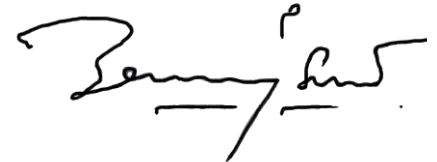


**SHARIA ECONOMIC LAW REVIEW ON FOREX TRADING  
WITH HSB FOREX INVESTING APPLICATION IN  
INDONESIA**

ACC, untuk diujikan dalam  
sidang munaqasyah.



Bani Syarif Maula, M.Ag., LL.M.  
(Pembimbing, 14-10-2020)



**THESIS**

**Presented to Faculty of Sharia, Institute College on Islamic Studies as a  
Partial Fulfillment of Requirement for a Bachelor's Degree in Law (S.H.)**

**IAIN PURWOKERTO**

**By:  
Dini Ayu Arumningtyas  
SN. 1617301011**

**STUDY PROGRAM OF SHARIA ECONOMIC LAW  
FACULTY OF SHARIA  
STATE INSTITUTE ON ISLAMIC STUDIES  
PURWOKERTO  
2020**

## STATEMENT OF ORIGINALITY

Here with I,

Name : Dini Ayu Arumningtyas

Student Number : 1617301011

Grade : S-1

Faculty : Sharia

Study Program : Sharia Economic Law

Declare that this Thesis script entitled “**Sharia Economic Law Review on Forex Trading with HSB Forex Investing Application in Indonesia**” is entirely my own research outcome or work, except in given parts are cited sources.

If in the future, it is proven that my statement was not true, then I am willing to accept academic sanctions in the form of revocation of my thesis and academic degree.

Purwokerto, 7<sup>th</sup> October 2020

I who declare,



**Dini Ayu Arumningtyas**  
S.N. 1617301011



KEMENTERIAN AGAMA  
INSTITUT AGAMA ISLAM NEGERI PURWOKERTO  
**FAKULTAS SYARI'AH**

Alamat : Jl. Jend. A. Yani No. 40 A Purwokerto 53126  
Telp : 0281-635624, 628250, Fax : 0281-636553, www.iainpurwokerto.ac.id

**APPROVAL SHEET**

This thesis entitled :

**SHARIA ECONOMIC LAW REVIEW ON FOREX TRADING WITH HSB  
FOREX INVESTING APPLICATION IN INDONESIA**

Written by **Dini Ayu Arumningtyas**, Student Number 1617301011, Sharia Economic Law (Muamalah) Department, Faculty of Sharia, State Institute on Islamic Studies (IAIN) Purwokerto, was examined on Saturday, 31th September 2020 and declared has qualified for achieving Bachelor of Law (S.H) by the Thesis Examiners of Council.

Examiner I/ Head of Examiners

Examiner II/ Secretary

**Dr. H. Ridwan, M. Ag.**

**NIP. 19720105 200003 1 003**

**M. Fuad Zain, S.H.I., M. Sv.**

**NIDN. 2016088104**

Main Examiner

**Bani Svarif Maula, M. Ag., LL.M.**

**NIP. 19750620 200112 1 003**

Legalized by:

Dean of Faculty Sharia



**Dr. Supani, M.A.,**

**NIP. 19700705 200312 1 001**



KEMENTERIAN AGAMA  
INSTITUT AGAMA ISLAM NEGERI PURWOKERTO  
FAKULTAS SYARI'AH

Alamat : Jl. Jend. A. Yani No. 40 A Purwokerto 53126  
Telp : 0281-635624, 628250, Fax : 0281-636553, www.iainpurwokerto.ac.id

**LEMBAR PENGESAHAN**

Skripsi berjudul:

**“SHARIA ECONOMIC LAW REVIEW ON FOREX TRADING WITH HSB FOREX  
INVESTING APPLICATION IN INDONESIA”**

Yang disusun oleh Dini Ayu Arumningtyas (NIM. 1617301011) Program Studi Hukum Ekonomi Syariah, Fakultas Syariah Institut Agama Islam Negeri (IAIN) Purwokerto, telah diujikan pada tanggal 31 Oktober 2020 dan dinyatakan telah memenuhi syarat untuk memperoleh gelar **Sarjana Hukum (S.H.)** oleh Sidang Dewan Penguji Skripsi.

Penguji I/ Ketua Sidang

Penguji II/ Sekretaris Sidang

**Dr. H. Ridwan, M. Ag.**

**NIP. 19720105 200003 1 003**

**M. Fuad Zain, S.H.I., M. Sy.**

**NIDN. 2016088104**

Pembimbing Utama

**Bani Syarif Maula, M. Ag., LL.M.**

**NIP. 19750620 200112 1 003**

Diketahui oleh:

Dekan Fakultas Syari'ah,



**Dr. Supani, M.A.**

**NIP. 19700705 200312 1 001**

## NOTA DINAS PEMBIMBING

Purwokerto, 14 Oktober 2020

Hal : Pengajuan Munaqasyah Skripsi Sdr. Dini Ayu Arumningtyas

Lamp : 4 Eksemplar

Kepada Yth.

Dekan Fakultas Syariah IAIN Purwokerto  
di Purwokerto

*Assalamu'alaikum Wr. Wb.*

Setelah melakukan bimbingan, telaah, arahan, dan koreksi, maka melalui surat ini saya sampaikan bahwa:

Nama : Dini Ayu Arumningtyas

NIM : 1617301011

Program Studi : Hukum Ekonomi Syariah

Fakultas : Syariah

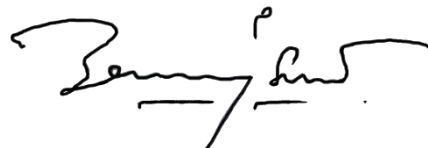
Judul : SHARIA ECONOMIC LAW REVIEW ON FOREX  
TRADING WITH HSB FOREX INVESTING  
APPLICATION IN INDONESIA

Skripsi tersebut sudah dapat diajukan kepada Fakultas Syariah, Institut Agama Islam Negeri Purwokerto untuk diujikan dalam sidang munaqasyah dalam rangka memperoleh gelar Sarjana Hukum (S.H.).

Demikian, atas perhatian Bapak, saya mengucapkan terimakasih.

*Wassalamu'alaikum Wr. Wb.*

Pembimbing,



**Bani Syarif Maula. M.Ag., LL.M**  
NIP. 19750620 200112 1 003

## **SHARIA ECONOMIC LAW REVIEW ON FOREX TRADING WITH HSB FOREX INVESTING APPLICATION IN INDONESIA**

### **ABSTRACT**

**Dini Ayu Arumningtyas  
SN. 1617301011**

**Study Program of Sharia Economic Law, Faculty of Sharia, State Institute of  
Islamic Studies (IAIN) Purwokerto**

Foreign exchange trading or forex trading is the act of outright purchasing one foreign currency whilst selling another, mainly for the purpose of speculation. There are a lot of brokers who are very good platform to invest in Indonesia. However, not all the brokers are safe and legally licensed in Indonesia. Most of all the brokers in Indonesia are not safe and integrated by Bappebti nor halal. Exceptly, HSB Forex Investment application. HSB is one of the leading forex brokers in Indonesia, which is regulated and secured by Bappebti. In this research, the problem statement, how to systematically use the HSB Forex Investing application to invest forex trading properly and how the view of Sharia Economic Law towards HSB Forex Investing application in Indonesia.

This type of reaserch are used in this study is library and also used a normative empirical approach. The research methods used are interviews and documentation. Sources of data used are primary source come from data users of HSB Application, website, and legal material from OJK or Bappebti; secondary source mainly come from documents, books, journal, also Fatwa DSN-MUI No.28 of 2002. And data analysis method is used the inductive method also content analysis.

The result of this study illustrates the mechanism to invest forex trading using HSB Application through traders can invest easily, because the application becomes one, so after the deposit, transactions can be immediately carried out without the hassle of being put back into the meta trader. The view of Sharia Economi Law towards HSB Investing based on DSN-MUI Fatwa, where there is no element of prohibition in the application of HSB Investment.

**Keywords : Forex Trading, *Al-Sarf*, HSB, Investment.**

## **MOTTO**

*The first step is always the hardest. But once you take the first step, things will get easier from then on!*



## **DEDICATION**

I dedicate this thesis to:

My superhero, Agam Santosa who always being hero for me  
and my beloved mother, Rosidah who always pray for me everynight and support  
me, i hope that you are calm in heaven.

My generous grandma, Marjati hope you long live and good health always.  
My silly brother, Ridho Satrio who always being my idiot brother also giving me  
an advice about trading investment and jokes about life.

My lovely niece, Alesha Anindita Putri Hutama.

And all of my friend who always support me.





## ARAB-LATIN TRANSLITERATION GUIDELINES

Transliteration of Arabic words are used in the preparation of this thesis based on the Decision Letter of the Joint between the Minister of Religious Affairs and the Ministry of Education and Culture R.I. No. 158/1987 and No: 0543/3b/U/1987 on September 10 1987, about Arabic-Latin Transliteration Guidelines with some adjustment to be the following:

### A. Single Consonants

Arabic Alphabet	Name	Latin Alphabet	Name
ا	Alif	Tidak dilambangkan	Not represented
ب	Ba'	B	be
ت	Ta'	T	te
ث	Ṡa	Ṡ	Es (with the above point)
ج	Jim	J	Je
ح	Ḥ	Ḥ	Ha (with the point)
خ	Kha	Kh	Ka and Ha
د	Dal	D	De
ذ	ḌAl	Ḍ	Ze (above point)
ر	Ra	R	Er
ز	Zai	Z	Zet

س	Sin	S	Es
ش	Syin	Sy	Es and Ye
ص	Ṣad	Ṣ	Es (with the bottom point)
ض	Ḍad	Ḍ	De (with the bottom point)
ط	Ṭa	Ṭ	Te (with the bottom point)
ظ	Za	Z	Zet (with the bottom point)
ع	‘Ain	‘	Apostrophe to the top
غ	Gain	G	Ge
ف	Fa	F	Ef
ق	Qaf	Q	Qi
ك	Kaf	K	Ka
ل	Lam	L	‘El
م	Mim	M	‘Em
ن	Nun	N	‘En
و	Waw	W	W
ه	Ha	H	Ha

ء	Hamzah	‘	Apostrophe
ي	Ya	Y	Ye

**B. *Ta' Marbūḥah* at the end of a word when it is turned off wrote *h***

إجارة	Written	<i>Ijārah</i>
الإباحة	Written	<i>Ibāḥah</i>

(This provision is not treated in the Arabic words which already absorbed into the language of Indonesia, such a zakat, pray and so on, except when the original pronunciation desired).

**C. Short vowel**

Short arabic vowels whose symbol is a vowel or sign, the transliteration is as follows:

ó	<i>Fathah</i>	Written	A
9	<i>kasrah</i>	Written	I
ó	<i>ḍammah</i>	Written	U

**D. Long Vowel**

Long vowels in arabic whose symbol is a combination of vowels and letters, the combined transliteration of letters, namely:

1.	<i>Fathah + alif</i>	Written	ā
	جاهلية	Written	<i>Jāhiliyah</i>
2.	<i>Fathah + ya' mati</i>	Written	ā
	تنسى	Written	<i>Tansā</i>

3.	<i>kasrah + ya' mati</i>	Written	ī
	مُفْسِدِينَ	Written	<i>Mufsidīn</i>
4.	<i>ḍammah + waw mati</i>	Written	ū
	كافرون	Written	<i>Kāfirūn</i>

### E. The Word Clothing Alif + Lam

1. When followed by the letter *Qamariyyah*, transliterated according to the rules outlined in front and to the sound. Well followed the letter *syamsiyyah* or letter *qamariyyah*, the article written separate from word that follow and connected with sign connect or circuited.

القياس	Written	<i>Al- Qiyās</i>
القرآن	Written	<i>Al- Qur'ān</i>

2. When followed by the letter *Syamsiyyah*, word clothing that followed by letter *syamsiyyah* transliterated according to the sound, that is letter /l/ (el) is replaced with the same letter that immediately follows the article.

الشمس	Written	<i>Asy-Syams</i>
الشريعة	Written	<i>Asy-Syarī'ah</i>

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Alhamdulillahirabbilalamin, all of my praise and gratitude is belong to Allah SWT, because of His mercy and blessing, the researcher can finish this thesis by the title “Sharia Economic Law Review on Forex Trading with HSB Forex Investing Application in Indonesia”. Peace and salutation always be sent to our Prophet Muhammad SAW and also to his Family, comanious, and Muslim community in this world, aameen.

This thesis is to fulfill the requitement of Bachelor of Law (S.H.) in State Institute of Islamic Studies Purwokerto. This thesis can not be accomplish as well. Whereas help and guide from all of the parties, for all the materials and moral. Thus, in this oppportunity, I express my deep gratitude convey the gratefulness and award to the honorable.

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14. My best friend who always motivated and supporting me for finishing this thesis Rofikoh, Mba Alfi, Dini Anastasya, Dewi Lestari, Elisa Isti Syaroh.

15. All participant who has given support and motivation that i can not mention one by one, may Allah bless you.

There is nothing the writer can give to express gratitude but just only pray. The writer hope that a good deeds of all parties are recorded as the act of worship and get reward from Allah SWT.

The writer realizes that this thesis is still many lacks and mistakes. Thus, the writer hopes any suggestion and criticism of this thesis. The writer hoped this thesis can useful for all, especially for traders, educatorts, writers and readers.

Purwokerto, 3<sup>rd</sup> October 2020

The Writer,



Dini Ayu Arumningtyas  
S.N. 1617301011

**IAIN PURWOKERTO**

## TABLE OF CONTENTS

<b>PAGE OF TITLE</b> .....	<b>i</b>
<b>PAGE OF STATEMENT OF ORIGINALITY</b> .....	<b>ii</b>
<b>PAGE OF LEGALIZATION</b> .....	<b>iii</b>
<b>PAGE OF OFFICIAL MEMORANDUM OF SUPERVISOR</b> .....	<b>iv</b>
<b>ABSTRACT</b> .....	<b>v</b>
<b>PAGE OF MOTTO</b> .....	<b>vi</b>
<b>PAGE OF DEDICATION</b> .....	<b>vii</b>
<b>PAGE OF TRANSLITERATION GUIDELINES</b> .....	<b>viii</b>
<b>PAGE OF ACKNOWLEDGMENTS</b> .....	<b>xii</b>
<b>TABLE OF CONTENT</b> .....	<b>xiii</b>
<b>LIST OF APPENDIX</b> .....	<b>xvi</b>
<b>LIST OF ABBREVIATION</b> .....	<b>xvii</b>
<b>CHAPTER I INTRODUCTION</b>	
A. Background of The Problems .....	1
B. Operational Definition .....	6
C. Problem Statements .....	8
D. Research Objective and Benefits .....	8
E. Literature Review .....	9
F. Presentation of Discussion .....	13
<b>CHAPTER II SHARIA ECONOMIC LAW REVIEW ON FOREX TRADING</b> .....	<b>16</b>
A. Foreign Exchange Trading.....	16



1. Definition of Foreign exchange .....	16
2. The Main Participant of Forex .....	18
3. Types of Transaction in Forex .....	20
4. Types of Forex Orders .....	22
<b>B. Foreign Exchange Trading According to Islamic Law</b>	<b>24</b>
1. Definition of Foreign Exchange in the Muamalah Fiqh and DSN MUI Fatwa.....	24
.....	
2. Legal Basis of Foreign Exchange ( <i>Al-Şarf</i> ).....	27
3. Pillar and the Terms of <i>Al-Şarf</i> .....	32
4. Legal Types of Forex Transactions.....	35
<b>C. HSB Forex Investing Application</b> .....	<b>37</b>
1. Definition of HSB Investing Application .....	37
2. Mechanism Forex Transaction of Using the HSB Application .....	38
<b>CHAPTER III RESEARCH METHODOLOGY</b> .....	<b>42</b>
A. Type of The Research .....	42
B. Subject and Object of Research .....	43
C. Research Approach .....	44
D. Technique of Collecting Data .....	45
E. Sources of Data.....	47
F. Technique of Analyzing Data.....	49

<b>CHAPTER IV</b>	<b>ANALYSIS OF FOREX TRADING WITH THE HSB INVESTING APPLICATION ACCORDING TO SHARIA ECONOMIC LAW .....</b>	<b>51</b>
	A. Legal Regulation about Forex Trading .....	51
	1. UU No. 32/1997 Concerning Commodity Future Trading.....	51
	2. UU No. 10/2011 Concerning Amendment to UU No. 32/1997 about Commodity Future Trading.....	53
	B. General Review of HSB Investing Application.....	55
	1. About HSB Forex Investing Application.....	55
	2. The Ways of Using HSB Forex Investing Application.....	55
	3. Advantages and Disadvantages of HSB Investing Application.....	58
	C. The Use of HSB Investing Application to Invest Forex	60
	1. Initial Steps in Making a Forex Transaction .....	60
	2. The Mechanism of Forex Trading Investment Through the HSB Application.....	66
	D. Analysis of Forex Trading Investment System in the HSB Investing Application from the Perspective of Sharia Economic Law.....	68
<b>CHAPTER V</b>	<b>CLOSING.....</b>	<b>78</b>
	A. Conclusion.....	78

B. Suggestion ..... 80

**BIBLIOGRAPHY**

**APPENDIX**

**CURRICULUM VITAE**



## **LIST OF APPENDICES**

1. Interview Result and documentation
2. List of illegal Investment entities handled by the investment alert task force and OJK
3. Thesis Guidance Card
4. The Official Letter of Research Conduction
5. The Official Letter of Thesis Proposal Seminar
6. The Official Letter of Comprehensive Examination
7. Certificate of BTA and PPI
8. Certificate of OPAK
9. Certificate of Arabic Language Development
10. Certificate of English Language Development
11. Certificate of Computer
12. Certificate of PPL
13. Certificate of KKN
14. Certificate of other Supporting

## LIST OF ABBREVIATION

AUD	: Australian Dollar
B2B	: Business to Business
BIS	: Bank for International Settlements
Bappebti	: Badan Pengawas Perdagangan Berjangka Komoditi
CAD	: Canadian Dollar
CHF	: Swiss Franc
DSN	: Dewan Syariah Nasional
E.g.	: Exempli in Gratia
Etc.	: Et Cetera
EUR	: Euro
FOT	: Foreign Exchange Online Trading
GBP	: Great Britain Poundsterling
HSB	: Handal Semesta Berjangka
I.e.	: Id est/in other words (for example)
IAIN	: Institut Agama Islam Negeri
ICDX	: Indonesia Commodity & Derivatives Exchange
ICH	: Indonesia Clearing House
IDR	: Indonesia Rupiah
JPY	: Japanesse Yen
MUI	: Majelis Ulama Indonesia
OJK	: Otoritas Jasa Keuangan
OTC	: Over the Counter

PBK	: Perdagangan Berjangka Komoditi
SAW	: Sallāhu ‘alaihiwasallam
SWT	: Subhānahūwata’ālā
UIN	: Universitas Islam Negeri
UU	: Undang-Undang
USD	: United State Dollar
Viz	: Videlicet/Videre Licet (example)



# CHAPTER 1

## INTRODUCTION

### A. Background of the Research

The wheels of the economic cycle are increase following the development of the modern era. Online-based fraud cases have flourished and developed in the realm of communication technology in the era of industry 4.0, where the emphasis is on the pattern of digital economy, artificial intelligence, big data, robotic, etc. or known as the phenomenon of disruptive innovation. High fraud cases based online have troubled many people especially with the instant investment application platform with very high profits. The phenomenon of forex trading has become very popular over the past four to five years due to the large number of new victims that have emerged as a result of these investments. Forex trading is an online foreign exchange trading that promises to profit quickly. Forex trading has been claimed to be different from other investments which have been a case of fraud lately. Forex trading can be operated individually. User of brokers say that forex is safe and there is no fraud in it. However, other broker users who are not experts in the field say that forex is a lot of fraud in it.

Consumer society in Indonesia seems to be growing in tandem with the history of economic globalism and capitalism transformation marked by the rise of malls, entertainment venues, cafes, food industry, fashion industry, culinary, real estate, the establishment of expensive and elite schools, the tendency

towards international branded goods even the financial industry both offline and online, especially the business of buying and selling online. Until now, the Indonesian people in their movements have begun to realize the urgency of investing in general, this is due to the advancement of education in the community, as well as the higher level of life awareness of the importance of managing assets owned properly, one of them is through investment.

The government has repeatedly blocked sites that provide illegal investment trading services. Binomo is always coming up with a new domain. But apparently, not only Binomo is listed as an illegal broker. The head of BAPPEBTI, Tjahya Widayanti said that, There are some illegal situs of brokers such as Olymp Trade, IQ Option, FBS, Insta Forex, Octa FX and so on.<sup>1</sup>

Gitman and Joehnk in *Fundamentals of Investing* defines that investment as follows: "*Investment is any vehicle into which funds can be placed with expectation that it will generate positive income and/or preserve or increase its value.*"<sup>2</sup>

According to Sharpe cited by Sawirdji Widodoatmodjo, investment is sacrifice current assets in order to obtain assets in the future that are far greater. Broadly speaking, investment can be divided in two, namely: real asset investment (investment in the real sector) and financial asset investment (investment in the financial sector), and one of the investments included in

---

<sup>1</sup> Vadhia Lidyana, "Bukan Cuma Binomo, Ini Sederet Investasi yang Masuk Radar Bappebti!" <https://www.finance.detik.com/> Accessed on November 3<sup>rd</sup>, 2020.

<sup>2</sup> Lawrence J. Gitman and Michael D. Joehnk, *Fundamental of Investing*, 9<sup>th</sup> Edition (Pearson: Addison Wesley, 2005), page 3.



financial asset investment is online forex trading / Forex Online Trading (FOT).<sup>3</sup>

In this life, we only utilize increasingly sophisticated technology that drives almost all types of industries such as manufacturing, business-to-business (B2B) or e-Commerce transactions, namely trading transactions among business actors online without meeting or physically knowing between actors, have developed rapidly since the early 1990s. In 2003, according to the Flascommerce website, more than 95% of the activities carried out using the internet were trade transactions including foreign exchange trading whose function was not only as a transaction tool but became one of the commodities traded through online computers.<sup>4</sup>

Inter-foreign exchange trading via the internet aims to make a profit. This foreign exchange trading is mentioned as a rapidly growing foreign exchange online trading (FOT). Foreign exchange trading is carried out by investors without physically showing the foreign currency itself when buying or selling foreign currency. Investors just sit face to face with online computers at home or anywhere, anytime.<sup>5</sup>

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<sup>3</sup> Sawidji Widodoatmodjo, *Forex Online Trading; Tren Investasi Masa Kini* (Jakarta: PT. Elex Media Komputindo, 2013) pages 3-4.

<sup>4</sup> Since October 2011, manufacturing media has been online and visitors have reached between 22,000 and 31,000 per month. This media serves to bring together machine makers/production equipment/technology with manufacturers/industries in Indonesia and ASEAN. This media is managed by three young people in their 20s under the management of PT. Media Manufacturing Indonesia in collaboration with Vogel Business Media GmbH (Germany). Please visit <http://www.mm.industri.com>

<sup>5</sup> Sawidji Widodoatmodjo and Lie Ricky Ferlianto, *et al.*, *Cara Gampang Cari Duit dari Rumah Forex Online Trading Tren Investasi Masa Kini* (Jakarta: Elex Media Komputindo, 2012), page14.

Trading foreign exchange or forex is developing very rapidly. No exception in developed countries, such as Australia, United State of America, Singapore, Russia, Germany and other developed countries. Thus, forex is a currency trade between the two countries whose values differ from a certain period of time. Usually, currencies that are traded on Forex are currencies of developed countries such as the American Dollar (USD), Japanese Yen (JPY), Swiss France (CHF), British Pound Sterling (GBP), Australian Dollar (AUD), and Euro (EUR). All currencies are usually exchanged or traded in pairs or called pairs. For example EUR / GBP, CHF, GBP / USD, EUR / USD, AUD / USD, GBP / JPY and others.<sup>6</sup>

Currency trading (forex) significantly raises crisis vulnerability for a country. For this reason, the annual conference of the Association of Muslim Scientists in Chicago, in October 1998, which discussed the problem of the Islamic economic crisis, agreed that the root of the crisis problem was the development of the financial sector that runs on its own, without being related to the real sector.<sup>7</sup>

From this description, it can be seen that to do business online-based forex trading is certainly inseparable from technology that has brought a lot of impact on legal, economic, social, cultural and political developments.<sup>8</sup> That

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<sup>6</sup> Hafis Mu'addab, *Pasar Valuta Asing (Foreign Exchange Market)* (Surabaya: Garuda Mas Sejahtera, 2011), pages 4-5.

<sup>7</sup> Agustianto, "*Perdagangan Valas Dalam Perspektif Ekonomi Islam*", retrieved from <http://www.agustiantocentre.com> Accessed On September 8, 2019, at 9.30 p.m.

<sup>8</sup> Ulil Amri, "*Analisis Hukum Ekonomi Syariah Terhadap Sistem Transaksi Online Valuta Asing Pada Komunitas Trader Go-Greem Trading Sistem Bandung*", <http://digilib.uinsgd.ac.id/17315/>, Accessed on Oktober 8, 2019 at 1:58 p.m.

would be a challenge for the world of Islamic economic law, where these developments have given birth to a new transaction model in the world of commerce.

In the principle of muamalah (Islamic economics), currency/forex is called *Al-Sarf* which is a name transaction/sale of *al-muthlaqah* price values (all types of price values) with each other.<sup>9</sup>

Buying and selling transactions are allowed by fulfilling the requirements; there is no element of usury (*riba*), gambling (*maisir*), fraud (*gharar*), etc. If there are a currency sale and purchase transaction, it must be done in cash at that place, there is no debt. Allah has provided provisions in His word of Qur'an An-Nisa verse 29 :

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

O ye who believe! Eat not up your property Among yourselves in vanities: But let there be amongst you Traffic and trade By mutual good-will: Nor kill (or destroy).<sup>10</sup>

Moving on from these problems, then this research will further investigates comprehensively about how the mechanism of this foreign exchange (*forex*) transaction which is carried out through online media or e-commerce contained in the application without any physical meeting between the seller (*bai'*) and the buyer (*mustari*) in a group, whether this is in accordance

<sup>9</sup> DR. Ahmad Hasan, "Mata Uang Islam, Telaah Komprehensif Sistem Keuangan Islami" terjemahan dari buku "Al-Auraq Al-Naqdiyah fi Al-Iqtishad Al-Islamy (Qimatuha wa Ahkamuha) oleh Saifurrahman Barito dan Zulfakar Ali (Jakarta: PT. Raja Grafindo Persada, 2005), page 240.

<sup>10</sup> Abdullah Yusuf Ali, *The Meaning of The Holy Qur'an* (Herndon, Virginia U.S.A.: International Institute of Islamic Thoughts, 1989), page 217.

with the sale and purchase of currency (*Sarf*) where the conditions are that the transaction must be in a contract agreement where the buyer and seller meet physically in one agreement.

Along with the development of more advanced communication technology, trading activity is not only done through a PC / laptop but also in the grip. Smartphones now also be used as a weapon by traders for their trading activities. Especially when the mobile version of the trading platform was created from HSB Brokers.<sup>11</sup>

Therefore, to find out the mechanism of the transaction of buying and selling foreign exchange (forex) is running, along with the reality that occurs in the online forex trading business also the applicable law in Indonesia and from some of the statements above, the writer studies the problems with a research title “**Sharia Economic Law Review on Forex Trading with HSB Forex Investing Application in Indonesia**”.

## **B. Operating Definition**

### 1. Sharia Economic Law

Law is the binding habit or practice of a community: the rules of behavior or actions that are determined or officially recognized are binding or enforced by the controlling authority.<sup>12</sup> The law covers all regulations or

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<sup>11</sup> Akaibara, “Aplikasi Hanson Forex Investing ini 5 Keistimewaannya”, <https://www.pikirantrader.com/>, Accessed on October 2019.

<sup>12</sup> George Meriem, *Meriem Webster* (USA: Encyclopedia Britannia, Inc)

provisions, both written and unwritten that govern the life of the community and will provide sanctions against violators.<sup>13</sup>

While Sharia Economy is a business or activity carried out by individuals, business entities that are legal entities or not legal entities in the framework of fulfilling commercial and non-commercial needs according to sharia principles.<sup>14</sup>

So, Sharia Economic Law means Islamic Economic Law which is extracted from the existing Islamic Economic system in society, which is the implementation of Fiqh in the economic field by the community.<sup>15</sup> Sharia Economic law refers to Fatwa of DSN-MUI concerning Buying and Selling Foreign Currency.

## 2. Forex Trading

Forex is an abbreviation of foreign exchange, which means trading foreign currency. Where foreign exchange is a means of trading currencies between countries carried out by Over the Counter (OTC). At present, the foreign exchange market has the largest volume of transactions throughout the world because it has a borderless character, namely transactions conducted openly and efficiently.<sup>16</sup>

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<sup>13</sup> Muhammad Djakfar, *Hukum Bisnis (Membangun Wacana Integrasi Perundangan Nasional dengan Syariah)* (Malang: UIN-Malang Press, 2009), page 1.

<sup>14</sup> Pusat Pengkajian Hukum Islam dan Masyarakat Madani, *Kompilasi Hukum Ekonomi Syariah* (Depok: KENCANA, 2009), page 3.

<sup>15</sup> Mita Andri Agustina, "Konsep Hukum Ekonomi Syariah". [www.academia.edu](http://www.academia.edu) Accessed on February 28, 2019, at 8:19 p.m.

<sup>16</sup> Darsono and R. Eki Rahman, *Pasar Valuta Asing (Teori dan Praktik)* (Jakarta: RajaGrafindo, 2018), page 78.

So, Foreign Exchange / Forex Trading is trading currencies from various different countries with the aim of making a profit.<sup>17</sup>

### 3. HSB Forex Investing

The application used in this thesis is HSB Forex Investing, which is downloaded from the Google Play Store. The HSB Forex Investing Mobile trading application from PT Handal Semesta Berjangka provide the product is include forex, gold, stock indexes, and other products multiple market destinations worldwide.

Handal Forex Investment is a professional company specifically engaged in the trading of commodity futures, foreign currencies (*forex*), energy and stock indexes. HSB has the high integrity and fulfill the legality set by Commodities Trading Supervisory Agency (BAPPEBTI) and is a member of the Indonesia Commodity & Derivatives Exchange (ICDX), and Indonesia Clearing House (ICH). HSB does cooperations with a trusted traders who provide real-time prices with high precision and competitive price quotations on the Indonesian financial market.<sup>18</sup>

### C. Problem Statements

Based on the background of the issue above, the formulation of problems which become the focus of this research is broken down into two operational research questions:

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<sup>17</sup> Awaludin, “Konsep Negara Demokrasi yang Berdasarkan Hukum”, <https://media.neliti.com/publications>, Accessed on May 18, 2019, at 5.00 p.m.

<sup>18</sup> HSB, “About Us”, <https://www.hsb.co.id/tentang/about-us.html>, Accessed on February 2nd, 2020, at 02.15 p.m.

1. How to systematically use the HSB Forex Investing application to invest forex trading properly?
2. Does the HSB Forex Investing Application comply with Sharia Economics Law ?

#### **D. Research Objective and Benefit**

Based on the problem statement above, the Objectives and Benefits of the Research are:

##### **1. Research Objectives**

Based on the problem formulation written above, the research objectives include:

- a. To find out the steps in using the HSB Forex Investing Application systematically.
- b. To find out whether it is legal or not from using the Forex Trading Online Application in the Perspective of Sharia Economic Law.

##### **2. Research Benefit**

- a. This research can contribute to activists, academics, researchers, students, and anyone about forex trading in the perspective of Islamic economic law in Indonesia.
- b. As a basis for general knowledge for the general public about technology-based economics, as well as knowledge about online trading investment.
- c. Practical use could be a guideline in writing a thesis or in writing about a review of Islamic law regarding application-based online investment.

## E. Literature Review

Many academic studies about online foreign exchange in the perspective of Islamic law have conducted this as topics of research. However, the focus on Foreign Exchange Trading research in the Hanson Forex Investing Application in Indonesia is still very rare. This is because people in Indonesia are still not familiar with some Forex Trading applications in Indonesia. Based on observations, research and library research (Library Research) conducted by the author, has several scientific theories carried out as a turning point (the turning point) and several previous studies are used to be correlated with the research that I do.

In this review of the literature, the author takes source from some previous related research about forex trading online, including:

### 1. Supporting Theory of the Research

In a theoretical study, this research will relate to Islamic economic law, in addition to studying the contract and legal formative and fundamental theory.

### 2. Previous Research

#### a. Thesis by Slamet Mustaqim

Research conducted by Slamet Mustaqim from Semarang State University with the title of the thesis, *Identifikasi Yuridis Forex Trading dalam Perspektif Hukum Islam (Studi Pelaksanaan Transaksi Forex Trading di InstaForex)*. The focus of this research study is to identify forex trading in its normative juridical application using the positivist



legislative concept, as well as the methods used in the form of documentation and interviews. And the perspective used in general is Islamic law, while the problem under review is found in the Insta Forex application.<sup>19</sup>

b. Thesis by Afif Amriza

The next research was conducted by Afif Amriza from the Muhammadiyah University of Surakarta with the research title, *Tinjauan Hukum Islam Terhadap Forex Online Trading*. In this thesis, the focus of the main topic is to discuss the principles of Islamic economics (*muamalah*) in general. As well as reviewing an issue regarding online forex trading in view of Islamic law as a whole.<sup>20</sup>

c. Thesis by Latifah Apriani

Research conducted by Latifah Apriani from UIN Ar-Rainy Banda Aceh with the title, *Tinjauan Hukum Islam Terhadap Harga Jual Beli Valuta Asing Pada PT Bank Syariah Mandiri cabang Banda Aceh*. The focus of this research is on determining the buying and selling prices of foreign currencies at PT. Bank Syariah Mandiri, as well as reviewing Islamic law on foreign exchange spot pricing and its relation to speculation at PT. Bank Syariah Mandiri Banda Aceh Branch.<sup>21</sup>

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<sup>19</sup> Slamet Mustaqim, "Identifikasi Yuridis Forex Trading Dalam Perspektif Hukum Islam (Studi Pelaksanaan Transaksi Forex Trading di InstaForex)". <https://www.academia.edu>, Accessed on Oktober 11, 2019 at 08.15 a.m.

<sup>20</sup> Afif Amriza, "Tinjauan Hukum Islam Terhadap Forex Online Trading". *Skripsi*. Surakarta: Fakultas Agama Islam Universitas Muhammadiyah Surakarta, 2014.

<sup>21</sup> Latifah Apriani, "Tinjauan Hukum Islam Terhadap Harga Jual Beli Valuta Asing Pada PT Bank Syariah Mandiri Cabang Banda Aceh". *Skripsi*. Darussalam Banda Aceh: Fakultas Syari'ah dan Hukum Universitas Islam Negeri Ar-Rainy Aceh, 2017.

d. Thesis by Ryan Surya Setyawan

The next research will be conducted by Ryan Surya Setyawan from UIN Walisongo, with a thesis entitled *Tinjauan Hukum Islam Terhadap Praktek Hedging Menggunakan Metatrader4 Pada Transaksi Komoditi Emas*. The thesis discusses the process of applying the hedging strategy to gold transactions using the Metatrader4 application, which then analyzes the results using Islamic law. The research resulted that many people switched to using hedging systems in their transactions. However, in a review of Islamic law, the practice of hedging the gold is haram.<sup>22</sup>

e. Thesis by Dien Kikit Ayuning Putri

Research conducted by Dien Kikit Ayuning Putri from UIN Raden Intan Lampung with the thesis title, *Tinjauan Hukum Islam Tentang Praktek Trading Emas (Studi di PT. Solid Gold Berjangka Bandar Lampung)*. The focus of the research is on how to practice gold trading conducted by PT. Solid Gold Futures in Bandar Lampung. The research used is a type of field research. As well as in the study also reviewed the review of Islamic law about the practice of gold trading that resulted in the study is haraam because it contains elements of usury or get benefits that are considered large and tempting.<sup>23</sup>

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<sup>22</sup> Ryan Surya Setyawan, "Tinjauan Hukum Islam Terhadap Praktek Hedging Menggunakan Metatrader 4 pada Transaksi Komoditi Emas". *Skripsi*. Semarang: Fakultas Syari'ah dan Hukum Universitas Islam Negeri Walisongo Semarang, 2018.

<sup>23</sup> Dien Kikit Ayuning Putri, "Tinjauan Hukum Islam Tentang Praktek Trading Emas (Studi di PT. Solid Gold Berjangka Bandar Lampung)". *Skripsi*. Lampung: Fakultas Syari'ah Universitas Islam Negeri Raden Intan Lampung, 2019.

Sawidji Widoatmodjo and Lie Ricky Ferlianto, et al. in his book entitled *Cara Gampang Cari Duit dari Rumah Forex Online Trading Tren Investasi Masa Kini*. Which examines several theories and research implicitly and explicitly that success in forex trading comes from the learning process, not just having talent. They also explained that Forex Online Trading is very popular with both investors and traders. This is due to the ease of doing transactions online compared to conventional forex trading and cheap investment costs.<sup>24</sup>

From some of the theories and studies that have been published previously, the author will examine a comprehensive and specific study of online-based investment practices that are developing in Indonesian society, especially the rise of online forex trading business, especially in android applications in the current era, as yet no one has reviewed it however there have been a number of previous research studies which have examined the same thing. Therefore, the author is very interested in reviewing the issue in scientific papers with the theme "Sharia Economic Law Review on Forex Trading with HSB Forex Investing Application in Indonesia".

## **F. Presentation of Discussion**

Systematics of writing in the discussion of this thesis is divided into five chapters. Each of the sub-chapters will be described one by one to make it easier to compile and study them, and as an effort to facilitate the systematic

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<sup>24</sup> Sawidji Widoatmodjo and Lie Ricky Ferlianto, et al., *Cara Gampang Cari Duit dari Rumah Forex Online Trading Tren Investasi Masa Kini* (Jakarta: Elex Media Komputindo, 2012), page. 69.

preparation and understanding of research. The discussion of this thesis consists of five chapters.

*The first chapter* is an introduction that consists of eight discussions, namely: (1) Background of the problem, which are the reasons for the emergence of the problem to be examined. (2) Problem Statement, which is an affirmation of what is contained in the background of the problem and is an affirmation of the focus of research. (3) Research objectives, namely for what this research is carried out. (4) Benefits of research, i.e. what benefits will arise from this research. (5) Operating Definition, which is an affirmation of the terms that will be used in this study so that the discussion is not widespread and more focused. (6) Literature review contains a search of theories and literature that have existed before relating to the object of research. (7) Presentation of discussion, is the end of the first chapter that aims to systematize research preparation.

In *the second chapter*, the theoretical basis for online forex trading will be explained, which will be elaborated in four sub-chapters of discussion, namely: (1) Foreign Exchange Trading, (2) Foreign Exchange Trading According to Islamic Law, (3) HSB Forex Investing Applications.

*The third chapter* will explain the research method. In this chapter, it will be explained into five sub-chapters of discussion, namely: (1) Type of The Research, (2) Subject and Object of The Research, (3) Research Approach which they are conceptual approach and analytical approach, (4) Technique of Collecting Data, (5) Source of Data which they are Primary Data and Secondary

Data, (6) Technique of Analysis Data of the Systematic use and save way to invest Forex Trading in the scope of Sharia and Conventional. Research methods are the steps taken in collecting data relating to the theme in analyzing data.

Furthermore, *the fourth Chapter* will discuss the analysis and result data of the research. Including two sub-chapters of discussion, namely: (1) The Use of HSB Forex Investing Application to Invest Forex, (2) Sharia Economic Law Perspective on HSB Forex Investing Application.

Finally, *the fifth chapter* is a concluding part consisting of conclusions and suggestions. The conclusion contains the essence and is the answer to the main problems examined in this study. While the suggestions are the inputs expected from this study that is useful for sharia economic legal regulations in Indonesia regarding online-based investment.



IAIN PURWOKERTO

**CHAPTER II**  
**SHARIA ECONOMIC LAW REVIEW ON FOREX**  
**TRADING**

**A. Foreign Exchange Trading**

**1. Definition of Foreign Exchange**

Foreign exchange or shortened as “forex,” can be interpreted as a currency that has been issued and used as a legal payment instrument in other countries. Foreign Exchange is a foreign currency used in international trade.<sup>25</sup> Another definition is a foreign currency and payment instrument used to conduct or finance international financial, economic transactions.<sup>26</sup> While the exchange rate compares the exchange rate of a country’s money with another country’s capital or a comparison of the exchange rates between countries. Forex trades (trading onboard internet platform) are non-delivery trades: currencies are not physically traded, but instead, there are currency contracts that are agreed upon and performed.<sup>27</sup>

Meanwhile, the Foreign exchange market (also known as Forex, Currency market, or FX Market) is by far the world’s largest financial market. It includes trading between large banks, central banks, currency speculators, multinational corporations, governments, and other financial

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<sup>25</sup> Tim Penyusun Kamus Istilah Perbankan II, *Kamus Perbankan Edisi Kedua* (Jakarta: Institut Bankir Indonesia, 1999), page. 195.

<sup>26</sup> Hamdi Hady, *Valuta Asing untuk Manajer* (Jakarta: Ghalia Indonesia, 2001), page. 15.

<sup>27</sup> Forex Books, *Forex: A Quick Guide to Trading Forex* (USA: Easyforex Trading Platform, 2006), page. 6.

markets and institutions.<sup>28</sup> Developments greatly influence foreign exchange rate movements in world financial centers such as London, New York, and Singapore.<sup>29</sup>

So, the forex market is a form of the commodities market in which foreign exchange sellers and buyers meet, even though it does not take the form of a “market” in general. Someone who does trading activities or transactions on the foreign exchange market is called a Trader/Dealer. While the intermediary between the investor and the foreign exchange market is called a Broker.<sup>30</sup>

Therefore, the currency is said to be foreign exchange depending on who is looking at it. To the population in a country that is not the country of origin of the currency will refer to as foreign exchange or forex. Otherwise, residents in the home country currency would not call it that. For example, for Indonesian citizens, the US Dollar is foreign exchange. While for the American people, the US Dollar currency is not a foreign currency. A broadly, foreign exchange can be interpreted as all liabilities of the foreign currency that can be paid abroad, either in deposits at banks abroad and obligations in foreign currencies.<sup>31</sup>

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<sup>28</sup> Richard Taylor, *Forex Trading “Forex Advantages”* (USA: Freeforexbook, 2008), page. 2.

<sup>29</sup> Fathurrahman Djamil, *Penerapan Hukum Perjanjian dalam Transaksi di Lembaga Keuangan Syariah* (Jakarta: Sinar Grafika, 2012), page. 248.

<sup>30</sup> M. Daud Dermawan, *Mengenal Bisnis Valuta Asing untuk pemula* (Yogyakarta: PINUS Book Publisher, 2007), page. 28.

<sup>31</sup> Heli Charisma Berlianta, *Mengenal Valuta Asing* (Yogyakarta: Gadjah Mada University Press, 2005), page 1.

So, it can be concluded that Forex trading is short for foreign exchange trading and represents the market, in which one country's currency is quoted to that of another. It is a financial market, like a stock market, for example, as a trader considers the price's future direction. But in the forex market, view exchange rate movements between two currencies rather than stocks.<sup>32</sup>

## 2. The Main Participants of Forex

Actors in the forex market are very diverse; in general, it can be called a market maker. In general, it can be categorized actors in the forex market into:

### a. Government

The government are carried out the foreign exchange transactions for various purposes including paying foreigners debt instalments, receiving new foreign debts which must be exchanged with foreign currencies, etc.<sup>33</sup>

### b. Central Bank/Comercial Bank

A commercial bank is the leading players in forex trading. An example of this bank is Bank of America, Barclays, Societe Generale, Citigroup, Deutsche Bank, UBS, HSB and Goldman Sachs. Transactions are carried out in the form of buying and selling with consumers from the business world, smaller banks, sending money

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<sup>32</sup> Anna Coulling, *Forex for Beginners What you need to know to get started and everything in Between* (USA: Cmegroup, 2013), page 29-30.

<sup>33</sup> Heli Charisma Berlianta, *Mengenal Valuta Asing.....*, page. 5.



across the globe and through speculative transactions on the forex market.<sup>34</sup>

The central bank is the largest provider in the currency market. The central bank has an essential role to oversee the market, controlling the fluency supply of currency, regulated can stabilize interest rates to make the countries economy through a series of economic policies taken by the government.

c. Business / Corporation

The business world is a multinational company such as Google, Microsoft, Apple, Samsung, Toyota are the leading players in the forex market.

d. Brokers/Brokerages

Brokers are the institutions that have a function as intermediaries between retail traders or the general public and the banks. Brokerages have a getting the profit from spread, are the costs were charged when transacting with the difference between the sale and purchase value.

e. Hedge Fund

A Hedge fund is an institute that does the activities of a short term investment or speculation with expecting profits, through funds collected from the capital owners. Example from the player of the Hedge Fund is George Soros and Warrant Buffet.

f. Retail Traders/General Society

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<sup>34</sup> Agus Wibowo, *Investasi Valuta Asing* (Yogyakarta: Andi Offset, 2017), page. 9.

A retail trader is the individuals who carried out the forex trading transactions with commercial banks or other market participants who use the services of their respective intermediary brokers.

According to Coulling Anna in *Forex for Beginners*, In simple terms, there are five broad groups of players in the forex market. Each of them has very different trading objectives and strategies. It is essential to understand their role to gain a deeper understanding of what drives prices, and why the forex markets react to the stream of daily news and analysis. The major groups are as follows, and we will look at each of these in turn in detail.<sup>35</sup>

- 1) Market makers
- 2) Multinationals
- 3) Speculators
- 4) Central banks
- 5) Retail traders

### **3. Types of Transactions in Forex**

In general, each type of financial transaction has a normal time-cycle for settlement.

#### **a. Spot Transaction**

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<sup>35</sup> Coulling Anna, *Forex for Beginners* 1st Edition (t.k.: CreateSpace Independent Publishing, 2013), page. 33-34.

A spot transaction is a direct exchange of one currency for another. The spot rate is the current market price, which also called the “benchmark price”.<sup>36</sup> A spot transaction is also are transactions involving two different types of currencies with an agreed value. A spot transaction is for delivery two working days after dealing date (the date was made the contract). Typically, therefore, if the contracted was a spot deal on Monday, Tuesday or Wednesday, delivery will be two days after (example. Wednesday, Thursday or Friday respectively).<sup>37</sup>

b. Forward transactions

Forward transactions occur between two parties which include currencies from two different countries. A forward transaction can do the marketing done outside of the stock exchange (over the counter), based on an exchange rate and an agreement between the parties with a more extended transaction when compared to spot transactions. The due time of forwarding transactions varies, generally around 30, 90, 180, 360 days.<sup>38</sup> In many markets, it is also possible to undertake a transaction where the two parties agree that the settlement will be on a later date than usual. These are called a forward deal. Similarly, with a transaction such as a foreign exchange spot deal or an international

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<sup>36</sup> Easy forex, *Forex: A Quick Guide to Trading Forex* (US: Easyforex, 2006), page. 10.

<sup>37</sup> Bob Steiner, *Foreign Exchange and Money Markets* (Oxford: Butterworth-Heinemann, 2002), page. 93-94.

<sup>38</sup> M. Daud Dermawan, *Mengenal Bisnis Valuta Asing untuk pemula...*, page. 42.

money market deal, it is possible to agree on a settlement earlier than usual.<sup>39</sup>

c. Hedging

In the opposite way to this, to hedge (or to cover) means to protect against the risks arising from potential market movement in exchange rates, interest rates or other variables. This could be a company protecting against the risk that the value of its future income in a foreign currency is vulnerable because that currency might weaken soon, or a company protecting against the possible future increase of interest rates, which would increase the company's borrowing costs.<sup>40</sup>

#### 4. Types of Forex Orders

a. Market Order

An order where you can buy or sell a currency pair at the market price the moment that the order is processed. So, Market order is an order to open a position, either sell or buy at the price that applies immediately.<sup>41</sup> Example: if you are looking to place an order for JPY when the dealing price is 104.00/05, a market order will request to buy JPY at 104.00 or will bid to sell JPY at 104.05.<sup>42</sup>

b. Entry Order

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<sup>39</sup> Bob Steiner, *Foreign Exchange and Money Markets...*, page. 4-5.

<sup>40</sup> *Ibid.*, page 4.

<sup>41</sup> Bob Steiner, *Foreign Exchange and Money Markets...*, page 44.

<sup>42</sup> First Forex Trading Academy, *Introduction to Forex* (USA: TrekAcademy, 2004), page.

An order where you can buy or sell a currency pair when it reaches a specific price target. In theory, this can be any price. You can see an entry order for the low price of a time or the high cost of a period.

c. Stop order

An order that becomes a market order when a particular price level is reached and broken. A stop order was placed below the current market value of that currency. So, a stop order is an order to prevent more significant losses if the price trend turns out to be moving in a less favourable direction. A stop order also means buying above the market price or selling below the market price.

d. Limit Order

An order that becomes a market order when a particular price level is reached. A limit order is placed above the current market value of that currency. So, the limit order is an order to open or close a position if the price has moved to the desired level. A limit order also means placing a buy position below the market price or selling above the market price.

e. OCO order (One Cancel Order)<sup>43</sup>

An order placed to take advantage of price movement, which consists of both a Stop and a limit price. After OCO was reached one level, it will execute one half of the order (either stop or limit) and the remaining order cancel (either prevent or define). This type of order

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<sup>43</sup> First Forex Trading Academy, *Introduction to Forex* (USA: TrekAcademy, 2004), page. 21-22.

would close your position if the market moved to either the stop rate or the limit rate, thereby closing your trade, and, at the same time, cancelling the other entry order.

## **B. Foreign Exchange Trading According to Islamic Law**

### **1. Definition of foreign exchange in the Muamalah Fiqh and DSN-MUI**

#### **Fatwa**

##### **a. Foreign Exchange Term**

Foreign exchange in English terms is known as money changers or foreign exchange, while in Arabic terms it is called *al-sarf*.

He also stated that the sale and purchase of currencies is a sale and purchase transaction in the financial form which includes the following matters:

- 1) Purchase a currency with a similar currency as the exchange of new Iraqi dinar banknotes with the old dinar.
- 2) Exchange currencies with foreign currencies such as exchanging dollars with Egyptian pounds.
- 3) Purchase of goods with certain money as well as the purchase of these currencies with foreign currencies such as buying planes with dollars, and exchanging dollars with Iraqi dinars in an agreement.
- 4) Sales of goods in currency, for example US dollars and Australian dollars.

- 5) Promise sale (letter of agreement to pay a sum of money) with a certain currency.
- 6) Sale of shares in certain companies with certain currencies. Each of the six forms of activities above can be classified into two types of activities, namely buying and selling and exchanging. So that for each of these activities a sale and exchange law can be applied. Selling currencies with similar currencies or selling currencies with foreign currencies in Islam is what came to be referred to as *al-ṣarf*.<sup>44</sup>

The definition of buying and selling currencies (*al-Ṣarf*) according to language (etymology) is *al-ziyadah* (additional) and *al-‘adl* (balanced).<sup>45</sup>

According to Heri Sudarsono in his book "Bank dan Lembaga Keuangan Syariah" explains that the meaning of *al-Ṣarf* by language is addition, exchange, avoidance, theft, or buying and selling transactions.<sup>46</sup>

The definition of *al-Ṣarf* according to the term is the sale and purchase between similar goods or non-similar goods.<sup>47</sup> *Al-Ṣarf* can also be interpreted as a sale and purchase agreement of a currency with a

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<sup>44</sup> Taquuddin an-Nabhani, *Membangun Sistem Ekonomi Alternatif Perspektif Islam* (Surabaya: Risalah Gusti, 1996), page 187.

<sup>45</sup> Ghufron A. Mas’adi, *Fiqh Mu’amalah Kontekstual* (Jakarta: RajaGrafindo Persada, 2002), page 149.

<sup>46</sup> Heri Sudarsono, *Bank dan Lembaga Keuangan Syari’ah Deskripsi dan Ilustrasi* (Yogyakarta: Ekonisia, cet Ke-3, 2005), page. 78.

<sup>47</sup> M. Ali Hasan, *Zakat, Pajak, Asuransi dan Lembaga Keuangan (Masail Fiqhiyah II)* (Jakarta: RajaGrafindo Persada, 2003), page. 155.

foreign currency.<sup>48</sup> Foreign currency means the value of money, a means of payment guaranteed by gold or silver supplies. Therefore, foreign exchange means foreign currencies, such as the Japanese Yen, American Dollars, Malaysian Ringgit, and so on.<sup>49</sup>

An example of using Forex (foreign exchange) transactions is when foreign tourists are on holiday to Bali. When they buy food, goods or services in Indonesia, they are required to transact using the rupiah currency. To get rupiah currency, tourists will exchange their currency to the money changers. An another example is that Australian tourists buy rupiah in Australian dollars, European tourists will buy rupiah in Euros, based on the prevailing exchange rate at that time. Likewise, entrepreneurs from Indonesia who import cars from Europe must exchange rupiah into Euros to make payment transactions.<sup>50</sup>

From some of the definitions above it can be concluded that the sale and purchase of currency or Foreign Exchange (*al-Ṣarf*) is a process in which a seller surrenders money to the buyer (someone else) after getting approval about the amount of money, which then the money is received by the buyer from the seller as agreed. Thus automatically in the process where a currency sale and purchase transaction (*al-Ṣarf*) takes place, it has involved two parties, where one party hands over

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<sup>48</sup> Gemala Dewi, *Hukum Perikatan Islam di Indonesia* (Jakarta: Persada Media, 2005), page 98.

<sup>49</sup> Asmaji Muchtar, *Dialog dalam Lintas Mazhab (Fiqh Ibadah & Muamalah)* (Jakarta: AMZAH, 2016), page. 485.

<sup>50</sup> Agus Wibowo, *Investasi Valuta Asing* (Yogyakarta: ANDI OFFSET, 2017), page. 1.



money (assets) as payment for the goods received and the other party surrenders the goods in exchange for the money receipt and the process is carried out voluntarily between the two parties, meaning there is no element of coercion or coercion on both.

As the word of Allah SWT:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ  
مِنْكُمْ ۖ وَلَا تَقْتُلُوا أَنْفُسَكُمْ ۚ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

O ye who believe! Eat not up your property among yourselves in vanities: But let there be amongst you traffic and trade by mutual good-will: Nor kill (or destroy) Yourselves: for verily Allah had been to you Most Merciful! (An-Nisa Verse 29).<sup>51</sup>

Based on that verse, Allah prohibits His believing servants from illegally acquiring each other's property using various dishonest methods such as Riba, gambling and other wicked methods that appear to be legal, but Allah knows that, in reality, those involved seek to deal in interest.

## 2. Legal basis of Foreign Exchange (*Al-Ṣarf*)

Sale and purchase is as a means to help among humans, has a strong foundation in the Qur'an and Hadith, among them is:

- a. Legal basis of the Qur'an

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<sup>51</sup> Abdullah Yusuf Ali, *The Meaning of The Holy Qur'an* (Herndon, Virginia U.S.A.: International Institute of Islamic Thoughts, 1989), page. 217-218.

In the Qur'an, there is no explanation of the sale and purchase of the sharf itself, but only explains the legal basis for buying and selling in general contained in the Al-Baqarah verse 275, namely:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يُقِيمُونَ إِلَّا كَمَا يُقِيمُ الَّذِي يَتَّخِذُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ  
بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ  
فَأَنْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

Those who devour Will not stand except As stands one whom The Satan by his touch Hath driven to madness. That is because they say: "Trade is like usury"<sup>52</sup>

In the interpretation of the Qur'an surah al-Baqarah verse 275 namely those who eat (take) usury cannot stand but like the position of people who are possessed by demons because of (suppressing) insanity. Such conditions are because people say (opinions), definitely buying and selling is the same as usury. Though Allah has justified the sale and purchase and prohibited usury. those who have come to the prohibition of their Lord, then stop (from taking usury). Then for him what he had taken first (before the prohibition came) all returned to God. People who repeat (taking usury), then that person is a resident of hell, they are eternal in it.<sup>53</sup>

#### b. Legal Basis of the Hadith

<sup>52</sup> *Ibid.*, page. 126.

<sup>53</sup> M. Quraissy Shihab, *Tafsir al-Misbah, Pesan, Kesan dan Keserasian al-Qur'an, Vol. 1* (Jakarta: Lentera Hati, 2002), page 588.

The Fuqaha say that the ability to practice sharf is based on several hadiths of the Prophet which include opinions:

لَا تَبِيعُوا الذَّهَبَ بِالذَّهَبِ إِلَّا مِثْلًا بِمِثْلٍ وَلَا تُشْفُوا بَعْضَهَا عَلَى بَعْضٍ، وَلَا تَبِيعُوا الْوَرِقَ إِلَّا مِثْلًا بِمِثْلٍ وَلَا تُشْفُوا بَعْضَهَا عَلَى بَعْضٍ، وَلَا تَبِيعُوا مِنْهَا غَا ئِيًّا بِنَا جِزٍ<sup>54</sup>

Do not sell gold with gold unless it is the same (value) and do not add a portion to another portion. Do not sel silver with silver unless it is the same (value) and do not add a part to another portion. And do not sell the gold and silver that are not in cash with the cash. (HR. Bukhari).

And the Prophet's Hadith narrated by Abu Ubadah Ibn Shamid:

عَنْ عَبْدِ اللَّهِ بْنِ الصَّامِتِ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : الذَّهَبُ بِالذَّهَبِ وَالفِضَّةُ بِالْفِضَّةِ وَالْبُرُّ بِالْبُرِّ وَالشَّعِيرُ بِالشَّعِيرِ وَالتَّمْرُ بِالتَّمْرِ وَالمِلْحُ بِالمِلْحِ مِثْلًا بِمِثْلٍ سِوَاءٍ بِسِوَاءٍ يَدًا بِيَدٍ فَإِذَا اِخْتَلَفَ هَذِهِ الْأَصْنَافَ فَبِيعُوا كَيْفَ شِئْتُمْ إِذَا كَانَ يَدًا بِيَدٍ .<sup>55</sup>

Gold (to be paid) with gold, silver with silver, wheat with wheat, poetry with poetry, dates with dates, and salt with salt, the same and the same must be from hand to hand. So when different kinds, sell your course with the proviso cash. (HR. Muslim).

The Prophet Muhammad also said,

*“Do not sell gold with gold unless it is balanced, and do not give a part of it to others. Do not sell a currency with a currency unless it is balanced, and do not give a portion of the others. And do not sell something that does not exist with something in cash.”<sup>56</sup>*

From some of the hadith above shows that buying and selling gold with gold, gold with silver, or gold with other commodity items as

<sup>54</sup> Abd. Allah Muhammad ibn Ismail Al-Bukhari, *Shahih al-Bukhari* (Beirut: Dar al-Fikr, 1991), page 153.

<sup>55</sup> *Ibid.*,

<sup>56</sup> Muhammad Syafi'i Antonio, *Bank Syariah: Dari Teori ke Praktik* (Jakarta: Gema Insani Press, 2001) page 197

affirmed in the hadith, the law is permissible. However, some requirements must be obeyed. If the goods are exchanged are similar, it should be the same size. Conversely, if the goods are of different types, it is permissible to an excess between one another, but the conditions must be in cash (the handover is done on the spot).

While according to M. Ali Hasan, regarding the money market and the foreign exchange market, can be justified by Islam, because it's the same as buying and selling other goods. The price is also at times go up and down at any time. shareholders, cash, bonds, and other securities, just as people store gold (not jewelry) whose prices sometimes go up and sometimes go down.

Different if there are people who monopolize (buy up) stocks, foreign exchange for certain purposes so that at one time the person concerned plays the price in a securities or buying and selling foreign exchange. Once in the past, people with a quiet way to exchange currency by the dollar in an enormous amount of money, so it's made difficult to obtain the dollar. This is the same thing with *ikhtikar* ( الإختكار ), namely the hoarding of goods. after the goods are less on the market, they are released so the price is high with multiplied profits.<sup>57</sup>

Prophet Muhammad warned in his saying with a strong warning.

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<sup>57</sup> M. Ali Hasan, *Zakat, Pajak Asuransi dan Lembaga Keuangan (Masail Fiqhiyah II)* (Jakarta: RajaGrafindo Persada, 2000), page 111.

الْجَالِبُ مَرْزُوقٌ وَالْمُحْتَكِرُ مَلْعُونٌ (رواه ابن ماجه والحكم)

People who provide (bring) the goods are given sustenance and those who hoard goods received the curse. (HR. Ibn Majah with al-Hakim).

The word of the prophet:

لَا يَحْتَكِرُ إِلَّا الْخَاطِرُ (رواه مسلم)

Only the person who is wrong (mistaken, sinned) is hoarding things (HR Muslim).<sup>58</sup>

c. Ijma of Ulama

Based on the hadiths above, the scholars agreed that the law may (permissible) carry out transactions of buying and selling foreign currencies (*sharf*). besides that, they also explained that the terms of exchange of currencies are the same kind both in terms of quality and quantity and that the exchange must be done in cash. also, if the exchange rate of the traded currency is of the same type, then no addition may be made.<sup>59</sup>

d. Legal basis according to DSN fatwa number 28 / DSN-MUI / III / 2002 concerning currency buying and selling (*al-Şarf*)

In the DSN MUI Fatwa states that Foreign Exchange (*Al-Şarf*) is a form of sale and purchase of currency transactions between similar currencies and between currencies of different types.

<sup>58</sup> *Ibid.*, page 112.

<sup>59</sup> Ibnu Rusyd, *Bidayah al Mujtahid wa Nihayah al Muqtashid*, Juz II (Beirut: Dar al-Fikr, tth), Page 149.

Whereas in 'urf tijari (trading traditions) currency trading transactions, there are several forms of transactions whose legal status in the view of Islamic teachings differ from one form to another.

According to the DSN MUI Fatwa, currency sale and purchase transactions are in principle permissible with the following conditions:

- 1) Not for speculation (chancy)
- 2) There is a transaction need or just incase (deposit)
- 3) If the transaction is carried out on a similar currency, the value must be the same and in cash (*at-taqabudh*).
- 4) If there are different types, it must be done at the exchange rate (exchange rate) in effect at the time the transaction is made and in cash.

### 3. Pillar and The Terms of *al-Ṣarf*

#### a. The Pillars of *al-Ṣarf*

*Ṣarf* is exchanging gold and silver for silver, or one of them. *Ṣarf* is one of a kind of buying and selling. Each pillar that becomes *bai'* pillar becomes the pillar of the *sharf*, but there are several additional pillars in the *sharf*, as follows.<sup>60</sup>

- 1) The types of goods exchanged must be the same, both in a printed state, such as *Junaih* and riyal or not yet printed, such as bracelets, earrings, and necklaces. Therefore, it is illegal to sell one *junaih* with

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<sup>60</sup> Asmaji Muchtar, *Dialog dalam Lintas Mazhab (Fiqh Ibadah & Muamalah)* (Jakarta: Amzah, 2016), page 485.

one *junaih* along with one or more *qirsy*, just as it is illegal to sell a bracelet that weighs 20 *mithqal* with a bracelet that weighs 25 *mithqal* even though the engraving and shape are different.

- 2) Payment or delivery must be cash (cash). It is illegal to sell gold with gold in installments on both items sold or one of them.
- 3) There is a handover in the contract agreement. That is, the seller receives the gold that is used as payment and the buyer receives the gold sold. If the seller and buyer separate before accepting, the contract becomes null and void. The sale of gold and silver is not the same as the different types.

Pillars that become *bai* pillars' become pillars of scarves, including:

- 1) *'āqid* is divided into two, namely *ba'i* (seller) and *musytari* (buyer).
- 2) *Sīghat* is divided into two parts, *ijab* (offer) and *qabul* (acceptance).
- 3) *Ma'kud 'alaih* is divided into two parts, namely *tsaman* (payment money) and *mutsman* (goods purchased).<sup>61</sup>

While according to Wahbah, *Ṣarf* contract must meet the following four requirements:

- 1) The foreign exchange must be handed over directly.

The exchange rate traded must be directly controlled, both by the buyer and by the seller, before the two separate bodies. The intended mastery is in the form of material mastery or legal

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<sup>61</sup>*Ibid.*, page. 398.

mastery.<sup>62</sup> According to *fiqh* experts, this provision is needed to avoid the existence of *nasiah* usury (adding a nominal value to one of the exchange rates). if both of them split up before mastering each of the exchange rates being traded, then according to them the contract was canceled, because the control of the exchange rate was not fulfilled.

2) The foreign exchange traded must be equal or balanced in value

If the currency traded are the same, for example, gold with gold, silver with silver, then it should not be, unless the quantity and quality is equal, though different model.

3) Not treated as a choice

*Khiyar* not applicable conditions in the contract *sarf*, that is the right to choose for buyers whether to continue buying and selling or not required when the transaction takes place. the reason is, in addition to avoiding usury, also because the right of *khiyar* makes the contract of sale and purchase agreement incomplete. While the terms of sale and purchase of foreign exchange (*sarf*) is the control of the exchange rate by each party. Therefore, if one of the parties submits a condition, then the condition is invalid.

4) Sale and purchase is done in cash

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<sup>62</sup> Material mastery, for example, the buyer directly accepts the United States dollar and the seller directly accepts the Indonesian rupiah. While the legal control, for example, payment through checks.



There is no death (grace period) in the contract. The authority of the contract object must be done in cash before the two of parties separate bodies. Therefore, if one of the parties requires a grace period, then the alias will be invalid because this means a suspension of ownership and control of the object of the contract *sarf*.

According to Taqyuddin an-Nabhani,<sup>63</sup> the terms of the sale and purchase of the *sarf* must be cash and the goods are in the contract agreement. According to Yusuf Qardhawi, the sale and purchase of currency (*Sarf* contract) must be done in cash, there should be no deferral, and even it must be done in the Akad assembly (place of the transaction). As for the criteria of “cash”, according to him is according to the habits (*urf*) of each and the value of something according to their own measurements. In addition to these conditions, other conditions that must be met are:

- a) Existence of *ijab* and *qabul* marked by the first parties to hand over the goods, and the second parties to pay in cash. *Ijab* and *qabul* can be done by verbal, written or by emissary;<sup>64</sup>
- b) both of the parties are capable of taking a legal actions.<sup>65</sup>

#### 4. Legal Types of Forex Transactions

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<sup>63</sup> Taqyuddin an-Nabhani, *Membangun Sistem Ekonomi Alternatif Perspektif Islam* (Surabaya: Risalah Gusti, 1996), page. 290-291.

<sup>64</sup> Sayyid Sabiq, *Fiqh Sunnah*, Vol. II (Beirut: Dar al-Fikr, 1981), page. 127-128.

<sup>65</sup> Faturrahman Djamil, *Penerapan Hukum Perjanjian dalam Transaksi di Lembaga Keuangan Syariah* (Jakarta: Sinar Grafika, 2012), page. 251-252.

Forex has various advantages compared to other investment instruments, there are many forms of variation for making transactions.<sup>66</sup>

Including the following are:

- a. *Spot Market* is transactions carried out in a matter at the seconds of a moment's notice, either in the form of buying or selling the desired currency pair. These spot type transactions are the most commonly carried out by market participants. This is the actual form of forex transactions.<sup>67</sup> The law is permissible because it is considered cash, whereas two days is considered as an unavoidable settlement process and is an international transaction.<sup>68</sup>
- b. *Options* is a derivative product of forex, giving the right to sell or buy an asset in the form of forex, commodity or stock at a certain price and a certain time. This option has maturity properties. Whereas according to Khotibul Umam, this option transaction is haram, because it contains elements of maisir (speculation).<sup>69</sup>
- c. *Forward transaction*, is a purchase and sale of foreign exchange transactions whose value is set at the present time and is in force for the future, between 2x24 hours and one year. In islamic law, the law is haram, because the price used is the price agreed upon (*muwa'adah*) and the delivery is done in the future, even though the price at the time of

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<sup>66</sup> Agus Wibowo, *Investasi Valuta Asing* (Yogyakarta: Andi Offset, 2017), page. 8.

<sup>67</sup> *Ibid.*,

<sup>68</sup> Khotibul Umam, *Legislasi Fikih Ekonomi dan Penerapannya dalam Produk Perbankan Syariah di Indonesia* (Yogyakarta: BPFE, 2011), page. 127.

<sup>69</sup> *Ibid.*,

delivery is not necessarily the same as the agreed value, unless it is done for an unavoidable need (*lil hajah*).<sup>70</sup>

- d. *Futures* is a form of transaction to buy back or sell a specific currency pair with pre-determined price, in time to come.<sup>71</sup>
- e. *Barter Transaction (Swap)*, which is a combination of buying and reselling the same currency in cash and arrears. in other words, the simultaneous purchase and sale of one currency against another, and different time limits.<sup>72</sup> Islamic law is haram because it contains elements of *maisir* (speculation).<sup>73</sup>
- f. Exchange Traded Funds is the latest derivative product from forex, which is a combination of shares and currencies. the disadvantage is that it cannot be traded 24 hours a day.

### C. Hanson Forex Investing Application

#### 1. Definition of HSB Application

Handal Semesta Berjangka (HSB) is the companies that are specifically engaged in the trading of commodity futures, foreign currencies (forex), energy and stock indexes. HSB has the high integrity and full legality of the Commodity Futures Trading Regulatory Agency (BAPEPTI) of the Ministry of Trade of the Republic of Indonesia and is a member of

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<sup>70</sup> Khotibul Umam, *Legislasi Fikih Ekonomi dan Penerapannya dalam Produk Perbankan Syariah di Indonesia* (Yogyakarta: BPFE, 2011), page. 127.

<sup>71</sup> Agus Wibowo, *Investasi Valuta Asing.....*, page. 8.

<sup>72</sup> Fathurrahman Djamil, *Penerapan Hukum Perjanjian dalam Transaksi di Lembaga Keuangan Syariah* (Jakarta: Sinar Grafika, 2012), page. 249.

<sup>73</sup> Khotibul Umam, *Legislasi Fikih Ekonomi.....*, page. 128.

the stock exchange, Indonesia Commodity and Derivatives Exchange (ICDX), and Indonesia Clearing House (ICH). HSB are corporates closely with a trusted traders who provide real-time prices with high precision and comparative price quotations on the Indonesian financial market.<sup>74</sup>

Handal Semesta Berjangka (HSB) acknown as Broker Hanson provides a mobile app called Hanson Forex Investing. This Hanson application was created intentionally to facilitate trading by its clients. There are five features that can be perceived by traders to the application user.<sup>75</sup>

HSB provides trading applications on smartphones that are sophisticated and innovative because it was developed by experienced developers in various leading Fintech companies in the world. The application, which can be downloaded on the Google Play Store and Apple App Store, provides an all-in-one service where users can register accounts, trade with order execution times in seconds, deposit and withdraw funds, make the right trading decisions with the help of AI Marketwatch, and reading news and analysis. So the application titled HSB is suitable for novice traders who are exploring the world of forex trading.<sup>76</sup>

## 2. Mechanism Forex Transaction of Using The HSB Application

First of all, the currency are used when settling a transaction is USD.

For deposit currency, HSB are uses an IDR with a rate of 1: 12000, the same

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<sup>74</sup> HSB, “Who Are We?”. <https://www.hsb.co.id/tentang/about-us.html>. Accessed on March 2nd, 2020, at 7.57 pm.

<sup>75</sup> Akaibaru, “Aplikasi Hanson Forex Investing, Ini 5 Keistimewaannya”. *Jakarta: Pikiran Trading*, 2018. <https://www.pikirantrader.com/>. Accessed on March 1st, 2020 at 8.45 a.m.

<sup>76</sup> Seputar Forex, “Profil dan Review Broker HSB” <https://www.seputarforex.com/broker/hsb/> Accessed on Desember 29th, 2019.

rate applies when the customers make a withdrawals. With a minimum deposit transactions are used for accounts registered in HSB is 100 US Dollar.<sup>77</sup>

In the forex market, traders can buy or sell currencies. Forex trading mechanism is actually similar to the mechanism of trading other products such as trading on the stock market. If you have experience trading other products, then to learn forex trading is not difficult. The purpose of forex trading is to exchange one currency into another currency with the expectation value of the purchased currency will increase compared to the currency to be sold. Currency exchange rates are ratios of one currency compared to other currencies. As an example the exchange rate of USD / CHF means how many units of US dollar are needed to obtain one unit of Swiss Franc. Or it could also mean how many units of Swiss Franc are needed to get one unit of US dollars. Examples of the exchange rate between the British pound to the US dollar (GBP / USD). The currency to the left of "I" is the base currency (British pound). On the right is the quote currency (US dollars). When buying, the exchange rate shows how many units of the quote currency to be paid for the purchase of Unit I. When selling, the exchange rate shows how many units of the quote currency traders will be obtained when selling one unit of the base currency. A trader will buy a currencies if the value of the base currency will rise against the quote

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<sup>77</sup> HSB, "Q & A - Akun" <https://www.hsb.co.id/edukasi/faq.html/>. Accessed on March 3rd, 2020, at 3.00 a.m.

currency. Otherwise, he would sell a currency when the value of the base currency will fall against the quote currency. If a trader wants to buy the base currency and sell the quote currency, he expects the value of the base currency to rise so that it can sell the base currency at a high price. In other words, the trader will be "Going long" which means buy or sell. If a trader wants to sell the base currency and buy a quote currency, he hopes the base currency will go down so that it can buy the base currency at a low price. This is called "going short" or taking a short position or selling.<sup>78</sup>

Besides, in the HSB application, price of transactions in forex are divided into two types: bid price and ask price. Bid price are always lower than ask price. Bid is the price where the broker is willing to buy the base currency price to be exchanged for the quote currency. The bid is the best price for traders to sell into the market. If a trader wants to sell the currency, then the broker will buy the currency at the bid price. Ask (or can be called offer) is the price where the broker is willing to sell the price of the base currency to obtain a quote currency. Ask is the best price for traders to buy on the market. If a trader wants to buy a currency, then the broker will sell to traders at the ask price. EUR / USD, the bid price of 1.34568, and the ask price of 1.34588. Means that if you sell EUR, the trader will sell euros at the price of 1.34568. If a trader wants to buy EUR, the price to buy euros is 1.34588. While Spread is the difference between the bid price and the ask

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<sup>78</sup> HSB, "Mengenal Cara Kerja Trading di Forex" <https://blog.hsb.co.id/pengetahuan-keuangan/mengenal-cara-kerja-trading-di-forex/>. Accessed on April 18th, 2020, at 2.10 a.m.

price. The ask price is the price offered by the broker if a trader wants to buy one currency. Example: EUR / USD = 1.1051 / 1.1053, the spreads are:  $1.1503 - 1.1501 = 2$  pips.<sup>79</sup>



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<sup>79</sup> *Ibid.*,

### CHAPTER III

#### RESEARCH METHOD

The research method is an effort carried out systematically following the rules of methodology such as systematic, controlled observation and based on existing theories and strengthened by existing symptoms.<sup>80</sup> Research is an academic activity, and as such, the term should be used in a technical sense. According to Clifford Woody, the research comprises defining and redefining problems, formulating hypothesis or suggested solutions; collecting, organizing, and evaluating data; making deductions and reaching conclusions; and at last, carefully testing the findings to determine whether they fit the formulating hypothesis.<sup>81</sup> To collect data related to this research, the author uses several methods, namely:

##### A. Type of Research

This type of research belongs to the category of library research. Library research is studying various reference books and the results of similar previous research which are useful for obtaining a theoretical basis for the problem to be studied.<sup>82</sup> And also in this study is normative empirical, namely research with field data as the main data source, such as the results of interviews and observations. Empirical research is used to analyze the law that is seen as patterned community behavior in people lives that always interacts and relates

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<sup>80</sup> Sukardi, *Metodologi Penelitian Pendidikan, Kompetensi dan Praktiknya* (Jakarta: Bumi Aksara, 2003), page. 4

<sup>81</sup> C.R. Kothari, *Research Methodology, Methods and Techniques (Second Revised Edition)* (New Delhi: New Age International Ltd, 2004), page. 1.

<sup>82</sup> Sarwono Jonathan, *Metode Penelitian Kuantitatif dan Kualitatif* (Yogyakarta: Graha Ilmu, 2006), page. 26.



to social aspects.<sup>83</sup> This research was called empirical research because the authors researched the forex trading investment mechanism in the HSB application. This study aims to examine the application of Islamic norms in positive law and the applicable Islamic Economic Law. Also, to determine the concrete law of the form of Foreign Exchange Trading transactions, whether by the applicable legal rules in Indonesia, such as the Fatwa of MUI regarding buying and selling currency (*Ṣarf*). Therefore this study has criteria that use books, research journals, internet websites, and several other materials that support research related to the object under study. To strengthen the research data, I also use additional data to conduct interviews with the investors and some experts in Islamic economics law, such as lecturers on campus.

## **B. Subject and Object of Research**

The next step taken by the researcher before collecting data is to collect subjects and objects. The research subject is the leading research data source: research subjects who have data about the study variables.<sup>84</sup> According to Suharsimi Arikunto, the research subject is a subject, or a person, where the research variable data is attached and had an issue.<sup>85</sup> Thus, the research subject is a significant position in the research because some data about the variables studied and observed are then processed by the researcher. Suhasini Arikunto also referred that the legal research as the respondent that the parties were used

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<sup>83</sup> Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: PT Raja Grafindo Persada, 2003), page. 43.

<sup>84</sup> Saifuddin Azwar, *Metode Penelitian* (Yogyakarta: Pustaka Pelajar, 2010), page. 34.

<sup>85</sup> Suharsimi Arikunto, *Prosedur Penelitian* (Jakarta: Rhineka Cipta, 2010), page. 116.

as samples for a study. One of the types in the research subject that the author was used is to analyze documents.

The research subjects role is to provide information and responses related to data needed by researchers and provide input to researchers both directly and indirectly. This study's issues are researching and analyzing the legal regulations associated with the Fatwa of DSN-MUI concerning buying currencies.

Meanwhile, the object of research is a problem or issue that is discussed, researched, and investigated in social study. Evaluative research demanded the requirements that must be met, namely the existence of criteria, benchmarks, or standards used to compare the data obtained after the data is processed and is the object's real condition under study.<sup>86</sup> According to Sugiyono, research is an attribute of people, things, or activities with individual variations about what is determined by researchers to be studied and then drawn conclusions.<sup>87</sup> This research is an application of HSB Investing, which is researching how to use applications in the form of online-based trading investment.

### **C. Research Approach**

This research approach was used as the normative-empirical legal research method. Normative legal research is a legal research method conducted

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<sup>86</sup> Suharsimi Arikunto, *Prosedur Penelitian (Suatu Pendekatan Praktik)* (Jakarta: Rhineka Cipta, 2014), page. 36.

<sup>87</sup> Sugiyono, *Metode Penelitian Kuantitatif Kualitatif dan R&D* (Bandung: Alfabeta, 2012), page. 38.

by examining library materials or secondary data.<sup>88</sup> Concerning normative research, this study uses several approaches, namely:

#### 1. Conceptual Approach

This conceptual approach was used to understand the concepts regarding the review of Islamic economic law regarding online-based investment.

#### 2. Analytical Approach

This analysis approach was used to observe something in detail by outlining its constituent components or compiling these components for further study. This research is an in-depth discussion of the contents of written or printed information in the mass media. The available data consists mainly of literature (books, newspapers, tape tapes, Literature/manuscripts). There is a supplementary information or theoretical framework that explains and as a method of approach to the data. Then integrate between domains, and how the relationship with the whole and stated in the research theme. Then the research object's results will be arranged before it is still dark, and after doing the research becomes bright and clear.<sup>89</sup>

### **D. The technique of Collecting Data**

Data collection techniques in this research are interviews and the study of literature. According to Sugiyono, the Technique of Collecting Data is the

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<sup>88</sup> Soerjono Soekanto and Sri Mamudy, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, (Jakarta: Rajawali Press, 2001), page. 13-14.

<sup>89</sup> Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif dan R&D* (Bandung: Alfabeta, 2016), page. 264.

most critical step in research because the primary purpose is to get data.<sup>90</sup> A qualitative approach to research is concerned with the subjective assessment of attitudes, opinions, and behavior. Research in such a situation is a function of the researcher's insights and impressions. Such an approach to research generates results either in non-quantitative form or in the state, not subject to rigorous quantitative analysis. Generally, Sugiyono has used the techniques of focus group interviews, projective techniques, and depth interviews.<sup>91</sup> In accordance with Sugiyono, the primary data collection techniques are participant observation, in-depth interviews of documentation studies, and a combination of the three or triangulation.<sup>92</sup> The explanation is as follows:

- a. The interviews can be conducted via e-mail, telephone, or in person. There are advantages and disadvantages to each method. E-mail interviews are convenient; interviewees can respond at their convenience. They also provide you and the interviewer with a written record of what was asked and answered.<sup>93</sup> This research was conducted with the users of HSB Forex Investment. It also does several legalities licensing in OJK (Otoritas Jasa Keuangan) about some Forex Brokers who were secured. To do several legalities are by telephone surveys which are used as a survey technique for information and discerning opinion, which may also be used as a follow-up

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<sup>90</sup> *Ibid.*, page. 401.

<sup>91</sup> C.R. Kothari, *Research Methodology, Methods and Techniques...*, page. 5.

<sup>92</sup> Sugiyono, *Metode Penelitian Kombinasi (Mixed Methods)* (Bandung: Alfabeta, 2017), page. 382-383.

<sup>93</sup> Carol Ellison, *McGraw-Hill's Concise Guide to Writing Research Papers* (United State: The McGraw-Hill Companies, 2010), page. 67.

of the questionnaire.<sup>94</sup> In this study, the authors conducted an unstructured interview with Ms. Amy as OJK Consumer Services and also with a few users of HSB Investing by telephone surveys.<sup>95</sup>

- b. Documentation, the origin of the word document, means written goods. In carrying out the documentation method, researchers investigate written objects such as books, magazines, papers, regulations, meeting minutes, daily notes, etc.<sup>96</sup> Documentation is collected by studying some data about sharia economic law, and also about the online investment or online foreign exchange, reading some literature about the research, learning, and analyzing. The analyzing data are related to sharia economic law, research results, case findings, scientific journals, several articles regarding the review of Sharia Economic Laws on Forex Trading in Indonesia. The technique of data collection was done by processing the data from the library and then processing it into good data

#### **E. Source of Data**

Based on the data sources, data collection can use primary sources and secondary sources. According to Sugiyono, primary sources are data sources that directly provide data to collectors, and secondary sources do not now provide data to datacollectors.<sup>97</sup>

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<sup>94</sup> C.R. Kothari, *Research Methodology, Methods and Techniques...*, page. 7.

<sup>95</sup> Unstructured interviews are independent interviews where the parties do not use interview guidelines that have been structured systematically and completely for data collection. Referring to Sugiyono, *Metode Penelitian*, page. 140.

<sup>96</sup> Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktik* (Jakarta: Rhineka Cipta, 2014), page. 201.

<sup>97</sup> Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif...*, page. 402.

## 1. Primary Source

According to Sugiyono, the primary source is a data source that directly provided the collector's data.<sup>98</sup>

That was data obtained directly from the sources or written by someone who saw, did the experiences, and some of the interviews about how to use the online forex trading within the application of HSB Forex Investing. The primary source was used in this research mainly comes from the android application called HSB Forex Investing, HSB website, and some data from four users of the HSB Forex Investing mobile application, also doing interviews between the researchers with several administrators of OJK Purwokerto.

Respondents in this study are the HSB application user by conducting several interviews regarding how to use the HSB application. And doing some interviews from OJK related to any investment application that has been registered and has regulations in Indonesia was online via google mail.

## 2. Secondary source

According to Sugiyono, a secondary source does not directly provide the data to the data collector. For example, through the people or documents.<sup>99</sup> Secondary data is data collected or research results from other parties. Data from books collected by the author, which are considered

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<sup>98</sup> Sugiyono, *Metode Penelitian Kombinasi (Mixed Methods)* (Bandung: Alfabeta, 2017), page. 187.

<sup>99</sup> *Ibid.*,

essential to the research subject, are validated by the secondary data sources of this research. Some come from Fatwa DSN-MUI No. 28 About Sale of Buying Currencies (*Al-Şarf*), *Forex for Beginners: How to Make Money in Forex Trading (Currency Trading Strategies)* by James Stuart, *Forex: The Simple Strategy on Trading Currency Successfully (Step by step Guide on Building Wealth Trading on the Foreign Exchange Market)* by Tim Harris, *Forex for Beginners* by Anna Coulling, *Forex Exchange and Money Markets* by Bob Steiner, and *Investasi Secara Benar (Mengungkap Rahasia Forex)* by Frento T. Suharto.

In the meantime the document used in this study is the DSN MUI fatwa on the sale of purchasing currencies, the document attached to the list of non-Bappebti approved websites or commodity futures trading organizations, and the list of illegal investment entities or peer-to-peer landing lists that are not OJK registered or licensed.

#### **F. Technique of Analyzing Data**

This data analysis method was done using the inductive method, where this method was used to analyze qualitative data. Data analysis is a continuation of data processing.<sup>100</sup> Data were obtained from various sources in qualitative research, using multiple data collection techniques (triangulation), and carried out continuously until the data is saturated. The data obtained are generally qualitative, so that the data analysis technique was used has no clear pattern.

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<sup>100</sup> Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktik* (Jakarta: Rhineka Cipta, 2014), page. 54.

Therefore, it often has difficulty in performing the analysis. As stated by Miles and Huberman, “The most serious and central difficulty in the use of qualitative data is that methods of analysis are not well formulated.”<sup>101</sup> In qualitative research, the technique of analyzing data more is done simultaneously as data collection. According to Miles and Huberman, the analysis of qualitative data has been done interactively through data reduction, display of data, and data verification.<sup>102</sup>

The data analysis part of an integrative or critical review is not particularly developed according to a specific standard (Whittemore & Knafl, 2005). However, while there is no strict standard, the general aim of data analysis in an integrative review is to critically analyze and examine the literature and the main ideas and relationships of an issue. It should be noted that this requires researchers to have advanced skills, such as superior conceptual thinking, as being transparent and documenting the process of analysis.<sup>103</sup>

This data analysis is done by explaining from the data towards a theory about a law obtained empirically in a particular field.<sup>104</sup> This data is in the form of data from previous studies that are comprehensive, a book that explained the

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<sup>101</sup> Sugiyono, *Metode Penelitian Kombinasi (Mixed Methods)* (Bandung: Penerbit Alfabeta, 2017), page. 331-332.

<sup>102</sup> *Ibid.*, page. 383.

<sup>103</sup> Hannah Snyder, “Literature Review As A Research Methodology: An Overview and Guidelines”. *ElSevier: Journal of Business Research*, Vol. 104, No. 37, 2019, 333-339. [www.researchgate.com](http://www.researchgate.com)

<sup>104</sup> Sugiyono, *Metode Penelitian Pendidikan Pendekatan Kuantitatif, Kualitatif, dan R&D* (Bandung: Alfabeta, 2018), page. 80-81.



field of forex and the applications, and the theory was interpreted by doing some of the findings that had been there then drawn into research.



**CHAPTER IV**

**ANALYSIS OF FOREX TRADING WITH THE HSB INVESTING**

**APPLICATION ACCORDING TO SHARIA ECONOMIC LAW**

**A. Legal Regulations About Forex Trading**

Before discussing how to invest in forex through the HSB Investment application, there must be an explanation of the origins of forex and the legal rules that apply in Indonesia regarding forex. Several regulations govern foreign exchange, starting from laws, government regulations, the supreme court, local regulations, and OJK regulations. The rules governing foreign exchange investment specifically include:

1. UU No. 32/1997 concerning Commodity Futures Trading

Based on UU No. 32/1997, the brokerage is a business entity that carries out trading activities of commodity future based on a Futures Contract as a mandate of the customer by withdrawing a certain amount of money as a margin to guarantee the transaction.<sup>105</sup> Based on these regulations, Futures Exchange activities can only carry out by business entities in the form of Limited Liability Companies that have obtained a business license from Bappebti.<sup>106</sup>

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<sup>105</sup> Anonim, “Article 1 Number 12 Law of The Republic Indonesia Number 32 of 1997 On Commodity Futures Trading” <https://www.bpkp.go.id>, accessed on September 17, 2020.

<sup>106</sup> Anonim, “Article 1 Section 3 Government Regulation Of The Republic Indonesia Number 9 of 1999 On Administration Of Commodity Futures Trading” <https://itjen.kemenag.go.id>, Accessed on September 17, 2020.

Based on these regulations, Bappebti provides instructions following the development of daily activities in the market so that commodity trading activities based on Futures Contracts on the Futures Exchange can carry out regularly, legally, efficiently, and effectively. The perpetrators need to be foster through various training to increase sufficient knowledge and expertise, either independently or in collaboration with various other institutions. All market participants were expected to have passed the knowledge test of Commodities and Futures Trading.<sup>107</sup>

Requirements for candidates for the management of the Futures Exchange and Clearing House for Futures include:

- a. Have good character and morals;
- b. Have expertise in Futures Trading;
- c. Have never been convicted of a criminal act;
- d. Have never committed a disgraceful act in the field of Futures Trading;
- e. Have never committed material violations of the provisions of this Law and/or it is implementing regulations.

The procedure for nominating members of the board of commissioners and directors of the Futures Exchange and Clearing House is as follows:

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<sup>107</sup> Patrialis Akbar, "Penjelasan atas Undang-undang Republik Indonesia Nomor 32 Tahun 1997 tentang Perdagangan Berjangka Komoditi" <https://ngada.org>, Accessed on September 17, 2020.

- a. Candidates for commissioners or directors submitted to Bappebti to be investigated in accordance with the requirements established by Bappebti.
  - b. If the proposed member of the board of commissioners or directors has met the requirements, Bappebti is obliged to give its approval. If the results of the study Bappebti that the candidate in question does not meet the requirements, Bappebti rejects the nomination.
  - c. Candidates for commissioners or directors, which has been approved by Bappebti selected and appointed by the General Meeting of Shareholders.<sup>108</sup>
2. UU No. 10/2011 concerning Amendment To UU No 32/1997 about Commodity Futures Trade

The Law Number 10 of 2011 is stipulated as the basis for commodity futures trading policies replacing several provisions in Law Number 32 of 1997 concerning Commodity Futures Trading that is no longer in line with the implementation of commodity futures trading so that changes need to be made.<sup>109</sup>

In this case, the authority futures exchanges are include:

- a. Evaluate and test the qualifications of a candidate member and accept or reject the candidate to become a member of the Futures Exchange

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<sup>108</sup> *Ibid.*,

<sup>109</sup> Anonymous, "Law of The Republic Indonesia Number 10 of 2011 On Commodity Futures Trading" <https://bappebti.go.id>, Accessed on September 17, 2020.

- b. Regulate and establish the pricing system settlement with Futures Clearing House
- c. Stipulating minimum financial and reporting requirements for Futures Exchange Members
- d. To carry out activity supervision as well as the examination of the books and records of the Futures Exchange Member periodically and whenever necessary
- e. Set membership fees and other fees
- f. Do take actions deemed necessary to secure transactions for Futures Contracts, Sharia Derivative Contracts, or other Derivative Contracts, including preventing the possibility of price manipulation
- g. Establish a mechanism for the settlement of complaints and disputes relating to transactions in Futures Contracts, Sharia Derivative Contracts, or other Derivative Contracts;
- h. Take a step to ensure the proper implementation of the Futures Contract, Sharia Derivative Contract, or other Derivative Contract transaction mechanisms and report them to Bappebti
- i. Obtain the necessary information from the Futures Clearing House relates to transactions conducted by Futures Clearing Members, including transactions of Alternative Trading System Participating Traders and Brokers.<sup>110</sup>

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<sup>110</sup> Patrialis Akbar, "Penjelasan Undang-Undang Nomor 10 Tahun 2011 dalam Perubahan atas Undang-undang Republik Indonesia Nomor 32 Tahun 1997 tentang Perdagangan Berjangka Komoditi" <https://ngada.org>, Accessed on September 17, 2020.

## **B. General Review of HSB Investing Application**

### **1. About HSB Investing Application**

Handel Semesta Berjangka is a fintech company in the Commodity Futures Trading sector of Indonesia. It has been developing since March 2018. It has developed and launched an all-in-one mobile trading platform. The platform was developed by PT Handal Semesta Berjangka and has many features in one application, where users can complete all transaction processes from opening an account, making transactions, to withdrawing funds on the HSB Trader platform.

HSB Trader also contains a lot of information, including daily strategy references and domestic and international economic news which are updated every day as a reference for customers. In addition, there is special education for prospective novice customers to improve their ability to transact well. The HSB application can be downloaded on the app store or Google Play, until now the application has been downloaded more than one million times. The HSB Trader platform integrates all functions in one application to make deposits, transactions, and withdrawals to help customers reduce a lot of steps, save time, and facilitate customers to enter the market on time and take profit opportunities.<sup>111</sup>

In 2020, HSB is proud to cut commissions to 0 USD - the lowest commission charged in Indonesia. With 0 USD commission reduction,

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<sup>111</sup> Iwan Supriyatna and Mohammad Fadil Djailani, "Aplikasi HSB Permudah Trading Forex Hingga Edukasi Seputar Ekonomi", *www.suara.com*, Accessed on October 22nd, 2020.

clients can trade more freely without being burdened by commission calculations.

The legality of HSB broker is guaranteed by the following series of licenses:

- a) Badan Pengawas Perdagangan Berjangka Komoditi:  
001/BAPPEBTI/SI/05/2018, 001/BAPPEBTI/SP-SPA/05/2018,  
03/BAPPEBTIKEP-PBK/9/2038
- b) Indonesia Commodity and Derivatives Exchange:  
183/SPKB/ICDX/DIR/IV/2018
- c) Indonesia Clearing House: 159/SPKK/ICH-HSB/DIR/IV/2018
- d) Membership Association Institute 1291/ASPEBTINDO/ANG-  
B/6/2018<sup>112</sup>

## 2. The Ways of Forex Trading using HSB Investing Application

- 1) Open the HSB Investment application
- 2) Move to market page move to the market page
- 3) Click "Popular Products" to see product options, include forex, indices, energy etc. After that, select the desired product
- 4) Click "Button List". To see the price of sell/buy/spread
- 5) Then, back to "Button List" to return to the next menu

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<sup>112</sup> Seputar Forex, "Profil dan Review Broker HSB" <https://www.seputarforex.com/>  
Accessed on September 19<sup>th</sup>, 2020

- 6) Choose the currency pairs who wants. Ex, choose USD/JPY. After that, a price detail page will appears.
- 7) Click the sell button / buy according to your wishes. For example, click sell. On the next page, there are two selections between, market, buying and selling/limit stock.
- 8) Select available lot. Can fill manually / choose the lot option below that has been provided.
- 9) Specify the Take Profit (TP) / Stop Loss (SL). Or input the value of SL/TP
- 10) Once completed, click "Position Sell/Buy". New order page will appear that contains information related to the order.
- 11) Click "Done" to return to the previous page.
- 12) Select a currencies pair.
- 13) Then, click button of Sell/Buy. For example, click buy.
- 14) The next step, press limit / stop then select the type of order. Determine the type, do you choose buy / sell based on the type of limit / stop order. then select the type of order.
- 15) Click "Limit Order" to select the order type.
- 16) Next, input the price of buy/sell. Specify at what price you want to place a pending order, the price can be changed manually. Input the amount of lot manually / choose the lot options below.
- 17) Specify your trading period.
- 18) Choose day/week. As example, choose day.



- 19) After that, click TP/LS. Determine the Take Profit/Stop Loss by entering the value of TP/SL.
- 20) Choose Buy.
- 21) After done, a new order pages will appear containing your order. Then click 'done' to return to the previous page.
- 22) Click the currency in which the plan will be buy/sell.
- 23) Then, click the information button on the top right for price details.
- 24) After that, in the contract specification page, you can see product descriptions/price details starting from basic information, trading terms, margin levels, and trading schedules.
- 25) And then, click 'close' on the top right.
- 26) Move to the page position at the bottom menu. On the position page, you can see the current transaction menu, besides that, you can change the page structure by clicking the filter button above and then clicking filter.
- 27) Then click 'filter'. The filter sections is divided into two, namely the direction and the name of the symbol. In the direction option, you can only see the currently active sell / buy-side. From the symbol name option, you can also select which currency is actively traded. (Select the selected currency).
- 28) Then, click 'Sort'. Just like as 'filters'. 'Sort' can also select the position that you open. While the price is low/high. This feature can make it easier to find the position that is being done.

29) Click “Pending”. in the pending section, you can see the currently pending transactions

30) Finally, click “History”. In the history section, you can see all types of transactions that you have done.

### 3. Advantages and Disadvantages of HSB Forex Investing

a. The Advantages include, are

- 1) Accompanied by policies
- 2) Free of manipulation or monopoly.

The gold futures market prohibits financial institutions such as banks and a foundation from entering the market. They may only hedge for the future and are prohibited from outside hedging. SFC and futures trading are closely monitored.

- 3) Profit opportunities can be up to 100%.

There is a mechanism for raising and falling prices and a buying mechanism during an uptrend and selling during a downtrend, that is, when the market trend is expected to fall. First sell at the current price, wait for the price to fall to the target position, then execute the same number of buy options when closing the position. A way of benefiting from price differences.

- 4) Enactment of Segregated Accounts.

An account of HSB is completely separate, so it does not interfere with the company's operational funds. The safety of trader's fund is also more guaranteed because it has deposited in an account in the name of the company, not on behalf of an individual

- 5) No cheating by the system.

Customers can check all their transactions in the System of CITRA (Clearing Information of Trade), also managed by Indonesia Clearing House (ICH) and Indonesia Commodity and Derivatives Exchange (ICDX).

6) Lucky Trader Lottery.

Periodically, the HSB broker are holds a Lucky Trader raffle. It has made a minimum deposit of 100 USD and trading 0.2 lots, a trader can automatically enter the lottery. This HSB event is distributed a cash prizes totaling thousands of USD which were sent directly to customer accounts.<sup>113</sup>

b. The disadvantages are as follows:

- 1) Limited trading time. Only four hours a day. Because it is linked to international gold prices, it often causes the daily limit to be choked up by time (not 24 hours).
- 2) High risk. If the trader could make \$ 2000 profit, traders might be able to make \$ 2000 profit.
- 3) The investment platform is hard to find. Futures companies almost never make advertisements and rarely work with well-known banks.<sup>114</sup>

While, the excellences of forex trading with the HSB application<sup>115</sup>, namely:

- 1) Two-way transaction, buy and sell profitable
- 2) Two-way trading, rising or falling prices can take profit.
- 3) Trading on margin / leverage, investing with small capital.
- 4) Trading time 24 hours, day and night.
- 5) The time of the forex market.

Based on the statement given by Achmad Zam, as users of the application of *HSB Investment*, i.e.:

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<sup>113</sup> Calvia, "Review Broker HSB", <https://www.inbiza.com/> Accessed on May 5<sup>th</sup>, 2020

<sup>114</sup> HSB, "Kelebihan dan Kekurangan Investasi Produk Berjangka", <https://blog.hsb.co.id/> Accessed on September 1st, 2020.

<sup>115</sup> HSB, "Keunggulan Trading Forex", <https://hsb.co.id/> Accessed on September 1st, 2020.

To perform forex trading in the HSB application, traders only need to spend a minimum of 100 \$ for the initial deposit. After that, traders are immediately directed by marketing from the HSB in the form of 24-hour customer service available on the HSB feature.<sup>116</sup>

While the advantages and disadvantages of the HSB Investment application, which are:

Meanwhile, Based on the statement about the advantages and disadvantages given by Ridho Satrio, as users of the application of *HSB Investment* also a local trader, i.e.:

The advantages are easy to understand and 24-hour Customer Care. Low spreads. And also, HSB is registered with Bappebti, with a fairly small Leverage of 1: 500. So it is easy to use and easy to make trading transactions. Weaknesses: Not integrated with external trading server platforms, such as MT4 / 5 (Metatrader 4/5), ECN, TRADING VIEW. And the minimum deposit must be \$ 100, Not integrated server platform Trading outside. Only rely on HSB Internal Graphics.<sup>117</sup>

### C. The Use of HSB Investing Application to Invest Forex

#### 1. The Initial Steps in Making a Forex Transaction

In conducting the foreign exchange transactions traders usually carried out procedures as below:

- a. To perform an analysis of the direction of prices or exchange rates in the market.

The first step was taken in a trading patterned transaction is to conduct an analysis of price movements or foreign exchange rates. To

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<sup>116</sup> Interview with Achmad Zam as a user of HSB Application on Thursday, September 24, 2020.

<sup>117</sup> Interview with Ridho Satrio as a user of HSB Application on Thursday, September 24, 2020.

estimated the direction of this market price, there are two approaches that can be used to estimate foreign exchange rates in the future are:<sup>118</sup>

b. The Fundamental Analysis

The fundamental analysis were emphasizes to analysis in estimating price movements or exchange rates by predicting economic fundamental factors that are seen to influence the direction of future price movements or foreign exchange rates, such as interest rates, inflation, gross domestic product, gross national product, etc.

c. The Technical Analysis

The technical analysis were focuses on the analysis of price movements or foreign exchange rates by paying attention to past exchange rate movements. Example: using the website of forex markets.

d. Determine the target exchange rate to open a position, the profit target was achieved, the target loss that is ready to be accepted.

After estimated the direction of the movement of foreign exchange rates in the future, then determine the price or what exchange rate will open a position for trading, determine how much profit will be achieved through the transaction, as well as losses that can be received if it turns out the foreign exchange rate moves in the direction undesirable.

e. Open position

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<sup>118</sup> Heli Charisma, *Mengenal Valuta Asing* (Yogyakarta: Gajah Mada University Press, 2005), page. 80-83.

Opening a position for trading purposes means carried out one or a group of transactions to create a position so that a price or foreign exchange rate moves up it will result in a gain or loss.

When the prices or foreign exchange rate in the future were expected to *rise*, then the trader should open a *long position*. In this case can be done by foreign exchange transactions of *buy*.

When the prices or foreign exchange rate in the future were expected to *down*, then the trader should open a *short position*. In this case can be done by foreign exchange transactions of *sell*.

f. Profit taking order and put a stop loss

Stop loss order can be interpreted to ask other parties to oversee our position if it has reached a certain price, so the losses that might arise have reached the maximum limit that we can accept. then they will close our position so that our position becomes a square.

Meanwhile, profit taking orders can be interpreted as asking other parties to oversee our position if it has reached a certain price, so that the benefits that can be taken have reached the desired target then they will close our position so that our position is square.

g. Squaring or Close a Position

Squaring or close a position is an action to close a position that has been built so that the final result in the form of profit or loss can be realized. With profit-taking orders, closing a position can be carried out

by those who oversee the position. while if has no profit taking orders, then closing the position or squaring must be done alone.

Investors can chooses to sell or buy currencies according to price trends. For example, if your compilation predicts that the price of EUR-USD will rise, investors can choose to buy EUR-USD. If your prediction is correct and the EUR-USD price rises, then you will earn the profit.<sup>119</sup>

In the scope of foreign exchange trading there are two types of transactions. The first way is to do the offline transactions (conventional) over the phone or come directly to the trading floor. Investors must have a minimum capital of between 15 million and 30 million rupiahs. while the second method is done online via the internet. where the minimum capital required is smaller than the offline system, which is around 1 million rupiahs to 5 million rupiahs because it uses margin as collateral for transactions with a contract value and lowers initial margin when compared to the offline system.<sup>120</sup>

In the conducting of trading forex motives, traders are usually carry out the following procedures, as bellows<sup>121</sup>:

- 1) Analyzing the direction of prices or the exchange rate in the market.
- 2) Detemine the target exchange rate to open a position, the profit target achieved, the target loss that is ready to be accepted.

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<sup>119</sup> HSB, "Trading Forex: Bagaimana cara Investasi Forex", <https://www.hsb.co.id/>, Accessed on May 22th, 2020, at 01.00 a.m.

<sup>120</sup> Joko Salim, *Betting Forex (Investasi Lebih Kecil untuk Menghasilkan Untung Lebih Besar Dibanding Real Forex)* (Jakarta: Elex Media Komputindo, 2009), page. 3.

<sup>121</sup> Heli Charisma Berlianta, *Mengenal Valuta Asing* (Yogyakarta: Gadjah Mada University Press, 2005), page. 80-83.

- 3) Open the position
- 4) Installing stop loss orders and profit taking orders
- 5) Squaring or closing the position.

Squaring or closing the position are the act of closing the position that has been built so that the final outcome in the form of profits and losses can be realized.

Based on *Frento Trading Rule*, written by Frento T. Suharto. He suggested that in choosing only certain currency pairs, such as GBP/USD or EUR/USD, which have such fantastic movements with high volatility and have a large range of movements compared to other currency pairs.<sup>122</sup>

There are several tips of way to play forex in order to avoids the greater losses. Indeed, there is no one can guarantee whether it is profit or lose when trading. But it does not mean that a Fundamental analysis and technical analysis need not be done. Considering the currency movements continue to run in real-time and unpredictable. Here are some basic tips to avoid greater losses in playing forex, viz:<sup>123</sup>

- 1) Always put *stop loss* at the time of the order. In case to avoid greater losses

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<sup>122</sup> Frento T. Suharto, *Investasi Secara Benar: Mengungkap Rahasia Forex* (Jakarta: Elex Media Komputindo, 2016), page. 14.

<sup>123</sup> *Ibid.*, page. 349-350.



- 2) Before taking order, pay attention to the latest news releases / announcements regarding to the forex market. As a reference for fundamental analysis, can be seen on the site [www.forexfactory.com](http://www.forexfactory.com)
- 3) Do not ever order (enter the market) exceeds 20% of capital, because the rest can be used to hold losses when the currency moves in the opposite direction mounted.
- 4) Play in the currency that has the lowest spread (difference in selling/buying price). for example the euro currency with US dollars (EUR/USD) the difference is 3 points/lot. its function is to maximize profit and minimize *loss*.
- 5) Do not be too trusting and relying on charts or graphs, because it can happen gap (drastic movement, can suddenly rise or fall).
- 6) Preferably using an indicator chart setting the time frame / 15 min scale. Usually when the market releases around that time there was a sign of movement.
- 7) Also, pay attention to the movement of other countries' currencies. For example, when trading between Eur / USD, see also USD / CHF. This is meant as a comparison, so if they both move the same, then we don't go against the direction of the market.

## 2. The Mechanism of Forex Trading Investment Through the HSB

### Application

Basically, forex trading is the same way as buying and selling in general. If in regular trading there are buyers and sellers, both forex trading also requires buyers and sellers. The only difference is located in the meeting that takes place between the seller and the buyer. In forex trading, buyers and sellers never have a physical meeting in person and there is no physical delivery either. All of these activities are brokered by arbitration institutions which you often know as Brokers. Brokerage companies or brokers will be a gathering place for transactions carried out in retail by investors who are under it to be forwarded to the market or stock exchange. The market or exchange is a meeting place for sellers and buyers make transactions. Another language that is often used is the market, which, if translated into Indonesian, becomes a market. So the stock exchange and the market are the same three terms, namely the meeting place of sellers and buyers.

Trading is basically like a business in general, where the customers can buy and sell foreign currencies only through the application. Trading transactions can be done anytime and anywhere. Then, the profit of trading can be obtained from the difference between the price movement. In a fairly short time, traders can get a chance to profit from the transaction.

The HSB Investment application is an application used for trading. Where the customers can buy and sell online activity. To get benefit has come from the difference in price movements, the goods were traded by HSB are not physical goods but the value of the goods. Products traded are

Forex (foreign currency), commodities (gold, silver, and oil), and index stocks. The Customers can take a Sell or Buy position according to the estimated future price movements to get a profit.

Stages of joining the HSB application:

- a) Customers must INSTALL the HSB application, then register the account. HSB provides two types of accounts, namely demo and real.
- b) Register for a DEMO ACCOUNT is an account that trader was prepared for free which is useful for learning about trading.
- c) Register for REAL ACCOUNTS.
- d) DEPOSIT (Minimum \$ 200 or equivalent to Rp. 2,400,000) as initial capital for real trading. So that when profit has come, it can be withdrawn to the account.<sup>124</sup>

In the HSB Investing application, there are three analyzes for investing in foreign exchange, namely:

#### 1) Fundamental Analysis

Fundamental analysis is an analysis based on economic, political, and security situations and conditions globally or regionally which differ depending on the country of origin of the Stock Index exchange, companies that issue shares, or countries whose currencies are traded.

In HSB Investing Application, the fundamental analysis has used is the latest economic news.

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<sup>124</sup> Interview with Fathoni as a Customer Service of HSB Application on Tuesday, November 3<sup>rd</sup>, 2020.

## 2) Technical Analysis

Technical Analysis is the main weapon for everyone who wants to get benefit from trading activities in the short term. Therefore, stock trading platforms are usually equipped with the best and most popular types of technical indicators. In HSB Investing Application, the technical analysis has used is by looking at movements in the market and trading plan (strategy).

## 3) Market Analysis

Market analysis is an attempt by forex traders to find out current market conditions and determine whether to buy or sell a currency pair at a time. In the HSB application, market analysis has used are based on the trend of price movements and price charts (investment opportunities).

### **3. Analysis of Forex Trading Investment System in the HSB Investing Application from the Perspective of Sharia Economic Law**

In determining halal or haram in Islam requires a very broad perspective, including in the world of trading. Whatever it is that is not in accordance with Islamic Shari'a would definitely be something that is not true and is forbidden to do. A Fiqh expert named Prof. Drs. Masjfuk Zuhdi stated that foreign exchange trading in Islam is lawfully legal because forex trading is a global necessity. He made his statement based on the hadith which reads the following:

حَدَّثَنَا أَبُو كُرَيْبٍ أَنْبَأَنَا أَبُو أُسَامَةَ عَنْ عُبَيْدِ اللَّهِ بْنِ عُمَرَ عَنْ أَبِي الزِّنَادِ عَنِ الْأَعْرَجِ عَنْ أَبِي هُرَيْرَةَ قَالَ سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْغَرْرِ وَبَيْعِ الْخِصَاةِ قَالَ وَفِي الْبَابِ عَنْ ابْنِ عُمَرَ وَابْنِ عَبَّاسٍ وَأَبِي سَعِيدٍ وَأَنْسٍ قَالَ أَبُو عِيسَى حَدِيثُ أَبِي هُرَيْرَةَ حَدِيثٌ حَسَنٌ صَحِيحٌ وَالْعَمَلُ عَلَى هَذَا الْحَدِيثِ عِنْدَ أَهْلِ الْعِلْمِ كَرِهُوا بَيْعَ الْغَرْرِ قَالَ الشَّافِعِيُّ وَمَنْ بَيَّعَ الْغَرْرَ بَيْعَ السَّمَكِ فِي الْمَاءِ وَبَيْعَ الْعَبْدِ الْأَبْقَى وَبَيْعَ الطَّيْرِ فِي السَّمَاءِ وَنَحْوُ ذَلِكَ مِنَ الْبُيُوعِ وَمَعْنَى بَيْعِ الْخِصَاةِ أَنْ يَقُولَ الْبَائِعُ لِلْمُشْتَرِي إِذَا نَبَذْتُ إِلَيْكَ بِالْخِصَاةِ فَقَدْ وَجَبَ الْبَيْعُ فِيمَا بَيْنِي وَبَيْنَكَ وَهَذَا شَبِيهُ بَيْعِ الْمُنَابَذَةِ وَكَانَ هَذَا مِنْ بُيُوعِ أَهْلِ الْجَاهِلِيَّةِ

In this case there is a similar hadith from Ibn Umar, Ibn Abbas, Abu Sa'id and Anas. Abu Isa said; The Abu Hurairah Hadith is a hasan saheeh hadeeth and is a guideline of charity according to the scholars, they condemn the sale and purchase that contains elements of fraud. Asy Syafi'i said; Including buying and selling that contains elements of fraud is buying and selling fish in the water, buying and selling a slave who ran away, buying and selling birds in the sky and buying and selling like that. The purpose of buying and selling using pebbles is that a seller tells the buyer; If I throw this pebble on you, then a contract of sale must take place between me and you. This is similar to buying and selling munabadzah which is one of the sale and purchase of ignorance.<sup>125</sup>

In the rules of sale and purchase, a seller must explain in detail the goods he will sell, including the good and bad. Just like with forex trading, when you are dealing with a legal forex broker, then you will be explained everything about forex trading including the risks. And also done with the agreement of both parties. As explained earlier in the Quran Surah al-Baqarah, that is:

*"... And Allah has justified the sale and purchase and forbid usury ..."*  
(Q.S. Al- Baqarah: 283)

<sup>125</sup> Hadits Jami' At-Tirmidzi Number 1151 - Kitab Jual beli

There is absolutely no element of usury in forex trading, it is different when lending money to people by giving an interest. And now there are quite a lot of forex brokers that provide Islamic accounts.

Many Muslims were doubted the legality (halal) of the practice of forex trading. In this cases, forex is included in futures trading. While the fuqaha (experts in Islamic jurisprudence) interpreted the tradition in a sacred manner. At any point is, every practice of buying and selling goods/stuff that does not have goods at the time of the legal contract is haram. This interpretation makes it difficult for Islamic jurisprudence to met the demands of an evolving age with its changes.

According to the BIS (Bank for International Settlements) or the central banks of the world, the average velocity of money in the world foreign exchange trades per day in the OTC (over the counter) is estimated at 3.21 trillion dollars. The large amounts will certainly affect the economic conditions of each country involved. In principle muamalah (Islamic Economy), currency trading is called *Al-Şarf* which is a name of transaction/sale price values *al-muthlaqah* (all kinds of price value) with each other.<sup>126</sup>

Basically, buying or selling is allowed to meet the requirements; no element of riba, gambling, gharar, etc. Indeed, matters related to the problem muamalah is permissible to found the proposition which forbids it, is associated with foreign exchange trading, Islam also has been set. In case of buying or

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<sup>126</sup> DR. Ahmad Hasan, "Currency Islam, Assessing Comprehensive Financial System Islamic" translation of the book "*Al-Auraq Al-Naqdiyah fi Al-Iqtishad Al-Islamy (Qimatuha wa Ahkamuha)*" by Saifurrahman Barito and Zulfakar Ali, (Jakarta: PT. King Grafindo Persada, 2005), page. 240.

selling a currency, it must be made in cash in place, there was nothing outstanding. It is described in a hadith the Prophet Shalallohu 'alaihi wasallam on the history of Imam Muslim:

الدَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالْبُرُّ بِالْبُرِّ وَالشَّعِيرُ بِالشَّعِيرِ وَالتَّمْرُ بِالتَّمْرِ وَالْمِلْحُ بِالْمِلْحِ مِثْلًا بِمِثْلِ يَدًا  
يَبْدُ فَمَنْ زَادَ أَوْ اسْتَزَادَ فَقَدْ أَزَى الْأَخِذُ وَالْمُعْطَى فِيهِ سَوَاءٌ

*If gold is sold with gold, silver sold by silver, wheat is sold with grain, sya'ir (a type of wheat) sold by sya'ir, dates sold by dates, and salt are sold with salt, then the amount (dose or scales) must be the same and paid in cash (cash). Whoever add or ask for extra, then he has committed usury. The man who took the extra and the person who gave him both are in sin. (Muslim No. 1584)*

As far as the author understanding, there are three things that the writer should be observed to be used as an excuse to establish laws of online forex trading transactions, namely: Transaction falls within the category of Futures (futures market), the system margin, and short selling. Trading futures is trading without submission (non-delivery), so that the people doing online forex trading transactions never received the goods (money) transacted at that time. While the margin is the life blood of online forex trading transactions. Margin in forex trading is a security deposit that is deposited into the brokerage firm (broker) so that investors can make transactions through a brokerage firm (broker) is. as the author described in that big margin/collateral depends on the value of the contract (contract size) of the trade.

The contract value was 100,000 and 10,000 common and to be able to follow the transaction in accordance with the size of the contract value, the investor / trader to deposit margin transaction is called initial margin of 1% of the contract value. For example, for a contract value of USD100,000 then his

initial margin is USD1,000 (1% x USD100,000) for large contracts and USD100 for a small contract. So with only a \$ 100 deposit as much money as a trader can trade by the amount of \$ 10,000 coming from money lent by the forex broker.<sup>127</sup>

Therefore, a number of famous classical scholars with a brilliant idea opposed to the narrow interpretation impressed. Ibn al-Qayyim argues, that "is it not true, that selling goods which does not look the stuff are prohibited". Both in the Qur'an, hadith, and fatwas of sahabat, the banned does not exist. in the Sunnah of the prophet there is only a "prohibition on selling some items that do not yet exist", as is the prohibition on some items that already existed at the time of the contract.

According to Dr. Syamsul Anwar, from IAIN SUKA Yogyakarta explained the opinion of Ibn Al-Qayyim that, Causa legit or *ilat* prohibition is not the presence or absence of the goods, but *garār*.<sup>128</sup>

In terms of Fiqh, *garār* is the ignorance of the consequences of a case, an event / event in a trade or sale and purchase transaction, or the obscurity between good and bad.<sup>129</sup> *Garār* is related to the obscurity of something in conducting transactions. The prohibition on buying and selling or transactions containing *garār* is found in the Qur'an and the hadith. These hadiths are in various versions including those which prohibit transactions or buying and

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<sup>127</sup> Samsul Ma'arif, "Forex Trading In Islamic Economic Perspective". *Thesis*. Cirebon: IAIN Syekh Gunung Jati, 2016.

<sup>128</sup> Khaerul Umam, *Pasar Modal Syariah dan Praktik Pasar Modal Syariah*....page. 384.

<sup>129</sup> M. Hosen, *Analisis Bentuk Gharar dalam Transaksi Ekonomi* (Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah, 2009, Vol. 1), page. 54.



selling something that contains the element of *garār*, even though the hadith does not state the problem of *garār*. For example, the hadiths are related to the sale and purchase of the al-mualasah model and al-munabadah.<sup>130</sup> In the Al-Qur'an, the prohibition is found in Al-Qur'an surah Al-Nisa: 29. Among the hadiths which mention a prohibition on transactions containing the element of *garār* are: "The Messenger of Allah has banned the sale and purchase containing gharar".(HR. Muslim).<sup>131</sup> Wahbah al-Zuhaili said that *garār* is *khidā'* (deception), which is an action in which there is no supposed voluntary element.<sup>132</sup>

*Garār* is uncertainty about whether the goods being traded can be delivered or not. For example, someone selling camels are missing, or sell the property of others, even though is not authorized by the concerned. Although at the time of the contract does not exist, when there was a certainty of time that could be handed over to the buyer, buying and selling are legitimate. Otherwise, the item already exists, but for one reason or another, may not be handed over to the buyer, buying and selling are not legal.

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<sup>130</sup> Wahbah Al-Zuhayli, Financial Transaction in Islamic Jurisprudence. Translation of Al-Fiqh al-Islamiy wa 'Adillatuh, Vol .1, Mahmoud A. El-Gamal, Trans, Dar al-Fikr, Beirut, 2003, page. 84-85.

<sup>131</sup> Securities Commission, Resolutions of the Securities Comission Sharenah Advisory Council, Author, KualaLumpur, 2006, hlm. 101, dan al-Zuhayli, page. 93.

<sup>132</sup> Sirajul Arifin, Gharar dan Risiko dalam Transaksi Keuangan (Tsaqafah: Jurnal IAIN Sunan Ampel, 2010, Vol. 6), page. 315.

While the futures trading obviously not a *garār*, because in the contract, the type of commodity being traded has been determined. As well as the quantity, quality, and place and time of delivery.<sup>133</sup>

In the perspective of Islamic law, forex including parts of Commodity Futures Trading, can be included in the category of *al-Masā'il al-Mu'āshirah* or the contemporary Islamic legal issues. Therefore, legal status can be categorized in problem of *ijtihādiyyah*. A classification of *ijtihādiyyah* are included into the territory of *fi mā lā naṣḥa fīh*, namely legal issues that do not have definite legal reference texts.

In the legal cases of commodity futures trading, *ijtihād* can refered to the theory of legal change introduced by Ibn al-Qayyim al-Jauziyyah. He explained that, “legal fatwas may change due to some variable changes, namely: intention, time, place, purpose and benefits.”

This theory of legal change is derived from the paradigm of the science of law from his teacher, was named Ibn Taimiyyah who stated that “*al-Haqīqat fi al-'Ayān la fi al-Azhān*”. The meaning is the truth of the law was found in empirical reality, not in the realm of thought or the realm of ideas.

In it was applied, in particular the issue of Commodity Futures Trading (CFT) can be included in the field of Fiqh al siyasah maliyyah, namely material politics. In other words, the CFT includes the study of Islamic law in terms of

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<sup>133</sup> Khaerul Umam, *Pasar Modal Syariah dan Praktik Pasar Modal Syariah*....page. 384-385.

how Islamic law is applied in matters of ownership of property, through commodity futures trading in the global era and free trade.

Realization to protect actors and parties involved in commodity futures trading in time and space as well as consideration of objectives and benefits, in accordance with UU No. 32/1997 on CFT. Because Commodity Futures Trading in the Islamic legal system can be analogized with *Bā'i Al-Salām*.

*Bā'i Al-Salām* can be interpreted as follows: *al-salām* or *al-salāf* is *Bā'i' al-'Ajl Bil 'Ajl*, which is to trade something that is guaranteed it is correctness. In such a transaction, the delivery of *ra's al-māl* in the form of money at an exchange rate takes precedence over the delivery of the commodity referred to in that transaction.

Syafi'iyah and Hambaliyah define it by: "an agreement on a commodity trading which is given a guaranteed nature that is deferred (futures) at a selling price set in the contract exchange." The validity of the futures of buy and sale transaction is determined by the fulfillment of the following pillars and conditions.<sup>134</sup>

#### 1. Pillars

As the main elements that must be present at a transaction event. The main elements in *Bā'i al-Salām* are:

- a. The parties to the transaction (*'āqid*) are referred to by the term Muslim or Muslim ilaih.

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<sup>134</sup> Khaerul Umam, *Pasar Modal Syariah dan Praktik Pasar Modal Syariah*....page. 386-387.

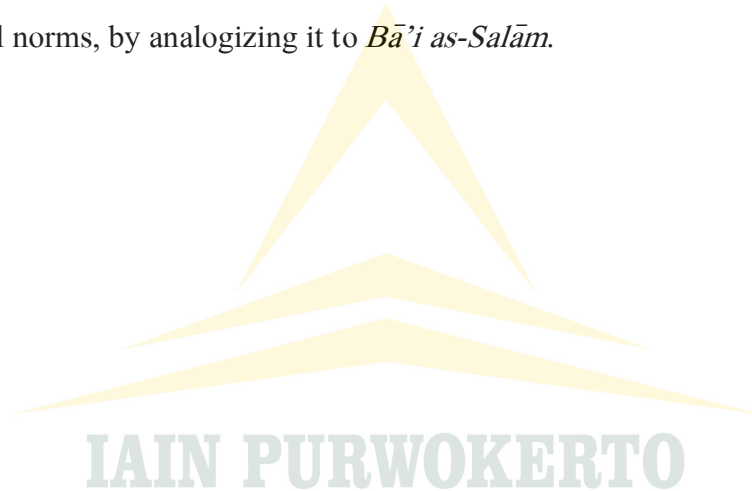
- b. Object of transaction (*ma'qūd ilahī*), namely commodity futures and exchange rates (*ra's al-māl al-salām* and *al-muslim fīh*)
- c. Transaction sentences (*sighāt a'qad*), namely consent and Kabul, which are stated in sentences and language that clearly indicate futures transactions. Therefore, Syafi'iyah was emphasize the use of the terms *as-salam* or *al-salāf* in transaction sentences on the grounds that *'aqd as-Salām* is *bā'i al-ma'dūm* with different characteristics and methods of aqad of buy and sell.

## 2. Terms and conditions

- a. Requirements regarding the object of a transaction, namely fulfilling clarity regarding: type, nature, size, period of delivery, exchange price and place of delivery.
- b. Requirements that must be met by the exchange price, namely: first, clarity of the type of exchange, namely diagrams, dinars, rupiah or dollars or goods that can be weighed, measured and so on. Second, clarity of the type of exchange, whether rupiah, USD, EUR, CHF, or so on. Whether the agreed scales are in kilograms, pounds, or other.
- c. Clarity in the quality of the object of the transaction, whether special quality, good, moderate, or bad. The conditions above are determined with the intention of eliminating *Jahālah fī al-'aqd* or the reason for ignorance of the conditions of the goods at the time of the transaction. Because, this will result in disputes among the transaction actors.

- d. Clarity of the amount of the exchange price. The explanation above can provide clarity on the ability of the pbk. Even if in its implementation, there are still parties who are harmed by existing laws and regulations, the legal rule or maxim of law can be used: “*mā lā yudrak kulluh lā yudrak kulluh*”, namely: what cannot be used all of them, no need to be completely abandoned.

Thus, the law and implementation of the PBK can to a certain extent be declared acceptable, or at least in accordance with the spirit and spirit of Islamic legal norms, by analogizing it to *Bā'i as-Salām*.



## CHAPTER V

### CLOSING

#### A. Conclusion

Based on this research, that the researcher did about Sharia Economic Law Review On Forex Trading With HSB Forex Investing Application in Indonesia, it can be concluded as following:

1. In general, the practice of forex trading investment is a series of mechanism used to minimize the risk of loss in transaction. The HSB investment application is used to facilitate trading transactions. There are several systematic ways for using the HSB forex investing application in the forex commercial. Before using a real account, it will be better if the people use a demo account first. Furthermore, trading in real market, there is no big risk because virtual money is used in the demo account. On the demo account, traders can read some charts which it shows the same information about real-time prices in the real market. Besides, people can apply and create trading strategies based on technical analysis such as real accounts of HSB. In the all-in-one trading application of HSB Investment, traders can easily read market analysis, or learn everything about forex trading, contact the customer service, etc. In addition, people can ask questions, make a deposit, and withdraw through an application. Further, it is able to establish consistent profit before trading from a real account. To prevent running out of money virtual in the demo account, there is a bonus login which is \$1000 each day. To get a bonus login, the ways are the following: First, the traders

should click asset on the home. Next, traders should click the login bonus. Last, the trader has to wait for the next day for getting the next bonus.

2. There are several indicators used to determine the buying and selling price of foreign currency in accordance with Sharia-based on Fatwa of DSN-MUI. However, investing in foreign exchange by the HSB Application is used in the forward transaction method. The forward transaction will be a currency order transaction in the future at a price prevailing at the transaction's present time. A forward contract is an act that is intentionally created by two parties or more, based on the pleasure of each party. Then, it will arise for both parties of the rights and obligations that clear from the contract. The viewed from the original law, a forward contract is a haram because the price is used is the agreed price (*muwa'adah*), and the delivery is made at a later date (not in cash). At the same time, the price at the time of delivery is not necessarily equal to the agreed rate unless it has done for the needs that cannot be avoided (*lil hajah*). Thus, investing in foreign exchange uses the HSB application, which in practice using forward contracts is not allowed. Because HSB will provide opportunities for speculators to speculate who takes advantage of fluctuating about buying and selling prices of forex, in terms of transactions are conducted by customers, HSB has still contained speculation elements that are prohibited by Sharia. Especially in Fatwa of DSN-MUI No. 28/2002.

## B. Suggestion

Based on this research, it can be concluded some suggestions for policy maker, society, and the parties of HSB. The suggestions are following:

1. For all elements of policymakers, especially in the financial sector such as OJK. There should be a collaborative joint regulation regarding commodity futures and foreign exchange trading. So that, there are no more rules which contradict anymore. As for institutions that are specifically related in their fields, namely, Bappepam, Bappebti, ICDX, ICH, etc.
2. For society, especially for beginner muslims trader, do not trade using a broker company that could send with the money transfer methods are illegal and unlawful, because it is classified as money laundry that would also be prohibited by religion. Do not be easy to trust the forex seminars that pretend to teach Sharia forex trading or with religious excuses, even though the brokerage company that it classified as haram brokers, and this is certainly contrary to the halal principle.
3. Hopefully in the future, HSB Investment Application will provide up to date that keep abreast of the times. And also, it is necessary to provide a micro account for those beginners to forex.



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## **CURRICULUM VITAE**

### **PERSONAL DATA**

Name : Dini Ayu Arumningtyas  
Student Number : 1617301011  
Date of Birth : Jakarta, 13 Mei 1998  
Address : Dasana Indah Blok UE 15 No.8 Rt. 06/27 KecDua, Kab.  
Tangerang, Banten  
Father's Name : Agam Santosa  
Mother's Name : Rosidah  
Telephone : 085845977388

### **EDUCATIONAL BACKGROUND**

#### Formal Education

2004-2010 : SD N Kampung Bambu III  
2010-2013 : SMPN 2 Kelapa Dua  
2013-2016 : SMAN 23 Kab. Tangerang  
2016- sekarang : IAIN Purwokerto

#### Non-Formal Education

2016-2017 : Pondok Pesantren El Fira Purwokerto  
2018-2019 : Pondok Pesantren Manbaul Husna Purwokerto