

## **FIQH MUAMALAH IN SHARIA CAPITAL MARKET IN INDONESIA: A LITERATURE REVIEW**

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**Abstract:** The Islamic capital market is a reality and a current phenomenon amid Muslim life, as a means of muamalah whose transactions do not contain usury, speculation, garar (obscurity), and fraud. This study aims to map the main themes discussed in the Islamic capital market, using qualitative methods with content analysis sourced from articles in the Google Scholar database. The data was obtained using the Publish or Perish (PoP) application for a period of 18 years (2004-2022) with the keywords Islamic capital market, accessed on May 21, 2022, 202 articles (population) were obtained, and 40 articles were taken as samples, while the data collection analysis of 35 articles. The results of the study found that the most widely disclosed themes were 1) Islamic capital market products 25.35%; 2) Current issues 25.35%; 3) History and development; 21.3% 4) Fiqh Muamalah; 18.31% 5) Fatwa of DSN MUI 9.85%. The author of the article states that the capital market is in line with Islamic law in the field of muamalah. In its operation, speculators will inevitably act contrary to Islamic law, which can destroy capital market institutions and economic stability. In realizing the goals of sharia, grounding the capital market is done by cleaning up speculative practices. The current Islamic capital market has become a vital means of the modern economy that products must be developed and invites investors with integrity to Islamic law.

**Keywords:** Islamic capital market, mudharabah, muamalah fiqh.

### **INTRODUCTION**

The teachings of Islam, which are the straight path, are not traditional and rigid religions. They are the givers of the various problems that humans encounter in the course of their lives. Therefore humans are always ordered to think and try to find a way out of various problems. Muslims should have a concept that contains a way of life to deal with the development and progress of the times with the various problems that arise. One area that is always hot to talk about and always appears amid society is circulation or economic circulation, according to the progress of the times. This problem is getting more expansive and diverse, and humans carry out various transactions to meet needs such as corporate problems, credit, cooperatives, insurance, and other economic problems. This often becomes complicated, especially when faced with Islamic law. One of them is about the capital market. This paper tries to examine from the perspective of muamalah fiqh the current functioning of the capital

market. For this reason, the author tries to discuss the theme of the capital market in Indonesia, a review of Islamic law from the perspective of fiqh, muamalah <sup>1</sup>

The following study of the capital market in Islamic law is also inseparable from the above interests. Moreover, the capital market has become vital in modern economic life. Therefore, the study of Islamic law on capital market issues is more directed to the interest of implementing the mission of Islamic teachings in an institution that is said to have become the economic nerve of this modern world. The capital market is not only seen as halal or haram in transacting it but also needs to be studied how the opportunities to make the capital market Islamic in the sense of utilizing the capital market to realize the mission of Islamic economics. This paper seeks to clarify the principles or mission of Islamic law in photographing economic activity and its application to capital market operations <sup>2</sup>.

## **RESEARCH METHOD**

This study uses qualitative research methods with content analysis from articles from the Google Scholar database. The content analysis aims to get a mapping of the main themes discussed in the article obtained over a certain period of 18 years from 2004-2022 the Publish or Perish (PoP) application from Google Scholar with the keywords Islamic capital market and obtained which was accessed on May 21 2022 at 20:22 and 202 papers were obtained, and then 40 articles with the highest order were taken.

The articles were analyzed by content analysis with a qualitative descriptive approach, and 40 articles were selected for further analysis.

The following steps are then carried out:

- a. Problem Formulation: Content analysis begins with the formulation of a specific research problem
- b. Media Selection (Data Source): determine the data sources relevant to the research problem. An in-depth observation of libraries and various mass media will often help determine the source of the data, which is determined by the period of time and the amount of media studied (sample). If the amount is excessive,

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<sup>1</sup> Subaidi Subaidi, "Rekonstruksi Hukum Pasar Modal Syariah dalam Memberi Jaminan Kepastian Hukum," *Istidlal: Jurnal Ekonomi dan Hukum Islam* 1, no. 2 (2 Oktober 2017): 155–66, <https://doi.org/10.35316/istidlal.v1i2.105>.

<sup>2</sup> Yenni Batubara, "Analisis Masalah: Pasar Modal Syariah Sebagai Instrumen Investasi Di Indonesia," *Jurnal Ekonomi dan Bisnis Islam* 7, no. 2 (2020): 236–54.

- c. Perform Operational Definition with unit analysis. Based on the topic or research problem
- d. Code Preparation and Checking Reliability: code is performed to identify the main characteristics of the category.
- e. Data Analysis and Preparation of Asraf Report, 2020

Content rating is based on disclosure with a dummy where "1" is for disclosing and "0" is not disclosing.

## RESULT AND DISCUSSIONS

### *Content Analysis*

The results of the content analysis of the articles collected can be seen in Table 1 as follows:

No	Author and Year	Article Title
1	<sup>3</sup>	Saham dan pasar modal syariah: Konsep, sejarah dan Perkembangannya
2	<sup>4</sup>	Analisa faktor–faktor yang mempengaruhi minat masyarakat berinvestasi di pasar modal syariah melalui Bursa Galeri Investasi UISI
3	<sup>5</sup>	Analisis minat investor di Kota Serang terhadap investasi syariah pada pasar modal syariah
4	<sup>6</sup>	Hukum Dalam Penerbitan Sukuk (Surat Berharga Syariah) Sebagai Instrumen Pembiayaan Dan Investasi Untuk Mendorong Pertumbuhan Pasar Modal Syariah

<sup>3</sup> Muhammad Yafiz, "Saham Dan Pasar Modal Syariah: Konsep, Sejarah Dan Perkembangannya," *Miqot: Jurnal Ilmu-Ilmu Keislaman* 32, no. 2 (2008): 232–46.

<sup>4</sup> Ahmad Dahlan Malik, "ANALISA FAKTOR-FAKTOR YANG MEMPENGARUHI MINAT MASYARAKAT BERINVESTASI DI PASAR MODAL SYARIAH MELALUI BURSA GALERI INVESTASI UISI ARTICLE HISTORY," *Jurnal Ekonomi dan Bisnis Islam*, vol. 3, 2017.

<sup>5</sup> Hadi Peristiwa, "Analisis Minat Investor di Kota Serang Terhadap Investasi SYariah pada Pasar Modal Syariah Hadi Peristiwa IAIN Sultan Maulana Hasanuddin Banten," *Jurnal Ekonomi Keuangan dan Bisnis Islam Volume* 7, no. 1 (2016): 37–52.

<sup>6</sup> Kesiapan Infrastruktur Hukum-Lastuti Abubakar dan Tri Handayani, Lastuti Abubakar, dan Tri Handayani, "PERTUMBUHAN PASAR MODAL SYARIAH INDONESIA," t.t.

5	<sup>7</sup>	Perbandingan kinerja instrumen investasi berbasis syariah dengan konvensional pada pasar modal di Indonesia *
6	<sup>8</sup>	Edukasi Literasi Keuangan Pasar Modal Syariah pada Pengurus Badan Usaha Milik Desa di Kecamatan Kolese Kota Baubau <sup>[11]</sup>
7	<sup>9</sup>	Perspektif Hukum Islam terhadap Pasar Modal Syariah Sebagai Alternatif Investasi Bagi Investor
8	WS Wahyuni (2015)	Perlindungan Hukum Bagi Pemegang Saham Pada Pasar Modal Syariah *
9	<sup>10</sup>	Faktor yang Mempengaruhi Minat Mahasiswa Berinvestasi di Pasar Modal Syariah Melalui Galeri Investasi Iain Zawiyah Cot Kala Langsa
10	<sup>11</sup>	Perkembangan pasar modal syariah dan kontribusinya terhadap pertumbuhan ekonomi di Indonesia
11	<sup>12</sup>	Pengaruh Pengetahuan Tentang Pasar Modal Syariah Terhadap Minat Investasi Saham di Pasar Modal Syariah
12	EA Hardi (2020)	Filantropi Islam: Zakat Saham di Pasar Modal Syariah Indonesia *
13	<sup>13</sup>	Konsep pasar modal syariah

<sup>7</sup> Budi Setiawan, "Perbandingan kinerja pasar modal Syariah dan Konvensional : suatu kajian empiris pada pasar modal Indonesia," *Jurnal Ilmiah Ekonomi Global Masa Kini* 8, no. 1 (2017): 35–40.

<sup>8</sup> Rudi Abdullah, "Edukasi Literasi Keuangan Pasar Modal Syariah pada Pengurus Badan Usaha Milik Desa di Kecamatan Kolese Kota Baubau," *Jurnal Abdidas* 2, no. 2 (11 April 2021): 323–28, <https://doi.org/10.31004/abdidas.v2i2.254>.

<sup>9</sup> Diana Wiyanti, "Perspektif Hukum Islam terhadap Pasar Modal Syariah Sebagai Alternatif Investasi Bagi Investor," *Jurnal Hukum IUS QUIA IUSTUM*, vol. 20, 2013.

<sup>10</sup> Haris Nandar, Mustafa Kamal Rokan, dan M Ridwan, "Faktor yang Mempengaruhi Minat Mahasiswa Berinvestasi di Pasar Modal Syariah Melalui Galeri Investasi Iain Zawiyah Cot Kala Langsa," *kitabah* 2, no. 2 (2018): 180–205.

<sup>11</sup> Nita Nurafiati, "PERKEMBANGAN PASAR MODAL SYARIAH DAN KONTRIBUSINYA TERHADAP PERTUMBUHAN EKONOMI DI INDONESIA," vol. 4, 2019.

<sup>12</sup> Malkan Malkan dkk., "PENGARUH PENGETAHUAN TENTANG PASAR MODAL SYARIAH TERHADAP MINAT INVESTASI SAHAM DI PASAR MODAL SYARIAH," *Jurnal Ilmu Perbankan dan Keuangan Syariah*, vol. 3, t.t.

<sup>13</sup> Akhmad Faozan dkk., "Konsep Pasar Modal Syariah," t.t.

14	<sup>14</sup>	Pengaruh Sosialisasi dan Pengetahuan Terhadap Minat Investor Pada Efek Syariah di Pasar Modal (Survei Pada Nasabah PT Danareksa Sekuritas Cabang
15	<sup>15</sup>	Kajian Pasar Modal Syariah dalam Mempengaruhi Pertumbuhan Ekonomi di Indonesia
16	<sup>16</sup>	Perbandingan Kinerja Pasar Modal Syariah Dan Konvensional: Suatu Kajian Empiris Pada Pasar Modal Indonesia
17	<sup>17</sup>	Sukuk Al Intifaa: Integrasi Sukuk dan Wakaf dalam Meningkatkan Produktifitas Sektor Wakaf Pendorong Investasi Pada Pasar Modal Syariah
18	<sup>18</sup>	Dampak Pandemic Diseases Terhadap Perkembangan Pasar Modal Syariah Di Indonesia
19	A Nazir (2017)	Pasar Modal Syariah di Indonesia *
20	<sup>19</sup>	Pengaruh Pemahaman Investasi, Dengan Modal Minimal Dan Motivasi Terhadap Minat Mahasiswa Dalam Melakukan Investasi Di Pasar Modal Syariah
21	Y Purwanti, P Nurastuti (2020)	Pengaruh Analisis Fundamental Dan Risiko Sistemik Terhadap Harga Saham Pada Pasar Modal Syariah *
22	<sup>20</sup>	Analisis Risiko Dan Imbal Hasil Fortofolio Pasar Modal Syariah Dan Pasar Modal Konvensional

<sup>14</sup> Husnul Khotimah, Sabar Warsini, dan Yenni Nuraeni, "Pengaruh Sosialisasi dan Pengetahuan terhadap Minat Investor pada Efek Syariah di Pasar Modal," *jurnal Account*, 2016, 423–33.

<sup>15</sup> Marlina Widiyanti dkk., "Kajian Pasar Modal Syariah Dalam Mempengaruhi Pertumbuhan Ekonomi di Indonesia," vol. 19, 2019.

<sup>16</sup> Setiawan, "Perbandingan kinerja pasar modal Syariah dan Konvensional : suatu kajian empiris pada pasar modal Indonesia."

<sup>17</sup> Septyan Budy Cahya<sup>2</sup> M Imam Syairozi1, "SUKUK AL INTIFA'A: INTEGRASI SUKUK DAN WAKAF DALAM MENINGKATKAN PRODUKTIFITAS SEKTOR WAKAF PENDORONG INVESTASI PADA PASAR MODAL SYARIAH," *Jurnal Penelitian Ilmu Manajemen II* No. 2 J, no. No 2 Juni 2016 (2016).

<sup>18</sup> Dini Selasi, "Dampak Pandemic Diseases Terhadap Perkembangan Pasar Modal Syariah Di Indonesia," *Syntax Literate ; Jurnal Ilmiah Indonesia* 5, no. 5 (2020): 46, <https://doi.org/10.36418/syntax-literate.v5i5.1107>.

<sup>19</sup> M Samsul Haidir, "Pengaruh Pemahaman Investasi, Dengan Modal Minimal Dan Motivasi Terhadap Minat Mahasiswa Dalam Melakukan Investasi Di Pasar Modal Syariah," *Ekonomi dan Bisnis* 5, no. 2 (2019): 2599–3348.

<sup>20</sup> Nur Azifah dan Meirizka Indah, "ANALISIS RISIKO DAN IMBAL HASIL FORTOFOLIO PASAR MODAL SYARIAH DAN PASAR MODAL KONVENSIONAL," *Jurnal Ekonomi Bisnis*, vol. 21, 2016.

23	<sup>21</sup>	Analisis Masalah: Pasar Modal Syariah Sebagai Instrumen Investasi Di Indonesia
24	PW Santosa, N Huda (2020)	Studi efisiensi pasar modal syariah Indonesia: Over-reaksi atau momentum *
25	<sup>22</sup>	Perkembangan Dan Problematika Pasar Modal Syariah Di Indonesia
26	E Hudiata (2017)	Rekonstruksi hukum penyelesaian sengketa pasar modal syariah: Penguatan aspek regulasi untuk memberikan kepastian hukum *
27	D Setiawan, Y Yusuf (2009)	Perspektif Islam Dalam Investasi Di Pasar Modal Syariah Suatu Studi Pendahuluan *
28	<sup>23</sup>	Penguatan Kerangka Hukum Terkait Penyelesaian Sengketa Pasar Modal Syariah Pada Pengadilan Agama
29	M Syaifullah, F Fachrurazi, F Achmad, ... (2019)	Manajemen Strategi Galeri Investasi Syariah Dalam Meningkatkan Minat Mahasiswa Untuk Berinvestasi Di Pasar Modal Syariah *
30	B Magdalena, S Susanti, Y Yanti (2018)	Perilaku Investor Muslimah Di Pasar Modal Syariah Di Lampung *
31	F Nabilah, H Tutik (2020)	Pengetahuan, Religiusitas Dan Motivasi Investasi Terhadap Minat Berinvestasi Pasar Modal Syariah Pada Komunitas Investor *
32	<sup>24</sup>	Pengaruh Manfaat, Pengetahuan dan Edukasi Terhadap Minat Mahasiswa Dalam Berinvestasi Di Pasar Modal Syariah (Study Kasus Pada Mahasiswa IAIN Salatiga)

<sup>21</sup> Batubara, "Analisis Masalah: Pasar Modal Syariah Sebagai Instrumen Investasi Di Indonesia."

<sup>22</sup> Jurnal Al-Tsaman dkk., "Perkembangan Dan Problematika Pasar Modal Syariah Di Indonesia," t.t.

<sup>23</sup> Mul Irawan dkk., "PENGUATAN KERANGKA HUKUM TERKAIT PENYELESAIAN SENGKETA PASAR MODAL SYARIAH PADA PENGADILAN AGAMA STRENGTHENING LEGAL FRAMEWORK FOR SHARIA CAPITAL MARKET DISPUTE RESOLUTION IN RELIGIOUS COURT," t.t.

<sup>24</sup> Ahmad Ulil Albab dan Saifudin Zuhri, "Pengaruh manfaat, pengetahuan, dan edukasi terhadap minat mahasiswa dalam berinvestasi di pasar modal syariah," *Li Falah : Jurnal Studi Ekonomi dan Bisnis Islam* 4, no. 1 (5 Agustus 2019): 129, <https://doi.org/10.31332/lifalah.v4i1.1367>.

33	AA Isfandiar (2016)	Akad muamalah di pasar modal syariah *
34	<sup>25</sup>	Penerapan Prinsip Ekonomi Islam Dalam Pasar Modal Syariah
35	B Heradhyaska, PI Pamesti (2021)	Regulasi Dewan Pengawas Syariah Pasar Modal Syariah di Indonesia *
36	<sup>26</sup>	Revitalisasi Galeri Investasi Dan Optimalisasi KSPM Sebagai Daya Dukung Penyediaan SDM Yang Handal Di Bidang Pasar Modal Syariah
37	AW Nafis (2015)	Akad-Akad Di Dalam Pasar Modal Syariah *
38	<sup>27</sup>	Efisiensi pasar modal syariah Indonesia sebelum dan sesudah krisis finansial global 2008
39	<sup>28</sup>	Analisis Determinan Minat Mahasiswa Dalam Berinvestasi di Pasar Modal Syariah
40	N Huda (2006)	Perkembangan Pasar Modal Syariah Di Indonesia *

Of the 40 samples, five articles could not be accessed, namely articles Numbers 4, 5, 29, 30, and 31. Of the 35 articles, an evaluation of 5 main themes were discussed, namely; 1) History and Development there are 15 articles (21.3%); 2) There are 18 articles on Islamic Capital Market Products (25.35%) ; 3) Fiqh Muamalah contains 13 articles (18.31%); 4) The DSN MUI fatwa contains seven articles (9.85%) and 5) The other latest issue has 18 articles (25.35%).

### History of the development of the Islamic Capital Market

Regarding the history of the development of the Islamic capital market, there are 15 (21.3%) articles that explain the history of the capital market starting with the history of the Islamic capital market in Indonesia with the following resume: The development of the capital

<sup>25</sup> Muhammad Abduh, "PENERAPAN PRINSIP EKONOMI ISLAM DALAM PASAR MODAL SYARIAH," t.t.

<sup>26</sup> Fajar Adhitya, "REVITALISASI GALERI INVESTASI DAN OPTIMALISASI KSPM SEBAGAI DAYA DUKUNG PENYEDIAAN SDM YANG HANDAL DI BIDANG PASAR MODAL SYARIAH," 50 | *Jurnal At-Taqaddum*, vol. 10, 2018.

<sup>27</sup> Ibnu Khajar, "EFISIENSI PASAR MODAL SYARIAH INDONESIA SEBELUM DAN SESUDAH KRISIS FINANSIAL GLOBAL 2008," *Jurnal Keuangan dan Perbankan* 16, no. 1 (2012): 66–76.

<sup>28</sup> Yuni Inawati dkk., "ANALISIS DETERMINAN MINAT MAHASISWA DALAM BERINVESTASI DI PASAR MODAL SYARIAH," *Jurnal Adz-Dzahab: Jurnal Ekonomi dan Bisnis Islam* 6, no. 1 (2021): 25–37, <https://doi.org/10.47435/adz-dzahab.v6i1.560>.

market in Indonesia began with the Dutch occupation in Indonesia under the name *Vereniging - Voor de Effekteenhandel* in 1912. The goal was to raise funds to support the expansion of the Dutch colonial plantation business. The outbreak of the Second World War brought capital market activities to a halt. After entering the era of Indonesian independence, on September 1, 1951, Emergency Law No. 13 concerning the stock exchange, which was later, stipulated as the Stock Exchange Law no. 15 of 1952.

Since the beginning of the New Order era, the government began to seriously pay attention to the growth and development of the capital market. On August 10, 1977, the Capital Market Implementing Agency (PAPEPAM) was formed, which in 1991 changed to the Capital Market Supervisory Agency and is currently the Capital Market Supervisory Agency. Financial Institutions (BAPEPAM & LK). In addition, the history of the capital market was also marked by several deregulations, such as the 1988 October Package (PAKTO) and the 1988 December Package (PAKDES).

The development of sharia instruments in the capital market in Indonesia has occurred since 1997, starting with the birth of Sharia Mutual Funds initiated by Mutual Funds, then PT. Jakarta Stock Exchange (JSX) together with PT. The Investment Management Fund (DIM) launched the Jakarta Islamic Index (JII), which includes around 30 types of shares from issuers whose business activities comply with sharia provisions. How do Islamic stocks in the capital market actually compare to conventional stocks, and how are they developed and implemented in various countries in the world, especially in Muslim countries?

The capital market is defined as a market for various long-term financial instruments that can be traded, both issued by the government and private companies. The capital market is, in principle, the same as the market in general, where sellers and buyers transact with each other, the only difference being in terms of the object of the transaction is capital. The capital market is a market for various long-term financial instruments that can be traded, either in the form of debt, shares, or other instruments. Furthermore, the capital market is a market that contains several long-term financial instruments that are traded in the form of debt and capital. In addition, the capital market is a means for those with excess funds to channel these funds to those who need funds.

The above definition explains that in the capital market, on the one hand, there are parties who lack capital; on the other, there are parties who have excess capital so that transactions occur. Companies registered in the Indonesian capital market must present company information openly to the public. In another sense, it provides information about the company's



condition in terms of profile, products, and activities to the company's performance. More profitable companies will have a more significant opportunity to obtain funds than less profitable companies. This is interesting because two parties are involved, namely the investor and the capital manager. Based on the understanding of several sources and the explanation above, it is known that in the capital market, there are parties who have capital who provide capital to a party, in this case, the manager with a specific agreement. If seen, this capital market resembles a mudharabah contract in muamalah fiqh.

### ***Sharia Capital Market Products***

The types of sharia products were discussed in 18 articles or as much as 25.35%. Most of the discussions were on capital market activities, namely capital sale and purchase transactions in the form or the form of shares on the stock exchange, also including buying and selling foreign exchange, buying and selling commodities, valuable certificates, shares, and others—awareness of the discussion about Islamic capital market products that the MUI has set.

The National Sharia Council of the Indonesian Ulama Council has formulated various principles and references in the operation of the capital market, both regarding the criteria for sharia securities/shares and the operational guidelines, through the Fatwa of the National Sharia Council of the Indonesian Ulama Council no: 40/DSN-MUI/X/ 2003, concerning the Capital Market and General Guidelines for the Implementation of Sharia Principles in the Capital Market Sector. The types of sharia securities in the fatwa include:

- a. Sharia securities include sharia shares, sharia bonds, sharia mutual funds, sharia asset-backed securities collective investment contracts (KIKEBA), and other securities that comply with sharia principles.
- b. Sharia shares are proof of ownership of a company that has met the criteria and does not include shares with special rights.
- c. Sharia bonds are long-term securities based on sharia principles issued by issuers to sharia bondholders that require the issuer to pay income to sharia bondholders in the form of profit-sharing/margin/fees and repay bond funds at maturity.
- d. Sharia mutual funds are mutual funds that operate according to the provisions and principles of Islamic Sharia, both in the form of a contract between the investor as the owner of the price (shahib al-mal/rabb al-mal) and the investment manager, as well as the management of investment funds as the representative of the shahib al. mall, as well

- as between investment managers as representatives of shahib al-mal with the use of investment.
- e. Sharia asset-backed securities are securities issued by sharia EBA collective investment contracts whose portfolio consists of financial assets in the form of claims arising from commercial securities claims arising in the future, sale and purchase of ownership of physical assets by financial institutions, securities and investment guaranteed by the government, a means of increasing investment/cash flow and equivalent financial assets by sharia principles.
  - f. Sharia commercial securities are letters of acknowledgment of financing within a certain period by sharia principles.

### **Fiqh Muamalah Islamic Capital Market**

It was found that there were 13 articles discussing Fiqh Muamalah, or 18.31%, and some of them used the legal basis of the sharia capital market in buying and selling transactions based on the Word of God: "God forbids buying and selling and forbids usury". (Q.S. Al-Baqarah (2): 275)

The discussion on capital market transactions in Islamic law, discussed in fiqh in the mu'amalah section or the non-worship section, there are studies on partnerships or what is called syirkah in civil law, it is known as a partnership, and there are also articles on deposit (wadhiyah) and also found discussions regarding the transfer of capital to other parties such as what happens in the capital market which in fiqh is called mudharabah. For example, suppose you look at the capital market's sale and purchase of shares. In that case, it belongs to the mudharabah category because the emission in the capital market is the same as the mudharabah system in Islamic fiqh. Therefore, in the capital market, one party as an investor (investor) in fiqh called shahibul mal surrenders his capital to another party, the party who needs capital (issuer).

Discussion on the Application of Sharia in the capital market As in a market in general that functions to bring together sellers and buyers, the capital market is a market that brings together parties who need long-term funds and those who can provide these funds. The sale and purchase of long-term funds is indicated by the activities of companies that issue shares, bonds, and other long-term securities. The capital market is a market for various financial instruments and long-term securities that can be traded in debt and capital alone.

The actors in the capital market are distinguished between speculators and business actors (investors) by the degree of uncertainty they face. Character differences between the two include:

- a. If investors in the capital market use the capital market as a means to invest in companies that they believe are good and profitable, not to seek capital gains through short selling. Instead, they base their investment decisions on reliable information about the fundamental factors of the economy and the company itself through careful study. Meanwhile, speculators aim to gain gains, usually done by selling and buying shares in the short term.
- b. Speculation is not essentially an investment, although there are similarities between the two—the fundamental difference between them lies in the spirit that animates it, not in its form. Speculators buy securities to profit by reselling them (short term). Meanwhile, investors buy securities intending to participate directly in a business, which is usually long-term.
- c. Speculation is "playing" in uncertainty, while business is a game of skill. A person is considered to be carrying out speculative activities if he has a motive to take advantage of this uncertainty for short-term gain. Thus, investors who enter the primary market with the motivation of capital gains only when shares are released in the secondary market are included in the speculators class.
- d. Speculation has increased unearned income for a group of people in society without them making any positive or productive contribution. These speculators have even taken advantage at the expense of society. This speculative act is difficult to justify economically, socially, and morally.
- e. Speculation is the source of the cause of the financial crisis. For example the crisis on Wall Street in 1929 caused by the activities of speculators which resulted in a tremendous depression for the world economy in the 1930s. Therefore, monetary authorities and financial experts are always busy taking steps to anticipate the actions and impacts that speculators may cause.
- f. Speculation is raised by the mental "want to get rich quick" so that a person has been trapped in this mental attitude, so he will try to ignore all kinds of ways without paying attention to religious and ethical signs.

For the capital market to represent Islamic law, this institution must not only be cleaned of elements that are not by Islamic law, such as usury, gharar, maysir (speculation), haram, and so

on. However, it must also operate based on sharia principles. There are several basic principles of transactions according to sharia in financial investments as follows:

- a. Transactions are carried out on assets that provide value for benefits and avoid any unjust transactions. Therefore, every benefit transaction will be carried out for profit sharing.
- b. Money as a medium of exchange is not a trading commodity. Instead, the function of money is as a means of exchange of value that describes the value of an item or property. While the benefits or profits that arise are based on the use of goods or assets purchased with the money.
- c. Every transaction must be transparent, not causing any loss or fraud by either party intentionally or unintentionally.
- d. The risks that may arise must be managed, so they do not pose a significant risk or exceed the ability to bear the risk.
- e. In Islam, every transaction that expects a result must be willing to bear the risk.
- f. The management applied in Islamic management does not contain speculative elements and respects human rights, and maintains environmental sustainability.

### **Fatwa of the MUI Sharia Supervisory Board (DSN)**

There are seven articles (9.85 %) that discuss the MUI fatwa. Most of them discuss the suitability of the capital market with the rules of Islamic law simplified by the term sharia capital market. The Islamic capital market is defined as a capital market that applies the principles of Islamic law in its business activities and does not involve elements prohibited in Islam, such as uncertainty, gambling, speculation, etc. The capital market circles are also aware of the potential for raising funds from Muslims, which is quite large. To that end, Bapepam launched the Sharia Capital Market on March 14-15, 2003, and at the same time, signed the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). In addition, DSN signed an MOU with the Jakarta Stock Exchange as the stock exchange manager.

Furthermore, the Jakarta Stock Exchange, in collaboration with PT Dana Reksa Investment Management, formed the Jakarta Islamic Index (JII). The Jakarta Islamic Index is intended as a benchmark (benchmark) to measure the performance of an investment in shares on a sharia basis. In addition, the index is expected to increase investor confidence in developing investments in Islamic equity.

There is a fundamental difference between the conventional capital market and the Islamic capital market. The Islamic capital market does not recognize trading activities such as short selling, buying, or selling in a short time to profit from the difference between buying and selling. Sharia shareholders are shareholders for a relatively long term. This pattern of share ownership will have a positive impact. The company gets shareholders who are more concerned and have a sense of ownership so that it will be an effective control. A partnership pattern that respects and reminds each other is established between the company and shareholders so that communication between the two parties will meet to achieve the common good. This characteristic of sharia share ownership, which is only oriented to the achievement of profit-loss sharing, will not create sharp and speculative fluctuations in trading activities.

Islamic capital market instruments include debt instruments/bonds that are not interest-based (Islamic bonds based on *mudharabah* and *ijarah*). Concerning the issuance of sharia bonds, the DSN-MUI issued a fatwa regarding the *mudharabah* sharia bonds no. 33/DSN-MUI/10/2002. In addition, there is an instrument of participation (shares). In the case of sharia shares, the issuer does not conduct a particular public offering first. However, the Jakarta Islamic Index manager selects several shares traded on the stock exchange to be included in JII. To determine the stocks that will be included in the index calculation. The Fatwa of the Indonesian Ulama Council (MUI) No. 20/DSN-MUI/2001 is a reference for the company business that must not conflict with sharia principles. The other instrument is sharia mutual funds.

Because basically, the practice of *muamalah* is permissible except for those prohibited in sharia. The DSN-MUI Fatwa Number 40 of 2003 also defines prohibited transactions in PMS operations. The prohibited transactions are as follows.

- a. Transactions must be carried out according to the precautionary principle, and it is not allowed to speculate and manipulate elements of *dharar*, *gharar*, usury, *maisir*, *risywah*, immorality, and injustice.
- b. Transactions containing elements of *dharar*, *gharar*, usury, *maisir*, *risywah*, immorality, and injustice, as referred to above, include:
  1. *Najasy*, namely making false offers;
  2. *Bai' al-ma'dum*, namely selling goods (sharia securities) that are not owned (short selling);
  3. Insider trading, which is using people's information in the form of profiting from prohibited transactions;

4. Generate misleading information;
5. Margin trading, namely conducting transactions on sharia securities with interest-based loan facilities on the obligation to settle the purchase of sharia securities;
6. Ikhtikar (hoarding), namely making the purchase or collection of sharia securities to cause changes in the price of sharia securities, to influence other parties; and,
7. Other transactions contain the above elements. Due to sharia compliance requirements, issuers who
8. entitled to listing in the sharia index must go through a screening process (screening). For example, the screening process for JII is carried out based on the approval of the Sharia Supervisory Board of PT. Danareksa Investment Management and screening for DES based on Bapepam-LK decisions in coordination with DSN-MUI. Meanwhile, to safeguard various sharia transactions on the Indonesian Stock Exchange PMS, DSN-MUI has the right to obtain information from Bapepam or other parties in the context of implementing sharia principles in the capital market.

### **Recent issues**

The latest issues discussed by 18 articles or as much as 25.35%, mostly discussed the existence of the capital market as an investment vehicle in the modern era. The capital market is one of the important pillars of today's world economy. Many industries and companies use capital market institutions as a medium to absorb investment and media to strengthen their financial position. The capital market has become the financial lifeblood of the modern economic world. Modern economic activity would not be possible without a well-organized capital market. Every day, trillions of rupiah are transacted through this institution. Even the collection through the capital market as of June 30, 2011 reached IDR 49 trillion and 50 million US Dollars.

The capital market was formed because it wanted to realize a certain economic mission for the benefit. This is certainly in line with Islamic law's maqashid (purpose). There are at least three missions carried out in the capital market operation. First, it becomes a means of investment that can provide benefits. Second, the means of realizing the principle of ta'awun (helping each other) where those who need capital are helped. Third, the principle of enlivening the real sector, in which the invested assets will be paid off for the movement of the economy, has an impact on reducing the number of unemployed. In Islam, investment is a muamalah

activity that is highly recommended because by investing the assets, you have become productive and also bring benefits to others. The Qur'an prohibits the hoarding (iktinaz) of property owned. One form of investment is investing in the capital market. Islamic capital market institutions are one of the embodiments of Allah's call about investment.

In Surah Al-Hasyr 18, Allah commands all His believing servants to invest in the hereafter by doing good deeds from an early age as a provision to face the day of reckoning. Likewise, in Surah Luqman 34, Allah explicitly states that no one in this universe can know what will be done, worked on, and what events will happen tomorrow. So with this teaching, all humans are ordered to invest as provisions for the hereafter.

The concept of investment in Islam manifested in non-financial forms that have implications for a healthy economic life is also contained in Surah Al-Nisa 9. This verse recommends investing in preparing a strong generation in terms of intellectual, physical, and faith aspects so that a complete personality is formed. In Surah Al-Muzammil 20, the Qur'an expressly recommends traveling on earth to seek God's bounty with one form of partnership (syirkah), namely mudharabah. In addition, Allah prohibits all servants from consuming each other's property in vanity and orders to carry out commercial activities based on mutual pleasure between the parties involved. According to the word of Allah in the Qur'an Surah An-Nisa' 29, this verse explains how to invest in a healthy and proper way.

Like modern institutions, the capital market is also inseparable from various weaknesses and mistakes. One of them is the act of speculation. In general, speculators control the processes of business transactions that occur.

## **RESULT**

This study aims to map out Islamic capital market issues by analyzing 40 main articles and which can be analyzed are 35 articles with the following main themes:

1. The most discussed themes were 1) Islamic Capital Market Products 18 articles (25.35%); 2) Recent issues 18 articles (25.35%); 3) History and Development 15 articles (21.3%); 4) Fiqh Muamalah 13 articles (18.31%); and 5) Fatwa DSN MUI 7 articles (9.85%).
2. Substantially ideal, according to most of the articles stated that: even conventional capital markets can be said to be in harmony with Islamic law. Because the mission of Islamic law in the muamalah is to benefit the people, it is also the goal of the formation of the capital market.

3. In its operation, the capital market cannot be avoided by the actions of market players who are no longer in line with Islamic law, both formally and substantially. For example, speculation and the practice of buying and selling shares that is not in accordance with muamalah fiqh. Such practices are not only against Islamic law but can also destroy the capital market institutions and general economic stability.
4. In the context of realizing the objectives of sharia in the economy, grounding the capital market is not by destroying capital market institutions. However, on the contrary, many must enter them to clean up speculative practices and other prohibited practices in capital markets.
5. The capital market has become a vital modern economy means that will enliven the real sector. However, this ideal will turn into a means of causing economic crises that afflict many people and distance the monetary sector from the real sector. Market players who deviate from Islamic law cause this counterproductive impact. To prevent this behavior, it can be with strict legal rules that regulate transactions in the capital market, develop the sharia capital market, or "evict" speculators who play in the capital market and replace them with those with integrity towards Islamic law. Because today there are more and more investors with a robust Islamic commitment in the capital market.

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