

# Perlindungan hukum atas investasi keuangan syariah di Indonesia = Legal protection of islamic financial investment in Indonesia

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Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20403622&lokasi=lokal>

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## Abstrak

### [<b>ABSTRAK</b><br>

Tesis ini membahas mengenai perlindungan hukum atas investasi keuangan syariah di Indonesia. Penelitian ini bertujuan untuk menjawab isu hukum bagaimana investasi keuangan syariah dalam perspektif hukum Islam (syariah) dan pengaturan perlindungan hukum investasi keuangan syariah baik dari aspek kepastian hukum maupun dari aspek hukum Islam (syariah). Penelitian ini adalah penelitian yuridis normatif yang merupakan jenis penelitian yang lazim dilakukan dalam kegiatan pengembangan ilmu hukum yang biasa disebut dengan dogmatik hukum. Hasil penelitian ditemukan jawaban bahwa investasi keuangan syariah merupakan bagian kegiatan jasa keuangan, di mana sejak terbitnya Undang-undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan, seluruh kewenangan pengaturan dan pengawasan kegiatan jasa keuangan dilakukan secara terintegrasi oleh Otoritas Jasa Keuangan (OJK). Kesimpulannya, investasi keuangan syariah masuk ke dalam hukum amaliyah bidang muamalah, dimana dalam bermuamalah harus memegang prinsip-prinsip syariah, yakni, tidak mencari rezeki pada hal-hal yang haram, baik dari segi zatnya maupun cara mendapatkannya; tidak menzalimi dan tidak dizalimi; memperhatikan keadilan dalam distribusi kemakmuran; dalam bertransaksi harus didasari atas ridha sama ridha; dan terbebas dari unsur riba, maysir, dan gharar. OJK diberi kewenangan pengaturan dan pengawasan, penyidikan, dan perlindungan konsumen dalam rangka menjamin kepastian hukum investasi keuangan syariah di Indonesia. Pada aspek syariah, perlindungan hukum investasi keuangan syariah dengan membuat peraturan oleh otoritas dengan didasari oleh fatwa yang dikeluarkan oleh DSN-MUI dan pengawasan yang dilakukan oleh Dewan Pengawas Syariah (DPS).

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### <b>ABSTRACT</b><br>

This thesis discusses the legal protection of Islamic financial investment in Indonesia. It also aims to address the issue how the law of Islamic financial investment protection in Indonesia is compatible to Islamic Law (Shariah) and regulation the legal protection of Islamic financial investment both from the aspect of legal certainty and the aspect of Islamic Law (Shariah). This study employs normative juridical which is a type of research that is common in legal science development activities commonly referred to as dogmatic law. The result of the study will be the answer of Islamic financial investment it is part of financial service activity, since the Law

Number 21 year 2011 about Financial Service Authority (OJK), all the authority rules and activity supervision will be held by integrity of Financial Service Authority. The research found that the Islamic Financial Investment will be in Amaliyah Law, Muamalah section, where in muamalah have to adherence to Islamic law principles, like, no find the forbidden things even the way how to get it; no persecute and be persecuted; based on the the justice of prosperity distribution; basic of this transaction is willingly each other; and relieved from riba, masyir, and gharar. The authority was given to OJK in the frame work of arrangement and supervision, investigation, and konsumen protection in order to ensure legal certainty Islamic financial investment in Indonesia. In the aspect of Shariah, the Islamic Financial Investment has rules that made by the authority that based on fatwa that published by DSN-MUI and the protection by DPS.;

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