



Legal Protection for Sharia Capital Market Investors To Increase Investor Confidence Through The ‘Sharia Securities List’

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Abstract

Investors' worldly benefits and blessings in the hereafter are the main considerations in investing in the Islamic Capital Market. Many issuers have registered their companies on the Sharia Securities List based on POJK No. 35/POJK.04/2017 concerning Criteria and Issuance of Sharia Securities List. However, in practice, issuers that have been included in the Sharia Securities List can be removed from the list in the following period because they no longer fulfill the requirements of the POJK. This study aims to analyze the effectiveness of the implementation of investor protection regulations in the Sharia capital market with a focus on issuers' compliance with Sharia principles. The method used is descriptive-analytical with a normative juridical approach, and the analysis is qualitative. The results showed that the regulations related to the Sharia capital market are sufficient. Meanwhile, the implementation of legal protection for investors in the Sharia capital market needs to be improved to further increase investor confidence. This study recommends increased routine supervision by OJK, law enforcement with stricter sanctions for issuers that do not fulfill Sharia principles, and increased transparency of information for investors.

Keywords: *investor; legal protection; Sharia capital market.*

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1. Introduction

Investors can make the Sharia Securities List (in Indonesia: Daftar Efek Syariah (DES)) as a consideration in making decisions to invest in the Islamic capital market in Sharia stock products. In addition, investors can also see various information, one of which is the issuer's financials on the

Sharia stock index to make investment decisions (Nusrida et al., 2023). The Islamic stock index is a variable that shows the Islamic stock market's or Islamic stocks' performance. The Islamic stock index is an indicator of measuring and comparing the performance of Islamic stock portfolios (Abdalloh, 2020).

The establishment of the Sharia securities list and Sharia stock index is based on the need to assure Muslim investors of the clarity of investments that follow Sharia norms and principles. To determine that the shares fulfill the criteria of Sharia stocks that are under Sharia values and principles, the shares will go through a selection (screening) process to ensure whether or not the issuer is eligible to be included in the Sharia securities list and Sharia stock index in the screening process, namely qualitative (business screening) and quantitative aspects (financial screening) (Nusrida et al., 2023).

The Financial Services Authority or Otoritas Jasa Keuangan (OJK) has issued a regulation namely POJK No. 35/POJK.04/2017, of the Criteria and Issuance of Sharia Securities List. Sharia stock criteria are based on Article 2 of the POJK:

1. Issuers or public companies do not conduct business activities or produce goods or services that do not follow Sharia principles.
2. The ratio of usury-based debt to total company assets is not more than 45%.
3. The ratio of total interest income and other non-halal income compared to total operating income and other income is not more than 10%.

The list is an investment guide for users of the Sharia Securities List, such as investment managers managing Sharia mutual funds, Sharia insurance, and investors who have a preference to invest in Sharia securities. In addition, the Sharia Securities List is also a reference for Sharia index providers, such as PT Bursa Efek Indonesia, in issuing the Indonesia Sharia Stock Index (ISSI), Jakarta Islamic Index (JII), Jakarta Islamic Index 70 (JII 70), IDX-MES BUMN 17, and IDX Sharia Growth (Prisetyowati, 2020).

The Sharia securities included in the Sharia Securities List based on the Decree of the Board of Commissioners of the Financial Services Authority Number: KEP-51/D.04/2024 concerning the Sharia Securities List include 671 shares of Issuers and Public Companies, as well as other sharia securities. The source of data used as review material in the preparation of the Sharia Securities List is derived from the financial statements ending on 30 June 2024, as well as other supporting data in the form of written data obtained from the Issuer or Public Company (OJK, 2024).

Based on the provisions, the OJK periodically publishes the Sharia Securities List at the end of May and November which is effective on 1 June and 1 December. In addition, on an incidental basis, the issuance of the Sharia Securities List is also carried out if there are issuers or public companies whose registration statements have become effective and whose shares meet the criteria for Sharia Securities, or if there are corporate actions, information, or material facts from the Issuer or Public Company that may lead to the fulfillment or non-fulfilment of the Sharia Securities criteria (OJK, 2024).

Although the OJK has made regulations namely POJK No. 35/POJK.04/2017 which regulate the Sharia securities list, there are issuers or public companies that have been included in the Sharia securities list, it turns out that in the next period, they are removed from the Sharia securities list because they no longer qualify as sharia stocks.

In practice, some stocks that fall into the category of Islamic stocks may in the next period no longer be listed in the DES because they no longer meet the specified criteria. For example, in the period II/2015 (December 2015-May 2016), around 331 shares of issuers were included in the DES. But at the same time, a total of 20 shares of issuers were excluded from the list of sharia securities. A total of 18 issuers failed to meet the criteria for sharia stocks, namely having an interest-based debt ratio of more than 45% or a non-halal income ratio of more than 10%. Meanwhile, the other two issuers did not submit additional data on non-halal income information following the questionnaire sent by OJK (Astria, 2015). Another case is the case of ASII, BSDE, and JSMR shares that were removed from DES in 2020 because their interest-based debt compared to their total assets exceeded 45% (Prisetyowati, 2020), and PT Bukalapak.com shares in 2022 because they are still trading alcoholic beverages that are forbidden (Nusrida et al., 2023).

These cases have led to investor distrust of investing in Islamic stocks. The removal of shares from the DES can reduce investor confidence due to the lack of legal certainty regarding the sharia status of the shares. Rapid growth of the Islamic capital market but there are still investor protection problems. Potential negative impacts on Islamic investors if regulations and implementation of legal protection are inadequate.

Related to the description above, the issue of investor protection is a concern that will be examined. Research on investor protection has been widely conducted by researchers. However, in this study, there are differences in substance compared to previous studies. The following are some studies on legal protection for investors from other researchers that show the differences, namely:

1. I Nengah Suardana, et al, Legal Protection for Investors Based on the Principle of Openness by Issuers in the Capital Market, in *Journal of Legal Analogy*, 2 (2) (2020), 182–186 Journal. This article emphasizes the aspects of legal protection for investors to obtain information and disclosure about shares owned in the Capital Market and the principle of openness by issuers in submitting information to investors in the capital market.
2. Dian Husna Fadlia, et al, The Role of the Financial Services Authority (OJK) in Legal Protection for Investors for Alleged Fictitious Investments, *Journal of Law Reform* Volume 11, Number 2, Year 2015. This research emphasizes the need for legal protection by OJK for investors against alleged fictitious investments.
3. Windy Sri Wahyuni Legal Protection for Shareholders in Sharia Capital Market, *Journal Law Enforcement*/Volume 2/Number 2/December 2015. This article discusses the history of the birth of the legal foundation of the Sharia capital market as legal protection for shareholders in the Sharia capital market in Indonesia.

Unlike previous research that focused on the principle of information disclosure, this research will examine the effectiveness of implementing legal protection for investors in the context of delisting shares from the DES. This is because there are wide-open opportunities for the development of the Islamic capital market, considering that the total population of Indonesia in 2024 is 282,477,584 people. Meanwhile, the number of Islamic stock investors as of July 2023 is still 5,506,713 people. There are more conventional stock enthusiasts (Afif & ZA, 2024). This potential will continue to grow if investors have the confidence to invest in Islamic stocks.

2. Literature Review

Put forward by Sudikno Mertokusumo, the law functions to protect human interests. To protect human interests, laws must be implemented (Mertokusumo, 2003). Quoted from Wahyu Sasongko, the most effective legal protection is the existence of law enforcement agencies such as courts, police, prosecutors, and other non-litigation dispute resolution institutions (Rachmadini, 2019).

The protection referred to is preventive or preventive (prohibited), namely by making regulations, while the protection referred to is punitive or repressive (sanction), namely by enforcing the law (Armeilia, 2021). The protection effort is considered legal protection if the following four conditions as stated by Simanjuntak are met, namely: 1) The government protects its citizens; 2) Providing guarantees of legal certainty; 3) Related to the rights of its citizens; 4) Legal sanctions for those who violate (Hukumonline, 2022).

Moch. Isnaeni argues that there are two types of legal protection, namely internal and external legal protection. Internal legal protection is packaged by the parties themselves at the time of the agreement contained in the contract clauses. Meanwhile, external legal protection is made by the authorities through regulations for the benefit of the parties (Isnaeni, 2016).

In addition, Article 1 Number 1 of the Consumer Protection Act, it is also stated that consumer protection includes all efforts to guarantee legal certainty to protect consumers. Understanding consumers in model market activities can be equated with the term investor (Rachmadini, 2019).

Rafael La Porta states the form of legal protection provided by a country has two characteristics, namely preventive (prohibited) and punitive (sanction). The most obvious form of legal protection is the existence of law enforcement institutions such as courts, police, and other non-litigation dispute resolution institutions (Porta et al., 2000).

La Porta's theory of preventive and repressive legal protection and Moch. Isnaeni's theory of internal and external legal protection are complementary. Both legal protection theories are implemented in capital market activities.

Legal protection of investors is carried out by regulating, guiding, and supervising the daily activities of the capital market. Under Article 55 of the OJK Law, this is transferred from the Minister of Finance and the Capital Market and Financial Institutions Supervisory Agency (Bapepam-LK) to the OJK.

Supervision is a preventive effort that can be in the form of making rules, guidelines, guidance, and direction; and repressive efforts in the form of examination, investigation, and imposition of sanctions (Suardana et al., 2020). By doing so, legal protection can be done in 2 ways, namely by providing legal certainty through legislation and legal certainty through law enforcement with the application of sanctions (Juliana et al., 2013).

Capital market law is the legal norms or legal rules that regulate all aspects related to the capital market. In an investment, legal protection is needed to protect investors from the risks that must be borne by the investors themselves in carrying out investment activities (Rachmadini, 2019).

The capital market law regulates the sanctions applied in case of violations in the capital market, namely: 1) administrative sanctions, usually in the form of written warnings in the form of fines, suspension of business licenses, and revocation of business licenses; 2) civil sanctions allow investors to file civil suits against directors or commissioners of companies whose activities cause company losses; 3) criminal sanctions are applied to parties proven to have committed criminal

offenses in the capital market sector in the form of fraud, insider trading and market manipulation (Suardana et al., 2020).

An investor is an investor who invests money in a business to make a profit (Apandy, 2022). Islamic capital market activities related to investors, quoting from Obaidullah, contain seven characteristics, namely:

1. Free from coercion, investors have the right to transact and are free to make contracts;
2. Free from misinterpretation, investors have the right to receive correct information, so as not to cause misinterpretation;
3. Right to the same information, all investors have equal access to a specific set of information;
4. The right to process the same information, so that no investor is disadvantaged;
5. Freedom from turbulence, all investors should be free from making mistakes due to a lack of self-control;
6. The right to transact at the efficient or correct price;
7. The right to have equal bargaining power to negotiate (Wiyanti, 2013).

Sharia issuers or Sharia public companies according to POJK Number 35/POJK.04/2017 concerning Criteria and Issuance of Sharia Securities List are: "Parties who in their articles of association state that the activities and types of business and the way of managing their business are based on Sharia Principles in the Capital Market". Based on this, investors can invest in securities issued by sharia issuers or sharia public companies as an investment option. These securities must have gone through the selection stage so that they are declared to comply with sharia. This is different from conventional stocks which are shares of all companies engaged in various business sectors, without any haram or halal restrictions (Nafik HR, 2009).

An Islamic share listing is different from an Islamic issuer. Companies listed in the Sharia stock list are companies whose business fields do not violate Islamic law. Sharia issuers are Issuers whose articles of association state the activities and types of business and how to manage their business based on Sharia Principles in the Capital Market. Companies that are established specifically will operate on a Sharia basis (Puspadini, 2024).

The Sharia Securities List is a collection of Sharia Securities, which is determined by the OJK or issued by the Sharia Securities List Issuing Party. The Sharia Securities List determined by the OJK shall be used as a reference for: 1) Parties that issue Sharia securities index domestically; 2) Investment managers who manage the investment portfolio of Sharia Securities in the country; 3) Securities companies that have Sharia online trading system; 4) Other parties conducting the

preparation and/or management of investment portfolio of Sharia Securities domestically for the benefit of other parties, to the extent stipulated in the provisions of laws and regulations (OJK, 2017).

Sharia shares are shares of companies (issuers) whose business activities do not conflict with the values and principles of Sharia or are often referred to as Sharia compliant which are supervised by OJK (Nusrida et al., 2023).

In practice, although legal protection of investors both preventively, repressively, and internally and externally has been regulated, in its implementation, there are weaknesses. There are still issuers or public companies that commit certain acts that result in their shares being removed from the List of Sharia securities. The regulation violated is Article 2 POJK No. 35/POJK.04/2017 concerning Criteria and Issuance of List of Sharia Securities, which leaves investors less protected.

3. Methodology

To answer the problem, the research was conducted using a normative juridical approach. This approach is based on secondary data reinforced with primary data. The specification of this research uses an analytical descriptive method. This method is needed to describe, explain, and explain the object of research completely, clearly, and objectively about the problem related to implementing legal protection for investors in the context of delisting shares from the DES.

Data Collection Technique, in normative juridical research, the type of data used is secondary data. Secondary data is obtained from library materials or literature so it is called library research. Secondary data sources in this research can be divided into three groups, namely primary legal materials, secondary legal materials, and tertiary legal materials related to the list of Sharia Securities (Soekanto & Mamudji, 2006).

Data analysis techniques in descriptive qualitative, data analysis used is a qualitative approach to primary and secondary data. The descriptive includes the content and structure of positive law, to determine the content or meaning of the rules that will be used as a reference in solving legal problems that become the object of study.

4. Results And Discussion

a. Laws and Regulations Related to Legal Protection of Sharia Capital Market Investors

The Islamic capital market is similar to Islamic banking as an Islamic financial institution that adheres to the rules of Islamic law as outlined in the Qur'an and Hadith, operating as a financial system based on Sharia principles (Helliana & Gunawan, 2023). According to Sharia law, the

transaction operations must comply with three fundamental prohibitions. These fundamental bans include *riba* (loan interest), *masyir* (gambling), and *gharar* (uncertainty) (Harsono & Atina, 2023).

The legal basis for the implementation of the Islamic capital market in Indonesia is Law No. 8 of 1995 concerning the Capital Market (Capital Market Law) and Law No. 21 of 2011 concerning the Financial Services Authority (OJK Law). Related to Islamic capital market activities, the fatwa of the National Sharia Council-Indonesian Ulema Council (DSN-MUI) is also one of the legal foundations. As a legal umbrella, of course, these regulations must be supported by other regulations under it (Afif & ZA, 2024).

The capital market operationally consists of two categories: conventional and Islamic capital markets (Fadilla, 2018). As stipulated in the Capital Market Law, the capital market is: "activities related to Public Offerings and Securities trading, Public Companies related to the Securities they issue, as well as institutions and professions related to Securities." Taking into account this definition, Capital Market Law does not distinguish whether capital markets are conducted conventionally or based on Sharia principles (Huda & Nasution, 2007).

Capital market activities regulated by Capital Market Law that do not conflict with Sharia principles are known as Sharia capital markets. Therefore, the Islamic capital market is part of the general capital market. Activities in the Islamic capital market are generally the same as those carried out in the conventional capital market. However, there are differences, one of which is that products and transaction processes in the Islamic capital market must comply with Sharia principles (OJK, n.d.).

At the beginning of the establishment of the Sharia capital market, in 2003, Fatwa National Shariah Board of the Indonesian Ulema Council (Dewan Syariah Nasional (DSN-MUI)) No. 40/DSN-MUI/X/2003 about Capital Market and General Guidelines for the Application of Sharia Principles in the Capital Market Sector. Even though the fatwa is non-binding, in practice the DSN-MUI fatwa is one of the references for developing the Indonesian Islamic capital market (Fauzan & Suhendro, 2018). Furthermore, to protect investors who invest in Sharia stocks, the DSN-MUI issued several fatwas related to the Sharia capital market and Sharia stocks.

On the other hand, the Financial Services Authority, based on the OJK Law, is an independent institution that oversees financial service institutions (Toha et al., 2020). In the capital market sector, based on interviews with Mr. Candra, Head of the Capital Market Supervision Section of OJK West Java, and Ms. Febri, staff of the supervision section in July 2023, it was conveyed that throughout 2022, OJK continued to improve performance in carrying out regulatory duties, licensing,

supervision, law enforcement, and investor protection efforts in the Capital Market. As of 30 December 2022, OJK has issued 7 OJK Regulations and 12 OJK Circular Letters and issued 14,374 permits and/or registrations consisting of 8 permits for investment management actors, 2,999 Capital Market investment management products, 11,083 extensions of representative licenses and new licenses, 216 permits for Capital Market supporting institutions and professions, 63 new Issuers, and 6 SCF Providers.

The following are regulations that have been issued by the OJK as a preventive effort in the context of legal protection and increasing investor confidence in the Islamic capital market. OJK Circular Letters (SE OJK) and POJK that have just been issued include the following (Darmansyah, 2022).

Table 1. The Regulation of Sharia Capital Market to Protect Investor

1.	OJK Regulation Number 5 of 2021 concerning Capital Market Sharia Experts.
2.	OJK Regulation Number 33/POJK.04/2019 concerning Issuance and Requirements for Sharia Mutual Funds.
3.	OJK Circular Letter Number 6/SEOJK.04/2018 Concerning the Implementation of Continuing Education Programs for Capital Market Sharia Expert License Holders.
4.	OJK Regulation Number 35/POJK.04/2017 concerning Criteria and Issuance of List of Sharia Securities.
5.	OJK Regulation Number 61/POJK. 04/ 2016 Concerning Application of Sharia Principles in the Capital Market for Investment Managers.
6.	OJK Regulation Number 15/POJK.04/2015 concerning Application of Sharia Principles in the Capital Market.
7.	OJK Regulation Number 53/POJK. 04/ 2015 Concerning Contracts Used in Issuing Sharia Securities in the Capital Market.
8.	OJK Regulation Number 50/POJK.04/2016 concerning Investor Protection Fund Organizers.
9.	OJK Regulation Number 1/POJK.07/2013 Concerning Consumer Protection in the Financial Services Sector and POJK Number 49/POJK.04/2016 Concerning Investor Protection Funds as well.

From the description above it appears that the laws and regulations related to investor protection in the Islamic capital market are sufficient (Wahyuni, 2015). With adequate regulation, the development of the Islamic capital market has achieved significant milestones within twenty-five years. This achievement is inseparable from investor confidence. These achievements, among others, can be seen in the following table (Ika, 2022).

Table 2. Islamic Capital Market Achievements

No	Description
1	In 1997 the launch of the first Islamic mutual funds made various Islamic indices available to investors.
2	In 2000 the Indonesia Stock Exchange (IDX) launched an index, namely the Jakarta Islamic Index (JII), which consisted of the 30 most liquid and largest capitalized Islamic stocks in Indonesia.
3	In 2011 IDX relaunched several other Sharia stock indices. One of them is the Indonesian Sharia Stock Index (ISSI), which includes all Islamic stocks listed on the IDX and is a constituent of the Jakarta Composite Index (IHSG).
4	2017 Jakarta Islamic Index 70 (JII70) which includes 70 listed stocks with the largest and most liquid market capitalization on the IDX.
5	IDX-MES BUMN 17 (IDXMESBUMN) is present in 2021, which are BUMN shares and affiliates in ISSI that have a large, liquid market capitalization and high fundamental value.
6	In 2022 IDX Sharia Growth was launched, which contains 30 Sharia stocks that have a growing trend of net profit and revenue relative to price with transaction liquidity and good financial performance.
7	As of September 30, 2022, the total transaction value reached Rp. 8.3 trillion and transaction volume reached 24 billion shares. This shows that the trading activity of sharia investors on the Exchange is growing. This transaction also contributes to the revival of the Islamic economy (Toha et al., 2020)
8	As of September 30, 2022, related to the listing of Sharia securities, there have been 493 shares listed on the IDX, 211 corporate sukuk, 79 state bonds, 268 Islamic mutual funds, and 3 Islamic Exchange Traded Funds (ETF), various indices.
9	The increasing number of investors participating in Islamic stocks in Indonesia. As of September 30, 2022, a total of 114,116 investors have joined the Islamic capital market.

From the table above, it can be seen that the Islamic capital market industry in Indonesia has experienced significant and encouraging development within twenty-five years because it is supported by many regulations that protect investors.

b. Implementation of Legal Protection for Sharia Capital Market Investors through the 'Sharia Securities List' in Increasing Investor Confidence

In general, the principles of consumer protection must be complied with according to POJK Number 1/POJK.07/2013 Concerning Consumer Protection in the Financial Services Sector, are 1) transparency; 2) fair treatment; 3) reliability; 4) confidentiality and security of consumer data and information; and 5) easy, fast, and cheap handling of consumer complaints and disputes.

Capital Market Law contains a spirit that aims to protect investors and the public through regular, fair, and efficient securities trading arrangements. The existence of legal certainty and law enforcement, market supervision, information disclosure, efficient trading systems and costs, business ethics, and professional standards can protect investors and the public (Juniata, 2017). It was emphasized in the OJK Law that one of the OJK's responsibilities is to protect consumers of financial services because activities in the Islamic capital market are highly dependent on investor confidence.

In addition, Sharia stock criteria are based on Article 2 POJK. No.35/POJK.04/2017: 'First, issuers or public companies do not conduct business activities or produce goods or services that do not follow sharia principles. Second, the ratio of usury-based debt to total company assets is not more than 45%. Third, the ratio of total interest income and other non-halal income compared to total operating income and other income is not more than 10%'.

Legal protection will not materialize if law enforcement is not implemented, because the two are interrelated. The protection specified in the law is a tool, and the steps to implement this tool are law enforcement (Hukumonline, 2022).

The ultimate goal of OJK is to increase investor confidence through legal protection and law enforcement for all investors (Darmansyah, 2022). Legal protection in capital market activities is closely related to capital market players, especially issuers, investors, and institutions that support capital market activities (Rachmadini, 2019). Therefore, OJK issued many regulations as stated in the previous discussion. Seeing the significant development of the Islamic capital market during the twenty-five years of its existence as described in the previous explanation, it appears that the laws and regulations to protect the interests of investors are sufficient. Especially with DES, Islamic stock investors feel protected.

However, in practice, the implementation of legal protection for investors in the Islamic capital market is still inadequate. Some issuers violate Article 2 POJK No. 35/POJK.04/2017. This can be seen from the cases described in the research background, namely those relating to the implementation of the Sharia Securities List (Daftar Efek Syariah (DES)). According to POJK No.

35/POJK.04/2017, Sharia Securities List is a collection of Sharia Securities, which are determined by the OJK or issued by the Issuing Party of the Sharia Securities List which are categorized into 2 types, namely: Periodic and Incidental DES.

The case related to the Sharia Securities List is period II/2015 (December 2015 to May 2016), a total of 20 issuer shares were removed from the list of Sharia securities, with details as many as 18 issuers were eliminated from DES because they did not meet the criteria for Islamic stocks, namely having an interest-based debt ratio of more than 45% or a non-halal income ratio of more than 10%. Meanwhile, two other issuers were expelled from the DES for not submitting additional data on non-halal income information under the questionnaire sent by OJK.

Similarly, ASIL, BSDE, and JSRM stocks were excluded from DES in 2020 because their interest-based debt compared to their total assets exceeded 45%. Meanwhile, the shares of PT Bukalapak.com (code BUKA) were excluded from the DES in 2022 because one of the reasons is still trading and distributing products that are forbidden because of their substances (haram lidzatihi), such as alcoholic beverages.

Based on the cases described above, it can be analyzed that Sharia issuers or Sharia public companies that were previously listed in the DES because they met the criteria for Sharia shares, but after being updated, then in the next period they were expelled from the DES by the OJK because they did not meet the specified criteria, meaning that the issuer or the sharia public company has violated sharia principles and laws and regulations.

Mr. Candra, as Head of the Capital Market Supervision Section of OJK West Java, and Ms. Febri mention that the exclusion of stock from the list of sharia securities has a major effect on the existence of the stock as an Islamic stock. The sanction for Sharia securities that are removed from the DES is that the stock becomes a non-Sharia stock. This affects the confidence and interest of Muslim investors in investing in Islamic stocks. Investors will sell these shares and replace them by buying other Islamic stocks.

Some of the capital market regulations that have been violated concerning the sharia securities list include the following:

1. Capital Market Law, it is stated that the Islamic capital market as part of the capital market is an activity in the capital market as stipulated in Capital Market Law which does not conflict with Sharia principles and their implementation.
2. POJK Number 35/POJK.04/2017 Concerning Criteria and Issuance of Sharia Securities Lists mentions Sharia Issuers or Sharia public companies namely: "Parties which in their articles of

association state that their activities and types of business and the way of managing their business are based on Sharia Principles in the Capital Market". This POJK mentions that there is a guarantee of compliance with sharia principles for issuers or public companies. However, this provision is violated by issuers and public companies by no longer fulfilling the criteria of Sharia principles, listed in Article 2.

3. POJK Number 15/POJK.04/2015 concerning Application of Sharia Principles in the Capital Market. With the release of the issuer from DES, it means that the issuer or public company has violated the OJK regulations related to Sharia Principles in the Capital Market, namely the principles of Islamic law in Sharia Activities in the Capital Market based on the fatwa of the National Sharia Council - Indonesian Ulema Council. Also violates provisions related to Sharia Securities, namely the contract, management method, and business activities; assets that form the basis of the contract, how to manage, business activities; and/or assets related to the intended Securities and the issuer, are not in conflict with Sharia Principles in the Capital Market.
4. Fatwa No. 40/DSN-MUI/X/2003 concerning Capital Markets and General Guidelines for the Application of Sharia Principles in the Capital Markets Sector, Article 3 stipulates that the type of business, goods, services provided, and contracts as well as management of the Issuer or Public Company issuing Securities Sharia must not conflict with Sharia Principles. Furthermore, Issuers or Public Companies that issue Sharia Securities must guarantee that their business activities comply with Sharia Principles and have a 'Shariah Compliance Officer'. This provision has been violated by Issuers or public companies by not fulfilling the guarantee of the application of Sharia principles.
5. DSN-MUI Regulation No. PER-01/DSN-MUI/X/2017 about the Sharia Supervisory Board (DPS) in Islamic Financial Institutions (Lembaga Keuangan Syariah (LKS)), that every Sharia issuer and Sharia public company must have a minimum of 3 (three) members of the Sharia Supervisory Board and one of them as chairman. In this case, the Sharia Supervisory Board did not carry out its duties as well as possible in supervising the application of sharia principles to issuers and sharia public companies.

To protect and build investor confidence in sharia stocks, public companies and issuers that commit violations related to DES will be subject to sanctions. The sanction given by OJK is regulated in POJK Number 35/POJK.04/2017 on Criteria and Issuance of Sharia Securities List Articles 25, 26, 27 on the Provision of Sanctions. Article 25 stipulates, namely imposing administrative sanctions in the form of: a) a written warning; b) a fine, namely the obligation to pay a certain amount of money;

c) restrictions on business activities; d) freezing of business activities; e) revocation of business license; f) cancellation of approval; and/or g) cancellation of registration.

Article 26 states that OJK may also take certain actions in addition to sanctions against any party that violates the provisions of this POJK. Meanwhile, Article 27 OJK may announce the imposition of administrative sanctions and certain actions to the public. These administrative sanctions may be imposed with or without prior written warning. Administrative sanctions in the form of fines can be imposed separately or together with the imposition of administrative sanctions. In addition to administrative sanctions, OJK can take certain actions against any party who violates the provisions of this Financial Services Authority Regulation and OJK can announce the imposition of administrative sanctions and certain actions to the public.

Although sanctions for violations of DES have been established, violations of DES still occur, such as cases of violations of Sharia capital market regulations in this case POJK Number 35/POJK.04/2017 concerning Criteria and Issuance of Sharia Securities List, Article 2. Considering that securities listed in the Sharia securities list are one of the indicators of legal protection for investors in investing in Sharia stocks, then based on the theory of legal protection put forward by La Porta and Moch. Isnaeni, namely preventive and repressive legal protection as well as internal and external legal protection as described in the previous discussion, OJK supervision must be intensified to protect investors. In addition, law enforcement with stricter sanctions for issuers whose shares have been listed as Sharia securities but then no longer fulfill Sharia principles, as well as increased transparency of information for investors.

5. Conclusion

From the research results, it is evident that the regulatory framework related to the legal protection of investors in the Islamic capital market is adequate. This can be seen from the issuance of various regulations, such as POJK and SEOJK. Similarly, the DSN MUI (National Shariah Board of the Indonesian Ulema Council) supports and encourages investor protection in the Islamic capital market by issuing various fatwas. However, in terms of implementation, legal protection for investors in the Islamic capital market is still not optimal. Violations of DES still occur. For example, there are 20 companies, as well as other cases such as ASII, BSDE, JSRM, and PT Bukalapak.com. that have violated POJK NO. 35 /POJK.04/2017 which regulates the Criteria and Issuance of Islamic Securities List (DES). This certainly affects investor confidence in investing in Islamic stocks. The sanction for Sharia stocks that are out of DES is that the shares are changed to non-sharia stocks. Meanwhile, sanctions for public companies or issuers whose shares are out of DES are subject to administrative

sanctions and other sanctions. Sanctions are imposed to maintain trust and provide legal protection for investors. Therefore, to provide legal protection to investors and increase investor confidence, the implementation of OJK supervision needs to be strengthened. Law enforcement and more severe sanctions for issuers that violate Sharia norms, as well as greater information disclosure for investors.

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References

- Abdalloh, I. (2020). *Pasar Modal Syariah*. Elex Media Komputindo.
- Afif, F., & ZA, S. S. A. (2024). Problematika Kriteria dan Penerbitan Daftar Efek Syariah. *Iqtishaduna: Jurnal Ilmiah Mahasiswa Jurusan Hukum Ekonomi Syariah Volume 5 Nomor 3 April 2024*, 5(3). file:///C:/Users/hp/Downloads/46166-Article Text-142235-1-10-20240430.pdf
- Apandy, P. A. O. (2022). Analisis Penyebab Emiten Delisting Serta Akibat Yang Didapatkan Para Pemegang Saham. *Entrepreneur: Jurnal Bisnis Manajemen Dan Kewirausahaan*, 3(1), 500–509. <https://ejournal.unma.ac.id/index.php/entrepreneur/article/view/1814>
- Armeilia, D. (2021). Perlindungan Hukum Terhadap Keselamatan Kerja Bagi Tenaga Kesehatan Akibat Pandemi Covid-19. *Al'Adl*, 13(2), 304–319.
- Astria, R. (2015, November). 20 Saham Emiten Terlempar dari Daftar Efek Syariah -. *Bisnis.Com*. <https://market.bisnis.com/read/20151124/190/495458/20-saham-emiten-terlempar-dari-daftar-efek-syariah>
- Darmansyah. (2022). Siaran Pers OJK Perkuat Pengawasan Pasar Modal Tingkatkan Perlindungan Investor. *Otoritas Jasa Keuangan*.
- Harsono, M., & Atina, V. Z. (2023). Islamic Banking Literature Review. Is Islamic Banking in Accordance with Sharia Principles? *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah*, 7(1), 116–132. <https://ejournal.unisba.ac.id/index.php/amwaluna/article/view/11023/4654>
- Helliana, H., & Gunawan, J. (2023). The Effect of Company Size, Capital Adequacy, and Level of Funding on Financial Performance Moderated By The Sharia Supervisory Board. *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah*, 7(2), 323–338.

<https://ejournal.unisba.ac.id/index.php/amwaluna/article/view/12018/4883>

- Huda, N., & Nasution, M. E. (2007). *Investasi pada Pasar Modal Syariah*. Kencana Prenada Media Grup.
- Hukumonline, T. (2022). Pengertian Perlindungan Hukum dan Cara Memperolehnya, 2022. *Hukumonline.Com*. <https://www.hukumonline.com/berita/a/perlindungan-hukum-1t61a8a59ce8062/?page=all>
- Ika. (2022). Pasar Modal Syariah Indonesia Terus Berkembang. *Suaratani.Com*. <https://www.suaratani.com/2022/11/pasar-modal-syariah-indonesia-terus.html>
- Isnaeni, M. (2016). *Pengantar Hukum Jaminan Kebendaan*. PT. Revka Petra Media.
- Juliana, M. D., Murni, R., & Purwanti, N. P. (2013). Perlindungan Hukum Terhadap Investor Bila Terjadi Insider Trading Dalam Pasar Modal. *Kertha Wicara: Journal Ilmu Hukum*, 2(1 Edisi Februari 2013). <https://ojs.unud.ac.id/index.php/kerthawicara/article/view/4666/3545>
- Mertokusumo, S. (2003). *Mengenal Hukum Suatu Pengantar*. Liberty.
- Nafik HR, M. (2009). *Bursa Efek dan Investasi Syariah*. Serambi Ilmu Semesta Jakarta.
- Nusrida, H., Rozalinda, & Wira, A. (2023). Perusahaan Tidak Patuh Syariah: Analisis Faktor Penyebab Dikeluarkannya PT Bukalapak.Com TBK Dari Daftar Efek Syariah. *Maqdis: Jurnal Kajian Ekonomi Islam*, 8(1). <https://doi.org/10.15548/maqdis.v8i1.292>
- OJK. (2017). Pengantar Daftar Efek Syariah. *Otoritas Jasa Keuangan*. <https://www.ojk.go.id/id/berita-dan-kegiatan/pengumuman/Pages/Penerbitan-Keputusan-Dewan-Komisioner-OJK-Tentang-Daftar-Efek-Syariah-Periode-II---2024.aspx?statistik/daftar-efek-syariah/default.aspx>
- OJK. (2024, November 26). *Penerbitan Keputusan Dewan Komisaris Otoritas Jasa Keuangan Tentang Daftar Efek Syariah Periode II - 2024. November 2024*.
- Porta, R. La, Lopez-de-Silanes, F., Shleifer, A., & Vishny, R. W. (2000). Investor Protection and Corporate Governance. *Journal of Financial Economics*, 52(October), 1–39. <https://www.sciencedirect.com/science/article/pii/S0304405X00000659>
- Prisetyowati, D. (2020). Kok Bisa Saham Syariah Keluar dari Daftar Efef Syariah? *Phillip Sekuritas Indonesia*.
- Puspadini, M. (2024, August 5). Dua Emiten Syariah Ini Akan Dikeluarkan dari Daftar Efek Short Selling. *CNBC Indonesia, August*. Dua Emiten Syariah Ini Akan Dikeluarkan dari Daftar Efek Short Selling
- Rachmadini, V. N. (2019). Perlindungan Hukum Bagi Investor Dalam Pasar Modal Menurut Undang-Undang Pasar Modal dan Undang-Undang Otoritas Jasa Keuangan. *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 18(2). <https://jurnal.unikal.ac.id/index.php/hk/article/view/1093>
- Soekanto, S., & Mamudji, S. (2006). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Raja Persada.

- Suardana, I. N., Mahendrawati, N. L., & Astiti, N. G. K. S. (2020). Perlindungan Hukum Terhadap Investor Berdasarkan Prinsip Keterbukaan oleh Emiten di Pasar Modal. *Jurnal Analogi Hukum*, 2(2), 182–186.
<https://ejournal.warmadewa.ac.id/index.php/analogihukum/article/view/1918/1497>
- Toha, M., Manaku, A. C., & Zamroni, M. A. (2020). Perkembangan Dan Problematika Pasar Modal Syariah Di Indonesia. *Jurnal Al-Tsaman*, 2(1), 135–144.
<https://ejournal.inaifas.ac.id/index.php/Al-tsaman/article/view/312>
- Wahyuni, W. S. (2015). Perlindungan Hukum Bagi Pemegang Saham Pada Pasar Modal Syariah. *Penegakan Hukum*, 2(2), 178–192.
- Wiyanti, D. (2013). Perspektif Hukum Islam terhadap Pasar Modal Syariah Sebagai Alternatif Investasi Bagi Investor (Islamic Law Perspective on Sharia Capital Market as an Investment Alternative for Investors). *Ius Quia Iustum*, 20(2), 234–254.
<https://journal.uii.ac.id/IUSTUM/article/view/4519/3987>