

Implementation Sharia Principles and Development of National Law in Sharia Share Trading In Indonesian Capital Market

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Abstract

In the capital market sector in Indonesia, especially with regard to stock trading in the capital market, sharia principles have begun to be applied properly. This is indicated by the existence of facilities (Sharia Online Trading System (SOTS) as well as brokers or securities companies that facilitate trading of shares in sharia, in addition to that added by the number of issuers listing sharia shares. Besides that, it is also supported more by the regulations issued by the national sharia board of the Indonesian Ulema Council and *Otoritas Jasa Keuangan* related to share trading in sharia. Finance as the institution tasked with overseeing the capital market. The National Sharia Council of *MUI*, issued regulations regarding sharia shares, among others, the Fatwa of the National Sharia 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; Fatwa of the National Sharia Council No: 80/DSN-MUI/III/2011 concerning the Implementation of Sharia Principles in the Mechanism of Trading in Equity Securities in the Regular Market of the Stock Exchange; while regarding sharia shares, *Otoritas Jasa Keuangan* issued the following regulations. *Otoritas Jasa Keuangan* Regulation No. 17/POJK.04/2015 concerning Issuance and Requirements for Sharia Securities in the Form of Shares by Sharia Issuers or Sharia Public Companies; *Otoritas Jasa Keuangan* Regulation No. 53 /POJK.04/2015 concerning Contracts Used in Issuing Sharia Securities in the Capital Market; *Otoritas Jasa Keuangan* Regulation No. 15/POJK.04/2015 Regarding the Implementation of Sharia Principles in the Capital Market.

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Introduction

In principle, developing countries will certainly be faced with a condition where economic development will be largely determined by market mechanisms (Simatupang, 2007). Economic growth is a barometer of the success of a country's economic development (Fuad, 2007). Indonesia is a developing country and is faced with turmoil in economic growth.

In a modern economy, the existence of a capital market is a necessity (Sambuaga, 2016). The existence of the capital market in Indonesia is one of the important factors in the development of the national economy (Muklis, 2016). The capital market is an alternative source of funding for both the government and the private sector (Samri, 2015). The capital market has an important role for the economy of a country because the capital market performs two functions, namely first as a means for business funding or as a means for companies to obtain funds from the investor community (Mar'ati, 2010). The capital market

can be influenced by changes and developments in economic, political and social variables that will have an impact on the economic stability of a country (Widyasari, 2017).

The capital market is a place to find funds for companies and alternative investment facilities for the public (investors) (Haidar, 2015). The Indonesian economy cannot be separated from the capital market. Many companies offer company ownership in the form of shares to the public (Barus and Christina, 2014). As an alternative place to invest, the capital market is expected to produce an optimal level of profit for investors (Mawardi, 2018). Capital is an inseparable component of economic development activities (Lisnawati and Budiyan, 2011).

Basically, Indonesian has the majority of the population is Muslim, therefore Muslims must also understand the principles of Islamic sharia. Basically, the principles of sharia are certainly based on the Qur'an and Hadith. In carrying out life as human beings certainly cannot be separated from carrying out economic activities, this economic activity is intended to provide growth to the people's economy. Rasulullah SAW encouraged his people to trade. Along with the growth of this economic progress, one of the types of trading available is stock trading in the capital market. Investors or investors enter the capital market to invest their funds (Rahadiyan, 2014).

Taking into the needs of Muslims in Indonesia, the existence of stock trading in the capital market must also be carried out based on Islamic sharia. In Indonesia, the Islamic capital market has been released since 1997 with the start of Islamic mutual funds. In the world of capital markets, of course, there are 3 securities instruments that are used as a means to invest, including mutual funds, bonds, and stocks. However, in this article the author discusses more about stock trading in the capital market with sharia principles in Indonesia. Any company that requires additional capital can conduct an IPO (Initial Public Offering) on the stock exchange to issue its securities. Regarding the sharia capital market, issuers or companies that will issue sharia-based securities must also meet certain criteria that do not violate Islamic sharia principles.

The existence of sharia principles in the capital market is certainly intended to avoid usury and also avoid practices that are prohibited by religion that can harm other parties. The principle of sharia in the Indonesian capital market is held with the aim of facilitating Muslims who will invest in the capital market in Indonesia based on the principles of Islamic law.

Sharia principles in stock trading in the capital market are very important considering that in conventional capital markets there are still some instruments that use interest, which according to Islamic law interest is usury and is prohibited by religion. Avoiding things that are *haram* according to Islamic law, it is very necessary for the principles of Islamic law in stock trading in the capital market so that every Muslim investor can invest and trade *halal* shares in the capital market according to religious principles. The Islamic capital market is certainly based on religious principles, namely based on the Qur'an and Hadith and according to Islamic law, which in this economic activity does not use the principle of usury and also does not harm other parties.

Materials and Methods

This article uses a normative research method, using a statutory approach. The approach to legislation in this article focuses on capital market laws relating to sharia principles in the capital market in Indonesia, such as Law Number 8 of 1995 concerning Capital Markets, Law Number 21 of 2011 concerning the Otoritas Jasa Keuangan / *Otoritas Jasa Keuangan*, Regulation of the Otoritas Jasa Keuangan, as well as the Fatwa of the National Sharia Council of the Indonesian Ulema Council.

Results and Discussion

The existence of the capital market in every country is fundamental in economic development (Sitompul et al, 2007). In general, the capital market has an important role for the economic development of a country (Tavinayati and Qamariyanti, 2013). In Indonesia, the provisions regarding stock trading in the capital market are regulated in Law Number 8 of 1995 concerning the Capital Market. Based on the provisions of Article 55 of Law Number 21 of 2011 concerning *Otoritas Jasa Keuangan*, since December 31th 2012, the functions, duties, and authorities of regulating and supervising financial service activities in the Capital Markets sector have been transferred from the Capital Market Supervisory Agency to the *Otoritas Jasa Keuangan*. In accordance with the provisions of Article 6 letter b of Law Number 21 of 2011 concerning *Otoritas Jasa Keuangan*, *Otoritas Jasa Keuangan* carries out the task of regulating and supervising financial service activities in the Capital Market sector. Before being supervised by *Otoritas Jasa Keuangan*, the Capital Market was supervised by *BAPEPAM* (Capital Market Supervisory Agency).

Otoritas Jasa Keuangan is also authorized to regulate and supervise the Islamic capital market, in addition, supervision and regulation is also carried out by the National Sharia Council of the Indonesian Ulema Council (*Majelis Ulama Indonesia*). The National Sharia Council of the Indonesian Ulema Council also provides a fatwa relating to prohibitions on trading shares in sharia shares, and also provides criteria for companies that can issue shares in a sharia way. In the Indonesia, in order to implement sharia principles in the capital market in Indonesia, the National Sharia Council of the Indonesian Ulema Council and the *Otoritas Jasa Keuangan*, among others, are as follows:

1. Fatwa of the National Sharia 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;
2. National Sharia Council Fatwa No: 80/DSN-MUI/III/2011 concerning Application of Sharia Principles in the Equity Securities Trading Mechanism in the Stock Exchange Regular Market;
3. Fatwa of the National Sharia Council of the Indonesian Ulema Council number 140/DSN-MUI/VIII/2021 regarding Sharia Securities Offering Through Information Technology-Based Crowdfunding Services Based on Sharia Principles (Islamic Securities Crowd Funding);
4. *Otoritas Jasa Keuangan* Regulation NO. 17/POJK.04/2015 concerning Issuance and Requirements for Sharia Securities in the Form of Shares by Sharia Issuers or Sharia Public Companies;
5. *Otoritas Jasa Keuangan* Regulation No. 53 /POJK.04/2015 Regarding Contracts Used in Issuing Sharia Securities in the Capital Market;
6. *Otoritas Jasa Keuangan* Regulation No. 15/POJK.04/2015 Regarding the Implementation of Sharia Principles in the Capital Market;
7. *Otoritas Jasa Keuangan* Regulation Number 16/POJK.04/2015 concerning Capital Market Sharia Experts;
8. *Otoritas Jasa Keuangan* Regulation Number 17/POJK.04/2015 concerning Issuance and Requirements for Sharia Securities in the Form of Shares by Sharia Issuers or Sharia Public Companies;
9. *Otoritas Jasa Keuangan* Regulation Number 18/POJK.04/2015 concerning Sukuk Issuance and Requirements;
10. *Otoritas Jasa Keuangan* Regulation Number 19/POJK.04/2015 concerning Issuance and Requirements for Sharia Mutual Funds;

11. *Otoritas Jasa Keuangan* Regulation Number 20/POJK.04/2015 concerning Issuance and Requirements for Sharia Asset Backed Securities;
12. *Otoritas Jasa Keuangan* Regulation Number 30/POJK.04/2016 concerning Sharia Real Estate Investment Funds in the Form of Collective Investment Contracts;
13. *Otoritas Jasa Keuangan* Regulation Number 53/POJK.04/2015 concerning contracts used in the Issuance of Sharia Securities in the Capital Market;
14. *Otoritas Jasa Keuangan* Regulation Number 61/POJK.04/2016 concerning the Implementation of Sharia Principles in the Capital Market for Investment Managers;
15. *Otoritas Jasa Keuangan* Regulation Number 35/POJK.04/2017 concerning Criteria and Issuance of Sharia Securities List;

Based on Article 1 paragraph (2) of *Otoritas Jasa Keuangan* Regulation Number 15/POJK.04/2015 concerning the Application of Sharia Principles in the Capital Market, basically what is meant by sharia principles in the sharia capital market are the principles of Islamic law in Sharia activities in the capital market based on fatwa of the National Sharia Council - Indonesian Ulema Council, as long as the fatwa referred to does not conflict with this *Otoritas Jasa Keuangan* Regulation and/or other *Otoritas Jasa Keuangan* Regulations based on the fatwa of the National Sharia Council - Indonesian Ulema Council.

In this Islamic stock trading there is a sharia supervisory board. Based on Article 1 paragraph (5) of *Otoritas Jasa Keuangan* Regulation Number 15/POJK.04/2015 concerning the Implementation of Sharia Principles in the Capital Market, the Sharia Supervisory Board is the board that is responsible for providing advice and suggestions as well as supervising the fulfillment of Sharia Principles in the Capital Market to parties committing Sharia Activities in the Capital Market.

In terms of sharia, the capital market is a part of muamalah activities. Transactions in the capital market are certainly allowed as long as they do not conflict with the provisions prohibited by Islamic sharia (Muhammad, 2008). The ideal form of the Islamic capital market can certainly be achieved by Islamizing the four pillars of the capital market, namely, first, issuers and securities issued must comply with sharia principles, justice, prudence and transparency. Second, market participants (investors) must have a good understanding of the muamalah provisions, benefits and risks of transactions in the capital market. Third, the information infrastructure of the stock exchange, which is honest, transparent and timely, is evenly distributed among the public, supported by a fair market mechanism. Fourth, supervision and law enforcement by the capital market authorities can certainly be carried out in a fair, efficient, effective and economical way.

With this sharia stock, Muslims can invest without any element of usury. Every investment certainly depends on the contract, which in this Islamic capital market forbids the element of usury and is carried out with a contract that is in accordance with Islamic law. Each company can issue its shares to the public with the assumption that with the issuance of these shares, additional capital can be obtained to carry out its business activities. However, not all companies can issue shares according to sharia, there are several criteria for companies that can issue shares according to Islamic sharia. The criteria for companies that can issue their shares to the public in sharia shares are regulated in the provisions of Article 3 of the Fatwa of the National Sharia Council No: 40/DSN-MUI/X/2003 concerning the Capital Market and General Guidelines for the Implementation of Sharia Principles in the Capital Market, among others is as follows:

1. The type of business, products, services provided and the contract as well as the management method of the Issuer company or Public Company that issues Sharia Securities must not conflict with Sharia Principles.

2. Types of business activities that are contrary to the Sharia Principles as referred to in Article 3 point 1 above, among others:
 - a. Gambling and also games that are classified as gambling or trade that are prohibited or not allowed;
 - b. Conventional financial institutions (*ribawi*), including conventional banking and conventional insurance;
 - c. Producers, distributors, and traders of haram food and haram drinks;
 - d. Producers, distributors, and/or providers of goods or services that damage morals and have a harmful nature;
 - e. Invest in Issuers (companies) which at the time of the transaction the level (ratio) of the company's debt to financial institutions that are usurious in nature is more dominant than the capital;
3. Issuers or Public Companies intending to issue Sharia Securities are required to sign and fulfill the provisions of a sharia-compliant contract for the issued Sharia Securities.
4. Issuers or Public Companies that issue Shariah-compliant securities are of course obligated to guarantee that their business activities must comply with Shariah principles and have a Shariah Compliance Officer.
5. In the event that the Issuer or Public Company that issues sharia securities at any time does not meet the requirements mentioned above, then the securities issued by themselves are no longer sharia securities.

Fatwa of the Indonesian Ulema Council No. 20/DSN-MUI/2001 as a reference for the type of company business that must not conflict with sharia principles, namely: Produce, distribute, trade non-*halal* food; Produces, distributes and trades liquor or alcoholic beverages; Organizing gambling and classified as gambling such as casino, guessing sports events, games of dexterity; To provide banking services based on the interest system; Organizing insurance services that use an interest system; Organizing hotel, restaurant, and other businesses that provide food, non-*halal* drinks, and activities that are contrary to sharia principles.

Based on this, it is clear that every company that will issue shares according to sharia, its business activities must also be carried out in a lawful manner and do not conflict with Islamic law and the goods or services being traded are also halal goods according to Islamic law. Besides that, the business activities of companies that issue shares according to sharia are also prohibited from using the interest system, because in essence interest is a form of usury which is prohibited by Islamic law, and in the event that the company's activities are banking or insurance businesses, it must be in accordance with Islamic law and is not allowed that there is usury.

The development of the Islamic capital market in Indonesia is also marked by the issuance of sharia capital market regulations and online trading services (Sharia Online Trading System (SOTS) (Prasetia, 2017). The existence of this system is something that accommodates a trading system based on sharia principles that puts forward values This shows that the application of sharia principles in the Indonesian state capital market is now getting better, and more accommodating the interests of many parties.

In the Islamic capital market, the entire mechanism of its activities, especially regarding issuers, the types of securities traded and the trading mechanism, are in accordance with sharia principles (Awaluddin, 2016). This sharia capital market certainly puts forward sharia principles in various ways, which means that everything is carried out in accordance with Islamic religious law and of course prioritizes something that is lawful and does not conflict with religion.

Basically stock trading in sharia is almost the same as stock trading in the conventional capital market, but there are several things that are more prominent in stock trading in the sharia capital market, namely in stock trading in sharia, the transaction mechanism is carried out by contracts that do not conflict with Islamic law. The practice of trading shares according to sharia is certainly based on the Qur'an and Hadith. Stock trading according to sharia is a form of muamalah, namely the relationship between human beings related to commerce. There is a fiqh muamalah rule which states that "Basically, all forms of muamalah are permissible unless there is a proof that forbids it." This concept is the principle of the Islamic capital market in Indonesia.

This sharia stock trading provides an opportunity for every Muslim who will invest without fear of usury, and also companies that issue shares according to sharia, their business activities must be in a way that is not contrary to Islamic law. Sharia Online Trading System/ SOTS is an online stock transaction facility based on sharia principles. This sharia stock trading was developed as an implementation of the MUI Fatwa No: 80/DSN-MUI/III/2011 concerning the Implementation of Sharia Principles in the Equity Securities Trading Mechanism in the Regular Market of the Stock Exchange concerning "Application of Sharia Principles in the Equity Securities Trading Mechanism in the Regular Market Stock Exchange." In stock trading in the capital market which is carried out with sharia principles, in essence, there is no element of usury, then the element of *gharar* (uncertainty or speculation) is prohibited, and in this sharia stock trading, gambling is not allowed.

The National Sharia Council of MUI issued Fatwa No: 80/DSN-MUI/III/2011 concerning the Implementation of Sharia Principles in the Mechanism of Trading in Equity Securities in the Stock Exchange Regular Market.

1. *Bai' al-ma'dum*, is a sale and purchase in which the object (*mabi'*) is not present at the time of the contract, or the sale and purchase of goods (securities) even though the seller does not own the goods (securities) that he sells. An example is short selling in stock trading in the capital market.
2. *Dharar*, is an action that can cause harm or loss to another party.
3. *Ghabn Fahisy* is a heavy level *ghabn*, such as buying and selling goods at prices far below the market price. For example: insider trading or insider trading
4. *Ghabn*, is an imbalance between two goods (objects) that are exchanged in a contract, both in terms of quality and quantity.
5. *Gharar*, is uncertainty in a contract, both regarding the quality or quantity of the object of the contract as well as regarding its delivery.
6. *Ghisysy* is a form of *tadlis* in which the seller explains/explains the advantages/privileges of the goods being sold and hides the defects. For example Marking the Close, Alternate trade
7. *Ihtikar*, is buying an item that is needed by the community when the price is high and hoarding it with the aim of reselling it when the price is more expensive. For example: Pooling interest and Cornering
8. *Jahalah* is ambiguity in a contract, both regarding the object of the contract, its quality or quantity (*shifat*), its price (*tsaman*), as well as regarding the time of delivery.
9. *Maisir*, also known as "Gambling", is a game in which one party has to bear the burden of the other party as a result of the game.
10. *Riba*, is an addition given in the exchange of usury goods (*al-amwal al-ribawiyah*) and an addition given to the principal debt in exchange for an absolute deferral of payment. As an example of a transaction with margin trading.

11. *Risywah*, also called “Bribery”, is giving something to another party to get something that is not their right.
12. *Tadlis*, is the act of hiding the defect of the contract object by the seller to deceive the buyer as if the object of the contract is not defective. For example Front Running, Misleading information (Misleading Information)
13. *Taghrir*, is an effort to influence other people, either with words or actions that contain lies, so that they are motivated to make transactions. For example, Wash sale, Pre-arrange trade.
14. *Talaqqial-rukban*, is part of the *ghabn*; namely buying and selling of goods at prices far below the market price because the seller does not know the price.
15. *Tanajusy/najsy*, is the act of bidding for goods at a higher price by parties who do not intend to buy them, to create the impression that many parties are interested in buying them. For example Pump and Dump, Hype and Dump, Creating fake demand/supply

Basically actions that affect the price of securities or shares that are carried out as mentioned above are also prohibited in Law Number 8 of 1995 concerning the Capital Market, so it is not only the trading of shares in the capital market that is prohibited by sharia, but in conventional stock trading it is also prohibited, but in conventional stock trading there are still several securities companies that can carry out stock trading by short selling or can sell goods (shares) without owning them, this is strictly prohibited in sharia shares, because it does not according to Islamic law. Basically, someone who wants to trade goods must be clear about the goods.

Besides that, in conventional stock trading, there is also margin trading, namely buying shares by borrowing funds from securities companies with interest-based loan facilities, and payments must be completed immediately. In Islamic law it is very clear that interest is usury and is prohibited in Islamic law, besides that in the event that the loan is not immediately settled, the securities company has the right to sell the shares purchased with the borrowed money. This is certainly not in accordance with Islamic law and can harm one party. It is different in stock trading according to sharia, this is prohibited and not allowed, so basically if you want to buy a stock, it must be clear that the money is there and the goods are also clear. Likewise, in selling shares, the shares must be clear, we can sell shares if we have the shares. In contrast to conventional stocks, there are still short selling transactions, namely we can sell shares without having to own the shares. This is certainly contrary to sharia principles.

In Islam, the contract is one of the important things in doing something, especially in economic activities. The existence of this contract can also determine whether or not an economic activity is *halal*. There are many contracts that use usury, so according to Islamic law it is *haram*. In Islam, usury is forbidden, but with a good contract according to Islamic law, a halal economic activity is carried out in other words, it does not harm other parties and does not conflict with Islamic law. As in Islamic banking, there are various kinds of contracts that are in accordance with Islamic law, where the contract benefits both parties and does not harm the parties, and the most important thing is that it is in accordance with Islamic law so that it is lawful to carry out and avoid usury. Basically, the contracts used in stock trading in the capital market are regulated in *Otoritas Jasa Keuangan* Regulation Number 53/POJK.04/2015 concerning Contracts Used in Issuing Sharia Securities in the Capital Market, including the following:

1. *Ijarah* is an agreement (contract) between the lessor or service provider (*mu'jir*) and the lessee or service user (*musta'jir*) to transfer the usufructuary rights (benefits) of an *Ijarah* object.

2. *Istishna* is an agreement (contract) between the ordering party or the buyer (*mustashni*) and the maker or seller (*shani*) to make the object of *Istishna* purchased by the ordering party or the buyer (*mustashni*).
3. *Kafalah* is an agreement (contract) between the guarantor (*kafii*/guarantor) and the guaranteed party (*makfuul 'anhu/ashiil*/debtors) to guarantee the obligations of the guaranteed party to another party (*makfuul lahu*/the debtor).
4. *Mudharabah (qiradh)* is an agreement (contract) of cooperation between the capital owner (*shahib al-mal*) and the business manager (*mudharib*) by means of the capital owner (*shahib al-mal*) submitting the capital and the business manager (*mudharib*) managing the capital in a business.
5. *Musyarakah* is an agreement (contract) of cooperation between two or more parties (*syarik*) by including capital in the form of money or other forms of assets to conduct a business.
6. *Wakalah* is an agreement (contract) between the party giving the power of attorney (*muwakkil*) and the party receiving the power of attorney (representative) by means of the party giving the power of attorney (*muwakkil*) giving power to the party receiving the power of attorney (representative) to take certain actions or actions.

With regard to the application of sharia principles in stock trading in the capital market, regarding issuers or companies that issue their shares through sharia shares, there are quite a number of companies. Based on a copy of the Decision of the Board of Commissioners of *Otoritas Jasa Keuangan* Number KEP-33/D.04/2021 concerning the List of Sharia Securities, the following data were obtained:

No	Corporate Sector	Number of Listed Companies
1	Energy	45
2	Raw Goods	62
3	Industry	37
4	Primary Consumer Goods	60
5	Non-Primary Consumer Goods	83
6	Health	20
7	Finance	6
8	Property and Real Estate	50
9	Technology	16
10	Infrastructure	39
11	Transportation and Logistics	15
12	Public Company	3

Based on the data above, there are at least 436 issuers that list their sharia shares in the capital market, it can be seen that many issuers or companies list their shares according to sharia, this is of course in order to support stock investment based on religious provisions and also without the element of usury, gharar, and gambling. In Islamic stock trading, the number of issuers is certainly different from conventional stock trading. This is because there are certain criteria that must be met by every company in carrying out the stock listing process based on Islamic sharia principles. With the increasing number of companies listing sharia shares, this certainly expands the investment facilities of Muslims in Indonesia who want to invest in a lawful way without any elements of usury, gharar, and gambling and in accordance with religious provisions.

From the explanation above, it can be concluded that in Indonesia, in the capital market sector, especially with regard to stock trading in the capital market, sharia principles are starting to be applied properly. This is indicated by the existence of facilities (Sharia Online Trading System (SOTS) as well as brokers or securities companies that facilitate trading of shares in sharia, in addition to that added by the number of issuers listing sharia shares. Besides that, it is also supported by regulations issued by the national sharia board of the Indonesian Ulema Council and the *Otoritas Jasa Keuangan* related to stock trading in sharia.

With regard to the sharia online trading system, it is certainly different from the conventional stock trading system in the sharia stock trading system, there is no margin trading system, namely buying shares by borrowing funds from securities companies, this sharia stock trading also does not recognize and does not allow transactions short selling, which is selling shares without having to own the shares, these sharia shares apply a cash basis transaction where buying and selling is carried out in accordance with the capital owned, because basically these sharia shares do not recognize margin trading. In sharia stock trading, only listed companies that have met the criteria and issued sharia shares only, those that do not meet these criteria cannot issue their shares according to sharia.

In the Islamic stock trading in Indonesia, there is a separate index, namely the Jakarta Islamix Index. The Jakarta Islamic Index (JII) is the latest index developed by the Stock Exchange in collaboration with Danareksa Investment Management (DIM) to respond to information needs related to sharia investment. The Jakarta Islamic Index (JII) is a subset of the Composite Stock Price Index (JCI) which was launched on July 3, 2000 and uses January 1, 1995 as the base date (with a value of 100). JII performs a filter on the listing share price. The reference in screening is the sharia fatwa issued by the National Sharia Council (DSN). Based on this fatwa, the stock exchange selects issuers of its business units in accordance with sharia (Umam, 2013). With the presence of this index, investors have been provided with stocks that can be used as a means of investing by applying sharia principles (Sutedi, 2011).

The selection made for stocks included in the Islamic Index group includes normative and financial selections (Nasution, 2007). This normative selection relates to the business activities of the issuer whether it is contrary to sharia principles or not, while the selection is related to finance

The normative selection includes the issuer's business activities that are contrary to sharia principles which include: Gambling and gaming businesses which are classified as gambling or prohibited trade, Conventional financial institutions (*ribawi*) businesses including conventional banking and insurance, Businesses that produce, distribute and trade food and beverages that are classified as *haram*, a business that produces, distributes and provides goods or services that damage morals and are harmful. While the financial selection includes: Selecting a group of shares with the main type of business that does not conflict with the principles of Islamic law and has been recorded for more than three months (except when included in 10 large-cap stocks) liabilities to assets of a maximum of 90%. Choose 60 stocks from the list above based on the order of the largest average market capitalization over the past year. Select 30 stocks in order based on the average liquidity level of trading value over the past year.

In stock trading in the capital market which is carried out with sharia principles, in essence, there is no element of usury, then the element of *gharar* (uncertainty or speculation) is prohibited, and in this sharia stock trading there is no gambling element. in the capital market, this is certainly different from conventional principles in stock trading in the capital market, the application of sharia principles in stock trading in the capital market is certainly intended to accommodate the interests of the community, especially the Muslim community who prioritizes sharia principles in investing.

Conclusion

The main legal basis for the Indonesian capital market is Law Number 8 of 1995 concerning the Capital Market, the Law applies to both the conventional capital market and the Islamic capital market, but regarding stock trading in the capital market with sharia principles, there are several separate rules, because in Basically, the Islamic capital market is different from the conventional capital market, where this Islamic capital market uses Islamic sharia principles in carrying out stock trading in the Islamic capital market, and also uses a contract first. The legal basis for trading sharia shares in Indonesia is issued by the National Sharia Council of the Indonesian Ulema Council and also by the *Otoritas Jasa Keuangan* as the institution tasked with overseeing the capital market. The National Sharia Council of MUI, issued regulations regarding sharia shares, among others, the Fatwa of the National Sharia 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; Fatwa of the National Sharia Council No: 80/DSN-MUI/III/2011 concerning the Implementation of Sharia Principles in the Mechanism of Trading in Equity Securities in the Regular Market of the Stock Exchange; while regarding sharia shares, the *Otoritas Jasa Keuangan* issued the following regulations. *Otoritas Jasa Keuangan* Regulation No. 17/POJK.04/2015 concerning Issuance and Requirements for Sharia Securities in the Form of Shares by Sharia Issuers or Sharia Public Companies; *Otoritas Jasa Keuangan* Regulation No. 53 /POJK.04/2015 concerning Contracts Used in Issuing Sharia Securities in the Capital Market; *Otoritas Jasa Keuangan* Regulation No. 15/POJK.04/2015 concerning the Implementation of Sharia Principles in the Capital Market.

In the capital market sector in Indonesia, especially with regard to stock trading in the capital market, sharia principles have begun to be applied properly. This is indicated by the existence of facilities (Sharia Online Trading System (SOTS)) as well as brokers or securities companies that facilitate trading of shares in sharia, in addition to that added by the number of issuers listing sharia shares. Besides that, it is also supported more by the regulations issued by the national sharia board of the Indonesian Ulema Council and *Otoritas Jasa Keuangan* related to stock trading in sharia.

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