

The Extraordinary Solution for Indonesia Economic Crisis: Shariah Capital Market

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Abstract

The historical development of the Islamic finance industry which includes banking, insurance and capital markets is fundamentally a very long historical process. The Islamic Sharia principles applied in the banking industry and Cairo is a country founded the first Islamic bank around 1971 under the name "Nasser Social Bank" operations based on a revenue sharing system (without usury). Islamic principles in *muamalah* that must be considered by the perpetrators of Islamic investment (related parties) are: 1. Do not look for profit in things forbidden, both in terms of substance and how to get it, and do not use it for things that are forbidden. 2. No oppressing and oppressed 3. Justice distribution of prosperity. 3. Transactions carried out on the basis of the same pleasure. No element of *riba*, *maysir* and *gharar* (vagueness). No doubt, to see the development of the Islamic capital market industry is still new. The effect of conventional economic outlook is still strongly felt.

Keywords: Economic; Shariah; Indonesia; Capital Market

Introduction

A. Islamic Capital Market

The historical development of the Islamic finance industry which includes banking, insurance and capital markets is fundamentally a very long historical process. The birth of Islam about 15 (fifteen) centuries ago laid the foundation of the application of Islamic principles in the financial industry, because in Islam known *kaedah muamalah* the legal norms on the relationship between humans including trade relations in the broadest sense. However, the development of the application of Islamic principles experiences a period of low tide during a relatively long period of time during the empire of European countries. During this period, the countries in the Middle East and other Islamic countries nearly became colonies of European countries.

In the further development, with a number of Islamic countries, which is free from foreign occupation and increasingly educated youth of Islam, then Islam is gaining future revival. Around 1960, many Moslem scholars from Islamic countries have started reviewing the application of the European legal system into the financial industry and also to introduce the application of the principles of Islamic Sharia in the financial industry.

Both financial institutions that are banks or non-banks have an important role in the era of globalization. Both act as a vehicle that is able to collect and distribute public funds effectively and efficiently towards the economic development of the people. Basically the function of financial institutions is to transfer funds (loanable funds) from savers to borrowers (Borrowers). The funds are allocated to the negotiations between the owner of the funds with the user of funds through money markets and capital markets.

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As well as banks, non-bank financial institutions collect funds from the public. Banks raise funds directly in the form of deposits of public funds, whereas non-bank collects funds indirectly from the community, but through commercial paper traded.

Methodology and Discussion

A. Industry Capital Markets

In a narrow sense, the definition of the market is where buyers and sellers meet to transact. It means that buyers and sellers meet to trade directly in a particular location. Location or place of the meeting referred to the market. But in a broad sense, the definition of the market is a transaction between a buyer and a seller, where the buyer and the seller does not have to meet in a place or meet in person, but can be done by means of existing information as a means of electronics.

Understanding the stock market in general is a meeting place for buyers and sellers to conduct transactions in order to acquire capital. The seller (issuer) in the capital market is companies that need capital, so they are trying to sell securities in the capital market. While the buyer (investor) is the party that wants to buy the securities of a company which they benefit. Capital market is known as exchanges, and in Indonesia today there are two stock exchanges namely Jakarta Stock Exchange (JSX) and Surabaya Stock Exchange (BES).

In the capital act, article no. 8, 1995, says that the capital market is defined as the activities concerned with the public offering and trading of securities, public companies relating to securities issuance, as well as institutions and professions related to securities. In simple terms, the capital market is defined as the market for a variety of long-term financial instruments that can be traded, either in the form of debt and equity capital. So the right of capital markets, convertible bonds and various derivative products such as put or call.

Capital traded in the capital markets is capital when measured from the time a long-term capital. Therefore it is very beneficial for issuers given the relatively long period of repayment, either ownership or other debt. Especially for the capital is ownership, longer duration when compared to other debt. The capital market is a transaction between the issuer and the investor, simple as that. Where the issuer is a salesman whose company was in need of capital. While investor merupakan buyers who will buy the securities sold.

1. History of Islamic Capital Market

At first, the Islamic Sharia principles applied in the banking industry and Cairo is a country founded the first Islamic bank around 1971 under the name "Nasser Social Bank" operations based on a revenue sharing system (without usury). The establishment of the Nasser Social Bank, followed by the establishment of several other Islamic banks such as the Islamic Development Bank (IDB) and the Dubai Islamic in 1975, Faisal Islamic Bank of Egypt, Faisal Islamic Bank of Sudan and Kuwait Finance House in 1977.

Furthermore, the application of Islamic principles in the sectors outside the banking industry, has also been executed on the insurance industry (takaful) and industrial markets Jakarta, 19 April 2005 Capital (Islamic Capital Market). On the capital market industry, Islamic principles have been applied in bonds, shares and funds (Mutual Fund). The first country to implement the principle of introducing sharia in the capital markets sector is "Jordan and Pakistan", and the two countries have also devised a legal basis for the issuance of Islamic bonds. Subsequently in 1978, the government of Jordan through Law No. 13 of 1978 has allowed Jordan Islamic Bank to issue Muqaradah Bond. Bond issuance permission Muqaradah is then followed by the publication of Muqaradah Bond Act of 1981. While the Pakistani government, new in 1980 published the Madarabas Company and Madarabas Ordinance.

2. History of Islamic Capital Market in Indonesia

The application of Islamic principles in the capital market industry, especially in stocks is based on an assessment of the shares issued by each company, as stocks naturally in accordance with Islamic principles given the nature of the shares are investments. Part of the financial markets other than the money market is short-term securities market. Inside traded among others Bank Indonesia Certificates (SBI), money market securities (SBPU), commercial paper notes, etc. To improve the capital market activity, the government established the Capital Market Executive Agency (Bapepam), which later became the Capital Market Supervisory Agency.

A brief history of the capital markets principled sharia is started from the idea to establish the Islamic capital market since the advent instrument capital markets which use Islamic principles are Islamic mutual funds in 1997 and since at the time of issuance of Islamic mutual funds as well as the index of sharia or Jakarta Islamic Index (JII), then some practitioners academics and scholars make efforts to set up a capital market for entrepreneurs Muslim or companies whose operations in accordance with Islamic principles.

Finally, on 14 March 2003 Islamic capital market was inaugurated by the Minister of Finance Boediono was accompanied by the chairman of Bapepam Herwi Dayatmo, representatives of MUI, the representative of the DSN, securities company directors, actors and organization management professional association in the Indonesian capital market.

B. Function of Islamic Capital Market

The functions of the existence of the Islamic capital market according to MM. Metwally are as follows:

1. It is possible for people to participate in business activities with the need to retrieve part of the profits and risks.
2. To allow the shareholders sell their shares in order to obtain liquidity.
3. To allow the company to raise capital from outside to build and develop its production lines.
4. To separate the business activities of short-term fluctuations in stock prices is a common feature on conventional capital markets.
5. To determine the performance of business activities as reflected in the stock price.

C. Character of Islamic Capital Market

The characters are required in shaping the structures of the Islamic capital market are as follows:

1. All shares must sell and buy on the stock exchange.
2. Exchanges need to be prepared at post-trading in which shares can be bought and sold through brokers.
3. All companies with shares can be sold and bought on the stock exchange required to submit information about the calculation (account) gains and loss, as well as the balance of advantage to the management committee of the stock exchange, with a distance of not more than 3 months.
4. The Management Committee implementing the highest share price (HST) for each company with an interval of not more than 3 months.
5. Shares may not be traded at a higher price than the HST.
6. Shares may be sold at a price below the HST.
7. The Management Committee shall ensure that all companies involved in the exchanges that followed the practice of sharia accounting standards.
8. Trading shares should only take place within one week, the trading period, after determining the HST.
9. The company is only able to issue new shares in the trading period and at a price of HST.

D. Islamic Capital Market Instruments

1) Shares of Sharia

According Nasioanal Sharia Board (DSN), the stock is a proof of ownership of a company that meets the criteria of sharia and not including the shares that have special privileges.

• Basic Principles Sharia Stock

- a. Musharaka is if it is offered on a limited basis.
- b. Mmudharabah if offered to the public.
- c. There should be no distinguishing types of stocks, because of the risk to be borne by all parties.
- d. The principle of sharing profit and loss.
- e. Can not be cashed unless liquidated.

2) Islamic Bonds

According Fatwah (DSN MUI). Namely, the fatwa No.32 / DSN-MUI / IX / 2002 on Sharia and fatwa Bonds No.33 / DSN-MUI / IX / 2002 on Syariah Mudharabah Bonds. Islamic bonds is a long-term securities based on sharia principles issued by the issuer to the holders of Islamic bonds, which obligates the issuer to pay income to the holders of Islamic bonds in the form of profit sharing and repay the bond at maturity.

3) Mutual Funds Sharia

Mutual funds are containers used to collect funds from investors to be invested in a portfolio of securities by the investment manager. While the Islamic mutual funds are mutual funds that beroperasi under the provisions of Islamic principles, either in contract, fund management and use of funds. Contract between investors and institutions should be done with mudaraba system.

E. Differences Conventional and Islamic Capital Market

1. The stock price index

-Definition: The main indicators that describe the movement of the stock price.

- Function:

- a) As a benchmark for measuring the performance of an investment in shares.
- b) As an indicator of the rate of profit
- c) Facilitate the development of derivative products.

-Differences:

- a) Conventional Index: include all stocks listed dibursa to ignore this aspect of halal haram, which is important stocks listed issuer is in compliance with applicable rules.
- b) Islamic Index: an index that is based on the Islamic Shari'ah, the shares included in the index of sharia is the issuer whose business activities do not conflict with sharia.

2. Instrument

- a) Conventional: stocks, bonds, instrument options, rights, warrants and mutual funds.
- b) Shariah: Islamic stocks, Islamic bonds, Islamic mutual funds.

3. Transaction Mechanism.

In general, explained that in the context of the Islamic capital market according to alhabshi is ideally does not contain elements Ribawi, transactions, Islamic capital market must be ethical, far from being immoral such as market manipulation, insider transactions that utilize.

F. Principles of Islamic Capital Market

Islamic principles in *muamalah* that must be considered by the perpetrators of Islamic investment (related parties) are:

1. Do not look for profit in things forbidden, both in terms of substance and how to get it, and do not use it for things that are forbidden.
2. No oppressing and oppressed
3. Justice distribution of prosperity.
4. Transactions carried out on the basis of the same pleasure.
5. No element of *riba*, *maysir* and *gharar* (vagueness).

Based on the above, an activity in the capital market refers to Shari'a law applicable. As for the Islamic Capital Market Principles are:

- a. Instruments or securities are bought and sold must be in line with Islamic principles that are free from elements of usury and *gharar* (uncertainty).
- b. Issuers issuing Islamic securities in the form of shares or *sukuk* must obey all the rules of sharia.
- c. All effects must be based on property or real transactions, not expect to benefit from the contract debts.
- d. All transactions do not contain *gharar* or speculation

Turnover of capital in the Islamic capital market activities should not be distributed to the type of industry that carries out activities that are forbidden. Stock purchase liquor factory, construction of lodging for prostitution and other means contrary to the Shariah prohibited.

All transactions that occur on the stock exchange should be on consensual, no coercion, no party or mendzalimi didzalimi. No element of riba, not speculative or gambling and all transactions must be transparent, forbidden for insider trading.

G. Speculation

Speculative activities do not differ from activities taking risk (risk-taking action) is usually done by businesses or investors. Nothing distinguishes speculators with business people (investors) of the degree of uncertainty it faces. Speculators courage to face something that a high degree of uncertainty without calculation, while business people (investors) always calculate risk with return receipt.

As modern financial institutions, capital markets can not be separated from the weaknesses and errors. One of them is an act of speculation. The "investors" always pay attention to market changes, make various analyzes and calculations, as well as taking action speculation in the purchase and sale of shares. These activities make the market remains active. However, this activity is not always advantageous, especially when the depression outstanding.

In the capital market, distinguished between speculators with business people (investors) of the degree of uncertainty it faces. It needs to be seen for the first character of each investment and speculation:

- Investors in the stock market are those that utilize the capital markets as a means to invest in companies that he believes Tbk good and profitable, not for the purpose of seeking capital gains through short selling. They underlie investment decisions on reliable information about the factors of economic fundamentals and the company itself through a careful study. While speculators aiming to obtain capital gain.
- A is considered a speculative activity if it is suspected to have a motive to take advantage of the uncertainty of short-term profits. With these characteristics, the investors who were involved in the primary market with the motivation to get capital gains solely as a removable share in the secondary market can enter into the class of speculators.
- Speculation has increased unearned income for a group of people in society, without giving them any contribution, both positive and productive. In fact, they have taken advantage at the expense of the community, which is however very difficult to be justified economically, socially, and morally.
- Speculation is the cause of the financial crisis. The facts show that the activity of speculators is what caused the crisis on Wall Street in 1929, which resulted in depression tremendous for the world economy in the 1930s and the currency crisis francs in 1969. These are just some examples. Even today, the monetary authorities and financial experts are always busy to take steps to anticipate the action and the impact that may be caused by speculators.
- Speculation is the outcome of a mental attitude 'wants to get rich quick'. If a person has been stuck in this mental attitude, then he will try to justify all sorts of ways regardless signs of religion and ethics.

Therefore, Islam explicitly prohibits this speculation, because contrary to the values of God and human. Next is how the Islamic capital market could eliminate the practice of speculation? Speculation is prohibited not only because of the uncertainties that exist in front of him, but also goals / intentions and the way people use these uncertainties. When he left the rules of law and morality to gain merely from the existence of uncertainty, which is forbidden in gharar and maysir concept in Islam. Al gharar and maysir itself is a concept that is strongly associated with harm, a negative result, or danger (hazard). In the capital market, the ban sharia above must be implemented in the form of rules that prevent the practice of speculation, usury, gharar and maysir. One way is to set a minimum holding period or minimum stock holding period. With this rule, the shares can not be sold at any time, thus reducing the motivation to make a profit from stock price movements alone.

Restrictions minimum holding period was indeed dampen speculation, but also makes the investment in the capital markets became illiquid. Though it is not possible for a rational investor really needs a sudden liquidity so as to redeem shares held, while he was hindered because the future period minimum holding period.

Metwally, an expert on Islamic economics and economics modeling, proposes a minimum holding period of at least one week. In addition, he also sees the need for selling price based on the market value of the company. Further Akram Khan completes, to prevent speculation in the capital market; the share purchase should be followed by the handover of the physical evidence of ownership of shares traded. Regarding concerns that the sale of shares in the midst of the business, will give rise to the possibility *gharar*, as well as buying and selling fish in the ocean can be overcome with modern accounting practices and the disclosure obligations of financial statements to its shareholders.

With a variety of valuation models today's modern, investors and the market at large will be able to have knowledge about the value of a company, so that the shares can be traded in the fair market value rational. Thus it can be concluded that a security can be traded by using market mechanisms as a determinant of the price, so the capital gain or profit sharing of dividends can be obtained.

H. Public Offering

Public offering or go public stock offering activities or other securities made by issuers (companies that will go public) to sell shares or securities to the public by the procedure set forth by the Capital Market Law and its implementing regulations. Public offering activities include the following:

- 1) The period of the primary market is when securities are offered to investors by the underwriters through the Selling Agent appointed.
- 2) Allotment of shares is the allocation order effects of investors according to the amount of stock available.
- 3) Recording at stock exchange that the security is traded at stock exchange start.

The stages in the public offering are:

- 1) Before emission, ie containing preparations are being made to meet the requirements of public offering.
- 2) Emissions stages, the time when made public bidding up stocks that have been offered dibursa effects noted.
- 3) After emission stages, namely in the form of reporting stage as a consequence of the public offering.

I. Overview of Islamic Capital Market in Indonesia

Since officially Capital Market Supervisory Agency (Bapepam) launches the principle of Islamic capital market on 14 and 15 March 2003 with the signing of a memorandum of understanding between Bapepam National Sharia Board-Indonesian Ulema Council (DSN-MUI), then the journey of development and growth of securities transactions Sharia in Indonesia capital market continues to increase. It should be understood that amid rampant growth of economic activities of sharia in general in Indonesia, development of investment activities of sharia in Indonesia's capital market is still considered to have not experienced significant progress, despite the activities of Islamic investment has been initiated and introduced in mid-1997 through the instrument of Islamic mutual funds as well as number DSN-MUI fatwas related to Islamic investment activities in Indonesia capital market.

Judging from the fact that, although the majority of the Indonesian population predominantly Muslim but the development of the capital market based on sharia can be said to be very far behind, especially compared to Malaysia which can be said to have a center of investment based on sharia in the world, because it has implemented some financial instruments sharia capital market industry. Another reality faced by our Islamic capital market to date are inadequate number of investors who invest, especially when compared to the number of existing investors in the banking sector.

Compared with neighboring countries such as Malaysia, Indonesia looks so far behind in developing the Islamic investment activities in the capital market. Malaysia first developing Islamic capital market activities since the beginning of 1990 and currently continues to progress quite rapidly. For example, the data show until the end of 2004 total net asset value (NAV) Mutual Funds Sharia reached 7.7% (seven point seven percent) of the total NAV Mutual Funds industry in Malaysia, while Indonesia reached 0.51% (zero point fifty one percent) of the total NAV of mutual funds industry.

Even though a comparison between the PMS in Indonesia it is still lagging behind, at least as much as possible telahberupaya the Indonesian government for the development of PMS. as the picture there are at least some of the developments and progress of Islamic capital markets noteworthy of which is published six (6) National Sharia Board Fatwa Indonesian Ulema Council (DSN-MUI) related to the capital markets industry. The six fatwa are:

- 1) No.05 / DSN-MUI / IV / 2000 on Sale and Purchase of Shares
- 2) No.20 / DSN-MUI / IX / 2000 on Guidelines for Mutual Fund Investing For Shariah
- 3) No.32 / DSN-MUI / IX / 2002 on Islamic Bonds;
- 4) No.33 / DSN-MUI / IX / 2002 on Syariah Mudharabah Bonds;
- 5) No.40 / DSN-MUI / IX / 2003 on Capital Markets and General Guidelines for the Application of Sharia in the Capital Market;
- 6) No.41 / DSN-MUI / III / 2004 on Syariah Ijarah Bonds.

Bapepam also has given great attention to the Islamic capital market. It was seen in the development of Islamic capital market for the next five years of work. The plan outlined in the Indonesian Capital Market Master Plan. Development of Sharia-based capital market products is also the potential and challenges of capital market development in Indonesia. According to Bapepam, there are two main strategies that proclaimed Bapepam to mecapai development of Islamic capital market and Islamic capital market products. First, develop a legal framework to facilitate the development of Sharia-based capital market. Second, encourage the development of capital markets products based on sharia. Furthermore, two main strategies have been translated into seven Bapepam implementation of the strategy:

- * Regulate the application of Islamic principles
- * Preparing accounting standards
- * Develop professional market participants
- * Socialization Islamic principles
- * Develop products
- * Creating new products
- * Increase cooperation with the National Sharia Board (DSN) MUI

List of Islamic Capital Market in Indonesia

Already getting a recommendation from DSN-MUI
Mutual Funds Sharia Islamic Bonds

1. PT Recapital Asset Management
 2. PT Kresna Graha Securindo, Tbk (IPB Sharia)
 3. PT CIMB-GK Securities Indonesia
 4. PT Optima Kharya Capital Management
 5. PT Mega Capital Indonesia
 6. PT Eurocapital Peregrine Securities
 7. PT Fortis Investment
 8. PT Trimegah Securities Tbk
 9. PT Batavia Prosperindo Asset Management PT Indosat Tbk (Mudharabah)
 10. Bank Bukopin Syariah
 11. PT Berlian Laju Tanker (BLTA)
 12. Bank Muamalat Indonesia Tbk
 13. PT Cyliandra
 14. Bank Syariah Mandiri
 15. PTPN VII
- Etc.

Conclusion

No doubt, to see the development of the Islamic capital market industry is still new, still very possible if the effect of conventional economic outlook is still strongly felt. However, this is not supposed to make the people and the Muslim market participants to be not critical to re-assess the existing reality. Indeed, this is a challenge to the concept and the Islamic economic system to be able to prove they capable of being a community economic alternative system.

While the challenges and obstacles faced in Islamic investment is a concept for results that are not able to give a definitive benchmark income level. The management of the funds will be at the same size that could have an impact on the results obtained by investors. It is realized that the Islamic investment instruments are limited, so that the fund manager's ability to regulate its portfolio also must be good. Therefore, Islamic investment has a higher risk.

The same thing is also experienced in Islamic banking products. In Islamic banking products, also based on the concept of revenue sharing so that the benchmark income level is also uncertain, depending on the results achieved profit. The ability of the manager or the professionalism of those involved in it will largely determine the performance of Islamic banking. Regardless of any debate about investment in the Islamic capital market that is contained in the community, is to be a joint task to improve, and even rearrange good securities, stocks Sharia, in the stock market is in accordance with Islamic principles of real, so it can provide benefit for the people. Because even if the above problems are still prevalent, but all based on sharia principles lawful and good.

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