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The Consept of the Capital Market According To Conventional and Islamic Perspevtives

Muhamad Izazi Nurjaman
Universitas Islam Negeri Sunan Gunung Djati Bandung
muhamadizazinurjaman@gmail.com

Abstract

This research discusses the concept of capital market in conventional and sharia glasses. Using qualitative research methods that are theoretical narratives, this study found the fact that the concepts of conventional capital markets and sharia capital markets have significant similarities and differences. The similarity can be seen from the regulations that become the legal umbrella of the implementation of its operations. The difference is can be seen from the stock index, the instrument of its products and the mechanism of its activities. Similarities and differences in capital market concepts, can provide an overview of the limitations and conditions carried out by investors. So that investors can consider investment activities that not only provide profit but the level of business achievement that is blessing in achieving benefits and fairness in order to carry out investments in accordance with the criteria of sharia principles..

Keywords: *Concept, Capital Market, Sharia and Conventional*

INTRODUCTION

The development of conventional economic system has indeed colored the economic system in Indonesia. So that various economic products become one that fills the implementation of economic sustainability. Whether it is related to regulation, implementation in the form of institutions or related to human resources that become economic actors.

The implementation of regulations in the form of such institutions, characterized by banking and capital market activities. Because it becomes one of the financial turnover related to investment media and the container of capital provision for entrepreneurs in order to increase their trading activities (Faozan, 2013). Over time, the conventional economic system does not provide satisfaction for the perpetrators so it can no longer meet their expectations. So especially for Indonesian Muslims there is an awareness of paying attention to an understanding of the economy based on sharia law (Gayo, 2011). So that the islamic economy is present in order to realize a goal that cannot be (Sanrego, 2014).

Awareness of sharia practice perfectly in all aspects of life experienced significant growth, marked by many discussions related to the Islamic economic system as the forerunner of the birth of Sharia banking (Faozan, n.d.). La création de la Banque Muamalat Indonésie est devenue l'une des dynamiques d'un mouvement économique islamique, devenant même l'une des premières institutions bancaires en Indonésie dont les activités de transaction prêtent attention à l'efficacité et à l'équité basées sur les principes de la charia (Faisal, 2015). So BMI became the forerunner of the birth of other financial institutions that followed it, both in the form of banks as a whole and in the form of bank units. In addition, non-bank financial institutions have sprung up such as sharia insurance institutions, sharia capital markets and sharia-based investment institutions.

Speaking of non-bank financial institutions, it is not interesting not to discuss capital markets. In Indonesia the position of the capital market has been known since the time of the Dutch East Indies. This can be seen with the establishment of exchange Number 13 year 51. The establishment of the exchange was affirmed by the birth of Law No. 15 of 52 (Faozan, 2013). As for sharia capital market, its position can be known since the issuance of sharia mutual funds. It is one of sharia capital market instruments issued by PT. Danareksa Investment Management in 1997.

The continuation of sharia capital market development can also be known in 2000, namely when the Indonesia Stock Exchange (IDX) in cooperation with PT. Danareksa Investment Management. The cooperation was marked by the launch of the Jakarta Islamic Index (JII), an institution that serves to list a company that can be categorized as a sharia-based company. It is also characterized by the listing of 30 sharia-based stocks from several companies that have been indexed in accordance with sharia principles (Ridwansyah, 2019).

Sharia capital market which is a continuation of the emergence of sharia non-bank financial institutions to be a reformer to conventional capital markets. So it gives its own color in the development of the capital market world with the same system but certainly has a difference that is characteristic. Therefore, in uncovering the capital market that first acted to fill the position of nonbank Financial Institutions in Indonesia, with sharia-based distribution capital market. It becomes something interesting to study and research. Therefore, based on the presentation, this study will explain the concept of capital market reviewed from a conventional and sharia perspective. Thus providing a comprehensive exposure to the position of capital market development in Indonesia.

METHOD

The writing of this article uses qualitative methods. Data sources in the form of publications related to capital market concepts. This type of data is a theoretical narrative that discusses the concept of capital markets. The collection of research data is conducted by tracking publications that discuss capital market concepts, which are taken from various references such as books, scientific journals, research reports, thesis, thesis, dissertations and other references related to research objects. The data analysis techniques are done descriptively-interpretively.

RESULTS AND DISCUSSION

The capital market is a meeting place between the parties who have funds and the parties who need funds. The traded funds are long-term funds in the form of securities (Manan, 2017). Long-term funds typically have maturities of more than one year (Iska, Ag, and Nengsih, 2016). The name of the market must be in it there is a meeting between demand and supply (Setiawan, 2017). Demand in the capital market comes from investors who want to invest. The offer comes from the issuer by issuing the securities of the company and then selling it. Securities traded are usually securities such as stocks and bonds. Because the object is traded in the form of securities, another name of the capital market is also known as the stock exchange (Faozan, 2013).

Officially, according to the capital market law states that the capital market is all activities related to the process of securities trading transactions in the capital market, including companies that offer securities along with supporting institutions and professions that are in it. In relation to sharia capital market in general, all capital market activities stipulated in the capital market law with provisions should not be contrary to sharia principles (OJK, 20116).

In practice, sharia capital market activities are regulated by the provisions of the financial services authority (OJK). Therefore, in substance sharia capital market is a reformer institution whose operational system is not separate from the general / conventional capital market provisions. So that all activities in sharia capital market are the same as activities in conventional capital market. But of course sharia capital market has its own characteristics, namely all products owned by issuers and transaction mechanisms must have criteria that do not conflict with sharia provisions.

The terminology of sharia capital market is an activity in the capital market as stipulated in the UUPM that is not contrary to sharia principles. Sharia capital market can also be interpreted as all activities in the capital market that are not contrary to Islamic principles and regulated by the Financial Services Authority (OJK), especially the directorate of sharia capital market. Therefore, sharia capital market is not a separate system from the capital market system as a whole. In general, sharia capital market activities have no difference with conventional capital markets, but there are special characteristics of sharia capital market that each product and transaction mechanism should not be contrary to sharia principles.

According to the fatwa DSN-MUI there are provisions related to the application of several sharia principles in sharia capital market operations, namely: First, all ways of managing the company by the issuer related to the type of business, products produced in the form of goods and services, transaction mechanisms used in the operational process and in the issuance of securities must be in accordance with sharia principles established by DSN-MUI. Second, the implementation of all transactions carried out should pay attention to the principle of prudence to avoid transactions that contain manipulation and even oriented to speculation alone. In addition, it must be avoided from the elements of humanity, obscurity, usury, gambling and even cause injustice DSN-MUI, 2003).

It is also similar to the Compilation of Sharia Economic Law which states that there are several types of capital market business activities that are contrary to sharia principles, among others: business activities containing elements of gambling and speculation games, conventional financial institutions, illegal food and beverages, providers of goods or services that damage ethics and morals and even bring harm and investment agreements of a company that has a higher level of debt ratio dom from its capital to financial institutions containing elements of usury (Mahkamah Agung, 2011). The types of transactions that are prohibited in sharia capital market are Tadlis, Taghrir, Gharar, Tanajusy/Najsy, Ikhtikar, Ghisysy, Ghabn, Bai al Ma'dum and Riba (DSN MUI, 2011). While related to the agreement that is widely used in sharia capital market is ijarah, istishna, kafalah, mudharabah, musyarakah and wakalah (OJK, 2016).

Basic Law of Conventional and Sharia Capital Market

The legal basis for sharia capital market operational system does not yet have official regulation. So the scope of the law still refers to capital market regulation in general. As for one of the sharia capital market instruments, sukuk /sharia bonds already have their own legal umbrella in Law No. 19 of 2008 concerning State Sharia Securities.

Some of the regulations that become the umbrella of capital market law in general consist of the Financial Services Authority (OJK), Capital Market Law, Limited Liability Company Law (PT), Government Regulation, Financial Services Authority Regulation (POJK), Indonesia Stock Exchange Regulation (IDX), Indonesian Custodian Central Regulation (KSEI) and Indonesian Securities Guarantor Clearing Regulation (KPEI) (Ridwansyah, 2019).

As for the handle of the preparation of a regulation on sharia capital market above of course race to the fatwa DSN-MUI related to sharia capital market. For example, in the preparation of POJK on sharia capital market, the financial services authority (OJK) will pay attention to the substance of the fatwa in its preparation. Thus the position of the fatwa becomes an unwritten legal source for sharia capital market institutions. Therefore, looking at the regulations governing the capital market in general, there are similar regulations that become the legal umbrella of sharia and conventional capital market operations. However, in practice in the field both have their own rules of play, in accordance with the characteristics of the business run.

Institutions Involved in The Capital Market

Capital market as a transaction platform for investors who have fresh funds certainly have several supporting institutions in order to facilitate and optimize the mechanism of capital market management itself. Some of the supporting institutions are:

1. **BAPEPAM (Capital Market Supervisory Board)**

Bapepam has a duty as a governing body, fostering and supervising the sustainability of capital market mechanisms. However, after the issuance of Law No. 21 of 2011 concerning the Financial Services Authority (OJK) the duties and authorities of Bapepam LK switched to (OJK) in terms of regulation and supervision.

2. **Prime Market SupportIng Institutions**

Primary market supporting institutions are also referred to as capital market professions, because in it there are two categories, namely In the form of institutions (companies) and certain professions (Pratiwi, 2020). Some of these professions are underwriters, public accountants, legal consultants, notaries, agents and appraisal companies.

3. **Supporting Institutions in Bond Emissions**

For bond emission support agencies there are several special supporting institutions, (Mandagi, 2017) *such as: Trustee, guarantor of paying agent.*

4. **Secondary Market SupportIng Institutions**

In relation to secondary market supporting institutions, it consists of institutions that provide services in the mechanism of buying and selling and selling securities on the stock exchange. The supporting institutions are securities companies, securities companies (issuers), Securities Administration Bureau (BAE) and mutual funds.

Types of Capital Markets

In carrying out its functions, the capital market is divided into 2 types, namely the primary market and secondary market.

Prime Market

The Primary Market is the first place where securities are offered by the issuer to investors for a limited period of time in accordance with the issuer's stipulated, in this case the OJK ("BUKU-PASAR MODAL SYARIAH (RAYMOND DANTES).Pdf," n.d.). The primary market is held as the first step of a securities owned by issuers can be traded on the secondary market ("BUKU-PASAR MODAL SYARIAH (RAYMOND DANTES).Pdf," n.d.). The period in question is at least 6 business days. The price of securities is determined by the underwriter's agreement with the public go company. Pricing is based on the company's fundamental analysis of the issuer as well as how much the position of the effect is absorbed by the strength of market demand. In practice, the price of the securities offered always exceeds the price stated in the securities sheet. The nominal advantage is called agio. Agio obtained from the difference does not include usury but rather the benefits of the bidding process agreed by the parties. The position of the effect is likened to the goods in general. So that the scholars allow the mechanism of buying and selling shares in the first market because in accordance with the principle of likes and likes among the parties ("BUKU-PASAR MODAL SYARIAH (RAYMOND DANTES).Pdf," n.d.).

The mechanism of buying and selling securities can be done by investors with issuers without going through brokerage services. It is one of the hallmarks of the mechanism of securities trading in the primary market, in addition to a limited period of time and a fixed price. Therefore, issuers that have obtained disbursements from the sale of these securities can use it in several purposes such as developing a business by increasing the amount of capital goods in producing goods and services, paying off production costs made in cash or even expanding the network by opening new branches and so on (Iska, Ag, and Nengsih, n.d.).

After the mechanism of buying and selling securities in the primary market is implemented. Issuers and underwriters report to the OJK regarding the number of securities that can be sold including returns from investors. So the OJK will take note and the issuer is required to pay a listing fee. After the listing process, the position of the securities can be traded in the secondary market (Dantes, 2019).

Secondary Market

The secondary market is a continuation of stock trading transactions among investors after passing the bidding mechanism in the primary market. It can be done after the emissions permit is granted within 90 days and the effect to be traded has been recorded foamed. In this secondary market the price of securities fluctuates according to market conditions.

The index is used as an indicator in looking at the movement of the stock price determined based on the exchange rate of the securities. In determining the exchange rate of the stock, the capital market index will pay attention to the fair price of the market and how much the transfer of ownership of the securities among investors. So that the index can measure the performance of the capital market and provide relevant information related to the movement of stocks and also risks to other investors. Therefore, in this primary market the real performance of a company can be seen from the price movement of its securities (Dantes, 2019). There are two places where transactions occur in the secondary market (Iska, Ag, and Nengsih, 2016) namely:

1. Regular exchanges are official stock exchanges such as the Jakarta Stock Exchange (IDX), and the Surabaya Stock Exchange (BES) which is now merged into the Indoensia Stock Exchange (IDX). A parallel exchange is a system of securities offerings outside the official exchange.
2. This parallel market is regulated and conducted by the Trade Union of Money and Securities (PPUE) based on the supervision and guidance of the Financial Services Authority (OJK).

For companies categorized as part of the Sharia Securities List. Surely will always pay attention to the halal ownership of its shares. Both the ownership to benefit in the form of dividends, as well as from capital gains by reselling its shareholding in this secondary market. So that the secondary market facilitates investors to increase cash needs or take additional value on their assets by releasing ownership of their assets.

Capital Market Instruments

Capital market instruments when compared to the market in general have a position as a traded object. These objects are goods and services. Objects traded in the capital market in the form of securities. Capital market instruments in the form of securities have two properties, namely there are ownership called shares and some are debt called bonds. Because the object of the transaction is the ownership of some of the company's assets. Indirectly, investors have cooperated with the company. So that the profit sharing process will be obtained by investors in the General Meeting of Shareholders (GMS).

Sharia capital market instrument certainly has a difference with conventional capital market instruments. Sharia criteria are one of the differentiators between the two. So that the shares of companies whose business fields are in accordance with sharia principles are introduced to the public as investors.

In addition, the type of instrument also distinguishes between the two. Conventional capital market has several instruments that become the object of buying and selling, among others: stocks. Bonds and derivative instruments. Such as mutual funds, warrants and options. While sharia capital market instrument consists of sharia stocks, sharia bonds and sharia mutual funds (Rahmawati, 2015). In addition, in its development there are several derivative instruments such as Sharia Real Estate Investment Fund (DIRE syariah) and Sharia Asset-Backed Securities (EBA Syariah) as well as Sharia commercial securities (Selasi, 2018).

In addition to some instruments that are allowed in the Sharia capital market, there are some instruments that are forbidden to be traded in sharia capital market because they are contrary to sharia criteria and principles (Rahmawati, 2015). Some of those instruments are: First, Preffered stock. This type of stock contains an element of injustice. That's because shareholders have certain privileges in the event of a fixed profit that cannot be affected by anything. Although the company went into liquidation. According to the scholars the fixed profit is categorized as usury.

Second, Forward Contract. This type of stock has similarities with the sale and purchase of debt (dayn bi dayn) containing the element of usury. So sharia capital market does not allow this instrument to be introduced to the public. In addition, transactions made in the forward are carried out before the due date. So it contains an element of injustice between one of the parties.

Third, Option. A right owned by capital market actors to sell and buy an instrument that is not accompanied by the existence of its assets. So the scholars argue that option transactions are the same as buying and selling goods that do not exist and the owner of the goods also does not promise to hold goods / instruments that are traded. So that the transaction contains obscurity that can harm one of the parties and contain elements of *maysir (gambling).*

Analysis Review

Based on the brief exposure above, it can draw a common thread against some similarities and differences between conventional and sharia-based capital markets. The similarity is that both have core regulations, namely capital market law and financial services authority law. The difference can be seen in the instruments that are characteristic and transaction mechanisms as a method of transferring capital ownership and stock index. The exposure of these differences include:

1. **Stock index**

Differences in both stock indices can be seen in the sorting of stocks issued by issuers. Conventional stock indexes will include all shares of issuers listed in the stock market. It is done without going through the screening process. So it does not pay attention to the aspects of halal haram related to the instrument or the process of operational activities of the issuer. Sharia stock indexes always conduct a screening process. The process is carried out by taking into account the position of shares issued by the issuer. The position of the shares must meet the criteria of sharia principles set by DSN-MUI, both in the operational mechanism of the company and the instrument transacted. So that the shares listed in the Sharia capital market are stocks that have been through the selection process by managers and expert teams in jakarta Islamic Index (JII) and other sharia capital market indexers.

2. **Instrumens**

In conventional capital markets, instruments offered in the form of securities such as stocks, options, right, warrants and mutual funds (Ramadhan, 2016). While in sharia capital market are sharia stocks, bonds, sharia, sharia mutual funds, Sharia Real Estate Investment Fund (DIRE syariah) and Sharia Asset-Backed Securities (EBA Syariah) as well as other instruments based on sharia principles (OJK, 2016). In relation to sharia stocks, there are several records that need to be considered, among others: sharia stocks issued by issuers are shares that have been listed in the Sharia Securities List (DES). In relation to mutual funds, the position of investment manager as a fund manager must be accompanied by the Sharia Supervisory Board (DPS).

While related to sukuk / sharia bonds issuance conducted by issuers must obtain sharia opinion from the Sharia Expert Team (OJK, 2016). Some of those records are not owned by the provisions of conventional capital market instruments. Thus, it becomes one of the differentiating factors between conventional and sharia capital markets.

3. Transaction mechanism

Related to the operational mechanism of capital market transactions, the inherent difference between the two is related to speculation in seeking profit. In conventional capital markets, speculation has always been used as a method of issuers in profiting. While in sharia capital market, speculation is a prohibited activity because it causes obscurity. So it is avoided by sharia capital market players. Although on other occasions, there are some things that are prohibited in the world of capital markets such as insider trading practices and manipulation of financial statements. But for sharia capital market, anything related to obscurity, cheating that causes losses between the parties. Therefore, these transactions are recommended to be avoided. In addition, the transaction process conducted by the issuer must be avoided from usury practices, avoid unethical transactions or unscrupulous transactions, and the process of buying and selling shares should not be done directly as the process of buying and selling shares in the conventional capital market through broker brokers. The fundamental reason is that if the transaction process is represented to the broker then the principle of prudence applied by sharia capital market is to stop speculators from playing the share price traded (Rahmarisa, 2019).

Thus, the concept of capital market according to conventional and sharia perspective has similarities and differences. Thus providing an overview of how novice investors can compare concepts, mechanisms and agreements used in the operation of sharia capital market implementation in Indonesia. Therefore, novice investors can know the limits and conditions of investment in accordance with sharia principles that will provide benefits and achievement of benefits for anyone who implements them.

CONCLUSION

The concept of sharia capital market is inseparable from the conventional capital market concept as a whole. Because sharia capital market as a reformer in the development of sharia-based nonbank financial institutions. So that there are special characteristics that become characteristic of each instrument, activities and mechanisms of transactions carried out should not be contrary to sharia principles. Then of course both have significant similarities and differences. The similarity can be seen from the regulations that become the legal umbrella of operational implementation in the field. The difference is can be seen from the stock index, the instrument of its products and the mechanism of its activities. By knowing the similarities and differences in capital market concepts, it can give an idea of the limitations and conditions carried out by novice investors to consider sharia-based investment activities so as not only to provide profit but a level of business achievement that is a blessing in achieving mutual benefit.

REFERENCES

Antonio, Muhammad Syafii. *Bank Syariah dari Teori ke Praktik.* Jakarta: Gema Insani, 2001.

Dantes, Raymond. *Wawasan Pasar Modal Syariah.* Ponorogo: Wage Grouf, 2019.

Dewan Syariah Nasional Majelis Ulama Indonesia. Fatwa DSN MUI Nomor 40 Tahun 2003 tentang Pasar Modal dan Pedoman Umum Penerapan

Faisal. *Hukum Ekonomi Islam.* Lhokseumawe: Unimal Press, 2015.

Faozan, Akhmad. (2013). *Konsep Pasar Modal Syariah. Mutasid: Jurnal Ekonomi dan Perbankan Syariah*, V 4 (2), 2. https://muqtasid.iainsalatiga.ac.id/index.php/muqtasid/article/view/67.

Fatwa DSN MUI Nomor 40 Tahun 2003 tentang Pasar Modal dan Pedoman Umum Penerapan Prinsip-Prinsip Syariah Di Pasar Modal.

Gayo, Ahyar A. *Kedudukan Fatwa MUI dalam Upaya Mendorong Pelaksanaan Ekonomi Syariah.* t.m: Pengayoman, 2011.

Gusniarti. (2015). *Perdagangan di Pasar Modal Dalam Perspektif Islam.* Jurnal Perdagangan Saham di Pasar Modal Syariah Perspektif Ekonomi Syariah, Vol 1 (1), 1-18. http://ejournal.iainbengkulu.ac.id/index.php/Al-Intaj/article/download/764/679.

Iska, Syukri dan Ifelda Nengsih. *Manajemen Lembaga Keuangan syariah Nonbank: Teori, Praktik dan Regulasi.* Padang: Jasa Surya Padang, 2016.

Kompilasi Hukum Ekonomi Syariah

Manan, Abdul. *Asfek Hukum dalam Penyelenggaraan Investasi di Pasar Modal Syariah Indonesia.* Jakarta: PT Fajar Interpratama Mandiri, 2017.

Mandagi, Vicky Randa Swingly. (2017). *Peranan Profesi Penunjang Pasar Modal Sebagai Lembaga Keuangan Menurut Undang-undang Nomor 8 Tahun 1995 tentang Pasar Modal.* Jurnal Lex Privatum, V 5 (3), 113. https://media.neliti.com/media/publications/151591-ID-peranan-profesi-penunjang-pasar-modal-se.pdf.

Mardi. (2015). *Pasar Modal Syariah.* Edunomic Jurnal Pendidikan Ekonomi, V 3 (1), 144. https://www.fkip-unswagati.ac.id/ejournal/index.php/edunomic/article/view/116

Otoritas Jasa Keuangan. *Modul Pasar Modal Syariah.* Https://pasarmodalsyariah.com/p/publikasi/lainnya (Diakses Pada 3 Maret 2021).

Otoritas Jasa Keuangan. *Mengenal Pasar Modal Syariah.* Https://pasarmodalsyariah.com/p/publikasi/lainnya (Diakses Pada 3 Maret 2021).

Otoritas Jasa Keuangan. *Pasar Modal Syariah.* Https://pasarmodalsyariah.com/p/publikasi/lainnya (Diakses pada 3 Maret 2021.

Pratiwi, Linda. (2020)*. Mekanisme Perdagangan Efek Syariah di Indonesia.* Jurnal Ilmu Akuntansi dan Bisnis Syariah, V 2 (1), 36. https://journal.uinsgd.ac.id/index.php/aksy/article/view/7859.

Rahmarisa, Faty. (2019). *Investasi Pasar Modal Syariah.* Jurnal Ekonomi Keuangan dan Kebijakan Publik, V i (2), 81. https://jurnal.uisu.ac.id/index.php/JEKKP/article/view/2263.

Rahmawati, Naili. *Manajemen Investasi Syariah.* Mataram: Institut Agama Islam Negeri (IAIN) Mataram, 2015.

Ramadhan, Sri. (2016). *Pasar uang dan Pasar Modal dalam Perspektif Ekonomi Islam. Al-Masraf: Jurnal Lembaga Keuangan dan Perbankan, V 1 (2), 204. http://journal.febi.uinib.ac.id/index.php/almasraf/article/downloadSuppFile/56/63.*

Ridwansyah, Muh. 2019). Pasar Modal Syariah (PMS) di Indonesia." *Jurnal Ekonomi dan Bisnis Syariah* 96. http://journal.iaialmawar.ac.id/index.php/jebs/article/view/194.

Sanrego, Yulizar D. *Falsafah Ekonomi Islam.* Jakarta: CV karya Abadi, 2014.``

Selasi, Dini. (2018). *Ekonomi Islam; Halal dan Haramnya Berinvestasi Saham Syariah.* Maro, Jurnal Ekonomi dan Bisnis, V 1 (2), 91. https://media.neliti.com/media/publications/289447-ekonomi-islam-halal-dan-haramnya-berinve-67364838.pdf.

Sulubara, Seri Mughni dan Irma Atiega Rangkuti. (2011). *Fungsi Pengawasan BAPEPAM-LK dalam Praktek Insider Trading Terhadap Perusahaan Publik dalam Pasar Modal.* Jurnal Mercutoria, V 4 (1), 61.https://ojs.uma.ac.id/index.php/mercatoria/article/view/609.

Wibowo, Sigit. (2017). *Implementasi Transaksi Jual Beli Saham Di Pasar Modal Dalam Perspektif Hukum Islam.* jurnal Cakrawala Hukum, V 14 (1), 84-100. https://ejournal.up45.ac.id/index.php/cakrawalahukum/article/download/333/296