



Strengthening Sharia Crowdfunding Law through the Maqasid al-Shari'ah Approach: An Analysis of Financial Services Authority Regulation (POJK)

Maryani,^{1*} Irvan,² Zelki Marfinas³, M. Raihan Habibillah⁴, M. Ridho Pratama⁵, Deni Kurnia⁶

^{1,2,3,4,5}, UIN Sulthan Thaha Saifuddin Jambi

Jl. Raya Jambi - Muara Bulian Km. 15 Simpang Sungai Duren, Jambi Luar Kota, Muaro Jambi, Jambi 36361, Indonesia

⁶ University Of Ez-Zitouna, Tunis

Rue Sidi Aboukacem El-Jelizi, Place du Leader, Tunis

* Corresponding Author, E-mail: maryani@uinjambi.ac.id

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Abstract

The rapid growth of Indonesia's sharia digital economy has created new financing models, particularly sharia crowdfunding, as an inclusive alternative for MSMEs. However, the current regulatory framework Financial Services Authority Regulation (POJK) No. 16/POJK.04/2021, remains general and has not fully incorporated sharia compliance principles. This study aims to analyze the strengthening of sharia crowdfunding law through the maqāṣid al-sharī'ah approach, emphasizing *maslahah* (public welfare), *hifz al-māl* (protection of wealth), and *'adl* (justice). Using a normative legal method that combines statute and conceptual approaches, this research evaluates the extent to which POJK No. 16/2021 aligns with Islamic legal objectives. The findings show partial conformity, strong in procedural governance but weak in substantive justice and sharia supervision. The absence of a Sharia Supervisory Board (DPS) and explicit sharia audit requirements limits regulatory effectiveness. The study recommends reconstructing POJK No. 16/2021 through an integrated sharia governance system involving OJK, DSN-MUI, and halal certification bodies. Mandatory sharia audits, digital financial literacy, and value-based supervision are proposed to enhance ethical accountability. Such reform would harmonize technological innovation with the moral imperatives of maqāṣid al-sharī'ah, positioning Indonesia as a global pioneer in Islamic digital finance.

Introduction

Over the past decade, the digital economy based on sharia principles has experienced rapid development in line with the advancement of financial technology (fintech) in Indonesia. The digital transformation of the financial sector has generated various new innovations, one of which is crowdfunding, which has emerged as an alternative financing



instrument for the public. This scheme offers broader opportunities for public participation as both investors and funders through faster, more transparent, and more inclusive processes. Numerous studies demonstrate that sharia fintech crowdfunding plays a strategic role in expanding access to Islamic financing, particularly for micro, small, and medium enterprises (MSMEs) that have long faced challenges in obtaining funding from conventional financial institutions.¹

The growing adoption of the sharia-based digital economy also signifies a renewed optimism for the realization of a halal financial transformation in the era of Industry 4.0. However, despite its promising growth, the regulatory framework remains inadequate. The existing legal basis for crowdfunding operations in Indonesia is primarily founded on the Financial Services Authority Regulation (POJK) No. 57/POJK.04/2020 and its amendment through POJK No. 16/POJK.04/2021. Although these regulations provide a legal foundation for information technology based securities offerings, they do not yet contain specific and comprehensive provisions governing crowdfunding mechanisms within a sharia framework. This legal gap presents a significant challenge to the sustainable development of Indonesia's sharia digital economy.

Interestingly, sharia crowdfunding has continued to record a sharp rise in public participation. According to the Financial Services Authority (OJK), by 2024, the total funds raised through sharia-based securities crowdfunding (SCF) schemes reached IDR 798.26 billion, involving more than 400 active financing projects, an increase of nearly 70 percent compared to the previous year.² Despite these impressive figures, several issues persist, including low sharia financial literacy, insufficient transparency in fund management, and inconsistencies in sharia compliance across platforms.³ This indicates that while the sharia digital economy is expanding rapidly, its legal foundation still requires strengthening to ensure fairness and certainty in accordance with Islamic principles.

Ideally, the legal regulation of the sharia digital economy should not merely focus on formal-legal compliance but must also actualize the core objectives of *maqāṣid al-sharī'ah*—the higher intents of Islamic law. Principles such as *hifz al-māl* (protection of wealth), *maslahah* (public welfare), *'adl* (justice), and *amanah* (trustworthiness) should form the foundation of every policy and regulation in the economic domain.⁴ By aligning with *maqāṣid al-sharī'ah*, sharia crowdfunding regulations are expected not only to ensure legal certainty but also to promote equitable social and economic well-being.

Several previous studies have examined the potential and challenges of implementing sharia crowdfunding. Hafizhah and Rialdy, for instance, in their study *Konsep*

¹ Hidayatur Rohmah Ummah, Ahmad Sonjaya, and Jamaludin Jamaludin, "Sharia Fintech: Crowdfunding as MSMEs Financing," *Al-Muamalat: Jurnal Ekonomi Syariah* 11, no. 1 (2023): 115–36, <https://doi.org/10.15575/am.v11i1.28808>.

² Otoritas Jasa Keuangan (OJK). *Laporan Perkembangan Securities Crowdfunding Syariah di Indonesia 2024*. <https://ojk.go.id/id/kanal/syariah/data-dan-statistik/laporan-perkembangan-keuangan-syariah-indonesia/Pages/Laporan-Perkembangan-Kuangan-Syariah-Indonesia-2024.aspx>

³ Vania Sari Paramita, "The Development of Crowdfunding in Indonesia," *Komitmen: Jurnal Ilmiah Manajemen* 4, no. 2 (2023), <https://doi.org/10.15575/jim.v4i2.29662>.

⁴ Agus Soediro and Inten Meutia, "Maqasid Sharia as a Performance Framework for Islamic Financial Institutions," *Jurnal Akuntansi Multiparadigma* 13, no. 1 (2022).

Crowdfunding di Indonesia dalam Perspektif Syariah Compliance, emphasize that oversight and sharia compliance remain the principal weaknesses in crowdfunding practices.⁵ Meanwhile, Al-Daihani et al., in Achieving Wealth Preservation via Islamic Crowdfunding: An Analysis from Maqasidic View, argue that maqāṣid al-sharī'ah can serve as a normative framework for developing mechanisms of wealth preservation and economic justice through collective financing.⁶ However, these studies have yet to directly connect their analyses to Indonesia's national legal framework, particularly concerning the implementation of POJK No. 16/POJK.04/2021.

This condition reveals a clear research gap. On one hand, the existing regulations provide a formal legal foundation for crowdfunding operations; on the other hand, the philosophical and normative dimensions of Islamic law have not been fully integrated. To date, no study has explicitly examined the extent to which OJK regulations embody the principles of maqāṣid al-sharī'ah. This gap constitutes the main relevance of the present research, conducting a normative legal analysis of the coherence between positive law and the foundational values of Islamic jurisprudence.

This study seeks to fill that gap by employing a normative juridical approach to POJK No. 16/POJK.04/2021 using maqāṣid al-sharī'ah as its analytical lens. The primary focus is to assess the extent to which the regulation can strengthen the legal foundation of sharia crowdfunding, particularly in upholding the principles of *maslahah*, *hifz al-māl*, and *'adl*, which represent the essence of Islamic economic law. This approach underscores that Islamic law functions not only as a regulatory instrument but also as a protective and humanistic framework that ensures justice and societal welfare.

Accordingly, the purpose of this study is to analyze the reinforcement of the legal foundation for sharia crowdfunding through the maqāṣid al-sharī'ah perspective on POJK No. 16/POJK.04/2021. The findings are expected to provide constructive recommendations for regulators, sharia fintech practitioners, and the academic community so that the governance of Indonesia's sharia digital economy is not only grounded in positive law but also aligned with the Islamic values of justice, sustainability, and *maslahah* as the ultimate objectives of *sharī'ah*.

Method

This study employs a normative legal approach (doctrinal legal research), which focuses on the analysis of positive legal norms in conjunction with the underlying principles of Islamic law that serve as its conceptual foundation.⁷ This approach is adopted because the research problem is normative in nature, examining the strength and adequacy of the existing legal framework governing sharia crowdfunding in Indonesia,

⁵ Alifa Hafizhah and Nur Rialdy, "Konsep Crowdfunding Di Indonesia Dalam Perspektif Syariah Compliance," *Journal of Islamic Economics and Finance* 1, no. 2 (2023), <https://doi.org/10.70248/joieaf.v1i2.1727>.

⁶ Mohammad Al-Daihani et al., "Achieving Wealth Preservation via Islamic Crowdfunding: An Analysis from Maqasidic View," *Millah: Journal of Religious Studies* 24, no. 2 (2023), <https://doi.org/10.20885/millah.vol24.iss2.ar12>.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

particularly as stipulated in POJK No. 16/POJK.04/2021. Within this context, normative legal research seeks to determine whether the provisions of positive law are consistent with the principles of maqāṣid al-sharī'ah in shaping a sharia-based digital financing system.

The research integrates both a statute approach and a conceptual approach. The statute approach involves a detailed examination of relevant legal instruments⁸, including Law No. 8 of 1995 concerning the Capital Market, Law No. 21 of 2011 concerning the Financial Services Authority, and POJK No. 16/POJK.04/2021 concerning Securities Offerings through Information Technology-Based Crowdfunding Services. Meanwhile, the conceptual approach explores the principles of Islamic law related to Islamic finance and fiqh al-mu'āmalah, particularly those concerning the protection of wealth (hifz al-māl), justice ('adl), and public welfare (maslahah). This dual approach ensures that the analysis is not merely descriptive of legal texts but also evaluative of the alignment between positive law and the fundamental values of sharia.

As an analytical framework, this study adopts the theory of maqāṣid al-sharī'ah developed by Abu Ishaq al-Shatibi and later expanded by Jasser Auda. Al-Shatibi conceptualizes maqāṣid as the universal objectives of Islamic law, encompassing the protection of religion (hifz al-dīn), life (hifz al-nafs), intellect (hifz al-'aql), lineage (hifz al-nasl), and wealth (hifz al-māl).⁹ In the context of the sharia digital economy, hifz al-māl serves as the central pillar, as all financial transactions must guarantee honesty, justice, and the security of public assets. Auda later expands this framework through a systemic approach, emphasizing the interconnection among sharia principles, flexibility, and the social contextualization of modern Islamic law.¹⁰ This theoretical foundation is highly relevant in assessing whether POJK No. 16/POJK.04/2021 adequately reflects the objectives of protection and justice within the sharia crowdfunding system.

The legal materials used in this study comprise primary, secondary, and tertiary sources. Primary legal materials include statutory laws and official regulations such as POJK No. 16/POJK.04/2021. Secondary materials consist of academic literature, journal articles, DSN-MUI fatwas, and previous studies discussing maqāṣid al-sharī'ah within the context of the digital economy. Tertiary materials, such as legal dictionaries and encyclopedias, are employed to clarify key legal concepts and terminologies related to sharia fintech. All materials are analyzed qualitatively and descriptively, emphasizing the legal interpretation of regulatory texts and their relevance to Islamic normative values.

Data analysis is conducted through three stages: data reduction, legal interpretation, and verification of consistency with maqāṣid al-sharī'ah theory. First, data reduction is performed by identifying and classifying relevant norms contained in POJK No. 16/POJK.04/2021. Second, legal interpretation involves interpreting each regulatory provision through the lens of Islamic legal objectives, particularly those related to justice,

⁸ H S Salim, *Metodologi Penelitian Hukum* (Jakarta: Rajawali Pers, 2019).

⁹ Abū Ishāq Al-Shāṭibī, *Al-Muwāfaqāt Fī Uṣūl Al-Sharī'ah*, Vol. 2 (Cairo: Dār al-Ḥadīth, 2000).

¹⁰ Jasser Auda, *Maqāṣid Al-Sharī'ah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought (IIIT), 2008).

welfare, and wealth protection. Finally, the verification stage assesses the degree of harmony between positive regulations and maqāṣid principles. This methodological framework allows the study not only to reveal the substantive content of the law but also to provide a normative evaluation grounded in the sharia values of justice, protection, and sustainability.¹¹

Result and Discussion

The Normative Strengths and Weaknesses of POJK No. 16/POJK.04/2021 in Regulating Sharia Crowdfunding

The Financial Services Authority Regulation (POJK) No. 16/POJK.04/2021 was issued in response to the growing digital economy within Indonesia's capital market sector, particularly regarding the mechanism of securities crowdfunding (SCF). This regulation replaced POJK No. 57/POJK.04/2020 and aims to strengthen transparency, governance, and investor protection. Normatively, the regulation holds significant importance as it governs the implementation of information technology-based securities offerings as a medium for collective investment, including the obligation to register electronic systems, supervisory mechanisms, and administrative sanctions for providers.¹² However, in the context of Islamic economics, this regulation does not yet contain explicit provisions governing crowdfunding based on sharia compliance principles. This raises a fundamental question, to what extent can this general regulation accommodate the principles of Islamic law that require justice, transparency, and the protection of wealth (hifz al-māl)?

Structurally, POJK 16/2021 positions OJK as the main supervisory authority and reinforces the fit and proper test mechanism for platform operators. Article 15A requires each provider to register its electronic system with the Ministry of Communication and Informatics to ensure data security and investor protection.¹³ This provision can be viewed as an effort to realize the principle of amanah (trustworthiness) in maqāṣid al-sharī'ah. However, there are still no specific regulations on the establishment of a Sharia Supervisory Board (DPS) or mandatory halal certification for business models claiming to operate under sharia principles. Consequently, the potential for a mismatch between digital business practices and sharia compliance remains considerable.

A similar phenomenon can be observed in the gig economy and the protection of digital workers in Indonesia and Malaysia. The study by Robi'atul Adawiyah and Nuraida Fitri Habi demonstrates that both countries face regulatory weaknesses due to the slow adaptation of laws to new digital work models, which demand flexibility but offer limited protection.¹⁴ This structural weakness indicates a similar pattern within the digital

¹¹ Asyharul Muala, "Repositioning of Islamic Economics in the Era of Globalization from the Maqāṣid Syarī'ah Perspective," *Journal of Islamic Law* 1, no. 1 (2020), <https://doi.org/10.24260/jil.v1i1.17>.

¹² The Financial Services Authority Regulation (POJK) No. 16/POJK.04/2021 concerning Securities Offerings through Information Technology-Based Crowdfunding Services.

¹³ The Financial Services Authority Regulation (POJK) No. 16/POJK.04/2021 concerning Securities Offerings through Information Technology-Based Crowdfunding Services, Article 15A.

¹⁴ Robi'atul Adawiyah and Nuraida Fitri Habi, "Gender and Labour Law: Protecting Women's Rights in the Digital Era in Indonesia and Malaysia," *Littera Legis: Journal of Law, Society, and Justice* 1, no. 1 (2025): 17–31.

economic legal framework, including sharia crowdfunding regulation, namely the limited ability of positive law to adapt to technological dynamics without compromising social justice principles.

In the context of Islamic economic law, POJK 16/2021 can be categorized as a public regulatory instrument designed not merely to govern private relations between providers and investors but also to safeguard market integrity and public trust. Nonetheless, its normative weakness lies in the absence of sharia-based governance parameters. For example, in the fit and proper test, the eligibility criteria for providers remain focused on managerial and financial competence rather than commitment to Islamic legal principles such as the prohibition of *gharar* (uncertainty) and *riba* (interest).¹⁵ As a result, there is potential inconsistency between the “sharia” label and the actual fund management practices in the field.

An analysis of the structure and substance of POJK 16/2021 reveals that its primary strength lies in the mechanisms for investor protection and the clarity of governance for platform operators. However, the regulation remains value-neutral regarding sharia principles. In Islamic crowdfunding, values such as trustworthiness and ethical transparency constitute the core factors driving public participation.¹⁶ Therefore, universal legal norms must be complemented by derivative regulations that explicitly position sharia compliance as a mandatory component of the national digital finance system.

From the perspective of Nonet and Selznick’s theory of responsive law, an ideal regulation should be capable of adapting to social change without losing its moral foundation.¹⁷ While POJK 16/2021 demonstrates flexibility in regulating digital financial innovation, it has yet to show sufficient responsiveness to the moral and ethical demands of Indonesia’s Muslim community, which requires sharia compliance assurance in all financial instruments. In this regard, Yusuf et al.¹⁸ share a similar concern, emphasizing that harmonizing positive law with Islamic legal values—particularly *karāmah insāniyyah* (human dignity) and *amānah* (moral responsibility)—is essential for developing a comprehensive legal system that unites administrative certainty with ethical and spiritual justice. Such a perspective reinforces the idea that regulation in the digital economy must bridge technological innovation in financial services with public protection grounded in the spiritual values of Islam.

This normative deficiency becomes more critical when viewed in light of the constitutional mandate of Article 29 of the 1945 Constitution and Law No. 21 of 2008 on Islamic Banking, both of which emphasize the necessity of a financial system consistent

¹⁵ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought (IIIT), 2008).

¹⁶ Al-Daihani et al., “Achieving Wealth Preservation via Islamic Crowdfunding: An Analysis from Maqasidic View.”

¹⁷ Philippe Nonet and Philip Selznick, *Law and Society in Transition: Toward Responsive Law* (New Brunswick: Transaction Publishers, 2001).

¹⁸ M. Yusuf et al., “Legal Harmonization of Child Protection in Human Trafficking: A Comparative Study of Indonesian Positive Law and Islamic Law,” *Islamic Law and Social Issues in Society* 1, no. 2 (October 17, 2025): 116–38, <https://doi.org/10.64929/ilsiiis.v1i2.14>.

with Islamic principles. Without explicit integration between POJK provisions and sharia legal norms, the national legal system risks creating a dualism of norms, between technocratic positive law and ethical-transcendental Islamic law.¹⁹

Therefore, a legal reconstruction is necessary through harmonization among OJK, the National Sharia Council (DSN-MUI), and the Ministry of Finance to ensure that every sharia crowdfunding platform complies not only with POJK's technical requirements but also with a comprehensive sharia certification system. In this way, national law can function not only as a regulatory instrument for economic activity but also as a means to achieve the objectives of maqāṣid al-sharī'ah namely, protection, justice, and maslahah (public welfare) for the broader society.

The Alignment of Maqāṣid al-Sharī'ah Principles with the Regulatory Structure of Sharia Crowdfunding

The concept of maqāṣid al-sharī'ah serves as a fundamental framework for assessing the conformity of positive legal norms with the principles of substantive justice in Islamic law. Broadly, maqāṣid al-sharī'ah refers to the higher objectives of Islamic law, which aim to preserve the five essential elements of human well-being (al-ḍarūriyyāt al-khamsah): religion (dīn), life (nafs), intellect ('aql), lineage (nasl), and property (māl).²⁰ Within the context of the digital economy, particularly sharia crowdfunding, three maqāṣid principles are most relevant, hifz al-māl (protection of wealth), 'adl (justice), and maslahah (public benefit). Together, these principles function as moral and normative instruments that guide the formulation and implementation of sharia economic policies in line with justice, transparency, and social protection.

From the perspective of hifz al-māl, POJK No. 16/POJK.04/2021 seeks to protect public assets and funds through provisions mandating information transparency and regular reporting to OJK. Articles 22 to 25 require providers to disclose information that is accurate, clear, and not misleading to investors.²¹ This provision directly aligns with the hifz al-māl principle, as it safeguards the public from potential fraud and misuse of funds (gharar). Nevertheless, such legal protection remains largely administrative in nature and lacks a preventive sharia compliance mechanism that ensures the involvement of the Sharia Supervisory Board (DPS) in every stage of financial transactions.²²

The principle of 'adl (justice) is equally essential in ensuring equitable treatment among providers, issuers, and investors. This principle demands balance in the distribution of risks (risk-sharing) and profits (profit-loss sharing), which are the hallmarks of the Islamic economic system.²³ However, POJK No. 16/POJK.04/2021 still adheres to a one-sided

¹⁹ Soediro and Meutia, "Maqasid Sharia as a Performance Framework for Islamic Financial Institutions."

²⁰ Abu Ishaq Al-Shatibi, *Al-Muwafaqat Fi Usul Al-Shariah* (Beirut: Dar al-Ma'rifah, 2008).

²¹ The Financial Services Authority Regulation (POJK) No. 16/POJK.04/2021 concerning Securities Offerings through Information Technology-Based Crowdfunding Services, Article 22-25.

²² Hafizhah and Rialdy, "Konsep Crowdfunding Di Indonesia Dalam Perspektif Syariah Compliance."

²³ Muhammad Umer Chapra, *The Future of Economics: An Islamic Perspective* (Leicester: Islamic Foundation, 2000).

investor protection model, where the responsibilities of providers are emphasized more than the obligations of issuers in guaranteeing project feasibility.²⁴ This imbalance demonstrates that the regulation has yet to fully reflect the maqāṣid-based notion of distributive justice mandated by Islamic law.

From the standpoint of *maslahah* (public welfare), POJK No. 16/POJK.04/2021 has provided social benefits by widening access to financing for MSMEs and startup entrepreneurs. Through information technology-based crowdfunding mechanisms, small-scale businesses can obtain funding without the complexities of conventional banking procedures.²⁵ However, these benefits remain suboptimal because the regulation does not establish a specific framework for sharia crowdfunding to ensure that all financing models strictly comply with *fiqh al-mu'āmalah* principles. For instance, there is no explicit requirement for providers to obtain a sharia compliance fatwa from the DSN-MUI prior to operation.²⁶

Theoretically, Auda (2008) asserts that modern Islamic law must be developed based on the principles of “openness and system thinking,” in which maqāṣid is not merely understood as the ultimate goal of the law but also as a dynamic mechanism that balances social change with the moral essence of Islamic legal philosophy.²⁷ Applying this framework to the digital economic sphere implies that sharia crowdfunding regulations should go beyond administrative prescriptions to ensure the realization of *maslahah* and social justice. Thus, the alignment of maqāṣid al-sharī'ah with positive regulation should not be viewed merely as formal compliance, but as substantive conformity that guarantees the protection of human and economic values within the Muslim community.

To further illustrate the relationship between maqāṣid principles and the regulatory framework of POJK No. 16/2021, a comparative normative analysis is presented below:

Tabel 1. Comparison of Regulatory Aspects under POJK for Strengthening Based on Maqāṣid al-Sharī'ah Principles

Regulatory Aspect	Provisions under POJK No. 16/POJK.04/2021	Required Reinforcement Based on Maqāṣid al-Sharī'ah
Legal Foundation	Focused on administrative and procedural requirements of securities-based crowdfunding.	Requires explicit legal recognition of <i>sharia crowdfunding</i> as a distinct regulatory category aligned with <i>Islamic finance</i> principles.
Governance Structure	Regulated by OJK and the Ministry of Communication and	Integration of a <i>Sharia Governance System</i> under OJK in collaboration

²⁴ Soediro and Meutia, “Maqasid Sharia as a Performance Framework for Islamic Financial Institutions.”

²⁵ Otoritas Jasa Keuangan (OJK). *Laporan Perkembangan Securities Crowdfunding Syariah di Indonesia 2024*. <https://ojk.go.id/id/kanal/syariah/data-dan-statistik/laporan-perkembangan-keuangan-syariah-indonesia/Pages/Laporan-Perkembangan-Kuangan-Syariah-Indonesia-2024.aspx>

²⁶ Al-Daihani et al., “Achieving Wealth Preservation via Islamic Crowdfunding: An Analysis from Maqasidic View.”

²⁷ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

	Information without a dedicated <i>Sharia Supervisory Board (DPS)</i> .	with DSN-MUI to ensure compliance with <i>sharia</i> principles.
Investor Protection	Provides general risk disclosure and financial accountability.	Incorporates <i>hifz al-māl</i> (protection of wealth) through risk-sharing contracts and <i>sharia</i> -based audit mechanisms.
Transparency	Focuses on financial reporting and platform accountability.	Requires <i>disclosure of sharia compliance</i> and transparent reporting of halal certification for projects and issuers.
Dispute Resolution	Refers to OJK procedures and conventional arbitration.	Establishes a <i>Sharia Arbitration Board</i> mechanism that aligns with Islamic dispute resolution principles.

The results of the above analysis indicate that the regulation of sharia crowdfunding under POJK No. 16/POJK.04/2021 has only achieved a partial alignment with the principles of *maqāṣid al-sharī'ah*. The established norms remain focused primarily on formal-legal aspects and have yet to address the substantive dimensions of justice and social welfare as emphasized in Islamic law.²⁸ Within this context, *maqāṣid al-sharī'ah* functions as a balancing instrument between the need for efficiency in modern law and the moral imperatives of sharia that prioritize human dignity and social ethics.²⁹

Accordingly, it can be concluded that the harmony between POJK regulations and *maqāṣid al-sharī'ah* remains potential rather than actual. To achieve substantive conformity, regulatory reform is required to integrate mechanisms such as digital sharia certification, multi-tiered supervision by the Sharia Supervisory Board (DPS), and the reinforcement of contractual justice models based on risk-sharing principles. These measures are essential to ensure that Indonesia's digital economic law evolves beyond administrative efficiency and embodies moral and spiritual justice consistent with the ultimate objectives of *maqāṣid al-sharī'ah*.³⁰

Reconstruction of the Legal Foundation of Sharia Crowdfunding Based on *Maqāṣid al-Sharī'ah* Values

Efforts to strengthen the legal foundation of sharia crowdfunding must begin with the understanding that regulation should not remain confined to a technocratic level but must reflect the substantive values at the core of *maqāṣid al-sharī'ah*. In this context, POJK No. 16/POJK.04/2021 needs to be reconstructed as a regulation that not only contains

²⁸ Asyraf Wajdi Dusuki and Said Bouheraoua, *The Framework of Maqasid Al-Shariah and Its Implications for Islamic Finance* (Islamic Research and Training Institute (IRTI), 2011).

²⁹ Ardian Kurniawan, Syarif Bin Muhammadromli Samae, and Hamida Arbi, "From Judicial Discretion to *Maqāṣid Al-Sharī'ah* Reasoning: The Case of Marriage Dispensation at the Muara Bulian Religious Court, Indonesia," *Islamic Law and Social Issues in Society* 1, no. 1 (2025): 64–85, <https://doi.org/10.64929/ilsis.v1i1.11>.

³⁰ Nonet and Selznick, *Law and Society in Transition: Toward Responsive Law*.

administrative norms but also ensures justice, transparency, and public welfare for all participants in the digital economy. This principle aligns with the view of Nonet and Selznick (2001), who argue that effective law is that which is responsive to social change without losing its moral orientation.³¹ Such law must bridge technological innovation in financial services with public protection grounded in the spiritual values of Islam.

A maqāṣid al-sharī'ah-based legal reconstruction also embodies the concept of value-embedded regulation, namely, the integration of sharia moral and ethical values within every legal norm.³² In this regard, the principles of 'adl (justice), amanah (trustworthiness), and maslahah (social welfare) should serve as the primary foundation for formulating technical regulations and supervisory mechanisms. Auda (2008) emphasizes that maqāṣid should be understood as an open system that allows Islamic law to adapt to social change without losing its divine essence.³³ Accordingly, the reformulation of POJK No. 16/2021 must accommodate the space for digital innovation while simultaneously ensuring substantive sharia compliance.

A major weakness of the current OJK regulatory framework lies in the absence of an integrated sharia governance system. Drawing on Malaysia's Shariah Governance Framework (BNM 2019), which mandates the establishment of Sharia Boards in every financial institution to ensure the consistency of fatwas and institutional accountability³⁴, a similar model could be adapted in Indonesia. Collaboration between OJK and DSN-MUI would ensure that every sharia crowdfunding platform is directly supervised by a sharia compliance unit. This approach is also recommended by Karlina Rahayu (2025) in her study on halal product assurance, where weak inter-agency coordination has led to overlapping authorities and low supervisory capacity.³⁵ If this analogy is applied to the fintech sector, integrated supervision becomes essential to effectively uphold the principles of amanah and hifz al-māl.

In addition to institutional integration, legal strengthening must also be directed toward risk- and value-based supervision. Hasan (2020) argues that such an approach enables Islamic financial institutions to maintain justice and market stability through preventive mechanisms rather than punitive ones.³⁶ In the context of sharia crowdfunding, implementing digital audit systems and transparent reporting not only satisfies administrative efficiency but also represents a tangible form of protection for wealth (hifz al-māl) and the integrity of the sharia financial market. This approach aligns with the risk-

³¹ Nonet and Selznick.

³² Reza Banakar and Max Travers, "Theory and Method in Socio-Legal Research," *Oñati International Series in Law and Society*, 2005; Mohammad Hashim Kamali, *Shariah Law: An Introduction* (Oxford: Oneworld Publications, 2008).

³³ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

³⁴ Bank Negara Malaysia, *Shariah Governance Framework for Islamic Financial Institutions*, 2019. <https://www.bnm.gov.my/ccris>

³⁵ Karlina Rahayu and A. Yuli Tauvani, "Legal Review of the Contamination of Prohibited Substances in Certified Products: A Perspective of the Halal Product Assurance Law," *Littera Legis: Journal of Law, Society, and Justice* 1, no. 1 (2025): 47–60.

³⁶ Zubair Hasan, "Risk-Based and Value-Based Supervision in Islamic Finance Regulation," *ISRA International Journal of Islamic Finance* 12, no. 3 (2020): 345–67.

based supervision model in halal product assurance systems, which emphasizes preventive, technology-driven oversight to enhance public accountability.³⁷

The educational dimension is also a crucial element of legal reconstruction. An ideal regulation should function as a social education instrument that fosters ethical awareness within the digital Muslim community. As highlighted by Dusuki and Bouheraoua (2011), the success of the Islamic financial system depends not solely on the existence of formal legal instruments but on the public's level of literacy concerning maqāṣid values.³⁸ Therefore, OJK should mandate digital sharia financial literacy programs for both providers and investors as a means to strengthen ethical consciousness within the broader fintech ecosystem.

To illustrate the direction of comprehensive legal reform, the following section presents a regulatory reconstruction model that integrates maqāṣid al-sharī'ah principles into the structural framework of sharia crowdfunding:

Table 2. Model for Reconstructing the Legal Framework of Sharia Crowdfunding Based on Maqāṣid al-Sharī'ah Principles

Legal Aspect	Current Conditions under POJK No. 16/2021	Proposed Reconstruction (Maqāṣid al-Sharī'ah Approach)
Supervisory Structure	OJK and Ministry of Communication and Information supervise without a specific <i>DPS</i> .	Integrate <i>Sharia Supervisory Boards (DPS)</i> under DSN-MUI within a unified <i>sharia governance</i> framework.
Investor Protection	Focuses primarily on financial risks and administrative reporting.	Strengthen <i>hifz al-māl</i> through <i>sharia</i> auditing and <i>profit-loss sharing</i> contract enforcement.
Information Transparency	Reporting remains technical and administrative in nature.	Require mandatory <i>disclosure of sharia compliance</i> and digital halal certification for projects.
Sharia Literacy	Not explicitly stipulated in the POJK regulation.	Add provisions mandating <i>digital sharia financial literacy</i> programs for issuers and investors.
Law Enforcement	Limited to administrative sanctions.	Combine administrative and moral sanctions for <i>sharia</i> violations under DSN-MUI supervision.

The above reconstruction demonstrates that reforming the digital economic legal framework through the lens of maqāṣid al-sharī'ah is not merely a normative endeavor but a systemic transformation. The integration of maqāṣid values produces a legal

³⁷ Ortwin Renn, *Risk Governance: Coping with Uncertainty in a Complex World*, Risk Governance: Coping with Uncertainty in a Complex World, 2012, <https://doi.org/10.4324/9781849772440>.

³⁸ Dusuki and Bouheraoua, *The Framework of Maqasid Al-Shariah and Its Implications for Islamic Finance*.

structure that is both responsive and ethical, where the effectiveness of regulation is measured not solely by administrative compliance but by the extent to which the law safeguards *maslahah* (public welfare) and sustains public trust.⁹ In this regard, Indonesia could adopt a consolidated multi-actor coordination model similar to that implemented in Malaysia or Brunei as also recommended in Supriyadi et al., to prevent overlapping institutional authority and enhance global competitiveness.³⁹

Accordingly, the reconstruction of sharia crowdfunding law based on *maqāṣid al-sharī'ah* constitutes not only a normative solution but also a strategic step toward establishing sovereignty in Islamic economic law within the digital era. If the principles of *'adl* (justice), *amanah* (trust), and *maslahah* (public welfare) are systematically institutionalized within the national fintech regulatory framework, Indonesia holds the potential to emerge as a global hub of Islamic financial innovation grounded in substantive justice and spiritual sustainability.

Conclusion

The rapid development of the sharia digital economy in Indonesia presents a significant opportunity to strengthen an inclusive financing system, particularly through sharia crowdfunding as a technology-based alternative funding model. However, the analysis of Financial Services Authority Regulation (POJK) No. 16/POJK.04/2021 reveals that the current regulation remains general in nature and has yet to fully accommodate the principles of sharia compliance. Its primary weakness lies in the absence of explicit sharia foundations, such as the mechanism for sharia audit and the role of a Sharia Supervisory Board (DPS), resulting in a legal framework that does not entirely guarantee justice and protection in accordance with Islamic values.

The findings indicate that the regulatory structure under POJK No. 16/POJK.04/2021 aligns only partially with the principles of *maqāṣid al-sharī'ah*, particularly regarding the protection of wealth (*hifz al-māl*), while remaining weak in the dimensions of justice (*'adl*) and public welfare (*maslahah*). This underscores the urgent need to transform the paradigm of digital economic law, from being merely administrative to becoming responsive to sharia values. An ideal sharia financial regulation must go beyond ensuring procedural certainty; it should also uphold substantive justice and social sustainability as its core objectives.

Moving forward, the strengthening of the sharia crowdfunding legal framework must be achieved through *maqāṣid al-sharī'ah*-based regulatory reconstruction. Integration among the OJK, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), and the Halal Certification Agency should be established under a comprehensive sharia governance system. Furthermore, the institutionalization of mandatory sharia audits, digital sharia financial literacy programs, and value-based supervision should become normative imperatives. Such reconstruction will not only reinforce the legitimacy of

³⁹ S Supriyadi et al., "Legal Effectiveness of Halal Product Certification in Improving Business Economics in Indonesia and Malaysia," *Al-Ahkam* 34, no. 1 (2024): 193–220, <https://doi.org/10.21580/ahkam.2024.34.1.20546>.

Indonesia's national legal system but also position the country as a global pioneer in Islamic digital economic law that is just, transparent, and rooted in *maslahah* (public welfare).

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