK.103/1990 was amended by Decree of the Minister of Finance Number 199/KMK.010/1991, which stipulated that the duties of Bapepam, which was initially the Capital Market Implementing Agency, became the Capital

Market Supervisory Agency, which functions as a supervisor, and regulator capital market. Besides, PT. The Indonesian Central Securities Depository (KSEI) functions as the Depository and Settlement Institution (LPP), PT. Indonesian Clearing and Underwriting (KPEI), which functions as a Clearing and Guarantee Institution (LKP) [Rah19a].

Since deregulation, capital market activity has proliferated. If in the 1984-1988 period there were no companies that went public, then in 1989, there were 37 companies that went public, and their shares were listed on the JSE. Also, since 1989, there has been the privatization of the stock exchange with:

1. The establishment of PT. Surabaya Stock Exchange (SSE) on June 16, 1989;
2. The establishment of PT. The Indonesian Parallel Exchange (BPI) on April 2, 1991;
3. The establishment of PT. Jakarta Stock Exchange (BEJ) on July 13, 1992;
4. The merger of PT. BES and PT BPI on 22 July 1995; and
5. The merger of PT. BES and PT BEJ on December 1, 2007, there is currently only one Stock Exchange, namely the Indonesia Stock Exchange.

June 1, 1996, was a milestone for legal certainty for capital market activities with the issuance of Law Number 8 of 1995 concerning the Capital Market complemented by Government Regulation Number 45 of 1995 concerning Conducting Activities in the Capital Market and Government Regulation Number 46 of 1995 concerning Audit Procedures in the Capital Market Sector. Subsequently, on November 22, 2001, the government issued the OJK Law, which brought changes to the supervision of capital market activities, which previously were in the hands of Bapepam LK, shifted to OJK.

The regulations in the capital market can be classified as follows:

1. Capital Market Law
 - a Law Number 8 of 1995 concerning Capital Market.
2. Related Laws
 - a Law Number 21 of 2011 concerning the Financial Services Authority;
 - b Law Number 40 of 2007 concerning Limited Liability Companies;
 - c Law Number 25 of 2007 concerning Investment;
 - d Law Number 19 of 2008 concerning State Sharia Securities;

- e Law Number 24 of 2004 concerning Sovereign Debt Instruments;
 - f Law Number 25 of 2003 concerning the Crime of Money Laundering; and
 - g Law Number 8 of 1997 regarding Company Documents.
3. Government regulations
- a Government Regulation Number 12 of 2004 concerning Amendments to Government Regulation Number 45 of 1995 concerning Implementation of activities in the Capital Market Sector;
 - b Government Regulation Number 45 of 1995 concerning Conducting Activities in the Capital Market; and
 - c Government Regulation Number 46 of 1996 concerning Investigation Procedures in the Capital Market Sector.
4. Decree of the Minister of Finance
- a Permenkeu Number 153/PMK.010/2010 concerning Share Ownership and Capital of Securities Companies;
 - b Kepmenkeu Number 455/KMK.01/1997 concerning Purchase of Shares by Foreign Investors through the Capital Market;
 - c Decree of the Minister of Finance of the Republic of Indonesia Number 645/KMK.010/1955 concerning the Revocation of Decree of the Minister of Finance Number 1548/KMK.013/1990 concerning Capital Market as Amended Last by Decree of the Minister of Finance Number 284/KMK.010/1955; and
 - d Kepmenkeu Number 646/KMK.01/1955 concerning Ownership of Shares or Mutual Fund Participation Units by Foreign Investors.
5. Bapepam/OJK regulations
- Bapepam/OJK regulations include regulations regarding the activities of: Stock Exchange; Clearing Guarantee Institution (LKP); Depository and Settlement Institution (LPP); mutual funds; Securities companies, Securities company representatives, and investment advisers; capital market supporting institutions; capital market supporting professions; issuers and public companies; public documents and reports to Bapepam; inspection by Bapepam; sanki; and other regulations.
6. Regulations from the Self Regulatory Organization (SRO)
- SRO is an institution that can self-regulate and make rules for institutional activities or membership of the institution itself. SRO is not part of the government

but is an organization that is given the responsibility of the capital market authority to regulate and manage its operational activities and business behavior to protect investors and the public from the actions of dishonest capital market players. According to John W. Carson, “an SRO is a private institution that establishes, monitors compliance with, and enforces rules on securities markets and the conduct of the SRO’s members.” Even though it is not a government agency, the SRO has the authority to set rules for its members, oversee, enforce, and impose sanctions in the event of a violation of these rules. The arrangements made by the SRO are aimed at creating fairness and order in capital market activities. In Indonesia, this SRO consists of the Stock Exchange (Indonesia Stock Exchange), Clearing and Guarantee Institutions (in this case, it is organized by PT Kliring and underwriting Indonesia Securities) and the Depository and Settlement Institution (organized by the Indonesian Central Securities Depository) [Rah19a].

3.3 Legal Basis of Sharia Capital Market

As one of the activities in the muamalah is investing. Investments are highly recommended in order to develop the gift of Allah s.w.t. Islam does not allow wealth to be piled up and hoarded. Because such things are wasting Allah s.w.t.’s creation from the actual function of assets and economically will be dangerous because there will be the concentration of wealth only in certain groups, another basis that encourages every Muslim to invest is the zakat command that will be imposed on all forms of underproductive/unproductive assets. This condition will cause the erosion of this wealth. The legal basis for the Sharia Capital Market is explained in the Al-Qur’an: Surah al-Baqarah verses 275, 278, 279; Surat an-Nisa’ verse 29; Surat al-Maidah verse 1; Surat al-Jumu’ah verse 10 [Dan19][Moh18].

The foundation of a fatwa is also needed as a basis for establishing sharia principles that can be applied in the capital market. There have been 14 fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI) relating to the Indonesian sharia capital market since 2001, which include, among others:

1. Fatwa Number 20/DSN-MUI/IX/2001 concerning Guidelines for Investment Implementation for Sharia Mutual Funds;
2. Fatwa Number 32/DSN-MUI/IX/2002 concerning Sharia Bonds;
3. Fatwa Number 33/DSN-MUI/IX/2002 concerning Sharia Mudharabah Bonds;
4. Fatwa Number 40/DSN-MUI/X/2003 concerning Capital Market and General Guidelines for the Application of Sharia Principles in the Capital Market Sector;
5. Fatwa Number 41/DSN-MUI/III/2004 concerning Sharia Ijarah Bonds;

6. Fatwa Number 59/DSN-MUI/V/2007 concerning Convertible Sharia Mudharabah Bonds;
7. Fatwa Number 65/DSN-MUI/III/2008 concerning Sharia Pre-emptive Rights (HMETD);
8. Fatwa Number 66/DSN-MUI/III/2008 concerning Warrant Sharia;
9. Fatwa Number 69/DSN-MUI/VI/2008 concerning State Sharia Securities (SBSN);
10. Fatwa Number 70/DSN-MUI/VI/2008 concerning SBSN Issuance Method; and so forth

There are also three Bapepam-LK Regulations governing the sharia effect since 2006, namely:

1. Bapepam-LK Regulation Number IX.A.13 concerning Issuance of Sharia Securities;
2. Bapepam-LK Regulation Number IX.A.14 concerning Akads Used in the Issuance of Sharia Securities in the Capital Market; and
3. Bapepam-LK Regulation Number II.K.1 concerning Criteria and Issuance of Sharia Securities List.

Meanwhile, the latest regulations from the OJK regarding the Sharia Capital Market are:

1. POJK Number 15/POJK.4/2015 concerning the Application of Sharia Principles in the Capital Market;
2. POJK Number 17/POJK.4/2015 concerning Issuance and Requirements for Sharia Securities in the Form of Shares by sharia issuers or sharia public companies;
3. POJK Number 18/POJK.4/2015 concerning the Issuance and Requirements of Sukuk;
4. POJK Number 19/POJK.4/2015 concerning Issuance of Sharia Mutual Funds;
5. POJK Number 20/POJK.4/2015 concerning the Issuance and Requirements for Sharia Asset-Backed Securities, which refine and at the same time separate the regulatory provisions related to existing sharia asset-backed securities; and
6. POJK Number 16/POJK.4/2015 concerning Capital Market Sharia Experts [Kha19]

4. Conclusion

Investment can be interpreted as an investment of money or capital in a company or project that aims to make a profit. When viewed from Islamic financial terminology, investment is a combination of investors who contribute a surplus of money to obtain a lawful income that is following the perspective of sharia. Historically, the regulation regarding the capital

market began to be carried out through the Emergency Law Number 13 of 1951 concerning the Exchange, which was later stipulated as Law Number 15 of 1952 concerning the Stipulation of the Emergency Law concerning the Exchange. In the Indonesian capital market system, activities in the capital market that apply sharia principles initially refer to Law Number 8 of 1995 concerning the Capital Market, the implementation of technical regulations stipulated in Bapepam-LK Regulations, Government Regulations, Stock Exchange Regulations, and others. -other. The foundation of a fatwa is also needed as a basis for establishing sharia principles that can be applied in the capital market. There have been 14 fatwas issued by the National Sharia Council of the Indonesian Ulama Council (DSN-MUI) relating to the Indonesian sharia capital market since 2001. Besides, there is also a Bapepam LK (Financial Services Authority) Regulation.

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