

Reformulating the Management of Initial Hajj Deposit Funds in Indonesia: From the Wadiah Scheme to Islamic Capital Market Investments

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ABSTRACT

Keywords:

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Background: The management of initial Hajj deposit funds in Indonesia presents significant challenges due to prolonged waiting periods and the productive utilization of funds under the wadiah safekeeping scheme. These practices raise concerns regarding contractual suitability, financial accountability, and distributive justice.

Research Gap: Existing Hajj fund management arrangements have not adequately addressed the incompatibility between long-term productive investments and safekeeping contracts, particularly regarding the equitable distribution of investment benefits to prospective pilgrims who cancel their pilgrimage.

Novelty: This study proposes a normative reformulation of initial Hajj deposit management by integrating Islamic capital market investments, distributive justice, and maqashid al-shariah principles into a more equitable contractual framework.

Method: This research employs a normative juridical approach supported by conceptual and Islamic economic analyses. Primary legal materials include Law Number 34 of 2014, relevant regulations, and DSN-MUI fatwas, complemented by scholarly literature concerning wadiah contracts and Islamic investment instruments.

Results: The findings reveal that applying wadiah contracts to long-term productive funds creates contractual inconsistencies and distributive justice concerns. Islamic capital market instruments, particularly State Sharia Securities (SBSN), corporate sukuk, and fixed-income Islamic mutual funds, offer potentially more appropriate alternatives through transparent returns, prudent investment management, and proportional benefit distribution.

Conclusion: Reformulating Hajj deposit management through Sharia-compliant investment mechanisms could strengthen legal certainty, protect prospective pilgrims' economic rights, promote distributive justice, and support sustainable Hajj financing while advancing the objectives of maqashid al-shariah.

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INTRODUCTION

The fifth pillar of Islam is the Hajj pilgrimage, which is required of all financially, physically, and mentally capable Muslims. According to Law Number 34 of 2014 concerning Hajj Financial Management, the state of Indonesia oversees the Hajj pilgrimage through the Ministry of Religious Affairs and the Hajj Financial Management Agency (BPKH). The requirement for prospective pilgrims to make an initial deposit in order to receive a departure portion number is one of the main features of the Indonesian Hajj system (Hakim, 2025). In reality, this initial deposit is kept and handled for a very long time; in some provinces, the average wait time for departure can reach 15 to 30 years.

The enormous initial Hajj deposit funds that have accumulated are public funds. As a result, their management must be both financially stable and compliant with Islamic law (shariah). Currently, BPKH manages the initial Hajj deposit funds through a variety of placement and investment instruments after they are placed in Islamic banks under a safekeeping scheme (wadiah) (Sari, 2025). In fiqh muamalah, the wadiah scheme is basically a trust-based safekeeping contract (amanah), in which the custodian is not required to give returns to the depositor other than as a voluntary, non-stipulated gift (hibah).

In actuality, there are a number of conceptual and normative problems with using the wadiah contract for initial Hajj deposit funds. First, initial Hajj deposit funds are different from standard wadiah savings in that they are long-term funds that are "locked" for more than ten or even decades rather than short-term liquid funds (Andini, 2024). Second, the state actually uses and invests these funds through BPKH to produce returns, which are then used, among other things, to subsidize the Hajj Pilgrimage Organizing Cost (BPIH) for pilgrims leaving in the current year (BPKH, 2024).

The growing problem is that the initial deposit returned to the heirs or the individual in question is only the nominal amount of the initial deposit, with no profit-sharing from the use of the funds over time, when potential pilgrims are unable to depart due to death, permanent illness, or other administrative reasons. Because the funds have clearly been used and produced economic benefits, but these benefits do not return proportionately to the fund owners, this condition creates a distributive justice issue (Mulyadi et al., 2025).

The application of the wadiah contract in the context of long-term funds managed profitably also presents a contractual issue (takyif fiqhi) from the standpoint of Islamic law. In wadiah, the custodian is not allowed to use the entrusted goods without the depositor's permission. If the custodian does so, the contract usually becomes a loan (qardh) or another contract with different legal ramifications, such as risk liability or return obligations. When it comes to Hajj funds, it can be argued that the state's profitable use of initial deposit funds without providing depositors with a profit-sharing mechanism is not entirely consistent with the principles of justice and maqashid al-shariah, especially the goal of wealth development and protection (hifd al-māl).

In fact, Law Number 34 of 2014 gives BPKH the power to manage Hajj funds through investments and placements based on benefit value, security, prudence, and sharia principles. The regulation does not, however, provide a clear legal framework for the conversion of the contract from a safekeeping scheme to a more equitable profit-sharing-based investment scheme, nor does it explicitly govern the mechanism of return rights for potential pilgrims who do not depart.

However, Indonesia's growing Islamic capital market has enormous potential as a long-term, low-risk fund management option. The Financial Services Authority (OJK) and the National Sharia Board-MUI (DSN-MUI) oversee instruments like State Sharia Securities (SBSN/state sukuk), corporate sukuk, and fixed-income Islamic mutual funds, which have demonstrated a comparatively low-risk profile and stable returns. From a conceptual standpoint, these instruments are better suited for long-term funds, such as initial Hajj deposits, due to their transparent return mechanisms and clear underlying assets.

The principles of maqashid al-shariah and Islamic social finance are also in line with the use of initial Hajj deposit funds through an Islamic capital market investment scheme since it maximizes the benefit value (value creation) fairly for all fund owners while also preserving the funds' value (capital preservation). Without upsetting the stability of BPIH subsidy financing for departing pilgrims, this plan makes it possible to create a proportionate profit-sharing mechanism for potential pilgrims who do not leave (Murniwati et al., 2025). The management of initial Hajj deposit funds in Indonesia must therefore be urgently reformulated, moving from a passive wadiah scheme to a more equitable and productive Islamic capital market investment scheme that conforms to Islamic financial and legal principles. In

addition to requiring a normative review of current statutory regulations, this reformulation calls for the creation of a new scheme model that is sharia-compliant, economically feasible, and legally safe.

THEORETICAL FRAMEWORK

The Theory of Wadi'ah in Fiqh Muamalah

Wadi'ah is a trust-based safekeeping agreement (*amanah*) in which the custodian is required to protect the entrusted goods and return them to the depositor upon request. With the exception of a bonus offered as a voluntary, non-stipulated gift (*hibah*), wadi'ah is commonly used for savings and current account products in the context of contemporary Islamic banking. It is distinguished by the lack of a profit-sharing obligation (Muzan, 2024). This theory is used to determine whether the application of wadi'ah to initial Hajj deposit funds, which are held for a considerable amount of time, is still pertinent and in line with the core principles of the wadi'ah contract.

Al-Wadi'ah is a pure entrustment from one person or organization to another, which needs to be protected and returned at the depositor's request. In Islamic jurisprudence (*fiqh*), trusted goods are called wadi'ah. According to Ma Wud'ia Inda Ghair Malikihi Layahfadzuhu, wadi'ah means "something placed with someone other than its owner to be safeguarded." The second linguistic meaning of wadi'ah is "to receive," as in the phrase "awdatubu," which means "I received the wealth from him" (Qabiltu minhu dzalika al-Mal Liyakuna Wadi'ah Indi). This suggests that wadi'ah means "to give." Wadi'ah, therefore, has two linguistic meanings: the act of giving wealth to be protected and the act of receiving it.

According to Islamic tradition, wadi'ah is a pure entrustment made by one person or legal entity to another, which needs to be safeguarded and returned upon the depositor's request. Wadi'ah is defined as the safekeeping of funds between the fund owner and the custodian who is trusted to protect the said funds in Article 20 paragraph 17 of the Compilation of Islamic Economic Law (KHES) (Nikmah, 22M). The DSN-MUI Fatwa No. 36/DSN-MUI/X/2002 regarding Bank Indonesia Wadi'ah Certificates reflects the application of wadi'ah. Now that the definition of wadi'ah has been established, it is clear that wadi'ah refers to safekeeping, which is a contract between an individual and another party by entrusting an item to be appropriately safeguarded. The custodian is not required to replace the entrusted item if it is damaged, but they must pay compensation if the damage was brought on by their carelessness.

Qur'an, Surah An-Nisa [4]: 58.

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

Translation:

"Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing."

This verse, which upholds the duty to protect and return the entrusted property to its owner, forms the main basis of the wadi'ah contract. The state and BPKH serve as the trustees (*pemegang amanah*) of the public funds in relation to the initial Hajj deposit funds. However, from a juridical-sharia standpoint, trust (*amanah*) includes fair and responsible management in addition to the return of the principal funds. When trust funds are effectively managed and produce financial gains, the trust requires management that does not negatively impact the fund owners, including acknowledging their entitlement to the financial gains from the funds.

In addition to having high social value, a person who feels capable and is prepared to accept an entrusted item performs an extremely admirable act with worship value that earns a reward. Therefore, rather than being a business agreement with the goal of making money, the wadi'ah contract is essentially a *tabarru'* (benevolent/mutual assistance) contract based on the principles of trust and confidence (Saepudin et al., 22M). As a result, the wadi'ah contract does not acknowledge any duty to give the depositor profits or returns. The custodian's only responsibility is to return the entrusted wealth undamaged upon the owner's request and to protect it in line with current customs (*'urf*). The custodian may only give the depositor a bonus or reward if it is completely voluntary and not specified at the outset of the contract.

Islamic scholars distinguish between two types of wadi'ah contracts in the study of fiqh muamalah: wadi'ah yad al-amanah and wadi'ah yad ad-dhamanah. Wadi'ah yad al-amanah is a safekeeping agreement in which the custodian is not allowed to use the entrusted goods and is not responsible for any loss or damage to the goods, unless it is the result of carelessness or deliberate misconduct. The original idea as it was applied in traditional Islamic law is represented by this type of wadi'ah. Wadi'ah yad ad-dhamanah, on the other hand, is a safekeeping agreement that permits the custodian to use the funds or goods entrusted to them, but it also requires the custodian to ensure that the funds or goods are returned in full. The wadi'ah contract used for current and savings account products is typically classified as wadi'ah yad ad-dhamanah in the practice of contemporary Islamic financial institutions, especially Islamic banking (Pratiwi, 2020). This is due to the fact that while the bank is required to guarantee the return of the funds whenever the customer requests it, the bank uses the entrusted funds for operational activities and financing disbursement.

However, scholarly criticism is not immune to the application of the wadi'ah yad ad-dhamanah contract in Islamic banking practices. A number of Islamic academics and experts in Islamic economics contend that a contract is more akin to a qardh (loan) contract than a pure wadi'ah contract when entrusted funds are used profitably and the custodian is required to make full restitution. The juridical consequence of this shift in the contract's substance is the loss of the amanah (trust) character in wadi'ah and the emergence of full financial liability on the recipient of the funds, including the prohibition of extracting stipulated benefits from the loaned funds.

In the context of long-term fund management, such as initial Hajj deposit funds, the application of the wadi'ah contract raises conceptual and normative issues. Funds entrusted for an extensively long period and utilized productively by the manager potentially violate the original purpose of the wadi'ah contract as a pure safekeeping agreement. If these funds generate economic benefits while the depositor does not receive a share of those benefits, issues of justice and public interest (maslahah) arise, requiring further examination from the perspectives of fiqh muamalah and maqashid al-shariah (Ghani, 2022).

Therefore, a comprehensive understanding of the wadi'ah concept is crucial as a basis for evaluating the suitability of the contract in managing Islamic public funds. This study also opens the space to consider alternative contracts or fund management schemes that are more aligned with the characteristics of long-term funds, the principles of justice, and the objective of optimizing the benefits of the public's wealth within the framework of Islamic law and finance.

The Theory of Islamic Investment and Islamic Capital Market Instruments

Islamic investment is based on the principle of profit and loss sharing, the prohibition of usury (riba), uncertainty (gharar), and gambling (maysir), as well as the necessity for halal underlying assets. Islamic capital market instruments such as State Sharia Securities (SBSN), corporate sukuk, and fixed-income Islamic mutual funds possess relatively low-risk profiles and stable returns. This theory serves as the basis for assessing the feasibility of utilizing initial Hajj deposit funds in a more productive and equitable Islamic investment scheme (Wafa, 2025).

Qur'an, Surah Al-Anfal [8]: 27.

إِنَّهَا الَّذِينَ آمَنُوا لَا تَخُونُوا اللَّهَ وَالرَّسُولَ وَتَخُونُوا أَمْنَكُمْ وَأَنْتُمْ تَعْلَمُونَ

Meaning: "O you who have believed, do not betray Allah and the Messenger or betray your trusts while you know [the consequence]."

This verse provides the moral and legal basis for the requirement that all economic activity, including investment, be focused on justice and the general welfare (maslahah). Justice is achieved in the context of initial Hajj deposit funds by: a. a system of proportionate profit-sharing, b. safeguarding the principal funds, c. and benefit distribution that doesn't hurt fund owners.

This verse supports the claim that Islamic investment is a normative requirement for achieving a fair and long-lasting Hajj fund management system rather than just a technical option. In the context of Islamic finance, investment is seen as a tool to achieve sustainability, justice, and maslahah in addition to being a way to make money. In order to prevent harm (mudarat) to the parties involved, every Islamic investment activity must adhere to the prudential principle, transparency, and accountability (Habibullah

et al., 2024). These guidelines are extremely pertinent to the long-term management of initial Hajj deposit funds, which are public monies.

Because Islamic capital market instruments, especially sukuk, are supported by transparent underlying assets and produce returns based on actual economic activity, they have qualities appropriate for long-term fund management needs. For example, state sukuk (SBSN) offer a high degree of security and a comparatively low default risk because they are issued based on halal state projects or assets and are guaranteed by the government (Latifah, 2020). Meanwhile, fixed-income Islamic mutual funds allow for investment portfolio diversification with lower volatility levels compared to equity instruments.

A more equitable profit-sharing system for potential pilgrims is also made possible by the use of initial Hajj deposit funds through Islamic capital market instruments. The money is now positioned as investment funds that clearly produce returns rather than just as a passive deposit under this scheme. As a result, potential pilgrims who do not leave are still entitled to the financial gains from the money they have deposited and overseen for a predetermined amount of time. From the standpoint of *maqashid al-shariah*, the goal of *hifz al-mal* (protection and development of wealth) is better reflected in the management of initial Hajj deposits through Islamic capital market investments since the funds are developed responsibly and productively in addition to being preserved in value. Additionally, implementing a low-risk Islamic investment plan is consistent with the principles of *daf' al-mafsadah* (repelling harm) and *tahqiq al-maslahah* (realizing benefits), which entail maximizing benefits while lowering the risk of loss.

The management of initial Hajj deposit funds can therefore be changed from a safekeeping scheme to an Islamic capital market investment scheme thanks to the strong conceptual foundation provided by Islamic investment theory. In addition to raising the benefit value of Hajj funds, this change is anticipated to improve sharia legitimacy, equitable return distribution, and the long-term viability of financing Hajj pilgrimages in Indonesia.

Islamic investment theory's implications for the handling of initial Hajj deposit funds necessitate a paradigm change in the law, moving away from simple capital preservation and toward equitable value optimization. The long-term and profitable nature of initial Hajj deposits has not been adequately accommodated by the safekeeping-based (*wadiah*) Hajj fund management scheme as it is currently implemented. There is a conflict between the fund management practice and the principles of justice and *maqashid al-shariah* when these funds are actually invested and produce returns, but the fund owners do not receive their benefit rights proportionately.

This condition suggests a contractual error (*takyif fiqhi*) in the handling of the initial Hajj deposit funds from the standpoint of Islamic economic law. When the money is consistently and methodically used for investment activities, the *wadiah* contract basically a trust-based (*amanah*) and non-commercial agreement becomes meaningless. In order to place initial Hajj deposit funds within a substantively more appropriate contractual framework such as a profit-sharing-based Islamic investment contract or a hybrid scheme that still ensures the return of the principal funds a legal reformulation is necessary.

In order to give prospective pilgrims legal certainty and rights protection, particularly for those who are unable to depart due to uncontrollable circumstances, the legal reformulation of Hajj fund management is also essential. The profit-sharing mechanism can be developed proportionately and transparently under the Islamic capital market investment scheme, guaranteeing the protection of potential pilgrims' economic rights without jeopardizing the stability of the Hajj Pilgrimage Organizing Cost (BPIH) subsidy. As a result, the Hajj fund management system can practically implement the distributive justice principle (Ridwan & Septiana, 2025). Furthermore, this legal reformulation aligns with the mandate of Law Number 34 of 2014 concerning Hajj Financial Management, which emphasizes sharia principles, prudence, security, and benefit value. Innovation in fund management strategies that are both safe and able to give fund owners the best possible financial returns is required due to the emphasis on benefit value. These standards are met both normatively and empirically by low-risk Islamic capital market instruments like state sukuk and fixed-income Islamic mutual funds.

As a result, Islamic investment theory provides both a conceptual framework and a normative foundation for the legal reformulation of Indonesia's initial Hajj deposit fund management. In addition to strengthening sharia legitimacy and the long-term viability of the national Hajj financing system, this reformulation aims to create a more fair, open, and *maslahah*-oriented Hajj fund management system.

Justice Theory

To determine whether the current initial Hajj deposit fund management system has given potential pilgrims, especially those who do not depart, proportionate rights, justice theory is applied. One example of distributive injustice is the long-term failure to provide returns to fund depositors. The Hajj fund management scheme needs to be reformulated immediately, according to this theory (Yuliani, 2022). According to distributive justice theory, each party who contributes to the creation of an economic benefit is entitled to a share that is proportionate to their contribution. The main source for the creation of managed Hajj funds that produce returns is the initial Hajj deposits made by potential pilgrims. Therefore, the fund owners have a moral and normative right to a share of the economic benefits that these funds produce when they are managed over an extended period of time. Ignoring this right, particularly for potential pilgrims who choose not to leave, shows that the benefits of the current Hajj fund management system are not distributed fairly.

A key tenet of Islamic law is distributive justice, which stresses the equitable allocation of advantages and disadvantages in accordance with the roles, contributions, and circumstances of each party. Maqashid al-shariah views justice as substantive justice that aims to actualize *maslahah* and prevent *mudarat*, rather than just formal equality. Therefore, all public policies, including those pertaining to the initial Hajj deposit funds, must be designed to guarantee that all fund owners receive an equal share of the benefits.

The goal of wealth protection (*hifz al-mal*) is closely linked to Hajj fund management within the framework of *maqashid al-shariah*. Maintaining the nominal value to avoid depreciation is only one aspect of protecting wealth; other aspects include managing and developing it in a secure, equitable, and productive manner. The principle of *hifz al-mal* requires that the economic benefits from initial Hajj deposit funds be distributed proportionately to the fund owners rather than being enjoyed exclusively by certain parties if the funds are kept for a long time and managed effectively.

Distributive justice concerns are raised by Indonesia's initial Hajj deposit fund management practice of fully refunding the funds without offering returns to prospective pilgrims who do not depart. In addition to bearing the opportunity cost during the time the funds were deposited, these potential pilgrims have clearly contributed to the creation of managed Hajj funds (Yudhira, 2025). However, the acknowledgement of their rights to the resulting financial gains does not offset this contribution. The distributive justice principle of *maqashid al-shariah* is violated by this condition, which shows an imbalance between contribution and benefit. The concepts of *al-'adl* (justice) and *raf' al-haraj* (relieving hardship) are also emphasized in *maqashid al-shariah*. A Hajj fund management system that disregards the benefit rights of potential pilgrims who are unable to depart could lead to structural injustice and financial and psychological hardships for all parties. In actuality, wealth management techniques that lead to oppression (*kezaliman*) are strictly prohibited by Islamic law, even if they are carried out in the interest of the group as a whole.

Thus, from the standpoint of *maqashid al-shariah*, the implementation of an Islamic investment scheme in the administration of initial Hajj deposit funds can be seen as a tool to actualize distributive justice. Without doing away with the subsidy function for departing pilgrims, the economic benefits of Hajj funds can be distributed more fairly, including to potential pilgrims who choose not to depart, through an open and low-risk profit-sharing-based investment mechanism. Therefore, the reformulation of Hajj fund management not only satisfies legal-formal requirements but also aligns with Islamic law's goals of safeguarding wealth, maintaining justice, and realizing the *ummah's* public interest.

When the initial Hajj deposit funds are treated uniformly without taking into account the length of the deposit and the actual contribution of each potential pilgrim, this distributive injustice becomes even more evident. Prospective pilgrims who have deposited their money for more than ten years but do not leave are treated in the same way as those who have just deposited their money and later withdraw it. Because equal treatment does not always lead to justice when the circumstances and contributions of the parties differ, this condition raises questions of substantive justice.

Qur'an, Surah Al-Ma'idah [5]: 8.

QS. Al-Mā'idah [5]: 8

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَا نُ قَوْمٍ عَلَىٰ أَلَّا تَعْلَمُوا ۚ اذْعَبُوا ۚ هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا ۚ
اللَّهُ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ

Translation:

"O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah; indeed, Allah is Acquainted with what you do."

This verse affirms that public policies pertaining to public funds (dana umat) must uphold justice consistently. Justice requires that the contribution and the length of the funds' deposit be acknowledged in the management of the initial Hajj deposit funds. This verse gives the reformulation of the Hajj fund management scheme normative legitimacy as part of the endeavor to preserve the justice required by Islamic law (shariah).

In the context of Islamic economic law, justice is understood as both formal equality and proportional justice, which carefully weighs advantages and disadvantages. This idea is consistent with maqashid al-shariah, specifically the goals of maintaining justice (al-'adl) and safeguarding wealth (hifz al-mal). These goals may be at odds with a Hajj fund management system that ignores the financial advantages of the initial deposit for potential pilgrims who decide not to leave.

As a result, justice theory offers a compelling normative defense of the need to revise the original Hajj deposit fund management plan. The goal of this reformulation is to create a fund management system that can ensure a just and proportionate distribution of benefits without compromising the sustainability of the Hajj financing system or prudential principles. Distributive justice can be achieved while also bolstering the legal and social legitimacy of Hajj fund management in Indonesia through the creation of an open and low-risk Islamic investment scheme.

The Theory of Maqashid al-Shariah

The goals of Islamic law in safeguarding religion (hifz al-din), life (hifz al-nafs), intellect (hifz al-'aql), ancestry (hifz al-nasl), and wealth (hifz al-mal) are highlighted by Maqashid al-shariah. Initial Hajj deposit funds must be managed in a way that maximizes and fairly develops the wealth of the public (hifz al-mal). This theory is used to assess whether the alternative Islamic capital market investment scheme and the existing wadiah scheme more effectively achieve the goal of public interest/benefit (maslahah) (Ramahdani, 2025).

In the context of hifz al-mal, managing public wealth should be focused on developing the value of the benefits in a responsible and productive manner in addition to protecting the principal funds from loss or depreciation. Long-term wealth, like the initial Hajj deposit funds, has a great deal of potential to be developed through halal and low-risk mechanisms to benefit its owners more broadly (Barirohtun et al., 2025). Therefore, it can be said that managing Hajj funds by only focusing on the aspect of nominal return without taking into account the optimization of economic benefits does not fully satisfy the goal of hifz al-mal.

According to maqashid al-shariah, the main goal of all policies and muamalah (socio-economic) practices is the public interest (maslahah). The protection of individual rights and the ummah's collective interests must be included in this maslahah. The wadiah scheme, which treats the initial Hajj deposit funds as a passive deposit, frequently puts potential pilgrims in a situation where they do not receive commensurate financial benefits, particularly for those who do not leave after a protracted wait (Yuliani, 2022). This requirement may lead to an imbalance between the benefits received and the funds contributed, which would go against the principles of justice and maslahah found in maqashid al-shariah.

On the other hand, the alternative Islamic capital market investment scheme allows for the management of initial Hajj deposit funds in a way that is more in line with the goals of Islamic law because it was created using prudential principles and sharia compliance. Hajj funds can be developed profitably without sacrificing security through an investment mechanism that is transparent, backed by real assets, and devoid of elements of usury (riba), uncertainty (gharar), and gambling (maysir). Additionally, this plan makes it possible to create a more fair and proportionate profit-sharing system for the fund owners, including potential pilgrims who choose not to leave.

Therefore, when determining the applicability of the original Hajj deposit fund management scheme, *maqashid al-shariah* functions as both an evaluative and normative framework. In order to guarantee that Hajj fund management is genuinely focused on justice, *maslahah*, and the optimization of the public's wealth benefits in accordance with the goals of Islamic law, this theory confirms that reformulating the *wadiah* scheme into an Islamic capital market investment scheme is not just a technical decision but a normative requirement.

The Theory of Legal Protection and Legal Certainty

The state is required to offer legal protection and legal certainty over the managed public funds from the standpoints of administrative law and Islamic economic law. This theory is used to determine whether the original Hajj deposit fund management system has guaranteed protection for the rights of potential pilgrims and to determine the course of regulatory reformulation in order to maintain the legitimacy and legal security of the new investment scheme (Abidin, 2016).

The state's role as the provider of public services and the manager of public funds results in its duty to provide legal protection and legal certainty within the framework of administrative law. The first Hajj deposits received from potential pilgrims are public funds that come from the community and are administered by the state through organizations that are permitted by law (Murniwati et al., 2025). As a result, the principles of legality, accountability, transparency, and the defense of citizens' rights as fund owners must serve as the foundation for all policies and procedures in the management of these funds.

From the standpoint of Islamic economic law, legal protection is understood to include both the protection of economic rights resulting from the profitable use of the funds and a guarantee for the return of the principal funds. Prospective pilgrims have a legal interest in the financial gains made from initial Hajj deposit funds that are managed and invested over an extended period of time (Pratiwi, 2020). It can be claimed that the legal protection offered is still insufficient and does not accurately represent the idea of substantive justice if the Hajj fund management system does not offer a mechanism for the acknowledgment and defense of these rights.

In addition, the principle of legal certainty necessitates that norms pertaining to the status of the initial Hajj deposit funds, the construction of the contracts used, and the rights and obligations of the parties involved be made clear. Regulations pertaining to prospective pilgrims' right to return, especially those who choose not to leave, may be unclear or ambiguous, which could result in future disputes and legal uncertainty (Yuliani, 2022). This requirement highlights the necessity of regulatory reformulation that clearly controls the process for allocating and managing the advantages of Hajj funds in an equitable and open manner.

To guarantee that the management of initial Hajj deposit funds stays within a legitimate and safe legal corridor, regulatory reformulation becomes extremely important when creating a new investment scheme based on the Islamic capital market. The revised rules must be able to protect the rights of potential pilgrims as fund owners while also offering a strong legal basis for the use of low-risk Islamic investment instruments. In addition to gaining normative legitimacy, the new investment plan will boost public confidence in the Hajj fund management system with sufficient legal certainty (Abidin, 2016).

Therefore, the argument that the reformulation of initial Hajj deposit fund management is an indisputable legal necessity is strengthened by the theory of legal protection and legal certainty. The goal of this reformulation must be to create a Hajj fund management system that protects the rights of potential pilgrims, offers legal certainty regarding the administration and use of the funds, and is consistent with Islamic economic law and administrative law.

METHOD

This study combines conceptual and Islamic economic approaches with normative legal research, also known as doctrinal research. The legal standards governing the administration of initial Hajj deposit funds in Indonesia are examined through normative legal research, particularly Law Number 34 of 2014 concerning Hajj Financial Management, its derivative regulations, and fatwas from the National Sharia Board–Indonesian Council of Ulama (DSN-MUI) that are pertinent to Islamic investments and the *wadiah* contract (Murniwati et al., 2025).

The viability, risks, and possible advantages of Islamic capital market instruments (sukuk, Islamic mutual funds, and similar products) as a more productive and equitable alternative scheme for managing initial Hajj deposit funds are evaluated using the Islamic economic/finance approach. As a result, this study is prescriptive-analytical in nature; it not only outlines the current legal framework (das sollen and das sein) but also develops a perfect model for Hajj fund management programs and legal reformulation (Widiarty, 2024).

RESULTS

Normative Findings on the Management of Initial Hajj Deposit Funds using the Wadiah Scheme

The study's findings also show that the current initial Hajj deposit fund management system has a distributive justice problem. Only the nominal amount of the initial deposit is refunded to prospective pilgrims who are unable to depart due to death, permanent illness, or other administrative reasons; they do not receive a portion of the financial gains made from the long-term management of these funds.

However, empirically, the initial Hajj deposit funds have been used and produced returns, which are used, among other things, to help pilgrims leaving this year with their Hajj Pilgrimage Organizing Cost (BPIH). According to distributive justice theory and maqashid al-shariah, this condition shows an imbalance between the fund owners' contributions and the benefits they receive.

The Relevance of Islamic Capital Market Instruments as an Alternative for Long-Term Fund Management

Instruments like State Sharia Securities (SBSN), corporate sukuk, and fixed-income Islamic mutual funds have a high degree of suitability for managing initial Hajj deposit funds, according to the findings of the normative study on Islamic investment theory and the features of Islamic capital market instruments. These instruments have comparatively low risk profiles, are backed by obvious underlying assets, and are overseen by the Financial Services Authority (OJK) and DSN-MUI.

From the standpoint of Islamic economics, Islamic capital market tools make it possible to establish a fair and transparent profit-sharing system without sacrificing the values of caution and fund security. The investment of initial Hajj deposit funds can still be focused on both value creation and capital preservation with a conservative portfolio design.

The Need for Regulatory Reformulation and Legal Certainty

The study's findings also support the pressing need for Hajj fund management regulations to be reformulated. Although Law Number 34 of 2014 gives BPKH the power to make investments, it does not specifically outline how prospective pilgrims who do not leave can get their money back.

Table 1. Comparison Between the Wadiah Scheme and the Islamic Capital Market Investment Scheme in the Management of Initial Hajj Deposit Funds

Comparison Aspect	Wadiah Scheme (Safekeeping)	Islamic Capital Market Investment Scheme
Contract Characteristic	Tabarru' (safekeeping/trust) contract, non-commercial in nature.	Tijarah (commercial) contract based on profit-sharing.
Objective of Fund Management	Safekeeping and securing of funds.	Productive and halal development of funds.
Fund Duration	Ideally short-term and liquid.	Suitable for long-term.
Fund Utilization	Principally not intended for utilization.	Utilized productively through Islamic instruments.
Depositor's Right to Returns	None (bonus is a voluntary gift/hibah and not stipulated).	Exists, through a transparent profit-sharing mechanism.
Suitability for Initial Hajj Deposit Funds	Less suitable as the funds are long-term and productive.	More suitable for the characteristics of Hajj funds.
Distributive Justice	Does not provide economic benefits to prospective pilgrims who fail to depart.	Provides an opportunity for proportional distribution of benefits.

Sharia Risk (Takyif Fiqhi)	High, because fund utilization potentially shifts the contract.	Relatively low, because the contract matches the transaction's substance.
Maqashid al-Shariah Principle (Hifz al-Mal)	Preserves the principal funds, but has not optimally developed the benefits.	Protects and develops wealth equitably.
Protection of Pilgrims' Rights	Limited to the nominal refund of the deposit.	Stronger through the recognition of economic rights.
Legal Certainty	Contains potential contractual ambiguity.	Clearer with investment contract design and regulations.
Management Transparency	Limited, as it is not based on investment performance.	More transparent through instrument performance reports.
Compliance with Prudential Principles	Nominally secure.	Secure with risk mitigation through a conservative portfolio.

DISCUSSION

While the funds were kept for a long time, prospective pilgrims who did not leave contributed to the creation of the managed Hajj funds and paid the opportunity cost. Nevertheless, the acknowledgement of their entitlement to financial advantages is not commensurate with this contribution. Because the same treatment (nominal refund) is applied to radically different circumstances and fund retention periods, this practice raises substantive justice concerns.

These results show that the Islamic capital market is a normative option that is more in line with the long-term and profitable nature of initial Hajj deposit funds rather than just a technical alternative. By using these tools, the Hajj fund management plan can be reformulated to better align with the values of justice and maqashid al-shariah.

The protection of prospective pilgrims' rights as fund owners may be weakened by the lack of clear regulations regarding the contractual construction and the distribution of Hajj fund benefits. Therefore, regulatory reformulation is required to ensure the fair and transparent protection of pilgrims' economic rights while also providing a solid legal basis for the use of Islamic capital market instruments.

In addition to enhancing the legal validity of Hajj fund management, this reformulation will boost public confidence in the country's Hajj financial management system.

When it comes to initial Hajj deposit funds, which are long-term in nature and effectively managed, the table above shows that the wadiah scheme has fundamental limitations. Issues of distributive justice and contractual accuracy (takyif fiqhi) are brought up by the disparity between the features of the wadiah contract and the fund management procedures. On the other hand, because it is founded on commercial contracts that normatively acknowledge the right to economic benefits, the Islamic capital market investment scheme provides a fund management framework that is substantively more consistent.

From the standpoint of maqashid al-shariah, the Islamic capital market investment scheme is better able to actualize justice and the public interest (maslahah), especially the goal of safeguarding and developing wealth (hifz al-mal). Without sacrificing prudential principles and the sustainability of Hajj pilgrimage financing, this scheme not only preserves the security of public funds but also allows for a proportionate distribution of benefits for prospective pilgrims, including those who are unable to depart.

CONCLUSION

The management of initial Hajj deposit funds in Indonesia, which presently depends on the wadiah contract scheme, involves conceptual and normative issues, according to the research findings and discussion. The features of initial Hajj deposit funds, which are long-term and factually managed effectively, are not entirely aligned with the wadiah contract, which is a trust-based (amanah) and non-commercial safekeeping contract. This requirement results in distributive justice problems and contractual inaccuracy (takyif fiqhi), especially for potential pilgrims who do not leave and only get a small reimbursement without receiving a portion of the profits.

From the viewpoints of Islamic economic law, maqashid al-shariah, and justice theory, the management of initial Hajj deposit funds has not adequately reflected the goal of wealth development and protection (hifz al-māl) and the principles of substantive justice. As public funds, the initial Hajj deposit funds should be managed effectively and fairly while also being protected in terms of security.

The fund owners' economic rights should be acknowledged in accordance with their contributions and the length of the deposit.

According to this study, Islamic capital market products like corporate sukuk, State Sharia Securities (SBSN), and fixed-income Islamic mutual funds are highly suitable as a substitute for handling initial Hajj deposit funds. These instruments are in line with the values of caution, security, and sharia compliance because they are supported by transparent return mechanisms, distinct underlying assets, and comparatively low risk profiles.

Therefore, it is both normative and legally required to reformulate the management of the initial Hajj deposit funds from the wadiah scheme to an Islamic capital market investment scheme based on profit-sharing. Without jeopardizing the stability of the Hajj Pilgrimage Organizing Cost (BPIH) subsidy financing, this reformulation makes it possible to implement a more equitable and proportionate profit-sharing mechanism for potential pilgrims, including those who choose not to depart. Furthermore, this reformulation has the potential to improve sharia legitimacy, legal protection, and legal certainty in the administration of national Hajj funds.

According to the principles of Islamic law and finance, this research confirms that the paradigm shift in the management of initial Hajj deposit funds is not just a technical decision but rather a component of the endeavor to uphold justice, trust (*amanah*), and the public interest (*maslahah*) of the ummah.

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AUTHOR CONTRIBUTION STATEMENT

The authors contributed to the conceptual development, research design, and preparation of this study. The research activities included identifying the legal and economic issues associated with the management of initial Hajj deposit funds, reviewing relevant statutory regulations and DSN-MUI fatwas, conducting a normative legal analysis of the wadiah contract, and evaluating Islamic capital market instruments as alternative investment mechanisms. The authors also contributed to integrating the theoretical perspectives of distributive justice, *maqashid al-shariah*, legal protection, and Islamic economic principles into the research framework. The manuscript was developed through literature analysis, critical interpretation of the findings, and formulation of policy recommendations concerning the reformulation of Hajj fund management in Indonesia. All authors reviewed the manuscript and approved its final version.

AI DISCLOSURE STATEMENT

The authors acknowledge the use of artificial intelligence (AI)-assisted tools, where applicable, exclusively to support language refinement, grammatical correction, and improvements in the clarity and coherence of the manuscript. AI-assisted tools were not used as substitutes for independent scholarly judgment in developing the research arguments, interpreting legal provisions, evaluating Islamic economic principles, or formulating the study's conclusions. The authors independently reviewed and verified the manuscript's substantive content and accept full responsibility for its accuracy, originality, academic integrity, and compliance with applicable publication ethics.

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CONFLICTS OF INTEREST

The authors should disclose any financial, institutional, professional, or personal relationships that could reasonably be perceived as influencing the research, particularly those involving institutions responsible for Hajj fund management or Islamic financial investments. No specific conflicts of interest are identified in the manuscript. Subject to confirmation by all authors, the authors may declare that they have no known competing financial interests or personal relationships that could have influenced the research, analysis, interpretation, or conclusions presented in this article.

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