

Legal Protection for Sharia Capital Market Retail Investor

Herdimas Kurnia and Abdul Rasyid^a

Business Law Program, Law Department, Faculty of Humanities, Bina Nusantara University,
Jakarta, Indonesia 11480

a) Corresponding author: arasyid@binus.edu

Abstract

The Islamic capital market is a securities trading system whose instruments and transaction mechanisms do not conflict with sharia principles. Thus, the Islamic capital market has the obligation to comply with applicable laws as well as Islamic law. One of the principles in the Islamic capital market is the prohibition of gharar or uncertainty. However, the capital market is inherently uncertain in the form of investment risk. Knowing this, this thesis aims to find out how legal protection guarantees a sharia compliant transaction for retail investors in the Islamic capital market. The research was conducted using a normative juridical method which was then carried out a qualitative analysis of the data found. The results of this study indicate that the provisions governing the transaction mechanism in the Islamic capital market have provided protection that ensures the implementation of investment of investment activities does not conflict with sharia principles. Protection is provided through an online-based trading system that automatically rejects transactions that contain elements that are contrary to sharia principles. However, the transactions carried out in the Islamic capital market are still too small when compared to transactions in the conventional capital market. So that legal protection for transactions in the Islamic capital market cannot affect the stability of the market as a whole. Yet, this does not mean that there are no protection at all. The Indonesia Stock Exchange as a facilitator who has a function as a capital market regulator, has imposed restrictions on trading volume with provisions for trading halts and price limits. However, due to the dynamic nature of the capital market, it is necessary to review and update repeatedly in order to produce effective provisions for stabilizing the capital market.

Keywords

Legal Protection, Retail Investor, Islamic Capital Market, Sharia Principle, Transaction Mechanisms.

Biographies

Herdimas Kurnia is a student majoring in business law at Bina Nusantara University. He became an aide for the special staff of the ministry of trade of the republic of Indonesia, in 2019. Aiding the special staff in matters such as, inter-institutional relations, domestic trade promotions, and matters concerning the relations between private and public sector. Herdimas is also an active member of Garda Bangsa, an offshoot social organization with an interest in political and societal change brought forth by youth.

Abdul Rasyid is a lecturer and expert on sharia business law. He is a permanent lecturer of the business law department of Bina Nusantara University. Abdul Rasyid obtained his bachelor's degree in Islamic law from the sharia faculty of IAIN Imam Bonjol Padang, then continued his master's and doctoral education at Ahmad Ibrahim Kulliyah of Law, International Islamic University Malaysia with expertise in sharia business law. He conducted various research in the field of sharia business law. He has also published several books on the development of sharia law in Indonesia.

