



Legal Study of Building Sharia-based Investment in Aceh: The Challenges After the Enactment of the Qanun of Sharia Financial Institution

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Abstract: The presence of Aceh Qanun Number 11 of 2018 concerning Sharia Financial Institution (SFI) is an important breakthrough in building a Sharia-based economy in Aceh. This goes hand in hand with Aceh's privileges in implementing Islamic law as stipulated in the Aceh Qanun Number 8 of 2014 concerning Principles of Islamic Sharia. Hence, this research aims to scrutinize the challenges in building Sharia-based investments in Aceh after the enactment of the Qanun of SFI. This study was conducted using normative legal methods with statutory and Sharia economic law approaches. The data analyzed are literature and legal rules such as laws, qanuns, books, and articles related to the discussion. The results of this study indicate that there are several challenges occur in building Sharia-based investments in Aceh. Firstly, lack of understanding about SFI Qanun by stakeholders because not all of them have a full understanding of the contents of this Qanun. Secondly, limited access to financial resources that can be used by investors, and business actors to run their businesses. Thirdly, Aceh's low economic growth has resulted in low investors interested to invest in Aceh. This condition has a significant impact on the sustainability of Sharia-based investments in Aceh. Fourthly, inadequate infrastructure especially information technology infrastructure to support the implementation of the Qanun of SFI. Therefore, it is suggested to the Government of Aceh provide a better understanding of the Qanun of SFI at all levels of society. Then, the government also needs to open access to financial resources for the investors and business actors who want to invest in Aceh. Besides, appropriate measures to increase economic growth in Aceh need to be taken promptly so that incoming investment may increase gradually. Finally, in the context of the Sharia economy, the existence of the LSK qanun is part of legal efforts for the benefit of all financial transactions in Aceh in accordance with Islamic Sharia values.

Keywords: Challenges, sharia-based investment, qanun, Sharia financial institution

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Abstrak: Kehadiran Qanun Aceh Nomor 11 Tahun 2018 tentang Lembaga Keuangan Syariah (LKS) merupakan terobosan penting dalam membangun ekonomi berbasis syariah di Aceh. Hal ini sejalan dengan keistimewaan Aceh dalam menerapkan syariat Islam sebagaimana tertuang dalam Qanun Aceh Nomor 8 Tahun 2014 tentang Pokok-pokok syariat Islam. Oleh karena itu, penelitian bertujuan untuk mengkaji tantangan dalam membangun investasi berbasis syariah di Aceh pasca pemberlakuan Qanun LKS. Studi ini dilakukan dengan menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan hukum ekonomi syariah. Data yang dianalisis adalah literatur dan aturan hukum seperti undang-undang, qanun, buku dan artikel yang terkait dengan pembahasan. Hasil penelitian menunjukkan bahwa terdapat beberapa tantangan yang terjadi dalam membangun investasi berbasis syariah di Aceh. Pertama, kurangnya pemahaman tentang Qanun LKS oleh pemangku kepentingan karena belum semuanya memiliki pemahaman yang utuh tentang isi Qanun LKS ini. Kedua, terbatasnya akses sumber daya keuangan yang dapat digunakan oleh investor, dan pelaku usaha untuk menjalankan usahanya. Ketiga, rendahnya pertumbuhan ekonomi Aceh sehingga berdampak rendahnya minat investor untuk berinvestasi di Aceh. Kondisi ini berdampak signifikan terhadap keberlangsungan investasi berbasis syariah di Aceh. Keempat, infrastruktur yang kurang memadai terutama infrastruktur teknologi informasi untuk mendukung implementasi Qanun LKS. Oleh karena itu disarankan kepada Pemerintah Aceh untuk memberikan pemahaman yang lebih baik tentang Qanun LKS kepada seluruh lapisan masyarakat. Kemudian, pemerintah juga perlu membuka akses sumber keuangan bagi para investor dan pelaku usaha yang ingin berinvestasi di Aceh. Selain itu, langkah-langkah yang tepat untuk meningkatkan pertumbuhan ekonomi di Aceh perlu segera dilakukan agar investasi yang masuk dapat meningkat secara bertahap. Terakhir, dalam konteks ekonomi syariah, bahwa keharidan qanun LSK merupakan bagian dari upaya hukum untuk kemaslahatan agar seluruh transaksi keuangan di Aceh sesuai dengan nilai-nilai syariat Islam.

Kata Kunci: Tantangan, investasi berbasis syariah, qanun, lembaga keuangan syariah

Introduction

The study scrutinizes Sharia-based investments in Aceh by looking at the challenges after the implementation of the Qanun of Sharia Financial Institution (hereinafter called SFI) Number 11 of 2018. This is done because the presence of the Qanun of SFI in Aceh is very important as the follow-up of the Qanun Number 8 of 2014 concerning the principles of Islamic Sharia. The presence of this Qanun is considered quite urgent because it is one of the pillars of sharia in

the field of *muamalah*.¹ Qanun Number 8 of 2014 explicitly obliges financial Institutions in Aceh to be free from usury.

One of the sectors of economic activity in Aceh which is closely related to banking institutions is investment. After the enactment of the Qanun Number 11 of 2018 all business activities must be conducted fully based on sharia principles. It means that all investment activities in Aceh must be carried out based on sharia principles. This obligation has been clearly mentioned in the Holy Qur'an, Surah Al-Baqarah verse 275 mentioning that: Allah has justified buying and selling and forbidding usury. Those who have received a ban from their Lord, then continue to stop (from taking usury), then for him what he has taken before (before the prohibition comes) and his affairs (up to) to Allah. People who return (take usury), then that person is the inhabitants of hell they are eternally in it" (QS. al-Baqarah: 275).²

That is why the Government of Aceh has eliminated the practice of usury in Aceh in all business activities including investment activities either in banking or non-banking system through SFI Qanun above. In sharia investment theory as stated by Hidayat, Financial Institution is one of the variables that play an important role in determining the entry of investors into a country or the exit of investors from a country.³ Unlike investment activities in other provinces in Indonesia, all investment activities in Aceh must be from halal sources and are managed in halal ways so that they are free from elements of usury. In other words, all investments which are invested in Aceh must be based on sharia principles.

Thus, investments in Aceh must be free from usury and all transactions cannot be made through conventional banks which are using usury system. The Qur'an prohibits transactions that contain usury.⁴ Therefore, Qanun of SFI has ensured that all investment activities in Aceh must be fully in line with Islamic

¹M. Aditya Ananda, "Implementasi Qanun LKS Melalui Sinergi Perbankan Dalam Satu Kepemilikan.," *At-Tasyri': Jurnal Ilmiah Prodi Muamalah* 12, no. 1 (2020), p. 165-76. EMK Alidar, et.al., "Juridical Provisions on Government Policies Towards Marginal Economic Actors in Indonesia in the Perspective of Islamic Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, No. 1 (2023). Nunung Nurlaela, et.al., "Reviewing the Fatwas Related to Fintech Applications in Islamic Financial Institutions in Indonesia," *Share: Jurnal Ekonomi dan Keuangan Islam* 9, No. 2 (2020).

²Abdul Aziz, *Manajemen Investasi Syari'ah* (Bandung: Alfabeta, 2010). Mohamad Andri Ibrahim, "Analysis of the Decision of Muslim Investors in Sharia Mutual Funds Investing with Maqasid Al-Sharia Approaches," *al-Iqtishad* 12, No. 2 (2020).

³Rahmat Hidayat, "Investasi Syari'ah," *Al-Karim* 4, no. 1 (2019), p. 15-35. Abd. Kholik Khoerulloh and Yadi Janwari, "Analysis of Investment Decisions in Sharia Cooperatives: Does Sharia Accounting Standards Affect?" *Economica: Jurnal Ekonomi Islam* 12, No. 1 (2021).

⁴Taufik Hidayat, *Buku Pintar Investasi Syariah* (Jakarta: Mediakita, 2011).

principles.⁵ This expectation is not easy to be done because there are many challenges that may occur in the field when this sharia-based investment is implemented. Therefore, this study scrutinizes the challenges of building Sharia-based investment in Aceh after the enactment of SFI Qanun. Then, this study also provides proper recommendations that need to be taken into account by the related stakeholders in order to build Sharia-based investment in Aceh seen from the legal point of view.

Indeed, there are several previous studies that intersect with Sharia financial institutions had been done like research conducted by Amin⁶ that discussed Sharia banking within the framework of the Law on Governance of Aceh. In addition, research done by Utamy and Basri⁷ examined the side of justice in SFI Qanun based on the holy Qur'an in relation to usury practices. Then, a study carried out by Sanjaya⁸ analyzed the impact of implementing SFI Qanun on financial loans in BNI Bank in Aceh. Besides, the research of Setiawan and Yeni⁹ studied the use of the subrogation deed in the context of implementing SFI Qanun in Aceh. In addition, a study conducted by Syauqoti¹⁰ discussed the analysis of the implementation of SFI Qanun in Islamic banking. Yusuf¹¹ outlined the determination of Islamic investment and capital markets on economic growth in Indonesia. Nurlita¹² traced investment in the Islamic capital market viewed from Islamic studies.

In addition, there are also several other studies that discuss sharia investment from several perspectives, including research conducted by Arrazaq¹³ who discussed sharia investment in the context of enforcing Islamic

⁵Trisno Wardy Putra, "Investasi Dalam Ekonomi Islam." *Ulumul Syar'i: Jurnal Ilmu-Ilmu Hukum Dan Syariah*, *Jurnal Ilmu-Ilmu Hukum Dan Syariah* 7, no. 2 (2018), p. 48–57.

⁶Zaini M Amin, "Perbankan Syariah Dalam Bingkai Undang Undang Pemerintahan Aceh (UUPA) Tahun 2006," *Jurnal Al-Ijtima'iyah* 4, no. 1 (2006), p. 64–69.

⁷Irhanna Utamy and Basri Ahmad Hasan, "Konsep Keadilan Pada Qanun Aceh Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah," *Al-Mabsut: Jurnal Studi Islam Dan Sosial* 14, no. 2 (2020), p.122–32.

⁸Haditya Sanjaya, "Dampak Implementasi Qanun Aceh Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah Terhadap Penyaluran Kredit Pada PT Bank Negara Indonesia (Persero) Tbk Di Provinsi Aceh" (Universitas Gadjah Mada Yogyakarta, 2021).

⁹Salma Barlinti Setiawan, et.al., "Analisis Penggunaan Akta Subrogasi Dalam Rangka Implementasi Pasal 2 Qanun Aceh Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah," *Indonesian Notary* 3, no. 1 (2021), p. 367–408.

¹⁰Roifatul Syauqati and Mohammad Ghozali, "Analisis Sistem Lembaga Keuangan Syariah Dan Lembaga Keuangan Konvensional," *Jurnal Iqtishaduna* 14, no. 1 (2018), p. 19–21.

¹¹Mohammad Yusuf, et.al., "Determinasi Investasi Dan Pasar Modal Syariah Terhadap Pertumbuhan Ekonomi Di Indonesia," *Jepa* 6, no. 1 (2021), p. 397–401.

¹²Anna Nurlita, "Investasi Di Pasar Modal Syariah Dalam Kajian Islam," *Kutubkhanah* 17, no. 1 (2015), p. 1–20.

¹³Nur Alim Arrazaq, "Investasi Syariah Dalam Rangka Menegakan Prinsip Syariah," *Journal of Islamic Law Studies* 3, no. 1 (2020), p. 1–18.

sharia; Faniyah¹⁴ who discussed Sharia investment in Indonesia's economic development; Hadi¹⁵ who discussed the basic concept of sharia investment; Hasan¹⁶ who discussed sharia investment as a macroeconomic strategy; Ikbal¹⁷ who discusses investment motivation and Islamic financial literacy; Wiyanti¹⁸ who discussed the perspective of Islamic law on the capital market as an investment alternative for investors; Yusuf,¹⁹ who discussed investment determination and the Islamic capital market; Zulfahmi²⁰ who discussed the existence of SFI Qanun regarding the conversion of conventional banks into Islamic banks, and Yuliana²¹ who discussed investment in Islamic financial products.

Searching from the previous studies shows that there is no study that has been conducted about building Sharia-based investments in Aceh in relation to the presence of SFI Qanun focusing on the challenges after the enactment of this Qanun. This study also has no duplication with the research carried out by other researchers. This research explores alternatives of building Sharia-based investments in Aceh by looking at the challenges after the enactment of SFI Qanun. This is the novelty of this research that distinguishes it from the previous studies. The results of this study can provide new insights into how the Qanun of SFI can affect economic growth and sharia-based investment in Aceh. Therefore, the main problem that is discussed in this study is what are the challenges in building sharia-based investments in Aceh after the enactment of SFI Qanun? It is hoped that the results of this study become the basic foundation for subsequent studies that wish to develop further research topics related to the above phenomenon.

¹⁴Iyah Faniyah, *Investasi Syariah Dalam Pembangunan Ekonomi Indonesia* (Yogyakarta: Deepublish, 2017).

¹⁵A. Chairul Hadi and M. Mujiburrahman, *Investasi Syariah: Konsep Dasar Dan Implementasinya* (Jakarta: Rajawali Press, 2011).

¹⁶Asyari Hasan, et.al., "Investasi Syariah Sebagai Strategi Mikroekonomi Islam," *Edukasi: Journal of Educational Research* 2, no. 1 (2021), p. 89–95.

¹⁷Asep Muhamad, et.al., "Pengaruh Motivasi Investasi Dan Literasi Keuangan Terhadap Minat Investasi Syariah," *Prosiding Manajemen* 5, no. 2 (2019).

¹⁸Diana Wiyanti, "Perspektif Hukum Islam Terhadap Pasar Modal Syariah Sebagai Alternatif Investasi Bagi Investor," *Jurnal Hukum Ius Quia Iustum* 20, no. 2 (2013), p. 234–54.

¹⁹Burhanuddin Yusuf, *Manajemen Sumber Daya Manusia Di Lembaga Keuangan Syariah* (Jakarta: Raja Grafindo Perkasa, 2016).

²⁰Zulfahmi LNU, "Eksistensi Qanun Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah Terhadap Konversi Bank Konvensional Menjadi Bank Syariah," *Jurnal Hukum Ekonomi Syariah* 5, no. 1 (2021), p. 49–63.

²¹Indah Yuliana, *Investasi Produk Keuangan Syariah*, Jakarta: Renika Cipta, 2010.

This study was conducted using normative legal methods with statutory law and Sharia economic approaches, especially *maqashid al-syariah*.²² The data analyzed are literature and legal rules such as laws, qanuns, books and articles related to the discussion. This study used secondary data to analyze the realization of Sharia-based investments in Aceh after the enactment of SFI Qanun. Investigations related to investment challenges such as regulation, infrastructure, security, and availability of capital are also the main focus of this research. By understanding these challenges, then strategic steps can be identified to maximize the implementation of SFI Qanun in order to build Sharia-based investments in Aceh.

Qanun of Sharia Financial Institution and Investment in the Context of Maqāshid Shari‘ā

Qanun Number 11 of 2018 concerning Sharia Financial Institution has become an important breakthrough in building an Islamic economy in Aceh. Article 5 letter of SFI Qanun stipulates that this Qanun aims to realize Aceh's economy based on Islamic principles.²³ This means that every transaction and activity carried out in Aceh Province including investment activities must be based on Sharia principles.²⁴ This Qanun is a legal product issued by the Aceh government based on its authority in regulating and managing regional autonomy as stipulated in Law Number 11 of 2006 concerning the Governance of Aceh.

This Aceh Qanun Number 11 of 2006 was issued with the aim of maintaining and strengthening Aceh's identity as an area that adheres to Islamic law.²⁵ Then, the Aceh Qanun of SFI which regulates sharia financial institution itself was issued to protect the people of Aceh from usury practices and maintain economic sustainability in accordance with Islamic principles. Through the Qanun of SFI Aceh seeks to facilitate sharia-based economic activities and strengthen the role of sharia financial institution as an alternative for the

²²Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2019). Hafas Furqani, *Metodologi Ekonomi Islam: Membangun Pradigma dan Format Keilmuan*, (Banda Aceh: Naskah Aceh, 2018).

²³Muhammad Mujibur Rohman, "Tinjauan Umum Tentang Investasi Syariah," *Al-Mizan: Jurnal Hukum Dan Ekonomi Islam* 2, no. 1 (2018), p. 31–51.

²⁴Syamsuri, et.al., "Analisis Qanun (Lembaga Keuangan Syariah) Dalam Penerapan Ekonomi Islam Melalui Perbankan Syariah Di Aceh.," *Jurnal Ilmiah Ekonomi Islam* 3, no. 1 (2021).

²⁵Verty Vebriani, "Analisis Peraturan Daerah/Qanun Aceh No. 11 Tahun 2018 Tentang Lembaga Keuangan Syariah Dalam Rangka Peralihan Kredit Dari Bank Konvensional Ke Bank Syariah" (2021).

community to channel and manage their financial resources according to sharia principles.²⁶

Aceh Qanun of SFI is philosophically related to the understanding and application of sharia principles in the financial system.²⁷ This relates to the Islamic philosophical view of justice, balance, and benefit in social and economic life.²⁸ In the Islamic philosophical view, justice is a fundamental principle that must be applied in every aspect of life, including in the financial system.²⁹ This principle of justice is reflected in sharia principles which stipulate the prohibition of usury, speculation, and harmful practices.³⁰ In addition, the principle of balance is also very important in the Islamic financial system, where the use of funds must be carried out in a balanced proportion between investment and financing. Meanwhile, one of the sociological foundations of the Qanun of SFI is to create a just and prosperous Aceh economy under the auspices of Islamic law. In this case, there are demands from Acehnese people in general that banking in Aceh be treated in accordance with sharia principles.³¹

While on a juridical basis, Qanun of SFI shows that Aceh has special autonomy in terms of laws and regulations.³² SFI Qanun regulates sharia financial institution in terms of supervision, regulation, and implementation.³³ This Qanun also regulates sanctions and penalties for sharia financial institution that violate the rules that have been set. Therefore, the juridical aspect of the Aceh Qanun regarding to Sharia financial institution is to provide a legal basis for the existence and regulation of sharia financial institution in Aceh, as well as provide legal protection for parties involved in sharia financial Institution.³⁴

In Aceh, the existence of SFI Qanun is closely related to investment, especially in terms of raising funds and channeling financing. As a rule governing sharia financial institution, this SFI Qanun has an important role in

²⁶Maria Sanola, "Implementasi Qanun Aceh Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah Di Kabupaten Aceh Tengah (Studi Kasus Bank Konvensional BNI, Mandiri Dan BRI)," *MUBEZA : Pemikiran Hukum Dan Ekonomi Islam* 12, no. 1 (2022), p. 1–7.

²⁷Maria Sanola, *Implementasi Qanun Aceh Nomor 11 Tahun 2018...*, p. 1-7.

²⁸Rusdan Rusdan, "Fiqh Riba Kajian Illat Hukum Riba," *El-Hikam* 3 No. 2 (2015).

²⁹Fitrianur Syarif, "Perkembangan Hukum Ekonomi Syariah Di Indonesia," *PLENO JURE* 8, no. 2 (2019).

³⁰Rahmawati Rahmawati and Khairul Putriana, "Tantangan Konversi Bank Konvensional Menjadi Bank Syariah Di Aceh Berdasarkan Qanun Lembaga Keuangan Syariah No 11 Tahun 2018," *Tawazun : Journal of Sharia Economic Law* 3, no. 2 (2020).

³¹Syarif, "Perkembangan Hukum Ekonomi Syariah Di Indonesia."

³²Zulfahmi, "Eksistensi Qanun Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah Terhadap Konversi Bank Konvensional Menjadi Bank Syariah."

³³Muhammad Habibi, "Legalitas Hukum Islam Dalam Sistem Peradilan Indonesia," *Media Syari'ah : Wahana Kajian Hukum Islam Dan Pranata Sosial* 22, no. 2 (2021).

³⁴Irhamna Utamy and Basri Ahmad Hasan, "Konsep Keadilan Pada Qanun Aceh Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah."

opening access for the people of Aceh to implement Sharia-based investment that is more just and transparent.³⁵ In this context, the Sharia financial institution regulated in SFI Qanun can provide investment options based on Sharia principles, such as *mudharabah* contract, *musyarakah* contract, and so on.³⁶

In terms of raising funds, the Sharia financial institution can collect funds from the public through investment products such as deposits, savings, and *sukuk*. The funds collected can then be distributed to parties who need financing, such as entrepreneurs, farmers, or fishermen.³⁷ In this regard, the Qanun of SFI provides directions and guidelines for Sharia financial institutions in Aceh in carrying out their operations, including in terms of raising and distributing funds. Thus, the Qanun of SFI can become an important factor in developing investment in Aceh, especially Sharia-based investments so that it fulfills the objectives of Sharia economic law in Islam known as *Maqāṣid Shari‘ā*.³⁸

In the context of *maqāṣid Shari‘ā*, the Sharia-based investment must fulfill the objectives mandated in Islam, such as maintaining social welfare and justice, preventing damage and *mafsadah*, and increasing the welfare of the people.³⁹ The Qanun of SFI in Aceh itself is the government's attempt to implement sharia principles in the financial sector, including investment. Thus, it is hoped that the Qanun of SFI can help create investments that are in line with *Maqāṣid Shari‘ā* so that they can provide benefits to the people of Aceh in a fair and sustainable manner.⁴⁰ Therefore, the Qanun of SFI must be implemented properly and received support from various parties, so that sharia-based investment in Aceh can be developed properly in accordance with sharia principles mandated in *Maqāṣid Shari‘ā*.⁴¹

³⁵Zahra Zulchayra, et.al., “Minat Investasi Di Pasar Modal Syariah (Studi Pada Mahasiswa Di Banda Aceh),” *Jihbiz: Global Journal of Islamic Banking and Finance* 2, no. 2 (2020).

³⁶Sanjaya, “Dampak Implementasi Qanun Aceh Nomor 11 Tahun 2018.”

³⁷Vebriani, “Analisis Peraturan Daerah/Qanun Aceh No. 11 Tahun 2018.”

³⁸Ernia Taufiqoh, et.al., “Pengaruh Norma Subjektif, Motivasi Investasi, Pengetahuan Investasi, Persepsi Return Dan Literasi Keuangan Terhadap Minat Mahasiswa Berinvestasi Saham Di Pasar Modal,” *E-Jra* 08, no. 05 (2019). Mohd Nurul Faizun, “Analisis Kebutuhan Investasi Sektor Pertanian Dalam Rangka Meningkatkan Pertumbuhan Ekonomi Di Provinsi Aceh,” *Jurnal Ilmu Ekonomi* 2, no. 4 (2014).

³⁹Eno Marini, *Konsep Pembangunan Ekonomi Dalam Perspektif Maqashid Syariah (Telaah Pemikiran Umer Chapra) Islam Negeri Sulthan Thaha Saifuddin Jambi 2022 M / 1443 H, 2022.*

⁴⁰EMK. Alidar and Muhammad Maulana, *Peluang Dan Tantangan Penerapan Qanun Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah Di Aceh* (Banda Aceh: Dinas Syariat Islam Aceh, 2021).

⁴¹Sarah Nadia, et.al., “Analisis Hambatan Pertumbuhan Perbankan Syariah Di Indonesia Kajian Terhadap Perbankan Syariah Di Aceh)” *Jihbiz: Global Journal of Islamic Banking and Finance* 1, no. 2 (2019), p. 153-76.

Maqashid Sharia focuses on the study of wisdom and *'illat*, which is established as a law with the aim of protecting and benefiting humans.⁴² Al-Syatibiy puts forward five protections that Maqashid Sharia wants to reach, namely the protection of religion (*hifzh al-din*), protection of the soul (*hifzh al-naf*), protection of the mind (*hifzh al-'aql*), protection of descent (*hifzh al-nasl*), and protection of property (*hifzh al-mal*).⁴³ In the investment context, Maqāṣid Shari'ā is another form of how to achieve human benefit goals, in this case seeking halal sustenance. Therefore, it is possible that assets that are not invested will become useless assets and have no added value. Islamic teachings do not like the act of hoarding wealth. In investing, Muslims should not just place their capital.⁴⁴

The principle of sharia investment as stated by Elif Pardiansyah⁴⁵ is that all forms of investment are basically permissible unless there is an argument that prohibits it. For example, prohibited activities were found in business activity, both the object and the method (process), namely activities that contain *gharar*, *maysir*, *usury*, *tadlis*, *talaqqi rukban*, *taghrir*, *ghabn*, *ḍarar*, *risywah*, immoral and unjust. To see whether an entity is carrying out its business activities based on sharia principles or not, it can be seen by the sharia screening method, that is, first look at the business it is running, both its processes and product goods; second, analyze the ratio of non-halal income and the ratio of interest-based debt to total assets owned.⁴⁶

According to Hidayat in Ina Nur Hidayah⁴⁷, Islam is a religion that is pro-investment and advocates it because in Islamic teachings the existing resources (wealth) are not only stored, but must be produced so that they can provide benefits to the people. This is similar to *waqf* assets that are utilized so that they have economic value and can be used for human benefit. Article 43 of Law Number 41 of 2004 concerning *Waqf* states that the management, and development of *waqf* assets must be carried out productively using sharia principles. Thus, sharia-based investment implemented in Aceh which is based on the Qanun of SFI is basically aimed at achieving Maqāṣid Shari'ā, namely the existence of benefits for humans and avoiding actions that are prohibited by sharia.

⁴²Nur Hanifah Adlina, et.al., *Metodologi Penalaran Hukum Islam*, (Banda Aceh, 2021).

⁴³Abu Ishaq Ibrahim bin Musa al-Syatibiy, *al-Muwafaqat fiy Ushul al-Syari'at*, Beirut, Dar al-Ilm al-Malayin, tt, Juz III, p. 407.

⁴⁴Elif Pardiansyah, Investment in Islamic Economic Perspective: Theoretical and Empirical Approaches, *Economica: Journal of Islamic Economics* 8, No. 2 (2017), p. 337-373.

⁴⁵Elif Pardiansyah, Investment in Islamic Economic Perspective..., p. 337-373.

⁴⁶Mukti Tabrani, "Maqāshid Revitalization in Global Era: Istidlāl Study from Text to Context," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018), p. 310.

⁴⁷Ina Nur Hidayah, "Principles of Islamic Economics in Sharia Investments," *Journal of Accounting Science and Sharia Business*, 2, No. 1 (2020), p. 89-100.

According to Fred Rhodes⁴⁸ in his book entitled "Islamic Banking and Finance: New Perspectives on Profit-Sharing and Risk", the implementation of sharia principles in investing through sharia financial institution is actually also in line with sharia objectives or maqasid, such as maintaining the benefit of the people, protect assets, prevent usury, and encourage productive activities and add value to society. In this context, the Qanun of SFI in Aceh can be considered as an effort to achieve these goals through the regulation of Islamic financial Institution that is free from elements of usury and prioritize sharia principles in investment management. Therefore, it is hoped that with the existence of the Qanun of SFI investment in Aceh can be run according to sharia principles and at the same time provide real benefits for the community economically.⁴⁹

The Challenges of Building Sharia-Based Investment in Aceh

Even though there are many opportunities to invest in Aceh, not all of these opportunities can be utilized properly. This happens because there are many challenges that must be faced, especially with the existence of the Qanun of SFI. If this challenge cannot be overcome, it will become worse obstacle in realizing sharia-based investment in Aceh. At the beginning period of the implementation of SFI Qanun the biggest challenge for investment in Indonesia including Aceh Province was Covid-19 Pandemic that hit Indonesia. This was also acknowledged by the Deputy Chairperson of the Indonesian Entrepreneurs Association, Shinta Wijaya Khamdani. Without controlling Covid-19 it is difficult for business actors and investors to maintain their business and investment because capital may erode by which operating costs are greater than the profits.⁵⁰

This study has shown that there are several challenges in building sharia-based investment in Aceh, especially after the enactment of SFI Qanun. The challenges can be identified as follows:

a. Lack of Understanding of SFI Qanun

One of the challenges in building sharia-based investment in Aceh is the lack of understanding of FSI Qanun by the public. This condition is also acknowledged by the Vice President of the Republic of Indonesia, KH Makruf Amin. Lack of understanding about SFI Qanun is caused by a lack of

⁴⁸Fred Rhodes, "Islamic Banking and Finance: New Perspectives on Profit-Sharing and Risk," *Middle East* 110002 (2002).

⁴⁹Mohammad Abalkhail and John R. Presley, "How Informal Risk Capital Investors Manage Asymmetric Information in Profit/Loss-Sharing Contracts," *Islamic Banking and Finance*, 2013.

⁵⁰<https://www.beritasatu.com/economy/724315/ini-tantangan-dan-peluang-tarik-investasi-di-2021>, Accessed, September 24, 2022.

socialization of FSI Qanun carried out to the public including business actors and investors. There are many people who do not really know the philosophy dan contents of SFI Qanun so they fill reluctant to implement this Qanun. In this matter, socialization is an important element in the implementation of Qanun and other implementing regulations. The presence of SFI Qanun which has been signed by the Governor of Aceh and the Aceh People's Legislative Council is the wish of all parties, including the Acehnese ulema. The Chairperson of the Aceh Financial Services Authority also asserted that socialization of FSI Qanun is still lacking so a lot of biased information occurs in the community. The lack of socialization of SFI Qanun is one of the notes from the Financial Services Authority regarding several challenges in implementing this Qanun.⁵¹

The results of the study conducted by Putri Perdana et al show that there are still many people who do not know about the presence of SFI Qanun so the community has not fully implemented the Qanun. Therefore, it is suggested that the Government of Aceh provide proper education about SFI Qanun and its implementation.⁵² Education to the public and investors regarding the presence of SFI Qanun must be carried out in a structured manner by involving all relevant elements. It means that the socialization of SFI Qanun can be done through various activities such as seminars, symposiums, broadcasts, dissemination, and other social media. Apart from that, socialization activities can also be carried out by holding exhibitions and promotions in several countries that have the potential to be investors for Aceh Province.

As a result, the lack of outreach socialization of SFI Qanun may lead to misunderstandings about the Qanun itself and the goal of establishing a sharia financial institution in Aceh. In the view of business actors, the presence of SFI Qanun seems to have a negative impact on their business activities because they do not really understand yet the whole contents of SFI Qanun. In fact, one of the objectives of SFI Qanun is to encourage economic growth and increase incoming investment in Aceh Province. In addition, the presence of SFI Qanun also aims to increase economic empowerment and increase community welfare, as well as to increase access to funding and business activities for the community.⁵³

⁵¹<https://aceh.tribunnews.com/2020/12/12/socialization-qanun-keuangan-syariah-perlu-increased>, Accessed, September 24, 2022.

⁵²Putri Perdana, "Implementasi Qanun Aceh Nomor 11 Tahun 2018 Tentang Lembaga Keuangan Syariah Dan Kaitannya Dengan Praktik Riba Di Masyarakat Desa Alue Dawah" (Disertasi Doktor UIN Sunan Gunung Jati Bandung, 2021).

⁵³See Article 5 letter f and g of Qanun No. 11 of 2018

b. Limited Access to Financial Resources

Another challenge faced related to build Sharia-based investment is the limited access to financial resources issued by Islamic Banking, especially for Micro Small Medium Enterprises (MSMEs). These MSMEs find it difficult to get financial resources from Islamic Banking there have no objects that can be used for guarantee. In order to support business activities done by MSMEs, 30-40% of the fund must be channeled to MSMEs actors from the total fund distributed to debtors or business actors.

In Article 14 paragraph (3) of SFI Qanun is stated that the business activities of banks are required to carry out the arrangements regarding the achieving ratio of financing to MSMEs in order to increase the economic development of the people of Aceh.⁵⁴ Furthermore, in Article 14 Paragraph (4) letter b of SFI Qanun is stated that the financing ratio for MSMEs in 2022 must reach a minimum of 40% of the overall financing allocation.⁵⁵ The Bank's obligation to channel financing to MSMEs with a ratio of 30-40% has not been realized yet. There are many challenges for banks in channeling financing with a ratio of 30- 40% to MSMEs because it is not easy for the banks to meet the financing ratio.

There are many things that must be considered by banks before disbursing financing to MSME actors. These aspects include the character of the customer, the ability of the customer to manage funds, the guarantee of a loan, and the prospects of the customer's business. This is taken by the bank in order to apply the prudential banking principle. In addition, when the implementation of SFI Qanun, in early 2020 the conditions of Covid 19 pandemic had not been resolved. As a result, a lot of financing that was disbursed before Covid 19 hit Indonesia was fail in payment (jammed), resulting in difficulties in carrying out business activities. Therefore, business actors who can be funded by the banks are only the business actors who are fully qualified. Then, they are fully responsible for repaying their loans to the bank.

c. Weak Economic Growth

Investment plays a very important role in the country's economy because the influence of economic growth has an impact on people's welfare. Economic growth is one of the important elements in determining economic development in each country. One of the efforts to increase economic growth is through investment activities, both foreign investment and domestic investment. From the results of Puspasari's study, it is known that foreign investment has a greater

⁵⁴Article 14 paragraph (3) Qanun LKS

⁵⁵See Article 14 paragraph (4) of the Qanun LKS.

impact than domestic investment.⁵⁶ The same result was also found by Azhari Yahya.⁵⁷

Both conventional and Sharia investment activities are inseparable from various challenges. Sharia-compliant investment also faces challenges, especially the readiness of business actors to take advantage of business opportunities which is still very limited. In general, investment activities in Aceh are still far behind compared to other regions in Indonesia.⁵⁸ According to Investment Minister Bahlil Lahadiah, investment realization in Aceh throughout 2022 is IDR 6.2 trillion. This figure is far behind compared to investment in 2021 which reached IDR 10.9 trillion. This data shows that investors' interest in investing their capital in Aceh after the enactment of SFI Qanun is very low. Nationally, investment realization in Aceh is ranked 27th out of 34 provinces in Indonesia.⁵⁹

Judging from the potential of Aceh's population which is predominantly Muslim, it should be used as an opportunity to attract many investors from the Middle East to invest in Aceh. However, they feel reluctant to invest in Aceh because the condition of Aceh is different from other provinces. In socio-political conditions, Aceh does not fully create a conducive business climate yet. In 2022 Aceh would actually have the United Arab Emirates investor namely Murban Energy Company to invest in *Pulau Banyak* Island of Singkil Regency.

This company had signed a Memorandum of Understanding with the Government of Aceh to invest in tourism in the *Pulau Banyak* island of Singkil Regency with an investment value of IDR 7 trillion. Unfortunately, this effort failed because Urban Energy asked for a tax holiday, namely the elimination of material taxes.⁶⁰ This condition occurred beyond the prediction of the government of Aceh.

Another challenge is that not all investments in Aceh have a significant and direct impact on Aceh's economic growth; for example, foreign investment in the oil, gas, and electricity sector.⁶¹ These investments mostly contributed to national economic growth rather than Aceh's economic growth. Moreover, Acehnese people also hard to get direct impact from these types of investments

⁵⁶Puspasari Windi Astuti, Analysis of the Influence of Investment on Economic Growth (Studies in 33 Provinces in Indonesia, Scientific Journal, Faculty of Economics and Business, UNIBRAW, Malang, 2018, p.11,

⁵⁷Azhari Yahya, "Foreign Direct Investment Inflow into Aceh Province of Indonesia After a Peace Agreement," *Emerald Insight* 1, no. 1 (2017), p. 429-435.

⁵⁸Azhari Yahya, "Political Conflict and Investment Inflows Into Aceh Province of Indonesia" 131, no. 1elgg 2017 (2018), p. 54-58.

⁵⁹Republika Online, 25 January 2023.

⁶⁰<https://dialexis.com/aceh/investasi-uea-di-aceh-singkil-gagal-ternyata-ini-pembebabnya/>, Accessed, September 24, 2022.

⁶¹Nur Magfirah at.al, The Impact of Economic Openness on Economic Growth in Aceh Province, *Significant: Journal of Economics*, IPB Bogor 11 (2022), p. 239-262.

such as working opportunities, and getting to be part of its business because all management is controlled by the central government.

d. Insufficient Infrastructure

Adequate infrastructure is a necessity in the context of enforcing laws and regulations. This is because the infrastructure is a means of realizing the goals to be achieved in a policy.⁶² According to legal theory, a public policy set forth in laws and regulations including the Qanun of SFI can be fully implemented if it is equipped with good legal substance, good legal structure, sufficient infrastructure, adequate legal culture, and a good cooperative society.

The challenge which is faced in relation to the enactment of SFI Qanun in the context of increasing investment in Aceh is insufficient infrastructure. The infrastructure which is really needed today is digitalization and information technology. Technological development requires business actors to complement their business activities by utilizing technology, including financial technology. Today digital-based lending and borrowing agreements are increasing rapidly.

Therefore, in order to support Sharia-based investment activities in Aceh, the availability of sufficient infrastructure such as the Internet, and sufficient information technology is absolutely required. For this reason, the Qanun of SFI still needs adjustment with financial technology so that investment activities can be carried out fully.

Insufficient infrastructure for investment activities in Aceh also became a complaint from a national investor for example PT. Trans Continent. Ismail Rasyid as Director of PT Trans Continent stated that basic infrastructure still becomes an obstacle in investing in the Aceh Province, especially in Ladong Industrial Area of Aceh Besar. The availability of water, drainage, and safety fences in the Ladong Industrial Area is inadequate so that investment activities in this area cannot be fully implemented.⁶³

This is an example of many obstacles faced by investors when they invest in Aceh Province. Most obstacles are related to the availability of infrastructure supporting investment activities. Insufficient infrastructure becomes the most significant factor that causes weak economic growth in Aceh due to less investment activities than can be done as a source of economic generating.

⁶²Azhari Yahya, et.al., "Peranan Badan Pengawasan Dalam Mendukung Investasi (Studi Di Kawasan Sabang) The Role of Supervision Body In Order To Support The Investment (Study In The Sabang Area)," *Jurnal IUS Kajian Hukum Dan Keadilan* 7, no. 1 (2019), p. 144–55.

⁶³<https://aceh.tribunnews.com/2020/03/09/infrastruktur-dasar-masih-jadi-kendala-dia-ladong>, Accessed, September 24, 2022.

Conclusion

Sharia-based investment in Aceh has a great opportunity, but it still faces several challenges that need to be overcome promptly. The most significant challenges among others are a lack of understanding of SFI Qanun, limited access to financial resources, weak economic growth, and insufficient infrastructure. Therefore, appropriate measures need to be taken immediately. Firstly, increasing socialization of SFI Qanun through various means such as seminars, dissemination activities, and using social media so that all stakeholders including business actors and investors can understand the whole concept of SFI Qanun and apply it properly. Secondly, the Sharia financial institution needs to increase full access to financial resources for business actors and investors. Thirdly, several strategic efforts to increase economic growth need to be done by providing investment incentives to the investors who invest in Aceh. In addition, more effective promotions to attract investors also need to be done. Fourthly, sufficient infrastructure to support investment also needs to be increased to motivate investors to invest in Aceh Province. Then, in order to realize Sharia-based investment in Aceh, all investors should have the willingness to apply Sharia principles in their investment. Moreover, the government, investors, and communities need to set up synergy and good collaboration to build Sharia-based investments in Aceh. Finally, Islamic financial institution needs to improve their services and open access to the public, especially investors so that they can obtain sufficient fund to conduct their investments based on sharia principles.

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