Legal Protection of Sharia Investors in Indonesia: A *Maqāṣid*-Based Critique and Comparative Study of Malaysia's System

Suhaebatul Isnaini
Universitas Islam Negeri Sunan Kalijaga Yogyakarta
suhaebatulisnaini@gmail.com

A Hashfi Luthfi
Universitas Islam Negeri Sunan Kalijaga Yogyakarta
a.luthfi@uin-suka.ac.id

Fajri Zulia Ramdhani
Western Sydney University, Australia
z.ramdhani@westernsydney.edu.au

Abstract: This study analyzes the effectiveness of legal protections for Sharia sukuk investors in Indonesia, particularly in the Sukuk Tabungan ST012 instrument, based on the newly issued Financial Services Authority (OJK) Regulation No. 22 of 2023. The research is under a normative legal method combined with conceptual analysis using the *Maqāṣid Ash-Sharīʿah* framework developed by Auda. The findings indicate that the regulation introduces key elements such as strengthened literacy, transparency, and governance. However, the regulation's effectiveness remains limited in safeguarding investor capital, ensuring rational decision-making, and providing psychological security. The *Maqāṣid*-based analysis reveals that the dimension of *ḥifẓ al-māl* (protection of wealth) is not yet fully integrated into policy design. A comparative analysis with Malaysia highlights Indonesia's structural weaknesses, particularly the non-binding nature of fatwa authorities and the lack of legal certainty in Sharia supervision. This study recommends strengthening Sharia authority systems and integrating *Maqāṣid* values into the national regulatory framework. The study is limited by its non-empirical approach and narrow focus on a single instrument. Future research could consider quantitative methods and undertake broader cross-country regulatory comparisons.
Keywords: sukuk, investor protection, POJK 22/2023, *Maqāṣid Ash-Sharīʿah*, Islamic financial regulation.

Abstrak: Studi ini menganalisis efektivitas perlindungan hukum bagi investor sukuk syariah di Indonesia, khususnya pada instrumen Sukuk Tabungan ST012, berdasarkan Peraturan Otoritas Jasa Keuangan (OJK) Nomor 22 Tahun 2023 yang baru diterbitkan. Penelitian ini menggunakan metode hukum normatif yang dikombinasikan dengan analisis konseptual menggunakan kerangka *Maqāṣid Ash-Sharīʿah* yang dikembangkan oleh Auda. Hasil penelitian menunjukkan bahwa peraturan tersebut memperkenalkan unsur-unsur kunci seperti peningkatan literasi, transparansi, dan tata kelola. Namun, efektivitas peraturan tersebut masih terbatas dalam melindungi modal investor, memastikan pengambilan keputusan yang rasional, dan memberikan keamanan psikologis. Analisis berbasis *Maqāṣid*

mengungkapkan bahwa dimensi *ḥifẓ al-māl* (pelindungan harta) belum sepenuhnya terintegrasi dalam desain kebijakan. Analisis perbandingan dengan Malaysia menyoroti kelemahan struktural Indonesia, terutama sifat tidak mengikat dari otoritas fatwa dan ketidakpastian hukum dalam pengawasan syariah. Studi ini merekomendasikan penguatan sistem otoritas syariah dan integrasi nilai-nilai *Maqāṣid* ke dalam kerangka regulasi nasional. Studi ini dibatasi oleh pendekatan non-empiris dan fokus yang sempit pada instrumen tunggal. Penelitian masa depan dapat mempertimbangkan metode kuantitatif dan melakukan perbandingan regulasi lintas negara yang lebih luas.
Kata kunci: sukuk, perlindungan investor, POJK 22/2023, *Maqāṣid Asy-Syarīʿah*, regulasi keuangan Islam

Introduction

The development of Islamic financial instruments in Indonesia has progressed rapidly in recent years. The issuance of Sukuk Tabungan (savings sukuk) by the government serves both as a fiscal innovation and an effort to broaden public participation in state financing based on Sharia principles. Among the most prominent products is Sukuk Tabungan ST-012, offered to retail investors with a floating coupon scheme and government guarantees on both principal and returns. This product is attractive as it integrates religious values with financial returns, especially for Muslim investors seeking Sharia-compliant options. However, beneath this enthusiasm lie legal challenges that warrant further scrutiny. While the government guarantees the principal, the product's structure involves legal uncertainties—such as unclear return mechanisms, limited underlying assets, and weak redress systems in case of disclosure failures or Sharia non-compliance. These issues prompt critical questions about the actual extent of legal protection afforded to investors.

The issuance of Financial Services Authority Regulation (POJK) No. 22 of 2023 represents a regulatory effort to bolster investor confidence in the Islamic securities market.[1] The regulation provides several investor protection measures, including transparency obligations, risk management, and dispute resolution mechanisms.[2] Yet, whether these provisions offer substantial legal protection remains debatable. Legal frameworks that focus primarily on administrative compliance often overlook ethical and substantive justice—the core values of Islamic law.[3] A formalistic approach based solely on statutory norms may not address the complex realities of Sharia-based investment. Therefore, an evaluative

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[1] Ngueken Tarigan et al., "LEGAL IMPLICATIONS OF POJK No. 22/2023 ON THE CREDIT COLLECTION PROCESS BY POJK IN INDONESIA," *INTERNATIONAL JOURNAL OF SOCIAL, POLICY AND LAW (IJoSPL)* 5, no. 3 (2024), https://doi.org/10.8888/ijospl.v5i3.174.

[2] Otoritas Jasa Keuangan OJK, "POJK 22 Tahun 2023 tentang Pelindungan Konsumen Dan Masyarakat Di Sektor Jasa Keuangan," OJK, 2023.

[3] Mz Asfen Nasrullah Harahap, "Perlindungan Konsumen Dan Masyarakat Di Sektor Jasa Keuangan Pada Peraturan Otoritas Jasa Keuangan Nomor 22 Tahun 2023 Perspektif Al-Mas{Lah{Ah Al-Mursalah," *Tesis*, Program Studi Hukum Ekonomi Syari'ah Pascasarjana UIN Prof. K. H. Saifuddin Zuhri Purwokerto, (2024)..

framework is needed that goes beyond positive legal analysis to incorporate the *Maqāṣid Ash-Sharīʿah* perspective, which emphasizes the law's objectives—promoting welfare (*maṣlaḥah*) and preventing harm across life domains, including finance.[4]

Jasser Auda's *maqāṣid* paradigm offers a systemic, multidimensional approach to legal evaluation. It shifts the focus from legal texts to dynamic socio-legal contexts and emphasizes the protection of five essential values: life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-ʿaql*), wealth (*ḥifẓ al-māl*), religion (*ḥifẓ al-dīn*), and progeny (*ḥifẓ al-nasl*). In the context of sukuk, protecting wealth and intellect becomes particularly relevant, as it involves information clarity, capital certainty, and equitable return distribution.[5]

Legal protection for investors must consider the dual role of the state as both regulator and supervisor, along with the ethical responsibility of market actors. Power imbalances between authorities, financial institutions, and individual investors often result in legal gaps, especially for small-scale investors with limited bargaining power. Islamic legal protection involves not only formal regulation but also ethical values such as justice, transparency, and responsibility—principles that underpin *muʿāmalah syarʿiyyah*.[6] *Sukuk Tabungan* ST-012 illustrates these tensions. While it enhances financial inclusion and access to state-backed instruments, its floating return structure—tied to the BI Rate—raises questions about its alignment with *maqāṣid* values, particularly regarding long-term *maṣlaḥah*. Though this mechanism may shield against market volatility, the absence of clear information risks distributive injustice.[7]

Investor protection in Indonesia's Islamic finance sector has increasingly attracted scholarly attention. Various studies emphasize the importance of robust legal foundations, Sharia compliance, and public financial literacy. Tarantang and Astiti (2023) in The Legal Argumentation Regulatory Framework for Management of Sharia Funding and Risk Loans in Indonesia argue that investor protection depends on the synergy between the national constitution, financial regulations, and religious fatwas.[8] Similarly, Israhadi (2020) in Analysis of Sharia Economic Law and Government Policies in Enhancing Sharia Investment in Indonesia highlights the need for policies that strengthen Sharia legal infrastructure. Yet,

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[4] Landy Trisna Abdurrahman et al., "SDGs and Islamic Studies: Fiqh Muamalat, Sustainable Development, and Maqashid Asy-Syari'ah," *Az-Zarqa': Jurnal Hukum Bisnis Islam* 14, no. 2 (2022): 175–95, https://doi.org/10.14421/azzarqa.v14i2.2583; Yudhi Achmad Bashori et al., "MAQASID SHARIAH-BASED DIGITAL ECONOMY MODEL: INTEGRATION, SUSTAINABILITY AND TRANSFORMATION," *Malaysian Journal of Syariah and Law* 12, no. 2 (2024): 405–25, https://doi.org/10.33102/mjsl.vol12no2.647.

[5] Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, ed. Jasser Auda (The International Inst. of Islamic Thought, 2008).

[6] Jefry Tarantang and Ni Nyoman Adi Astiti, "The Legal Argumentation Regulatory Framework for Management of Sharia Funding and Risk Loans in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (2023): 72, https://doi.org/10.30984/jis.v21i1.2268.

[7] Evita Isretno Israhadi, "ANALYSIS OF SHARIA ECONOMIC LAW AND GOVERNMENT POLICIES IN ENHANCING SHARIA INVESTMENT IN INDONESIA," *Journal of Legal, Ethical and Regulatory Issues* 23, no. 5 (2020).

[8] Tarantang and Astiti, "The Legal Argumentation Regulatory Framework for Management of Sharia Funding and Risk Loans in Indonesia."

these studies remain anchored in legal-formal dimensions and rarely engage with the *maqāṣid*-based ethical values essential to holistic investor protection.[9]

From the perspective of public understanding of Islamic financial products, Adrianto in The Prospect of Indonesian Government Retail Sukuk (2021) emphasizes that low Islamic financial literacy remains a major barrier to retail investor participation. Many investors lack understanding of Sharia principles and risk structures, reducing the practical effectiveness of legal protection.[10] Performance concerns are also noted in the study by Gunawan and Nakajima, Asset Pricing in a Country Embracing Religious Beliefs and Social Norms (2025), which found that Islamic investments tend to underperform conventional instruments, partly due to religious preferences that influence valuation. This raises questions about whether current legal protection mechanisms sufficiently address the systemic risks inherent in value-based investment instruments.[11]

Darminto, Mubarok, and Ahmar in Investment Preferences of Institutional Investors in Indonesia (2025) found that ethical considerations and corporate governance are key factors for institutional investors.[12] However, there is no certainty that the legal system can fully uphold these preferences in the event of violations or losses. In other words, Sharia-based ethical choices are not automatically accompanied by strong legal safeguards. Similarly, Suratno and Ma'arif, in Problems of Cryptocurrency Development on Investor Protection from an Islamic Business Perspective (2024), examined investor vulnerability in digital asset transactions. They highlight regulatory weaknesses and the lack of Sharia oversight as contributing to investor exposure and potential losses.[13]

These studies show that the discourse on investor protection in Islamic finance remains centered on structural and normative aspects. Few studies have applied the values-based *Maqāṣid Ash-Sharīʿah* approach to critically assess the effectiveness of investor protection mechanisms. This article seeks to bridge that gap by integrating Jasser Auda's *maqāṣid*-oriented perspective into the evaluation of OJK Regulation Number 22 of 2023 and the state-issued sukuk product ST-012. It also introduces a comparative view with the legal-institutional model in Malaysia, where the alignment between formal law and authoritative Sharia governance produces a more coherent and enforceable protection framework for investors.

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[9] Israhadi, "ANALYSIS OF SHARIA ECONOMIC LAW AND GOVERNMENT POLICIES IN ENHANCING SHARIA INVESTMENT IN INDONESIA."

[10] Fajri Adrianto, "The Prospect of Indonesian Government Retail Sukuk: From the Perspective of Sharia Financial Knowledge, Education, and Behavior," *DLSU Business & Economics Review* 31, no. 2 (2021): 50–60.

[11] Ridwan Gunawan and Katsushi Nakajima, "Asset Pricing in a Country Embracing Religious Beliefs and Social Norms: Evidence from the Indonesian Stock Market," *Borsa Istanbul Review* 25, no. 2 (2025): 227–39, https://doi.org/10.1016/j.bir.2024.12.005.

[12] Dwi Prastowo Darminto et al., "Investment Preferences of Institutional Investors in Indonesia: A Comparative Analysis of Pressure-Sensitive and Pressure-Insensitive Groups," *Investment Management and Financial Innovations* 22, no. 1 (2025): 188–202, https://doi.org/10.21511/imfi.22(1).2025.15.

[13] Suratno Suratno and Muhammad Jauharil Ma'arif, "Problems of Cryptocurrency Development on Investor Protection from an Islamic Business Perspective," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 11, no. 1 (2024): 139, https://doi.org/10.29300/mzn.v11i1.3443.

Building on the aforementioned issues, this study aims to evaluate the legal protection afforded to investors in Sukuk Tabungan ST-012 based on the regulatory framework of POJK Number 22 of 2023. The analysis is conducted using the *Maqāṣid Ash-Sharīʿah* approach developed by Jasser Auda. By doing so, the study contributes to the discourse on developing a Sharia-based legal system that is not only formally valid but also substantively aligned with Islamic justice. The Malaysian model is used as a comparative benchmark to offer insights for improving investor protection practices in Indonesia.

This research is a normative legal study focused on written regulations governing investor protection in Islamic financial products. The methodology combines a juridical approach (analyzing applicable positive law) and a conceptual framework based on the theory of *Maqāṣid Ash-Sharīʿah*. This dual approach enables an assessment not only of the formal regulatory structure but also its effectiveness in fulfilling the ethical objectives of Islamic law.

Legal materials used include primary, secondary, and tertiary sources. Primary sources consist of legislation such as Law No. 19 of 2008 on State Sharia Securities, POJK No. 22 of 2023 on Consumer and Community Protection in the Financial Services Sector. Secondary sources include academic literature, scholarly articles, and legal commentaries on Islamic finance and investor protection. Tertiary materials include legal dictionaries and Islamic legal encyclopedias. Data collection was conducted through library research by systematically examining and interpreting legal documents. As this is a normative legal study, it does not include empirical field data.

The data analysis technique used is descriptive-analytical, aimed at mapping and assessing the structure and substance of relevant regulations. This method allows for critical evaluation using Jasser Auda's *maqāṣid* framework, particularly the protection of wealth (*ḥifẓ al-māl*), intellect (*ḥifẓ al-ʻaql*), and life (*ḥifẓ al-nafs*). Auda's six-system *maqāṣid* structure (multidimensionality, purposefulness, openness, cognition, hierarchy, and autonomy) is employed to explore how well the regulations respond to social realities, investor expectations, and the equitable distribution of risk and return.

Result and Discussion

Legal Framework of Sukuk Tabungan ST-012 and OJK Regulation No. 22 of 2023

The issuance of *Sukuk Tabungan* (savings sukuk) series ST012 by the Indonesian government is part of a Sharia-based fiscal financing strategy designed to reach retail investors. According to data from the Directorate General of Budget Financing and Risk Management (*Direktoret Jenderal Pengelolaan Pembiayaan dan Risiko* - DJPPR), ST012 consists of two tenors: ST012T2 with a two-year maturity, and ST012T4 with a four-year maturity. Both are structured under the *wakālah bi al-istis̆mār* contract, backed by Barang Milik Negara (State-Owned Assets) and projects listed in the state budget (APBN). Notably, ST012T4 is categorized as a green retail sukuk due to its underlying environmentally friendly projects. This issuance not only serves fiscal purposes but also embodies an inclusive Sharia investment instrument that facilitates broader public access to state financing tools.[14]

[14] Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional BPPN, "Masterplan Ekonomi Syariah Indonesia 2019-2024 Hasil Kajian Analisis Ekonomi Syariah Di Indonesia," PT Zahir Syariah Indonesia, 2018.

In terms of its characteristics, ST012 applies a floating with floor scheme, in which the coupon rate adjusts periodically based on the Bank Indonesia reference rate (BI Rate), with a guaranteed minimum return. For ST012T2, the minimum yield is set at 6.40% per annum, and for ST012T4 at 6.55% per annum. This feature is designed to offer flexibility in response to market fluctuations while assuring investors of a minimum level of protection against interest rate declines. Nevertheless, such a structure introduces significant implications from a legal protection standpoint, as returns remain uncertain and are still influenced by conventional monetary policies.

This financial instrument reflects the government's strategy to expand its investor base, encourage a shift from a saving-oriented to an investment-oriented culture, and support domestic capital market deepening. According to sales reports, the total subscription for ST012 reached IDR 19.65 trillion from 76,371 investors. This statistic demonstrates that the product has successfully attracted diverse investor groups, including millennials and women, who have historically had limited participation in capital markets.[15] However, this increased participation also demands a proportionate legal protection system, especially for novice investors who are more vulnerable to misinformation and structural risks.

In terms of investor protection, the principal regulatory framework in place is the Financial Services Authority (OJK) Regulation Number 22 of 2023 concerning Consumer and Community Protection in the Financial Services Sector. This regulation replaces the previous framework and introduces several normative updates. Its substantive provisions include enhanced transparency requirements, complaint handling mechanisms, dispute resolution procedures, and oversight of financial service providers in delivering products and services to the public. Although this regulation applies across sectors and is not specifically tailored to *Sukuk Tabungan* (savings sukuk) instruments, it nonetheless holds normative authority over all activities within the Sharia financial services sector.[16]

The regulation mandates that all financial service providers offer accurate, honest, non-misleading, and easily accessible information to consumers. This obligation is particularly crucial in the case of Sukuk Tabungan, as most investors come from non-professional backgrounds and rely heavily on official information from the government or its distribution partners. However, in practice, information regarding risk structures, potential coupon fluctuations, and early redemption mechanisms is often presented in technical terms that are not easily digestible by the general public. Such informational asymmetry significantly undermines the substantive effectiveness of legal protection.[17]

Moreover, OJK Regulation 22/2023 stipulates the accountability of financial service providers for consumer losses resulting from negligence, fraud, or unfair practices. However, since *Sukuk Tabungan* (savings sukuk) is issued by the state with full guarantees on both principal and returns, the legal liability of distributors becomes limited. This limitation creates

[15] Direktorat Jenderal Pengelolaan Pembiayaan dan Risiko, "Menjaga Bumi Tetap Lestari Melalui Sukuk Tabungan Seri ST012," https://djppr.kemenkeu.go.id/kphasilpenjualanst012. accessed May 13, 2025.

[16] OJK, "POJK 22 Tahun 2023 tentang Pelindungan Konsumen Dan Masyarakat Di Sektor Jasa Keuangan."

[17] Nevada Della Mena Amertha and Ahmad Syaifudin Anwar, "Obligasi Syariah Di Indonesia Tinjauan Terhadap Jenis Dan Penerapan Akad Serta Perlindungan Hukum Bagi Investor," *Az-Zarqa': Jurnal Hukum Bisnis Islam* Vol. 13, no. 2 (2021), https://doi.org/10.14421/azzarqa.v13i2.2401.

a legal vacuum regarding responsibility when investor expectations do not align with the actual characteristics of the product, or when misperceptions arise due to insufficiently accessible explanations.[18]

From the perspective of *Maqāṣid Ash-Sharīʿah*, the legal structure of ST012 and OJK Regulation No. 22 of 2023 still requires critical evaluation in terms of its effectiveness in ensuring *ḥifẓ al-māl* (protection of wealth) for investors. Legal certainty regarding the return of principal is formally fulfilled through a state guarantee. However, the uncertainty surrounding return on investment (yield) and the limited availability of comprehensive information for early-stage investors reflect a weakness in the principle of equitable distribution of information. Concerning the dimension of *ḥifẓ al-ʿaql* (protection of intellect), transparency and investor education constitute key components that remain suboptimal. Although public outreach and education programs have been carried out by the Directorate General of Budget Financing and Risk Management (DJPPR) along with distribution partners, the dissemination of knowledge has yet to achieve the level of clarity and accessibility required for informed financial decision-making by all investor segments.

Furthermore, the current regulatory framework does not explicitly incorporate the ethical-financial dimension rooted in the *maqāṣid* paradigm. For instance, OJK Regulation No. 22/2023 does not mandate the active involvement of Sharia supervisory authorities in overseeing the implementation of sukuk products, particularly in monitoring the alignment between the utilization of funds and the principles of *wakālah* and *Sharia*-based values.[19] This oversight is essential to ensure that the contracts applied are not merely legally valid in form but also substantively generate real public benefit (*maṣlaḥah*) in accordance with Islamic jurisprudential objectives.

Legal Risks of ST012 Investment

Investing in Sharia-compliant financial instruments such as the ST012 Savings Sukuk series issued by the Indonesian government entails both opportunities and complex legal risks. Although this product is formally supported by the state and employs contracts deemed valid under Islamic law, there remain problematic gaps that may threaten investor protection—especially for retail investors with limited legal and financial literacy.

According to data from the Directorate General of Budget Financing and Risk Management (DJPPR), ST012 attracted 76,371 investors with a total subscription volume of IDR 19.65 trillion. This figure reflects significant public participation in retail Sharia-based investment instruments, offered online through distribution partners. Most investors subscribed between IDR 5 million and IDR 100 million—classified as middle-income individuals who typically do not have an in-depth understanding of Sharia investment structures and legal risks. Moreover, the dominance of female investors and the millennial

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[18] Kevin Agatha Purba et al., "LEGAL CERTAINTY REGARDING COLLECTION RELATED TO GUARANTEES IN TERMS OF MOTOR VEHICLE FINANCING BASED ON OJK REGULATION NO. 22 OF 2023," *INTERNATIONAL JOURNAL OF SOCIAL, POLICY AND LAW (IJoSPL)* 5, no. 3 (2024), https://doi.org/10.8888/ijospl.v5i3.173.

[19] Mz Asfen Nasrullah Harahap, "Perlindungan Konsumen Dan Masyarakat Di Sektor Jasa Keuangan Pada Peraturan Otoritas Jasa Keuangan Nomor 22 Tahun 2023 Perspektif Al-Mas{Lah{Ah Al-Mursalah," *Tesis*, Program Studi Hukum Ekonomi Syari'ah Pascasarjana UIN Prof. K. H. Saifuddin Zuhri Purwokerto, (2024).

generation underscores the susceptibility of the ST012 investor base to misinformation or disproportionate expectations.

Table 1
Sales Performance of ST012T2 and ST012T4[20]

Category	ST012T2 (2-Year Tenor)	ST012T4 (4-Year Tenor)	Total ST012
Total Sales	IDR 14.57 trillion	IDR 5.08 trillion	IDR 19.65 trillion
Number of Investors	76,371 (total)	-	76,371
Avg. Subscription per Investor	IDR 242.16 million	IDR 231.92 million	-
Distribution by Subscription Size	IDR 5–100 million: 47.30%Above IDR 1 billion: 41.45%	IDR 5–100 million: 45.64%Above IDR 1 billion: 50.71%	-
Gender	Female investors: 60.59%Share of female volume: 51.83%	Female investors: 53.75%Share of male volume: 56.87%	-
Generational Composition	Millennials: 32,526 (54.06%)Largest volume: Gen X (IDR 5.67 trillion)	Millennials: 12,886 (58.87%)Largest volume: Gen X (IDR 2.21 trillion)	-
Geographical Distribution	Java: 36,996 investors (61.49%)Volume: IDR 7.16 trillion (49.17%)	Java: 13,369 investors (61.07%)Volume: IDR 2.40 trillion (47.35%)	-
Occupation	Largest group: Private employees (36.29%)Largest volume: Entrepreneurs (34.62%)	Largest group and volume: Private employees (38.13%, 30.64%)	-
New Investors	19,308 new investors Contribution to government retail bonds: IDR 3.79 trillion	25,570 new investors Contribution to retail sukuk: IDR 5.29 trillion	-

Investor participation in ST012 reflects a demographically diverse composition in terms of age, gender, occupation, and geographical region. Millennials emerge as a dominant segment, while Generation X contributes the largest investment volume. Female investors also exhibit significant participation. In terms of profession, private sector employees and entrepreneurs lead in both number and volume of subscriptions. Geographically, investors are spread across all provinces, with a concentration in western Indonesia. This diversity

[20] Direktorat Jenderal Pengelolaan Pembiayaan dan Risiko, "Menjaga Bumi Tetap Lestari Melalui Sukuk Tabungan Seri ST012," https://djppr.kemenkeu.go.id/kphasilpenjualanst012. accessed May 13, 2025.

highlights a broad spectrum of literacy levels and legal expectations, thereby requiring more inclusive information disclosure and an adaptive legal protection framework. In this context, understanding investor characteristics is essential to identifying potential legal risks—whether structural or individual.[21]

One of the primary risks faced by ST012 investors is information asymmetry—the knowledge gap between the issuer or distribution partners and retail investors. Although the government and its partners have provided product summaries and conducted public education campaigns, the format of information dissemination is often technical and not easily understood. This creates legal risks in the form of potential violations of transparency principles as outlined in OJK Regulation No. 22 of 2023, which mandates the delivery of accurate, understandable, and non-misleading information.

Another legal concern involves the contract implementation, particularly related to the *wakālah* contract used in the sukuk structure. Under ST012, the government acts as *wakīl* (representative), managing investor funds for specified projects. However, limited disclosure regarding the underlying projects—especially the green initiatives tied to ST012T4—raises questions about the transparency and Sharia compliance of contract execution. Investors, as *muwakkil* (principals), should have a clear understanding of how their funds are managed. Ambiguity in this area may lead to disputes if there is a perceived misalignment between the intent of the contract and its practical application.

On the other hand, there is also a significant risk concerning dispute resolution access. OJK Regulation No. 22 of 2023 provides a mechanism for complaints and dispute resolution through alternative institutions. However, in practice, investors' access to these mechanisms remains suboptimal. Most ST012 investors do not have a direct contractual relationship with the government as the issuer, but rather with the distribution partner platforms. This structural arrangement complicates the escalation of complaints, as legal responsibilities between the issuer and the distributors are often operationally ambiguous.[22]

Another crucial consideration is the policy risk—the potential for unilateral changes to coupon terms, early redemption provisions, or distribution mechanisms by the authorities without investor involvement or consent. For example, although ST012 adopts a floating with floor scheme, changes in the Bank Indonesia policy rate (BI Rate) directly impact the returns received by investors. While such provisions are legally valid, they may create a perception of unfairness if investors feel economically disadvantaged by mechanisms they did not fully understand from the outset.

Structurally, the above risks reveal a gap in substantive legal protection—between formal guarantees (i.e., the certainty of principal repayment and minimum returns assured by the government) and the actual needs of investors for transparency, equitable access to

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[21] Abbas J. Ali and Abdulrahman Al-Aali, "Marketing and Ethics: What Islamic Ethics Have Contributed and the Challenges Ahead," *Journal of Business Ethics* 129, no. 4 (2015): 833–45, https://doi.org/10.1007/s10551-014-2131-x.

[22] Amini Mahfuzoh and Nurma Khusna Khanifa, "Perlindungan Hukum Investor Bagi Pemegang Sukuk Ritel Terhadap Risiko Gagal Bayar," *SYARIATI* 5, no. 01 (2019): 81–92, https://doi.org/10.32699/syariati.v5i01.1187.

information, and accessible legal redress.[23] From the perspective of *Maqāṣid Ash-Sharīʿah*, this situation raises concerns regarding the fulfillment of *ḥifẓ al-māl* (protection of wealth). While the principal amount may be secured, the protection of utility value and mitigation of non-material losses remain inadequately guaranteed. Similarly, the protection of life (*ḥifẓ al-nafs*) and intellect (*ḥifẓ al-ʿaql*) may be undermined if mechanisms for education, contract clarification, and post-investment protection are not implemented in a fair and participatory manner.

Legal risks associated with green sukuk also warrant specific attention. The ST012T4 series, categorized as a green sukuk, claims to finance environmentally friendly projects. However, the lack of publicly available information regarding the nature of these projects, success indicators, and their social impact obscures the government's accountability as the steward of public funds. This risk is not only a matter of public law but also reflects a potential *takhalluf al-maṣlaḥah*—the failure to realize benefit—if the projects do not adhere to principles of sustainability and Sharia ethics.[24]

Lastly, there is a risk of regulatory sustainability due to the absence of a comprehensive legal framework specifically governing Sharia-compliant retail sukuk. Currently, regulations are scattered across general provisions such as the Law on State Sharia Securities (SBSN Law), OJK consumer protection regulations, and fatwas issued by the National Sharia Council – Indonesian Ulema Council (DSN-MUI). The lack of a dedicated regulation risks weakening the consistency of legal protection, especially when interpretive conflicts arise between positive law and *fiqh*-based norms underlying the sukuk contracts. These interlinked risks underscore the need for a holistic approach to evaluating the effectiveness of legal protection for Sharia sukuk investors—not only within a formal-normative framework but also through the lens of *maqāṣid* values that emphasize ethics, transparency, and justice in benefit distribution and investor treatment.[25]

Evaluation of Legal Protection Based on *Maqāṣid Ash-Sharīʿah*

Ḥifẓ al-Māl (Protection of Wealth): Guarantee, Returns, and Liquidity Access

The concept of *ḥifẓ al-māl* is one of the five core objectives of *Maqāṣid Ash-Sharīʿah*, functioning to safeguard and protect wealth from damage, misuse, or loss without valid justification.[26] In the context of ST012 retail sukuk investment, the protection of investor wealth encompasses three primary aspects: the guarantee of investment principal, the clarity and certainty of returns, and assured access to liquidity. These three aspects serve as indicators of the effectiveness of legal protection for retail investors' financial interests, especially within state-managed Sharia-based financial instruments.

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[23] Arif Rahman and Tri Widya Kurniasari, "Perlindungan Hukum Nasabah Unit Link Dalam Risiko Penurunan Nilai Investasi," *REUSAM: Jurnal Ilmu Hukum* 11, no. 1 (2023): 13, https://doi.org/10.29103/reusam.v11i1.10766.

[24] Ali and Al-Aali, "Marketing and Ethics."

[25] "Regulation, Performance and Future Challenges of *Sukuk*: The Evidence from Asian Markets," in *Advances in Islamic Finance, Marketing, and Management*, by Abu Umar Faruq Ahmad (Emerald Group Publishing Limited, 2016), https://doi.org/10.1108/978-1-78635-899-820161003.

[26] Achmad Bashori et al., "MAQASID SHARIAH-BASED DIGITAL ECONOMY MODEL"; Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*.

First, regarding the guarantee of investment principal, the ST012 instrument offers full assurance of principal repayment at maturity. This guarantee is explicitly stated by the issuer—the Government of the Republic of Indonesia—which acts as the *wakīl* under the *wakālah bi al-istiṡmār* contract. This state-backed guarantee provides legal certainty for investors, particularly by ensuring protection against default risk, distinguishing it from speculative private sector investments. In principle, this provision aligns with the value of *ḥifẓ al-māl*, as the state functions as the primary guarantor of investor wealth.

However, from a legal protection perspective, this guarantee does not automatically resolve all potential issues regarding wealth preservation. Even though investors are assured full nominal return of capital, the time value of money and the potential erosion of purchasing power due to inflation remain risks that are not fully mitigated by a nominal guarantee scheme. Therefore, while principal protection is legally secured, there remains substantive room for improvement in safeguarding the real value of the investment.

Second, in terms of returns, ST012 offers a floating coupon scheme with a floor. This model provides partial protection by guaranteeing a minimum return throughout the investment period—6.40% per annum for ST012T2 and 6.55% for ST012T4. The scheme is designed to provide flexibility in response to interest rate dynamics while maintaining the instrument's appeal. However, from a *maqāṣid* standpoint, this structure introduces ambiguity in terms of justice and benefit certainty.

The dependency of return rates on the BI Rate suggests that the investors' profits are significantly influenced by external variables beyond the control of both issuer and investor. Although the floor rate offers a safety net, fluctuations in the BI Rate can lead to uncertainty in investment projections. This uncertainty creates potential legal vulnerabilities, especially for investors who rely on such instruments as a form of value protection or stable passive income.[27] Furthermore, the absence of an explicitly clear coupon calculation method that is easily understood by retail investors poses challenges to realizing the principle of *ḥifẓ al-māl*. Protecting wealth, according to *maqāṣid*, is not limited to safeguarding physical assets but also includes shielding financial benefits (*maṣlaḥah*) from being undermined.[28] Hence, clarity and transparency in return structures are imperative to fulfill *maqāṣid* values in this context.

Third, access to liquidity is also an integral component of wealth protection. ST012 allows investors to redeem part of their funds through an early redemption facility, with certain limitations: a maximum of 50% of total holdings, and only once during the investment period. This feature is intended to provide flexibility, particularly for unforeseen urgent needs. Nevertheless, from a *ḥifẓ al-māl* perspective, such limited flexibility raises questions. In emergency conditions or times of significantly increased liquidity needs, restrictions on partial redemption could hinder investors’ access to their own assets. This may be viewed as a constraint on shariah-based economic rights, since a fundamental Sharia principle is that

[27] Perdana Wahyu Santosa Nita Puspitasari, “Corporate Fundamentals, Bi Rate And Systematic Risk: Evidence From Indonesia Stock Exchange,” *Jurnal Manajemen* 23, no. 1 (2019): 39, https://doi.org/10.24912/jm.v23i1.443.

[28] Muhammad Shahrul Ifwat Ishak and Nur Syahirah Mohammad Nasir, “Maqasid Al-Shari’ah in Islamic Finance: Harmonizing Theory and Reality,” *The Journal of Muamalat and Islamic Finance Research*, June 1, 2021, 108–19, https://doi.org/10.33102/jmifr.v18i1.334.

property owners have full rights over the use and management of their wealth, as long as they comply with Sharia provisions.[29]

Moreover, early redemption is only accessible during specific time windows and involves technical procedures that may be difficult for lay investors. A lack of digital infrastructure readiness or inadequate support from distribution partners can result in delays or failures in utilizing early redemption rights.[30] In this regard, the *maqāṣid* framework demands not only the presence of formal instruments but also a support system that ensures those rights are exercisable easily, quickly, and fairly. Although ST012 regulation has legally satisfied formal dimensions by ensuring principal repayment, minimum return provision, and limited liquidity access, from the perspective of *ḥifẓ al-māl* within *Maqāṣid Ash-Sharīʿah*, there remains significant room for improvement. Wealth protection should not be assessed merely from legal formality but must also encompass the protection of real benefits, equitable access, and the owner's flexibility in controlling their assets.

Ḥifẓ Al-'Aql (Protection of Intellect): Literacy, Information, and Cognitive Justice for Investors

The concept of *ḥifẓ al-ʿaql* within the framework of *Maqāṣid Ash-Sharīʿah* does not solely refer to the biological or physical protection of the intellect. Rather, it encompasses the effort to preserve and empower the intellect so it may function effectively in making accurate, fair, and well-informed decisions.[31] In the context of investor protection—particularly for retail investors, who constitute the primary target group for the issuance of ST012 savings sukuk—this dimension is closely related to three key aspects: financial and Shariah literacy, clarity and transparency of information, and cognitive justice in investment decision-making processes.

First, financial and shariah literacy forms the fundamental basis upon which investors can comprehend the characteristics of the financial products they choose. According to Adrianto (2021), the low level of shariah financial literacy remains one of the main obstacles to broader public participation in government retail sukuk.[32] Although the government has initiated various educational programs such as the Sekolah Pasar Modal Syariah (Islamic Capital Market School) and the Festival Sukuk Negara (National Sukuk Festival), these initiatives have not fully reached communities with lower levels of education or economic

[29] M. Abdullah, "Shari'ah, Ethical Wealth and SDGs: A Maqasid Perspective," in *Islamic Wealth and the SDGs: Global Strategies for Socio-Economic Impact* (2021), Scopus, https://doi.org/10.1007/978-3-030-65313-2_4; Muhammad Abdullah, "Islam, Spirituality and Wealth: Islamic Framework of Wealth Management," in *Wealth Management and Investment in Islamic Settings*, ed. Toseef Azid et al. (Springer Nature Singapore, 2022), https://doi.org/10.1007/978-981-19-3686-9_3.

[30] Florencia Marotta-Wurgler, "Are 'Pay Now, Terms Later' Contracts Worse for Buyers? Evidence from Software License Agreements," *The Journal of Legal Studies* 38, no. 2 (2009): 309–43, https://doi.org/10.1086/596040.

[31] Ifwat Ishak and Mohammad Nasir, "Maqasid Al-Shari'ah in Islamic Finance"; Jasmin Omercic, "The Integration of Knowledge (IoK) Methodological Approach to Reforming the Development of Islamic Economics, Banking, and Finance (IEBF) in Light of Maqasid (Objectives) and Sustainable Development Goals (SDGs)," *Global Review of Islamic Economics and Business* 9, no. 2 (2022): 039, https://doi.org/10.14421/grieb.2021.092-04.

[32] Adrianto, "The Prospect of Indonesian Government Retail Sukuk: From the Perspective of Sharia Financial Knowledge, Education, and Behavior."

standing. This reflects a structural gap in the distribution of knowledge that must be addressed to realize the principle of *ḥifẓ al-ʻaql* in a holistic manner.

Unequal levels of literacy also affect public understanding of the *wakālah* contract used in ST012. Many investors assume this contract is equivalent to a shariah-compliant savings or deposit system, whereas, in fact, it carries fundamentally different implications regarding responsibilities, risks, and benefit structures. This misunderstanding exposes investors to potential misinterpretations and opens space for investment practices that deviate from the principle of informational justice.[33]

Second, the clarity and transparency of information are crucial instruments in ensuring informational fairness. POJK No. 22/2023 obliges financial service providers to deliver complete, honest, and easily understood information. However, in practice, many ST012 product summaries use technical jargon without providing accessible explanations in layman's terms. Terms such as "underlying asset," "floor rate," or "early redemption" are frequently left undefined in their proper context, creating potential distortions in understanding that threaten the integrity of the investment decision-making process.[34]

This problem is exacerbated by the dominance of digital distribution channels, which often lack human support agents or interactive explainers. The e-investment platforms used by distribution partners in marketing ST012 are more transaction-oriented and do not provide sufficient opportunities for investors to ask questions or explore the product's underlying structures in depth. As a result, investors rely predominantly on one-directional information from promotional materials or digital brochures, which are often framed using persuasive narratives with limited room for critical engagement.[35]

Third, the unequal access to and comprehension of information results in cognitive injustice. In other words, not all investors begin from an equal footing in terms of knowledge when making investment decisions. Investors with backgrounds in finance or law possess a stronger position to evaluate risks and benefits than those who rely solely on trust in state institutions. Within the diverse sociocultural structure of Indonesian society, this disparity further widens the gap in legal protection that should ideally be universally accessible.

Cognitive injustice is also evident in the practice of early redemption. Many investors are unaware—either in terms of timing or technical procedures—of the application period and the maximum redemption limits. This is not merely a technical oversight; rather, it reflects the absence of an inclusive and anticipatory communication system that accommodates the limitations of the human intellect as a receiver of information.[36] When

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[33] Selvia Dinda Rahmayanti Muhammad Dodi Oktafianur, *Literasi dan Edukasi: Meningkatkan Pemahaman Masyarakat terhadap Ekonomi Syariah di Indonesia*, Zenodo, June 3, 2024, https://doi.org/10.5281/ZENODO.11443055.

[34] OJK, "POJK 22 Tahun 2023 tentang Pelindungan Konsumen Dan Masyarakat Di Sektor Jasa Keuangan."

[35] Tarigan et al., "LEGAL IMPLICATIONS OF POJK No. 22/2023 ON THE CREDIT COLLECTION PROCESS BY POJK IN INDONESIA."

[36] Jing Zhao et al., "Does Cognitive Limitation Affect Investor Behavior and Performance? Evidence from Limit Order Clustering," *SSRN Electronic Journal*, ahead of print, Elsevier BV, 2012, https://doi.org/10.2139/ssrn.1988236.

investors fail to understand their rights due to disproportionate or poorly conveyed information, the value of *ḥifẓ al-ʻaql* as part of the *Maqāṣid Ash-Sharīʿah* is not fulfilled.

Within the framework of *Maqāṣid Ash-Sharīʿah*, safeguarding the intellect also entails establishing a financial system that is educational, non-deceptive, and grounded in the principles of *taʻāruf* (mutual understanding) and *taʻāwun* (mutual cooperation) between financial service providers and consumers. Therefore, public education on shariah contract principles, investment risks, and the rights and obligations within financial agreements is not an accessory component—it is an essential element of the legal protection structure.[37]

An evaluation of ST012 reveals that literacy and transparency initiatives have been undertaken by the government and its distribution partners; however, their effectiveness remains limited to certain investor groups. This highlights the need for a more adaptive approach that considers the diversity of backgrounds, learning styles, and analytical capacities of the public. Strengthening information delivery systems through audiovisual materials, community-based assistance, and the provision of responsive shariah hotlines are examples of interventions that could address these gaps.

Protecting *ḥifẓ al-ʻaql* in the ST012 investment product requires the active involvement of the state—not only as the issuer and guarantor of the instrument but also as a public educator responsible for enabling the intellect of the population to engage with complex financial offerings. Without such efforts, Islamic investment risks becoming a mere *fiqhiyyah* formality, falling short of empowering the Muslim community in managing their wealth wisely and justly.

Ḥifẓ Al-Nafs (Protection of Life): Dispute Resolution and Access to Investment Justice

Within the theoretical framework of *Maqāṣid Ash-Sharīʿah, ḥifẓ al-nafs* (protection of life) refers not only to the biological preservation of life but also includes guarantees of social, psychological, and legal security from various forms of injustice or harm.[38] In the context of Islamic investment law, particularly in the case of the ST012 retail sukuk instrument, this dimension encompasses the state's and financial authorities' efforts to ensure a fair and accessible dispute resolution mechanism that does not impose additional burdens or risks on investors—especially retail investors who are often vulnerable due to limited legal knowledge and bargaining power.

First, in terms of dispute resolution, Financial Services Authority Regulation (POJK) No. 22 of 2023 has provided a legal foundation for consumer protection in the financial services sector. This includes requiring financial service providers to establish and implement

[37] Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*; Landy T. Abdurrahman, "Pendekatan Maqāṣid al-syarīʻah Kontemporer dalam Perilaku Ekonomi," *An-Nawa: Jurnal Studi Islam* 1, no. 1 (2019), https://doi.org/10.37758/annawa.v1i2.139; A. Mehellou et al., "Maqāṣid Al-Sharī'ah as Goal Framing for Sustainable Behaviours: A Conceptual Framework," *Intellectual Discourse* 31, no. 1 (2023): 183–209, Scopus.

[38] Ali Muhammad Bhat, "Maqasid Al-Shari'ah Is a Divine Shield of Islamic Policy," *Journal of Islamic Thought and Philosophy* 2, no. 2 (2023): 128–50, https://doi.org/10.15642/jitp.2023.2.2.128-150; Eley Suzana Kasim et al., "Application of Maqasid Al-Shariah into Supply Chain Management Practices for Sustainable Development," preprint, February 2, 2022, https://doi.org/10.31219/osf.io/789vz.

out-of-court complaint handling and dispute settlement mechanisms.[39] This approach should be commended as part of a modern legal protection architecture, as non-litigation mechanisms generally offer more efficiency in terms of time and cost while avoiding the psychological strain commonly associated with court proceedings.

However, in practice, these complaint channels still face significant challenges. Many novice investors do not know where to report issues such as administrative errors, delayed coupon payments, or misinformation from distribution partners. This is largely due to inadequate dissemination of information about complaint channels and a lack of transparency in complaint handling processes. In several cases, reports submitted to distribution partners' call centers were not handled professionally or ended without sufficient follow-up. This has led to a sense of powerlessness and traumatic experiences for some investors when dealing with large financial institutions.

Such conditions clearly contradict the principle of *ḥifẓ al-nafs*, as they neglect the mental security, legal justice, and psychological comfort of the investor. From a *Maqāṣid* perspective, an Islamic financial system must not only ensure formal compliance with contracts but also guarantee that its transactions and services do not cause emotional distress or psychological harm to users.[40] Therefore, a responsive complaint system aligned with the principle of *maṣlaḥah* is a key indicator of investment justice.

Second, access to investment justice refers to how far small investors can pursue their rights in cases of disputes with financial institutions or the state as issuer. In the case of ST012, although the government guarantees fund returns, there is no explicit mechanism providing a dedicated litigation or complaint forum for investors who feel harmed due to technical failures, information miscommunication, or delays in rights distribution. The government tends to rely on institutional credibility and administrative approaches in responding to complaints. However, this method has yet to adequately address the diversity of cases and limited legal understanding among investors. In several public forums, investor complaints were not given sufficient space for fair and transparent resolution. This situation reflects a gap between the government's dominant position and retail investors' lack of power or access to legal instruments.

From the *Maqāṣid's* perspective, justice is not merely about written rules but also about implementation and siding with the weaker party. Therefore, dispute resolution mechanisms should not be one-directional or purely administrative. They must include independent external oversight, public participation, and the right for investors to receive periodic updates on their complaint status. Without this, the protection of investor wellbeing in terms of security and justice becomes illusory.

Third, *ḥifẓ al-nafs* also covers protection from social pressure and information intimidation, particularly in the marketing of retail sukuk. Some marketing campaigns by distribution partners or financial influencers on social media are wrapped in narratives of "financial patriotism" or "support for national development," often omitting transparency about the associated risks. This type of social pressure can compel individuals to invest out

[39] OJK, "POJK 22 Tahun 2023 tentang Pelindungan Konsumen Dan Masyarakat Di Sektor Jasa Keuangan."

[40] Ifwat Ishak and Mohammad Nasir, "Maqasid Al-Shari'ah in Islamic Finance."

of If not ethically regulated, such persuasive techniques can evolve into cognitive manipulation, which is fundamentally opposed to *maqāṣid*. Islamic law emphasizes the importance of freedom in *mu'āmalah* and prohibits *gharar* (uncertainty or ambiguity) in transactions. Therefore, public communication strategies in marketing shariah-compliant products must uphold information neutrality, avoid deception, and refrain from emotional coercion that might obscure investors' risk awareness.[41] Looking ahead, it is essential to design a *maqāṣid*-oriented dispute resolution system for Islamic investment. Such a system should not only provide complaint channels but also ensure investor participation in service evaluation, access to open complaint data, and the presence of dispute resolution institutions that integrate positive law with *maqāṣid*-based ethics. This will not only strengthen the legitimacy of Islamic financial products but also enhance public trust and promote market stability.

Systemic Evaluation Based on Jasser Auda's Six Maqāṣid Systems

The assessment of investor protection policies embedded in the ST012 instrument and Financial Services Authority Regulation (POJK) No. 22 of 2023 requires not only a normative but also a systemic approach. Jasser Auda's six-systems theory of *Maqāṣid* provides a comprehensive evaluative framework—one that goes beyond textual and intention-based legal analysis to encompass social, epistemological, and practical dimensions. The six systems include the cognitive system (*niẓām al-ma'rifiyyah*), purposefulness system (*niẓām al-maqāṣid*), value system (*niẓām al-qiyām*), principles system (*niẓām al-ḍawābit*), contextual system (*niẓām al-aḥwāl*), and time system (*niẓām al-ẓamān*).[42]

First, the cognitive system (*niẓām al-ma'rifiyyah*) emphasizes the importance of knowledge in shaping legal policy. In this context, investor protection should be rooted in a deep understanding of the psychology of retail investors, financial literacy levels, and local Muslim *mu'āmalah* traditions. POJK 22/2023 and the ST012 design have not yet fully reflected a holistic mapping of such knowledge. Educational and informational efforts remain mostly top-down and overlook how investors practically comprehend shariah concepts. This epistemic gap weakens protection for the rational faculties and decision-making rights of investors.

Second, the purposefulness system (*niẓām al-maqāṣid*) demands that policies be designed not merely for legal enforceability but to realize tangible *maṣlaḥah* (benefit). Although ST012's declared purpose is to support national budgeting and green development,

[41] Ali Akbar Ruhullah Muhammadi et al., "Mitigating Gharar in Sharia Capital Market Volatility: Governance, Regulation, and Technology: Mitigasi Gharar Dalam Volatilitas Pasar Modal Syariah: Tata Kelola, Regulasi, Dan Teknologi," *Az-Zarqa': Jurnal Hukum Bisnis Islam* 16, no. 1 (2024): 58–74, https://doi.org/10.14421/yxqd6f17; Waeibrorheem Waemustafa, *Theory of Gharar and Its Interpretation of Risk and Uncertainty from the Perspectives of Authentic Hadith and the Holy Quran: Review of Literature*, figshare, 2016, 7762839 Bytes, 7762839 Bytes, https://doi.org/10.6084/M9.FIGSHARE.4042998.V1.

[42] Jasser Auda, *Al-Ijtihād Al-Maqāṣidī Majmū'atu Buḥūṡin* (Ash-Shabkah Al-'Arabiyyah Lil 'Abḥās wa An-Nasyr, 2011); "Maqasid for Re-Envisioning Islamic Higher Education for Sustainability and Socio-Economic Development," in *Islamic Finance and Sustainable Development*, 1st ed., by Jasser Auda (Routledge, 2025), https://doi.org/10.4324/9781003505570-2; Jasser Auda, "A Maqasidi Approach to Contemporary Application of The Shari'ah," *INTELLECTUAL DISCOURSE* 19, no. 2 (2011).

it lacks a clearly articulated objective of empowering communities through sustainable shariah -based investing. Legal protection goals often appear symbolic, reflected in formal guarantees over investor funds, but not translated into structures that enhance substantive rights. Under the *Maqāṣid* lens, the success of protection is measured not just by participation rates but by how much investors gain financial empowerment and economic justice through their involvement[43]

Third, the value system (*niẓām al-qiyām*) insists that legal structures must be built upon key Islamic values such as justice, honesty, trustworthiness, and transparency. In practice, ST012 implementation has yet to consistently reflect these values in public communications and product promotions. Campaigns often rely on nationalistic or spiritual narratives without equally emphasizing honest and balanced risk disclosures.[44] This creates perceptual imbalances that contradict the principle of *qiṣṭ* (proportional justice). Hence, Islamic financial instruments must embody *maqāṣid* values in all service dimensions—not only at the contract level.

Fourth, the principles system (*niẓām al-ḍawābit*) refers to the binding legal standards that safeguard the integrity of *Maqāṣid* from pragmatic or political distortions. In regulatory terms, principles such as *lā ḍarar wa lā ḍirār* (do not harm and do not be harmed) and *muwāẓanah* (balance of rights and responsibilities) should be central in evaluating outcomes. POJK and ST012 still fall short in detailing ethical distribution standards, especially for intermediary partners who act as liaisons between the state and investors. When the system fails to limit manipulative narratives or asymmetrical information distribution, it undermines the foundational principles of *maqāṣid*.

Fifth, the contextual system (*niẓām al-aḥwāl*) underscores the need for shariah law to be responsive to the socio-economic and cultural realities of its environment. Retail investor protection in Indonesia must consider educational disparity, digital access gaps, and the public's general deference to state authority. Field experiences show that most investors join ST012 not out of a thorough understanding of its contract or structure, but due to trust in the state and its guarantees. *Maqāṣid* thus demands that legal designs engage with actual social contexts rather than idealized assumptions.

Sixth, the time system (*niẓām al-ẓamān*) reinforces that *Maqāṣid* is dynamic and must evolve with the times. Legal protections should not remain static or reactive.[45] POJK and ST012 must be evaluated through a long-term lens as part of a learning process for the broader reform of Islamic financial law. Digitalization, the emergence of crypto-assets, and the shifting preferences of younger investors demand a forward-looking legal framework—

[43] "Maqasid for Re-Envisioning Islamic Higher Education for Sustainability and Socio-Economic Development."

[44] Alex Annan Abakah and Jiayan Li, "Local Religious Beliefs and Bank Risk-Taking," *Journal of Behavioral and Experimental Finance* 40 (December 2023): 100856, https://doi.org/10.1016/j.jbef.2023.100856; Valentino Cattelan, "In the Name of God: Managing Risk in Islamic Finance," *SSRN Electronic Journal*, ahead of print, 2014, https://doi.org/10.2139/ssrn.2477584.

[45] "Maqasid for Re-Envisioning Islamic Higher Education for Sustainability and Socio-Economic Development"; Auda, *Al-Ijtihād Al-Maqāṣidī Majmū'atu Buḥūsin*.

one that is continuous, anticipatory, and open to revision. As such, legal policy should be iterative, with regular assessments and improvements incorporating investor feedback

The application of Jasser Auda's six-systems framework reveals that while investor protection in ST012 and POJK 22/2023 has made relevant initial strides, significant reinforcement is needed. Reform should not be limited to formal documents or regulatory structure but must include a recalibration of purpose, values, and governance systems—ones that regard the public not merely as passive policy targets but as active participants in protection.

Investor Protection in Islamic Financial Products: A Comparative Perspective from Malaysia

Legal protection for investors in Islamic financial products is a critical element in the advancement of the Islamic finance industry. Countries with Islamic banking systems have developed investor protection frameworks that not only ensure Shariah compliance but also prioritize capital security, informational fairness, and systemic transparency. Among these, Malaysia stands out as a model of an institutionally and legally integrated protection system. The country demonstrates a strong commitment to investor rights through a combination of binding legal mechanisms and religious authorities with regulatory influence.

In Malaysia, the Shariah Advisory Council (SAC) of Bank Negara Malaysia (BNM), established under the Central Bank of Malaysia Act 2009, holds the highest authority in determining the Shariah compliance of financial products and policies. As explained by Amsyar Mohd Arif and Markom (2020), the SAC's rulings are binding not only on financial institutions but also on civil courts, thereby ensuring a high level of legal certainty for investors who rely on Shariah principles as a foundation for their investment decisions. These rulings are not merely declarative but serve as normative and implementable standards within the national legal system.[46]

Additionally, Malaysia enforces the Shariah Governance Framework (SGF), which mandates every Islamic financial institution to establish an internal Shariah Committee responsible for overseeing all operational aspects. As studied by Ab. Nasir and Hassan (2022), the SGF ensures the integrity of both products and processes—spanning product design, distribution, and risk management. This structure creates a multilayered protection system that does not depend solely on central regulators but includes rigorous and systematic internal controls.[47]

Furthermore, Malaysia's consumer protection approach is anchored in transparency and contractual justice. Legal documentation for Shariah financing products, such as *Bay' Biḍ Ḍamān 'Ājil*, has been standardized to minimize the potential misuse of clauses and strengthen the consumer's legal position. The principle of *lā ḍarar wa lā ḍirār* (no harm and

[46] Mohd Izzat Amsyar Mohd Arif et al., "The Visionary Philosophy of Shariah Governance in Islamic Financial System: Pioneering Green Finance for a Sustainable Future," *International Journal of Academic Research in Business and Social Sciences* 14, no. 8 (2024), https://doi.org/10.6007/ijarbss/v14-i8/22487.

[47] "Proposed SG Framework in Government Linked Investment Companies: A Study on Permodalan Nasional Berhad," in *Lecture Notes in Networks and Systems*, by Wan Amir Shafiq Ab. Nasir and Rusni Hassan (Springer International Publishing, 2022), https://doi.org/10.1007/978-3-030-93464-4_36; Kabir Hassan and Mervyn Lewis, eds., *Handbook of Islamic Banking*, Elgar Original Reference (Edward Elgar, 2007).

no reciprocation of harm) underpins a fair contractual framework—free from *gharar* (uncertainty) and hidden riba (interest)—while remaining accessible to lay investors.[48]

By comparison, Indonesia, despite its progressive development of Islamic finance, still faces disparities in effective investor protection. As noted by Harrieti et al. (2023), Indonesia's protection mechanisms—such as deposit insurance based on *kafālah* under LPS Regulation No. 1 of 2020—focus primarily on deposit security rather than comprehensive market conduct, information asymmetry, or retail sukuk governance.[49] Regarding supervisory structures, the role of Indonesia's Shariah Supervisory Boards (*Dewan Pengawas Syariah*/DPS) tends to be institutionally fragmented. Unlike Malaysia's centralized SAC, Indonesia lacks a unified Shariah authority with binding powers. Although fatwas issued by the Indonesian Ulema Council (MUI) serve as references, they do not carry binding legal force within the national legislative framework. As observed by Heradhyaksa et al. (2023), this fragmentation introduces interpretive discrepancies and legal uncertainty—particularly concerning investor protection against Shariah non-compliance risks.[50]

In other jurisdictions, such as Gulf Cooperation Council (GCC) countries, Shariah governance disclosure remains a pivotal issue. Malaysian Islamic banks exhibit higher levels of disclosure compared to their GCC counterparts, particularly in terms of board structure, Shariah assessment methodology, and reporting systems. This transparency enhances investor capacity to evaluate product risk profiles and Shariah alignment.[51] Moreover, Fahamsyah et al. (2025) highlight that in the context of Shariah fintech, Malaysia has proactively established an integrated legal framework that combines supervision, reporting, and compliance. Indonesia, by contrast, still faces regulatory ambiguities due to the lack of a comprehensive Shariah fintech regulatory framework.[52] This gap leaves investors vulnerable to digital risks, including undetected forms of *gharar* under conventional legal regimes.

Malaysia's strength also lies in the harmonization between its positive legal system and *Maqāṣid Ash-Sharī'ah* as an ethical paradigm. The protection system is not merely a legal-formal obligation but reflects *maṣlaḥah* (public benefit) and distributive justice. This alignment ensures that investors feel not only legally secure but also ethically dignified, as financial products are not only structurally *ḥalāl* but also *ṭayyib* (beneficial and wholesome) in their impact.

In light of this comparison, Malaysia presents a more structured, systemic, and institutionally embedded model of Shariah investor protection. In contrast, Indonesia

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[48] Muammar Arafat Yusmad et al., "Revitalization Supervision Islamic Banking in Enhancement Compliance in Indonesia and Malaysia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (2024): 468, https://doi.org/10.22373/sjhk.v8i1.20524.

[49] Nun Harrieti et al., "Now and Forward: Customer Deposit Insurance of Sharia Bank in Indonesia," *Udayana Journal of Law and Culture* 7, no. 2 (2023): 159, https://doi.org/10.24843/ujlc.2023.v07.i02.p03.

[50] Bagas Heradhyaksa et al., "COMPARISON OF SHARIA SUPERVISORY REGULATIONS ON ISLAMIC VENTURE CAPITAL IN INDONESIA AND MALAYSIA," *Diponegoro Law Review,* 8, no. 2 (2023): 175–89, https://doi.org/10.14710/dilrev.8.2.2023.175-189.

[51] Yusmad et al., "Revitalization Supervision Islamic Banking in Enhancement Compliance in Indonesia and Malaysia."

[52] Ermanto Fahamsyah et al., "NAVIGATING FINTECH SHARIA REGULATION IN INDONESIA: LESSONS LEARNED FROM MALAYSIA," *Malaysian Journal of Syariah and Law* 13, no. 1 (2025): 179–92, https://doi.org/10.33102/mjsl.vol13no1.794.

remains in a phase of normative consolidation and institutional experimentation—with notable progress but also conceptual challenges that must be addressed. As a system rooted in trust and the values of *Maqāṣid*, investor protection cannot rely solely on market mechanisms or administrative legal formalism. Instead, it must be embedded within authoritative structures, value-based systems, and processes that are auditable both Shariah-wise and publicly.

Conclusion

This article has attempted to evaluate the effectiveness of legal protection for investors in Islamic investment products, particularly through the Sukuk Tabungan ST012 instrument, by reviewing the newly enacted Financial Services Authority Regulation (POJK) No. 22 of 2023 and analyzing it within the framework of *Maqāṣid Ash-Sharī'ah* as conceptualized by Jasser Auda. The findings suggest that POJK 22/2023 indeed introduces several important elements of investor protection—such as enhanced financial literacy, mandatory transparency, and improved governance. However, its overall effectiveness requires deeper scrutiny, especially in the face of increasingly complex market dynamics and the distinctive characteristics of Islamic investors.

Using the *Maqāṣid Ash-Sharī'ah* approach, investor protection is not merely a matter of legal formalism, but rather a mechanism to preserve public benefit (*maṣlaḥah*), fulfill ethical values rooted in Shariah, and uphold the economic rights of Muslim society in a just and balanced manner. The dimensions of *ḥifẓ al-māl* (protection of wealth), *ḥifẓ al-nafs* (protection of life/safety), and *ḥifẓ al-'aql* (protection of intellect) demonstrate that current regulations do not yet fully protect investors' property rights, psychological security, or cognitive integrity in decision-making. Furthermore, when assessed through Jasser Auda's six-system approach—such as *Niẓam al-Ma'rifiyyah* (the cognitive system) and *Niẓam al-Aḥwāl* (the contextual system)—it is apparent that the regulatory design remains largely linear and does not yet incorporate the dynamic and contextual realities of the Islamic financial market.

The comparative analysis with Malaysia's protection framework reveals that Islamic investors in Indonesia remain in a relatively vulnerable position. Malaysia, with its binding Shariah Advisory Council, comprehensive Shariah Governance Framework, and integration between regulation and religious authority, has developed a much more robust protection system. This comparison highlights that the effectiveness of investor protection lies not only in regulatory certainty but also in the structural integration of legal and ethical systems.

Nonetheless, this article has several limitations. First, the analytical approach is normative and juridical-qualitative, which does not reflect the actual perceptions or lived experiences of investors regarding the implementation of POJK 22/2023. Second, the study does not quantitatively examine the performance or effectiveness of supervisory institutions such as the OJK or Shariah Supervisory Boards. Third, the scope is limited to a single instrument (ST012), so generalizing the findings to other retail sukuk or Islamic investment instruments should be approached with caution. Future research is encouraged to adopt more empirical approaches, including investor surveys and longitudinal market data analysis, to measure the degree of investor empowerment following the implementation of POJK 22/2023. Further studies could also explore technology-related aspects, such as investor protection within Islamic fintech ecosystems, and examine comparative institutional structures for Shariah governance across countries as potential models for systemic reform in Indonesia.

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