

# Alternative Optimization of Hajj Fund Using Sharia Shares

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## ABSTRACT

Hajj fund management is the responsibility of the Haji Financial Management Agency (HFMA) since the enactment of Government regulations no. 5 of 2018 concerning Implementation of Law number 34 of 2014 about Management of Financial Hajj. Management in the form of Sharia Investment is the choice of HFMA in managing the Hajj fund. The investments that have been made include the Islamic Bank and Sukuk. HFMA can optimize other investment products that have been set in Government Regulation No. 5 of 2018. Seeing the potential of Sharia Shares in Indonesia which is increasing every year, alternative investments in Sharia Shares can be optimized to see the development of Sharia Shares in Indonesia. Moreover, products in the Islamic Capital Market have been utilized, namely Sukuk. Moreover, HFMA not only invest these funds in shares in Indonesia but also on the stock exchange in Saudi Arabia, namely Tadawul, which has opened the door for foreign investors to invest in the Stock Exchange since 2015. This was done to suppress the necessity to convert the Hajj funds from the Rupiah to Saudi Arabia Riyal (SAR); therefore, the profits obtained from investment in the Tadawul Stock Exchange do not experience a reduction in the value due to the currency exchange and there will be more benefits.

**Keywords:** *Sukuk, beneficial ownership, Akad Wakalah, Akad Ijarah*

## 1. INTRODUCTION

HFMA as a government body that is obliged to manage the Hajj fund stated that until June 2019 the funds managed by pilgrims amounted to Rp 120 trillion. This figure is higher than the realization in March of Rp 115 trillion (Suara, 2019). This was obtained from the management of the Hajj funds both from the pilgrim's deposit, the Eternal Endowment Fund and the value of the investment benefits. The Hajj Financial Management Agency (HFMA) records the total value of benefits or returns on investment in the 2018 Hajj fund reaching Rp 6 trillion. This number increased by 28% compared to 2017 which amounted to Rp 4.7 trillion (Kontan, 2018).

However, it is rumored that HFMA's efforts in managing the Hajj funds will be channeled to the country's infrastructure. This was criticized by the community because they regarded that the target of the Hajj fund was not appropriate. Because those who should benefit from these funds are pilgrims, not others. However, this was denied by the chairman of the HFMA who stated that there was not one cent for infrastructure. They will invest directly the potential of available Hajj funds in 2018 amounting to IDR 114 trillion in the aviation and catering sector, as well as to improve the services of the Indonesian Hajj Pilgrimage (Tempo, 2019).

Investing in the management of Hajj funds is not something new. Following the Law number 34 of 2014

about managing the Hajj funds and clarified in Government Regulation No. 5 of 2018 the Hajj funds can be invested in Islamic economic products found in Indonesia. This can be a form of Sharia banking, Sharia Capital Market, etc. following the provisions of the Government Regulation.

Before the HFMA took over the duties of the Ministry of Religious Affairs in managing the Hajj funds, the Ministry of Religious Affairs has already invested the Hajj funds in several sectors. The investment instruments currently used among Islamic Banking, in this case, are deposits and the Sharia Capital Market in this case Sukuk. In 2017 the Hajj fund amounts to approximately Rp. 99 trillion in which the funds amounting to IDR 36.7 trillion are placed in Sukuk and the remaining IDR 62.3 trillion in Islamic banking (BBC News, 2017).

Why should the Hajj funds be invested? This is needed to cover the pre-pilgrimage costs and ease their burden. Because the actual cost of the pilgrimage is not Rp. 34 million but around Rp. 60-65 million for 2017. To cover the cost of accommodation in Medina and local transportation, we take the value of the benefits we get from Sukuk. Therefore, the benefits will be returned to the pilgrims (BBC News, 2017).

According to Government Regulation Number 5 of 2018, the instruments that can be carried out by HFMA are far more varied. For example, in the Islamic Capital Market, Islamic Share instruments can be optimized in the context of the Hajj fund investment. Considering the

growth of pilgrims in Indonesia, in terms of pilgrims' deposits and the value of investment benefits, making opportunities for the expansion of investment instruments are available. Islamic shares are certainly a good option in investing the Hajj funds.

## 2. RESEARCH METHOD

Based on the problems above, this research was conducted with normative juridical methods. According to Soerjono Soekanto, the normative juridical approach is a legal research conducted by examining library materials or secondary data as the basic material to be examined by conducting a search of the rules and literature relating to the study problems (Soerjono Soekanto & Sri Mamudji, 2001, p. 13-14 ) So this research will focus on library materials from the literature such as books, journals, and other library materials.

## 3. LITERATURE REVIEW

### 3.1. *Sharia Shares.*

Irwan Abdullah explained that sharia shares are equity-based securities that meet sharia principles. The transaction object is the ownership of a company (Abdullah, 2018). Indeed, the understanding of sharia shares with conventional shares is almost the same. The difference is the word sharia behind the stock. It means that there are restrictions imposed on an issuer (a stock issuing company) in carrying out its business activities so that it can be categorized as sharia shares.

The Financial Services Authority (FSA/FSA) as the operator in the capital market in Indonesia has issued a List of Sharia Securities and registered Islamic shares that meet the criteria set by the FSA. Initially DIM (Danareksa Investment Management) in collaboration with the Jakarta Stock Exchange (BEJ) issued the Jakarta Islamic Index (JII) in 2000. Stock selection was conducted by DIM and the criteria for liquid shares were prepared by the JSX. However, after the regulation of Bapepam-LK regulation II.K.1 concerning the criteria and issuance of the Sharia Securities List (DES) in 2007, JII was no longer selected by DIM but followed the DES issued by FSA.

The Financial Services Authority as the regulator in the Capital Market including the Sharia Capital Market issued FSA Regulation No.15 / PFSA.04 / 2015 about the Application of Sharia Principles in the Capital Market where there are Business Screening and Financial Screening. In Business Screening there are criteria from the issuer's activities so that the shares issued by the issuer are included in sharia shares, excluding:

- Gambling and the like
- Trade is prohibited.
- Ribawi Financial Services.
- Buy and sell risks that contain elements of uncertainty (gahrar) and/or gambling (maisir).

- Production or distribution of illicit goods, damaging morale or harm.
- Bribery transactions.

The activities cannot be carried out by issuers if they want their shares to be included in the List of Sharia Securities or sharia shares. While criteria that must be considered in financial screening include:

- Total interest-based debt compared to total assets must not exceed 45%.
- Non-halal income compared to the total income of must not more than 10%.

If an issuer inserts the shares they issue in the Sharia Securities List, then they must meet the criteria made by the Financial Services Authority. Moreover, FSA screens Sharia shares in DES twice a year. It means, the FSA publishes DES every 6 months, May and November so there is a possibility that sharia shares entering DES in May will no longer available in November if the FSA assesses that the issuer does not pass the sharia stock screening process.

In addition to the FSA that made a statement regarding the criteria for sharia shares, the Indonesian Ulama Council (IUC) formed the National Sharia Council (NSC) as an independent institution responsible for the fatwa related to the Islamic economy in Indonesia. Act no. 80 of 2011 concerning the application of sharia principles in the equity securities trading mechanism in the regular market of the stock exchange. Thus, it can be said that the fatwa of the NSC strengthens the acquisition of investments with sharia shares

### 3.2. *Hajj Fund Management*

Management is a way of managing things properly. In the Hajj fund in Indonesia, the management carried out by the HFMA does not only contain the problems of transportation costs, consumption, and other needs directly related to the pilgrimage but how to manage the funds so that they can cover the needs of the pilgrims. Hajj funds can be managed based on:

- Sharia Principles: Compliance with Muslim guidelines, namely the Qur'an and Sunnah. Thus the management of these funds is not wrong and does not conflict with the sources of Islamic law.
- Precautionary principle: Hajj funds are trust funds, it is given to managers, in this case, HFMA from worshipers. Of course, caution in using these funds must be prioritized so that they are not wrong in managing them.
- Benefits: The purpose of managing the pilgrimage fund will not be separated from the desired result, namely the interests of the pilgrims. The benefits must take precedence over the management of these funds to the pilgrims.
- Nonprofit: Financial Management of Hajj is done through business management that prioritizes the

maximum benefit for pilgrims and the benefit of Muslims but with no dividend distribution for its managers (Dian Friantoro, 2018)

- Transparent: Pilgrims as trustees must know where and how their funds are managed. The manager must give data and a clear understanding the pilgrims about their funds.
- Accountable: Management of this Hajj fund must be good and later it can be accountable to pilgrims and other Muslims.

Hajj fund management is certainly required to have standardization therefore the results of the management are clear and good. The above principles must be noted by the HFMA in managing the funds so the justice and the desired results are achieved. Moreover, the hajj funds will later be invested in investment products that have been recognized for their success.

According to the term, investment is a capital investment, usually in the long run to procure complete assets or purchase shares and other securities to make a profit. (FSA website) Broadly speaking, it can be interpreted as investing in one form of investment in gold, property, stocks, Sukuk, mutual funds in a short or long time to gain profit. The ultimate goal of the investment is to expect profits, although it can also suffer losses if managed improperly.

Government Regulation number 5 of 2018 about the implementation of Law Number 34 of 2014 concerning Management of Hajj Funds explains what investment products are permitted. In Article 27 paragraph 2 and 3 of Government Regulation Number 5/ 2018, it is explained that for 3 years since the HFMA was formed, the expenditure of Hajj Finances in the form of placement in sharia banking products as referred to in paragraph (1) is at most 50% (fifty percent) of total placements and financial investment Hajj. Henceforth after 3 (three) years, the HFMA is formed, the expenditure of Financial Hajj in the form of placement of Islamic banking products is no more than 30% (thirty percent) of the total placement and investment of Financial Hajj. The rest may be invested in other investment products following sharia principles.

Sharia Securities Products that are regulated and supervised by the Financial Services Authority are included in the permitted investment products for the Hajj fund management. The Sharia Securities according to Article 28 paragraph 2 include:

- a. Islamic stocks listed on the stock exchange;
- b. sukuk;
- c. sharia mutual funds;
- d. Islamic asset-backed securities;
- e. sharia real estate investment fund; and
- f. other sharia effects.

The regulation states that the allowance of Hajj funds is to be optimized in the form of sharia-based economic products, sharia securities which are one of them, namely in Islamic stocks. As quoted on BNN News's website,

sharia securities have become HFMA's choice in investing in Hajj funds to optimize the funds, namely Sukuk. However, the fabric instruments in sharia securities that can be placed in the hajj fund are Islamic stocks.

Islamic shares are deemed appropriate for the following reasons. First, the desire of Indonesian pilgrims to continue to grow in each year requires them to register so that the time of departure at registration is quite long, can be 5 to 10 years or more. Second, the stock itself is a long-term investment instrument, thus seeing the length of time spent by pilgrims is deemed appropriate, this sharia share becomes an instrument optimized by the HFMA. Third, the problems caused. The purpose of investment is to get profit. These benefits will certainly be aimed at returning pilgrims for operations or other facilities that support pilgrims in the Hajj.

### 3.3. Maslahah

In terms of language, the word al-maslahah is like lafazh al-manfaat, either it's meaning or its skillet (the word scale), which is similar to the word ash-Shalah and lafazh al-naf that has similar meaning the benefit (Rachmat Syafe'i, 2018). However, it means more than benefit although the meaning is almost identical. Al-maslahah meaning can be an extension of the meaning of benefits. It means that benefits come not only to the world but also to the benefits of the Hereafter.

According to Abdul-Karim Zaidan, there are three types of maslahah, namely (Satria Efendi, 2009):\

- Al-Maslahah al-Mu'tabarrah: the masses who are strictly recognized by the Shari'ah and who have been appointed by the provisions of the law to distribute it. Examples include the threat of punishment for a drunkard for the protection of the intellect, the threat of adultery for the preservation of honor and descent, the threat of legal theft to protect property.
- Al-Maslahah al-Mulgah, which is something that is considered maslahah by common sense, but is considered false by its fact contrary to the Shari'ah. For example, equating the distribution of heirs to boys and girls; whereas verse 11 of Surah an-Nisa emphasizes the division is two for boys and one for daughters. The contradiction shows that what is considered evil is not evil in God's sight.
- Al-Maslahah al-Mursalah: a way of finding a law that is not found in the nash based on consideration of community or public interest. This problem lies in the problems which there is no law and no comparison in the nash to be justified. For example, traffic rules with all the signs.

The concept of this problem is in keeping with the vision of the HFMA, "Becoming a Trustworthy Pilgrimage Fund that provides optimal value for pilgrims and community". It can be emphasized that the adherence to

the vision of the HFMA is that the whole people are not limited to pilgrims only (Dian Friantoro, 2018). The problem here is to correlate the investment made by the HFMA to the Hajj fund.

Investing by the HFMA is one of the programs that is performed to help pilgrims both before and during the pilgrimage. Benefits incurred before departure such as costs that can be minimized considering the fees paid by the congregation should be deducted and the change can also be given to the pilgrim. The benefits during the pilgrimage are like the operational expenses during the pilgrimage. The purpose of the investment is to provide pilgrims before, during, and after the pilgrimage.

**3.4. Investment Risk.**

In every activity, there are always possibility the good things and the bad to occur. The bad things that can happen are usually called risks. In investing, for example, the risks that will arise are certainly losses to the assets that have been put to an investment product. Although the purpose of investment is to get profit from an investment product, the risk of loss will always be there. However, the risk can be minimized to reduce the loss.

In the economic and financial context, risk can be interpreted as the probability of an outcome is different than expected. Thus, it can be concluded that the concept of risk is a condition that arises due to uncertainty with all possible negative consequences (Ascaraya et al, 2018). In the sale transaction, the risk that arises is not the behavior of an item but all of these risks can be minimized according to what activities are being carried out.

In Islamic investment, the risk is not similar to uncertainty. Both are similar but it is not the same terms. The similarity of the two lies in the understanding of the existence of an uncertain event in the future. The uncertainty refers to unexpected events, while the risks, in this case, are intended as an expected risk. Furthermore, the difference between them lies in the estimation of uncertainty. Unexpected risk in uncertainty may appear more than once, but the probability of its appearance cannot be known quantitatively. However, the risk level of uncertainty can be measured quantitatively (Ahmad Dahlan Malik, 2017).

Also, the concept of risk is closely related to the term *al-ghunm bi al-ghurmi*, which means that every opportunity to obtain a profit is followed by responsibility for dealing with risk. Furthermore, the risk from an Islamic perspective is also closely related to the term *al Kharaj bi al-Daman* which means that when you want to get a profit you must be willing to bear the loss. From the explanation above, it can be concluded that in the perspective of Islam risk does not only cover uncertainty but also includes the concepts of *mukhatarah*, *gharar*, *maysir*, *al-ghunm bi al-ghurmi*, and *al Kharaj bi al-Daman* (Ascaraya et al, 2018).

In stock investment, in addition to the expected benefits such as dividend distribution and capital gain (difference in stock prices) this transaction will pose a risk because each investment will inevitably pose its risks. If it is not,

then clearly the investment product is questionable. The risks in this stock investment are (Indoprimer, 2018):

- Not getting dividends.
- The potential loss from the difference between the selling price and the purchase price.
- The company goes bankrupt and receives the results of the liquidation distribution late.

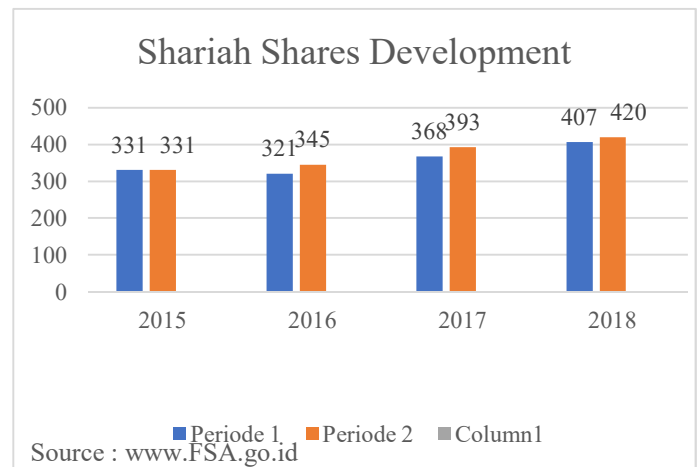
However, in Islamic stocks, there is one risk that will arise, namely the issuance of these shares in the List of Sharia Securities (DES). Options that can be taken are selling these shares with the potential loss from the difference between the selling price and the purchase price. The selection of issuers, both looking at the balance sheet, the issuer's business prospects, and others is very important if you want to invest in stock instruments.

**4. DISCUSSION AND RESULT**

**4.1. Why It Must Be Sharia Shares?**

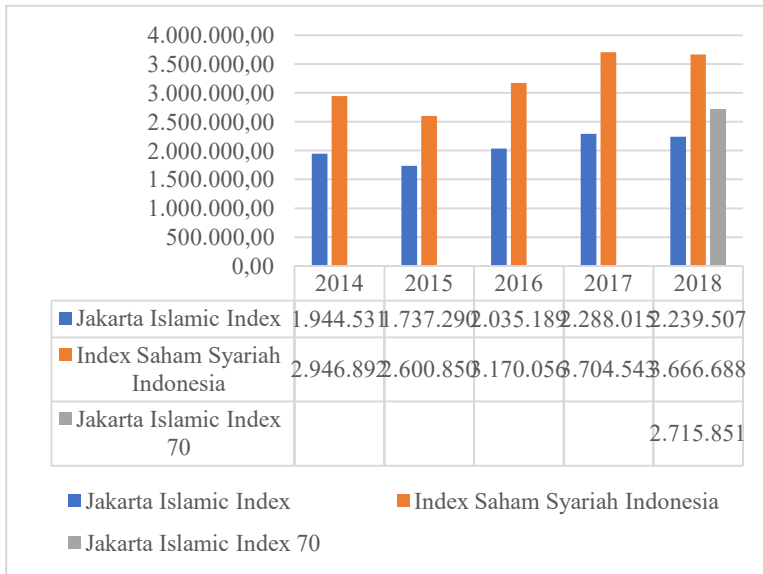
In Capital Market instruments, Sukuk have been used by HFMA to invest in Hajj funds even though the instruments contained the sharia shares and also Islamic mutual funds. In the case of Islamic stocks, seeing from its development this instrument certainly deserves to be the leading option.

**Table 1.1 Number of Sharia Shares in List of Sharia Securities**



Based on the table above, it is seen that the number of sharia shares every year is always increasing. The issuers have also begun to pay attention to enthusiasts who continue to grow from the existence of sharia stocks themselves. Because when speaking of sharia, it is the same as speaking what the impact is on the world and more importantly what the impact will be in the hereafter. This means that halal factors are illegitimate in may or may not allow an investment instrument to be key. Moreover, majority of Indonesia population is Muslims, of course, the market of Islamic stocks is very large.

**Table 1.2. Capitalization of Indonesian Stock Exchange Sharia Shares (Rp.Billion)**



Source : www.FSA.go.id

Based on the table above, the overall price of shares from several stock indices in Indonesia shows a trend that increase each year. In 2015 until 2017 there was an overall increase in stock prices both on the JII and also the ISSI. An increase in prices can occur due to several aspects, one of which is a demand that exceeds supply. When viewed from the basic knowledge of economics, it means that there is an over-desire of the Indonesian people towards the sharia shares themselves.

Hajj funds are invested in investment products that are permissible according to sharia. Such as deposits in Islamic banks and Sukuk in the capital market. However, investment instruments such as Islamic stocks can be another option that can be maximized by HFMA in investing in the Hajj fund.

**Table 1.3. Projections of Placement and Investment of Hajj Funds**

Type of Investment	2017	2018	2020
BUS/UUS	65%	35%	30%
Sukuk	35%	20%	35%
Gold	-	5%	5%
Direct Investment	-	15%	20%
Other investment	-	10%	10%

Source : Dian Fiantoro, 2018 retrieve data from www.HFMA.go.id

Based on the table above, there is a shift from the beginning of the dominance of BUS / UUS as an investment place for Hajj funds, but then the percentage decreases. There is an effort by HFMA to optimize the

Hajj fund not to rely on an official investment product. Other investment products contained in Islamic investment products can be maximized in optimizing the investment of Hajj funds, one of which is Islamic stocks.

The Indonesia Stock Exchange (IDX) insists that the Indonesian Islamic capital market is the largest in the world. According to World Bank data, the total population of Indonesia is 264 million. This figure is greater than the population in 8 countries that have the largest Islamic financial assets in the world. Out of 264 million people, 87 percent are Muslim and 64 percent are productive groups. This is what makes the potential of the Islamic capital market in Indonesia so large (Liputan 6, 2019). Indeed, Islamic stocks can be the best option for HFMA in optimizing the Hajj funds from the prospects that will be addressed by the sharia stocks themselves.

In addition to the potential of the sharia shares, there are several reasons why the Hajj funds are invested in these sharia stocks, namely:

- Demands for Decreasing Hajj Cost : One of the ways the government can reduce the cost of fees charged to pilgrims are using investment. By investing the Hajj funds, the profits obtained will be reallocate to the congregation so that they can reduce the burden of the costs that must be paid by the pilgrims.
- Inflation/depreciation : The distance between making payments and departure is long enough between 5 - 10 years. Making the money settles can be threatened by inflation and/or depreciation. Therefore, investment becomes an option to overcome these problems.
- The need for SAR (Saudi Arabia Riyal) : The need for conversion from Rupiah to SAR is a challenge because it will reduce the value of the rupiah. Investments can be made to anticipate this, one of which is by investing in Islamic stocks in Saudi Arabia so that the benefits obtained can be directly used for needs in Saudi Arabia. It means there is no reduction in the value of the currency.

Islamic shares can certainly be an option in investing the Hajj funds. Looking at the three reasons above, sharia shares have a value that is strong enough to overcome problems that might arise. Investment options in sharia stocks should be considered by the HFMA given the soaring desire of Indonesians for hajj and the limited quota. Thus, it will be feared that there will be a buildup of funds which can cause a reduction in currency values. Investment is an option in overcoming this problem including investment options in this sharia share.

**4.2. Alternative Optimization of Hajj Funds on Sharia Shares.**

The HFMA effort to reduce investment in Islamic banks makes the investment option of the Hajj fund on

other sharia investment products available, which can be optimized, namely sharia shares. As shown in table 1.3, Islamic banks dominate with 65% of hajj funds invested there, after several years there have been efforts to reduce investment in Islamic banks by utilizing other investment products. While Sukuk is 25%, direct investment is 20%, and other investments are 10%. Sharia shares can be an alternative investment in the Hajj fund by taking 10% of the share for other investments.

**Table 1.4 Operational Reports on Hajj Implementation**

	2016	2017
Total income	10.144.551.550.050,00	12.931.908.104.472,00
Load	9.981.813.337.005,00	12.743.357.626.879,00
Surplus	162.738.213.045,00	188.550.447.593,00

Source : [www.kemenag.go.id](http://www.kemenag.go.id)

The surplus obtained in the Hajj fund can certainly be optimized by HFMA. It is assumed that the surplus funds are invested following the above percentages, so how much funds can be invested in Islamic stocks?

If HFMA does want to take an alternative by investing in sharia shares, of course the selected issuer must have a good prospect or it can be called a Blue-Chip inventory. Of course, these shares must first be included in DES (List of Sharia Securities). Shares that can be chosen for HFMA include Unilever Indonesia, Tbk (UNVR), Telekomunikasi Indonesia, Tbk (TLKM), Charoen Pokphand Indonesia, Tbk. (CPIN), Waskita Karya, Tbk. (WSKT), Pakuwon Jati, Tbk. (PWON), and Mayora Indah, Tbk. (MYOR) (MoneySmart, 2019).

In addition to alternative investments in Islamic stocks in Indonesia, HFMA can also invest in Islamic stocks in Saudi Arabia. The Stock Exchange in Saudi Arabia is called Tadawul. Tadawul himself recently opened the door for foreign investors to invest in the Saudi Arabia Stock Exchange. Previously, investors who were allowed to invest there were only local.

The portion of foreign investors in Tadawul is only 4%. This exchange is one of the most difficult exchanges for foreign investors to access. Only in the past two years, in line with Vision 2030, Tadawul opened its doors wider for foreign investors. The stocks management also wants to expand its investor base. Issuers in Tadawul are only Saudi companies (Tirto.id, 2017). The opportunity for HFMA to invest in sharia shares in the Tadawul stock exchange is because they are indeed actively seeking foreign investors to invest in their stock exchanges.

In addition to the explanation above, there are several reasons why the investment of the Hajj fund in Islamic stocks in the Tadawul stock exchange, among others:

- Reduction of currency value: In carrying out the pilgrimage, the currency used is not only Rupiah but also uses the Saudi currency, Saudi Arabia Riyal (SAR). That way, there will be a reduction

in the value of the currency because later on when the Hajj is held, the currency that will be used there is the SAR. That way there will be a reduction in the value of the currency.

- Direct utilization: It means that the benefits that will be obtained later do not have to be converted to SAR because it is already in the form of SAR. This means that there is no reduction in currency and HFMA can take advantage of the profits for necessity of the pilgrimage in Mecca.
- Open other forms of investment: Investing in sharia shares means buying shares of certain companies. That means it's like having the right to the company. It is not impossible later to be able to make other investments in the Tadawul stock exchange. Because investment products there are not only in the form of shares, but there are also Sukuk.

The purpose of doing this investment is nothing but the cause of concern for pilgrims. Efforts to reduce the pilgrimage costs, the accumulation of funds due to the increasing desire of the Indonesian people for the Hajj pilgrimage but limited by the quota for Indonesian pilgrims and the potential to add benefits so that efforts made in advance by the Ministry of Religious Affairs are now moving to HFMA.

Indeed HFMA has launched a direct investment in Saudi Arabia in the field of catering (Detik Finance, 2019). Other alternative investments in Islamic stocks both in Indonesia and the Tadawul stock exchange are felt to have a positive impact and can help increase funds so that the facilities for pilgrims are better and the pilgrimage are reduced.

## 5. CONCLUSION

Sharia shares can be used as an alternative by HFMA in investing in the Hajj funds. Seeing the problems that could occurred, such as the accumulation of funds, inflation and/or depreciation, and the necessity to convert the Hajj funds from the Rupiah to the SAR make Islamic shares become a very feasible alternative to do. This is inseparable from the development of sharia shares in Indonesia which continues to increase every year. And also HFMA can invest in sharia shares not only on the Stock Exchange in Indonesia but also in Islamic shares in Saudi Arabia, Tadawul. That way the problem can be overcome and the benefits will be even greater.

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