



# Analyzing the Legal Reasoning behind the Prohibition of Cryptocurrency Transactions in Indonesian Fatwa and Regulations

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**Abstract:** This study analyzes the legal rationale underlying the prohibition of cryptocurrency transactions in Indonesia, particularly through the Indonesian Ulema Council (MUI) fatwa and the government's regulatory framework. While MUI's fatwa bans cryptocurrency as a medium of exchange and investment due to elements of gharar, maysir, and unclear underlying value, Indonesian state regulations classify cryptocurrency as a tradable commodity under the supervision of the Commodity Futures Trading Regulatory Agency (Bappebti). This duality creates a normative tension between religious legal reasoning and positive law. Using a doctrinal and analytical approach, this research examines the basis of MUI's arguments, the extent to which cryptocurrency fits the criteria of lawful (halal) transactions in Islamic law, and how government regulation frames cryptocurrency within Indonesia's financial and digital economy policies. The findings indicate that MUI's prohibition is grounded in risk, volatility, and speculative characteristics, whereas the government adopts a pragmatic regulatory stance by focusing on consumer protection and market oversight. This study contributes to the ongoing discourse on harmonizing religious fatwas and state law in emerging digital financial technologies.

**Keywords:** Legal Reasoning, Cryptocurrency Transactions, Indonesian Fatwa, Regulations

**Abstrak:** Penelitian ini menganalisis dasar penalaran hukum yang digunakan dalam pelarangan transaksi kripto di Indonesia, khususnya melalui fatwa Majelis Ulama Indonesia (MUI) dan kerangka regulasi pemerintah. Meskipun MUI menetapkan bahwa aset kripto haram sebagai alat tukar maupun instrumen investasi karena mengandung unsur gharar, maysir, dan tidak memiliki nilai dasar yang jelas, regulasi negara justru mengklasifikasikan kripto sebagai komoditas yang dapat diperdagangkan di bawah pengawasan Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti). Kondisi ini menimbulkan ketegangan normatif antara nalar hukum keagamaan dan hukum positif. Pendekatan doktrinal dan analitis, penelitian ini mengkaji argumen-argumen dasar MUI, kesesuaian aset kripto dengan kriteria transaksi yang halal dalam hukum Islam, serta bagaimana regulasi pemerintah memposisikan kripto dalam kebijakan ekonomi digital nasional. Temuan penelitian menunjukkan bahwa pelarangan MUI didasarkan pada risiko, volatilitas, dan sifat spekulatif kripto, sedangkan pemerintah mengambil pendekatan regulatif pragmatis dengan menekankan aspek perlindungan konsumen dan pengawasan pasar. Studi ini memberikan kontribusi pada diskursus harmonisasi antara fatwa keagamaan dan hukum negara di tengah perkembangan teknologi keuangan digital.

**Kata Kunci:** Penalaran Hukum, Transaksi Mata Uang Kripto, Fatwa Indonesia, Peraturan

## Introduction

In the past ten years, technological advancements have significantly changed business practices, especially in the field of payment systems and digital currencies. Many companies, such as Overstock and Newegg, have begun accepting cryptocurrency for online transactions, hotel bookings, and flights, indicating a gradual shift away from conventional payment instruments toward digital assets.<sup>1</sup> This development shows that cryptocurrencies are no longer merely a technological experiment but have entered the realm of practical business use.

Several studies within the field of Islamic law indicate that digital innovation presents new challenges in determining legal status and in assessing the elements of *gharar*, *dharar*, and *qimār*. Recent studies have confirmed that transformations in the structure of the digital economy<sup>2</sup> have required a reinterpretation of the classical *mu‘āmalāt* rules, particularly as financial instruments are no longer based on physical assets and are increasingly decentralized.<sup>3</sup> Other studies also emphasize that blockchain-based transaction models produce new forms of uncertainty that must be analyzed with modern *fiqh al-mu‘āmalāt* approaches.<sup>4</sup>

Cryptocurrency is generally defined as a virtual currency that uses cryptographic techniques and blockchain technology to secure transactions, control the creation of new units, and verify the transfer of digital assets.<sup>5</sup> In contrast to fiat money issued by central banks, cryptocurrencies operate on decentralized networks where validation is carried out by distributed nodes rather than a single trusted intermediary. This decentralized structure is claimed to increase transparency, reduce transaction costs, and minimize the risk of single-point failure in the payment system.<sup>6</sup> However, at the same time, it creates new vulnerabilities, such as high price volatility, cyber-attacks on exchanges, and regulatory uncertainty in many jurisdictions.

In the context of business transactions, cryptocurrencies serve at least two main functions. First, they function as a medium of exchange and a payment instrument for goods and services, particularly in cross-border e-commerce, where transaction speed and low fees are highly valued.<sup>7</sup> Second, cryptocurrencies act as digital assets or commodities that can be held for investment, traded on cryptocurrency exchanges, or used as collateral on decentralized finance (DeFi) platforms.<sup>8</sup> These dual functions blur the traditional distinction between currency and investment instruments,

<sup>1</sup> S., Li, X., & Wong, K. Chen, "Blockchain and Cryptocurrencies: Risk and Financial Management," *Journal of Financial Management* 13, no. 2 (2020): 220–37.

<sup>2</sup> Dwi Fidhayanti et al., "Implementing Confidentiality Principles in Sharia Economic Dispute Resolution Through Online Dispute Resolution in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 1 (June 19, 2025): 33–52, <https://doi.org/10.30631/alrisalah.v25i1.1681>; Didi Sukardi et al., "Digital Transformation of Cooperative Legal Entities in Indonesia," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (December 30, 2024): 68–86, <https://doi.org/10.30631/alrisalah.v24i2.1563>; Suhairi Suhairi et al., "Regulatory and Economic Challenges in Contemporary Crowdfunding-Based Cash Waqf," *MILRev: Metro Islamic Law Review* 4, no. 2 (July 1, 2025): 822–67, <https://doi.org/10.32332/milrev.v4i2.10343>.

<sup>3</sup> Muzakki A., "Pergeseran Hukum Ekonomi Syariah Dalam Era Digital," *De Jure: Jurnal Hukum Dan Syariah* 14, no. 1 (2022).

<sup>4</sup> Kholis N., "Analisis Gharar Dalam Transaksi Digital Berbasis Blockchain," *De Jure: Jurnal Hukum Dan Syariah*, *De Jure: Jurnal Hukum Dan Syariah* 13, no. 2 (2021).

<sup>5</sup> S. Nakamoto, "Bitcoin: A Peer to Peer Electronic Cash System," *International Journal of Cryptography* 5, no. 1 (2008): 1–10.

<sup>6</sup> M. D. Suryani, "A Study on Cryptocurrency as a Payment Instrument in Indonesia," *Indonesian Journal on Networking and Security* 6, no. 1 (2017): 51–60.

<sup>7</sup> J. Smith, "Corporate Acceptance of Digital Currencies in e Commerce," *Journal of Digital Business* 8, no. 3 (2019): 141–50; Read also, Dedi Sunardi, Azri Bhari, and Muhammad Najib Bin Abd Wakil, "Legal Awareness of Micro and Small Enterprise Operators Regarding Halal Certification: A Maslaha Perspective," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 1 (July 18, 2024): 23–45, <https://doi.org/10.18326/ijtihad.v24i1.23-45>.

<sup>8</sup> L. Brown, "Crypto Assets as Alternative Investments," *Journal of Investment Studies* 10, no. 4 (2020): 295–310.

thereby presenting businesses with new challenges in accounting, taxation, and risk management when deciding to utilize or hold cryptocurrencies.<sup>9</sup>

From a security perspective, blockchain-based cryptocurrency systems are often promoted as providing enhanced security through the use of cryptography, distributed ledgers, and immutable transaction records.<sup>10</sup> Several studies point out that these characteristics can reduce the risk of data manipulation and improve transaction traceability. Nevertheless, empirical experience shows that incidents such as crypto exchange hacks, private key thefts, and various fraudulent schemes continue to occur, often resulting in substantial losses for users and businesses.<sup>11</sup> This indicates that technological robustness must be accompanied by effective governance, appropriate regulatory frameworks, and strong internal control mechanisms at the organizational level.

The debate over the legal status of cryptocurrencies has intensified as more countries adopt or prohibit their use. Various studies indicate that the main problems with digital assets are not only price volatility but also the unclear substance of the assets (*māl*) and the potential for extreme speculation.<sup>12</sup> Other studies emphasize the importance of integrating the principle of *maṣlaḥah* with the need to regulate digital instruments.<sup>13</sup> Additionally, other research highlights that fatwas on digital finance should be grounded in the principles of *maqāṣid al-sharī'ah*, particularly those related to public benefit, the protection of value, and the prevention of harm.<sup>14</sup> Thus, both *fiqh* scholarship and positive legal frameworks must demonstrate the capacity to adapt to the distinctive characteristics of digital assets.

In Indonesia, discussion of cryptocurrencies has mostly focused on regulatory issues and their classification as trading commodities, while empirical studies of their use as payment instruments in business transactions remain limited.<sup>15</sup> There is a notable gap in studies that specifically investigate how businesses in Indonesia perceive the benefits and risks of cryptocurrency, what factors drive or hinder its adoption, and how security aspects are managed in practice. Therefore, this study aims to analyze the use of cryptocurrency as a transaction instrument in Indonesian business activities, with particular attention to security, regulatory, and operational risk dimensions. The results are expected to enrich the academic literature on digital currencies and to provide practical guidance for companies and regulators in formulating policies related to cryptocurrency-based transactions.<sup>16</sup>

The Indonesian Ulama Council (*Majelis Ulama Indonesia/ MUI*) issued *Fatwa* No. 140/DSN-MUI/X/2021 concerning the Law on the Use of Cryptocurrency.<sup>17</sup> The fatwa explicitly prohibits

<sup>9</sup> Muchammad Aqib Junaidi, Reka Dewantara, and Nur Chanifah, "Halal Certification of Cryptocurrency: A Framework for Strengthening Trust in Shariah-Compliant Digital Finance," *International Journal of Social Science and Religion (IJSSR)*, December 16, 2025, 321–32, <https://doi.org/10.53639/ijssr.v6i3.382>; Compare with Muhammad Fuad Zain, "Mining-Trading Cryptocurrency Dalam Hukum Islam," *Al-Manahij: Jurnal Kajian Hukum Islam* 12, no. 1 (June 22, 2018): 119–32, <https://doi.org/10.24090/mnh.v12i1.1303>.

<sup>10</sup> M. Johnson, "Security Properties of Blockchain Based Payment Systems," *Journal of Information Security* 12, no. 2 (2019): 85–98.

<sup>11</sup> A Wong, "Cybersecurity Risks in Cryptocurrency Exchanges," *Journal of Cyber Risk* 7, no. 1 (2020): 25–40.

<sup>12</sup> Halim R, "Tantangan Regulasi Fintech Dalam Perspektif Hukum Ekonomi Syariah," *Jurnal AL Risalah* 22, no. 1 (2022); Read more Muhammad Maksum, "The Mechanism of Avoiding Riba in Islamic Financial Institutions: Experiences of Indonesia and Malaysia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (December 15, 2023): 235, <https://doi.org/10.31958/juris.v22i2.6952>.

<sup>13</sup> Frimansyah D, "Penyelesaian Sengketa Transaksi Digital Dalam Hukum Islam," *Jurnal AL Risalah* 21, no. 2 (2021).

<sup>14</sup> Latif A, "Fatwa DSN-MUI Terhadap Instrumen Keuangan Digital: Analisis Ushul Fiqh," *Jurnal Ahkam* 22, no. 2 (2022).

<sup>15</sup> R. Hartono, "Perkembangan Regulasi Aset Kripto Di Indonesia," *Jurnal Hukum Ekonomi* 4, no. 2 (2021): 105–20.

<sup>16</sup> D. Pratiwi, "Adopsi Cryptocurrency Dalam Transaksi Bisnis Di Indonesia," *Jurnal Manajemen Dan Bisnis* 9, no. 1 (2022): 45–60.

<sup>17</sup> Habiburrahman, "Analisis Fatwa Mui Terkait Keputusan Ijtima' Ulama Komisi Fatwa Se-Indonesia Ke VII Tahun 2021 Tentang Penggunaan Uang Digital Bitcoin" (IAIN Metro, 2024).

cryptocurrency as a currency (*al-thaman al-mutaqawwim*) on the grounds that: (1) it contains excessive *gharar* due to its high price volatility and lack of intrinsic value; (2) it contains *dharar* because it poses significant potential harm to users arising from fraud, market manipulation, and the absence of underlying assets; (3) it contains elements of *qimār* (speculation akin to gambling), particularly in crypto trading practices that involve uncertain outcomes and disproportionate gain/loss; and (4) cryptocurrency contradicts Indonesian monetary law, especially Law No. 7 of 2011 on Currency and Bank Indonesia Regulation No. 17/3/PBI/2015, both of which affirm the Rupiah as the sole legal tender in Indonesia.<sup>18</sup> “Inconsistency” in this context refers to cryptocurrency’s role as a *de facto* medium of exchange competing with the Rupiah, thereby violating the principle of monetary sovereignty.<sup>19</sup>

Scholars who support the prohibition such as Wahbah al-Zuhaili, Muhammad Taqi Usmani, and the International Islamic Fiqh Academy argue that cryptocurrencies fail to meet Sharia requirements for lawful tradeable assets because they lack physical form (*‘ain*), stable and measurable value, and clear ownership criteria.<sup>20</sup> These scholarly views form the doctrinal basis used by the MUI in its legal reasoning. Therefore, any analysis of cryptocurrency in Indonesia must directly refer to the text of the fatwa rather than secondary media interpretations to ensure accuracy.

Islamic economic law continuously adapts to developments in commercial practices and financial instruments. As financial technology evolves, new products such as cryptocurrencies challenge established legal categories related to exchange media, commodities, and transaction structures.<sup>21</sup> In Islamic jurisprudence, *‘urf* (prevailing custom) plays an essential role in determining legal rulings for contemporary transactions, provided that the custom does not contradict sharia principles.<sup>22</sup> While Islamic law does not prescribe a specific form of currency, it requires that any medium of exchange possess identifiable value, a degree of stability, and clear ownership.<sup>23</sup> Consequently, the emergence of cryptocurrencies necessitates a reassessment of whether their characteristics conform to or diverge from these Sharia standards.<sup>24</sup>

<sup>18</sup> H. Abdillah, “Hukum Cryptocurrency Sebagai Mata Uang Dan Sebagai Komoditas (Analisis Fatwa MUI Tentang Hukum Cryptocurrency),” *Jurnal Ilmiah Ekonomi Islam* 9, no. 3 (2023).

<sup>19</sup> Muhammad Rizieq dan Baidhowi, “Keabsahan Kripto Dalam Perspektif Hukum Ekonomi Syariah: Studi Kasus Fatwa DSN-MUI Terhadap Aset Kripto,” *Jurnal Kampus Akademik* 2, no. 4 (2025).

<sup>20</sup> Maulidia Rohmatul Aini, “Analisis Transaksi Cryptocurrency Dalam Perspektif Maqashid Syariah: Studi Berdasarkan Fatwa MUI Dan Implikasinya Terhadap Ekonomi Syariah,” *Jurnal Muamalat Indonesia* 5, no. 1 (2025): 761–71; Mellya Embun Baining et al., “Finding The Maqashid Al-Syariah Performance Model on Syariah Management Accounting Information System Values,” *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (December 30, 2024): 87–104, <https://doi.org/10.30631/alrisalah.v24i2.1642>.

<sup>21</sup> E. A., & Arrasyid, H. Garadian, *Understanding the Role of Indonesian Millennials in Shaping the Nation’s Future*, ed. Ju-Lan; Maria Monica Wiharja Thung (ISEAS–Yusof Ishak Institute, 2024).

<sup>22</sup> Panji Adam Agus Putra, “The Concept Of ‘Urf And Its Application In Sharia Economic Law (Mu’āmalah Māliyyah),” *Edukasi Islam: Jurnal Pendidikan Islam* 12, no. 001 (2023): 1181–94; Zainul Mun’im et al., “‘Ulamā’, Authority, and Political Relations: How the PCNU Jember Fatwā Influenced Public Policy on Gold Mining in Silo?,” *Journal of Islamic Law* 6, no. 1 (February 10, 2025): 46–66, <https://doi.org/10.24260/jil.v6i1.3605>; Johari Johari et al., “Istihsān Method and Its Relevance to Islamic Law Reform: Content Analysis of Fatwa of Majelis Ulama Indonesia on Corneal Transplant,” *De Jure: Jurnal Hukum Dan Syar’iah* 15, no. 1 (July 4, 2023): 1–20, <https://doi.org/10.18860/j-fsh.v15i1.18442>, particularly in environmental and mining-related issues. Existing research suggests that despite opposition from ‘ulamā’ (Islamic scholars

<sup>23</sup> H. Abdillah, “Hukum Cryptocurrency Sebagai Mata Uang Dan Sebagai Komoditas (Analisis Fatwa MUI Tentang Hukum Cryptocurrency);” Putri Rahmah Nur Hakim et al., “Contesting Sharia and Human Rights in the Digital Sphere: Media Representations of the Caning Controversy under the Qanun Jinayat in Aceh,” *Journal of Islamic Law* 6, no. 2 (July 9, 2025): 206–35, <https://doi.org/10.24260/jil.v6i2.3600>; Afif Noor et al., “Maslahah-Based Protection of Fund Recipients in Fintech Lending Through Empowerment and Justice,” *El-Mashlahah* 15, no. 1 (June 11, 2025): 1–20, <https://doi.org/10.23971/el-mashlahah.v15i1.7786>.

<sup>24</sup> Qodariah Barkah et al., “Legal Transformation of Indonesian Sharia Banks Towards Digital Banking in the Era of Industrial Revolution 4.0,” *Al-Adalah* 21, no. 2 (December 26, 2024): 347, <https://doi.org/10.24042/adalah.v21i2.21254>.



The controversy surrounding cryptocurrencies in Indonesia initially arose from their incompatibility with national monetary regulations. Law No. 7 of 2011 on Currency and Bank Indonesia Regulation No. 17/3/PBI/2015 explicitly state that the Rupiah is the only legal medium of payment in Indonesia.<sup>25</sup> Consequently, the use of Bitcoin or other cryptocurrencies as payment instruments is strictly prohibited.<sup>26</sup> This regulatory conflict became one of the foundational considerations behind MUI's issuance of *Fatwa* No. 140/2021, which aligns its religious reasoning with the state's monetary policy.<sup>27</sup>

Following the issuance of new regulations by the Ministry of Trade and the Commodity Futures Trading Regulatory Agency (Bappebti), an increasing number of cryptocurrency traders have entered the digital asset sector. A prominent example is PT Indodax (Indonesia Digital Asset Exchange), formerly known as PT Bitcoin Indonesia. PT Indodax has been seeking licensing from Bappebti as a Crypto Asset Physical Trader and is therefore required to comply with the provisions set forth in Bappebti Regulation No. 5 of 2019. These requirements include, among others: compliance with the technical provisions governing the physical market for crypto assets on the futures exchange, a minimum capital requirement of IDR 1,500,000,000 for futures companies, and possession of ISO certification.<sup>28</sup> To date, PT Indodax remains an ordinary public company, as Bappebti Regulation No. 5 of 2019 stipulates that approval as a Crypto Asset Physical Trader must be obtained within one year of the regulation's enactment, a condition that has not yet been fulfilled.<sup>29</sup>

Many Muslims assert that cryptocurrencies are a culmination of digital technological advancement, and their use has expanded rapidly. Several contemporary Islamic finance scholars such as Monzer Kahf, Sami Al-Suwailem, and Ahmad Kameel Mydin Meera argue that cryptocurrencies may be permissible as *al-thaman* or *al-muthaman* if they fulfil specific sharia criteria: (1) possessing measurable value, (2) being transferable, and (3) being known to both contracting parties (*ma'luman li al-'aqidain*).<sup>30</sup> Some empirical studies (e.g., Kim 2016; Syamsiah 2017) also suggest that blockchain technology reduces fraud risk and enhances transaction transparency.<sup>31</sup> Nevertheless, these scholarly opinions depend heavily on the specific type of cryptocurrency, and current data on market manipulation and security breaches indicate that risks remain high.<sup>32</sup>

As a medium of exchange and as a commodity, Islamic law permits cryptocurrencies. They meet the criteria as a medium of exchange (*al-tsaman*) and a commodity (*al-mutsman*). They offer benefits (*muntafa'*), can transfer them (*maqdur 'ala taslimih*), and both parties are aware of them

<sup>25</sup> Desniar Lutfi Alfiansyah dan Mukhidin, "Praktik Ilegal Perdagangan Mata Uang Kripto Di Indonesia," *Pancasakti Law Journal* 2, no. 1 (June 2024): 203.

<sup>26</sup> F. Yudhi Priyo Amboro dan Agustina Christi, "Prospek Pengaturan Cryptocurrency Sebagai Mata Uang Virtual Di Indonesia (Studi Perbandingan Hukum Jepang Dan Singapura)," *Journal of Judicial Review* 21, no. 2 (2019): 21–22.

<sup>27</sup> H. Abdillah, "Hukum Cryptocurrency Sebagai Mata Uang Dan Sebagai Komoditas (Analisis Fatwa MUI Tentang Hukum Cryptocurrency)."

<sup>28</sup> Corry Anestia, 'Indodax Will Fulfill the Requirements of Bappebti's New Rules for Licenses' (Daily Social.id 2019) <https://dailysocial.id/post/indodax-bakal-penuhi-syarat-aturan-baru-bappeb-ti-demi-kantongi-izin> accessed on April 20, 2022.

<sup>29</sup> Regulation of the Commodity Futures Trading Supervisory Agency Number 5 of 2019 concerning Technical Provisions for the Implementation of the Crypto Asset Physical Market.

<sup>30</sup> Ahmed Kameel Mydin Meera dan Sherin Kunhibava, *Cryptocurrency: An Islamic Finance Perspective* (Cham Springer, 2020).

<sup>31</sup> J. Kim, "An Empirical Study of Fraud Risk Reduction through Blockchain Technology in Financial Audits," *Journal of Financial Studies* 40, no. 3 (2016): 45–67.

<sup>32</sup> Kekhawatiran mengenai volatilitas, manipulasi pasar, dan kurangnya regulasi yang solid masih menjadi perdebatan utama di antara para ulama dan badan pengawas keuangan global. Laporan dari lembaga seperti Financial Action Task Force (FATF) dan otoritas nasional sering menyoroti risiko pencucian uang, pendanaan terorisme, dan kerentanan bursa kripto terhadap peretasan.

(*ma'luman lil 'aqidain*). This excludes any cryptocurrency variants that do not meet these stringent requirements. Blockchain experts say that uncertainty (*gharar*) and gambling (*qimār*) pose no risk to cryptocurrency. Their price volatility follows market supply and demand. This aligns with Islamic law. Cryptocurrencies use advanced blockchain tech and cryptography. They are very secure. This has stopped all attempts at fraud and manipulation. They have shown resilience and integrity. They have endured to this day.

This research focuses specifically on analyzing the legal reasoning used by Indonesian authorities namely DSN-MUI and national regulatory institutions regarding the prohibition of cryptocurrency as a means of payment. Rather than examining regulatory needs for investor protection, the study limits its scope to understanding how Islamic legal principles and national monetary law converge or diverge in evaluating cryptocurrency. Through doctrinal legal analysis, this research aims to clarify the principles, arguments, and jurisprudential foundations underlying Indonesia's regulatory stance.

This study employs a normative legal research method that analyzes legal norms, doctrines, fatwas, and statutory regulations relevant to cryptocurrency in Indonesia.<sup>33</sup> The method focuses on examining authoritative legal documents to interpret, compare, and evaluate the legal reasoning used by DSN-MUI and Indonesian regulatory institutions in assessing the permissibility of cryptocurrency transactions.

The primary data of this research consists of *Fatwa* DSN-MUI No. 140/DSN-MUI/X/2021, Law No. 7 of 2011 on Currency, Bank Indonesia Regulation No. 17/3/PBI/2015, and regulations issued by Bappebti concerning crypto asset trading. Secondary data include academic articles, books, and research reports on Islamic finance, cryptocurrency governance, and relevant jurisprudence. Data were collected through document studies and library research.<sup>34</sup>

The analysis technique used is qualitative normative analysis, conducted through three stages: (1) identification of legal norms and principles relevant to cryptocurrency; (2) interpretation and comparison of sharia reasoning and statutory provisions; and (3) evaluation of their coherence, consistency, and implications. These stages make it possible to explain how Islamic legal reasoning is constructed, how it interacts with Indonesia's regulatory framework, and how both shape the legal status of cryptocurrency.<sup>35</sup>

## Overview of a Cryptography-based Payment

The concept of a cryptography-based payment system designed to ensure the confidentiality of user data, known as DigiCash, was initially proposed by David Chaum of the University of California.<sup>36</sup> Subsequently, Satoshi Nakamoto introduced the notion of a decentralized cryptocurrency in 2009. Bitcoin, as the first cryptocurrency adopted in the online marketplace, exerted significant global influence. Its operation relies on cryptographic hash functions integrated with existing security schemes.<sup>37</sup> Following the emergence of Bitcoin, numerous other cryptocurrencies were developed,

<sup>33</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2010).

<sup>34</sup> Ronny Hanitjo Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri* (Jakarta: Ghalia Indonesia, 1990).

<sup>35</sup> Ronny Hanitjo Soemitro. 112

<sup>36</sup> Joey Conway, *Beginners Guide to Cryptocurrencies* (Conway, 2014).

<sup>37</sup> Interview with Ro'fah Setyowati, Lecturer, Faculty of Law, Diponegoro University, July 26, 2025, at 09.30 am

each incorporating various enhanced features. Nevertheless, cryptocurrencies with relatively low market capitalization have generally failed to survive over time.<sup>38</sup>

The realm of transactions and banking has undergone a revolutionary transformation. The transparency inherent in virtual currencies has the potential to reshape the business landscape profoundly. The principal advantages of virtual currencies include rapid transaction processing, cryptographic encryption that enhances security, and reduced transaction costs. Conversely, notable disadvantages persist, including insufficient trust, limited acceptance, and concerns regarding system reliability.<sup>39</sup> Although the concept of electronic currency emerged in the 1980s, Bitcoin was introduced in 2009 by Satoshi Nakamoto. In essence, cryptocurrency is a virtual currency system that operates in a manner analogous to traditional currency, enabling users to conduct virtual payments for business transactions without service fees and supported by a centralized trust authority.<sup>40</sup>

Bitcoin, which holds the largest market share among digital currencies, is characterized by its decentralized nature and independence from institutional oversight. Cryptocurrencies operate by transmitting digital data, employing cryptographic techniques to verify the legitimacy of transactions. These digital monetary transactions are facilitated via peer-to-peer networks. The emergence of various “altcoins” (a term denoting cryptocurrencies other than Bitcoin) in 2011 marked the beginning of increased interest in cryptocurrencies.<sup>41</sup>

The technology underlying cryptocurrencies, particularly Bitcoin, offers a sophisticated alternative that, if implemented effectively, could enhance efficiency. In Indonesia, Bank Indonesia has issued a cautionary statement to Bitcoin users, urging them to exercise prudence and emphasizing that the users themselves bear any risks incurred. Furthermore, it is affirmed that the Rupiah is the only officially recognized currency in Indonesia. According to Article 1, point 1 of Law No. 7 of 2011 on Currency,<sup>42</sup> “Currency is money issued by the Unitary State of the Republic of Indonesia, hereinafter referred to as the Rupiah.” In addition, Article 20 of Law No. 23 of 1999 concerning Bank Indonesia stipulates that “Bank Indonesia is the sole institution authorized to issue and circulate Rupiah currency, as well as to revoke, withdraw, and destroy money from circulation.”

The regulatory debate over cryptocurrency in Indonesia continues. While Bank Indonesia prohibits the use of cryptocurrency as a payment instrument, Bappebti recognizes it as a tradable commodity in the futures market.<sup>43</sup> This regulatory dualism reflects Indonesia’s cautious approach to cryptocurrency governance. Bank Indonesia’s prohibition is grounded in considerations of monetary sovereignty, whereas Bappebti’s acceptance is based on market realities and the need to supervise digital asset trading.<sup>44</sup>

Academic studies confirm that this dualism generates normative uncertainty and confusion within society.<sup>45</sup> Several studies have also demonstrated that such regulatory asynchrony creates

<sup>38</sup> Tai Hoon Kim, “A Study of Digital Currency Cryptography for Business Marketing and Finance Security,” *Asia Pacific Journal of Multimedia Services Convergent with Art, Humanities, and Sociology* 6, no. 1 (2016): 365.

<sup>39</sup> Sascha Kraus, Ricarda B. Bouncken Chris Richter, “Virtual Currencies Like Bitcoin as A Paradigm Shift In The Field of Transactions,” *International Business & Economics Research Journal*, 2015, 14–4.

<sup>40</sup> Belvin Tanadi, *Crypto Science* (Jakarta: Gramedia, 2022).

<sup>41</sup> Renaldi Munir, *Cryptography* (Bandung: Informatics Publisher, 2020).

<sup>42</sup> Article 1 number 1 of Law No. 7 of 2011.

<sup>43</sup> F. Yudhi Priyo Amboro dan Agustina Christi, *op.cit.*, hlm. 25-27

<sup>44</sup> Rio Christiawan, “Aspek Hukum Dualisme Pengaturan Cryptocurrency Di Indonesia,” *Jurnal Hukum Dan Pranata Sosial* 1, no. 2 (2020): 80–85.

<sup>45</sup> Setiawan D, “Konsep Kepastian Hukum Dalam Transaksi Digital Syariah,” *Jurnal Ijtihad* 23, no. 2 (2023).

a grey area that may increase the risk of abuse.<sup>46</sup> From an Islamic law perspective, these studies emphasize that crypto assets cannot be classified as money because they do not meet the requirements of value stability and legal authority, but they may be treated as digital commodities under certain conditions.<sup>47</sup> Another article in the same journal argues that digital assets may be categorized as *mustafād* assets if they provide benefits and can be legally transferred.<sup>48</sup>

Beyond the roles of these two institutions, legal uncertainty continues to persist. Issues related to consumer protection, taxation, anti-money laundering measures, and technological safeguards remain unresolved.<sup>49</sup> The absence of a unified regulatory framework poses challenges for the government in balancing innovation with effective risk mitigation. Moreover, Indonesia lacks specific legislation governing crypto asset classification, cross-border transaction mechanisms, and technological security standards.<sup>50</sup> Consequently, discourse on cryptocurrency regulation remains relatively limited compared to other jurisdictions, indicating an urgent need for a more comprehensive and integrated legal governance framework.

### The Position and Use of Cryptocurrency in Islamic Investment Activities

The development of digital financial technology has transformed contemporary investment patterns, including the use of cryptocurrencies. In Islamic jurisprudence, investment activities must adhere to sharia principles that prohibit *gharar*, *dharar*, *ribā*, and *qimār*.<sup>51</sup> Accordingly, assessing whether cryptocurrency can function as *al-thaman* (a medium of exchange) or *al-muthaman* (a tradable commodity) requires an evaluation of its characteristics in light of these principles.<sup>52</sup>

The discussion of cryptocurrencies within the framework of *mu‘āmalāt* cannot be separated from assessments of *gharar*, *dharar*, and *qimār*. Research indicates that the extreme volatility of cryptocurrencies constitutes a significant element of *gharar*, particularly when they are used as short-term trading instruments.<sup>53</sup> Other studies further highlight that dominant speculative practices in cryptocurrency trading may give rise to *qimār* due to the unpredictability of exceptionally high returns.<sup>54</sup>

Cryptocurrency technically enables ownership, transferability, value storage, and commercial exchange. These characteristics align with several criteria for *al-muthaman* in Islamic law.<sup>55</sup>

<sup>46</sup> Rahmawati L, "Pertentangan Norma Pada Regulasi Digital," *Jurnal Ijtihad* 22, no. 1 (2022).

<sup>47</sup> Amin M, "Evaluasi Cryptocurrency Dalam Fikih," *Muamalah, Journal of Islamic Law* 6, no. 1 (2021); Imam Mustofa et al., "The Authority of Texts in the Dynamics of Ijtihad on Fiqh Mu‘amalah Among Santri in Indonesia," *El-Mashlahah* 14, no. 2 (December 31, 2024): 381–408, <https://doi.org/10.23971/el-mashlahah.v14i2.8074>.

<sup>48</sup> Rifai A, "Rekonstruksi Hukum Muamalah Di Era Digital," *Journal of Islamic Law* 5, no. 2 (2021).

<sup>49</sup> Dimas Arya Putra Negara, "Urgensi Regulasi Cryptocurrency Dalam Menjamin Kepastian Hukum Dan Perlindungan Konsumen Di Indonesia," *Jurnal Crepido* 3, no. 2 (2021): 95–102.

<sup>50</sup> Ahmad Fajar, "Kekosongan Hukum Dan Tantangan Regulasi Aset Kripto Di Indonesia," *Jurnal Hukum Nasional* 5, no. 1 (2022): 45–50.

<sup>51</sup> Endeh Suhartini et al., "Analysis of Halal Certification for Micro and Small Business Actors from the Perspective of Masalahah Principles and Legal Certainty," *Al-Adalah* 21, no. 2 (December 26, 2024): 401, <https://doi.org/10.24042/adalah.v21i2.23442>.

<sup>52</sup> H. Abdillah, "Hukum Cryptocurrency Sebagai Mata Uang Dan Sebagai Komoditas (Analisis Fatwa MUI Tentang Hukum Cryptocurrency)."

<sup>53</sup> Saputra E, "Dinamika Hukum Ekonomi Syariah Pada Era Ekonomi Digital," *Jurnal NURANI: Jurnal Kajian Syariah Dan Masyarakat* 22, no. 2 (2022).

<sup>54</sup> Hidayat S, "Perlindungan Konsumen Dalam Transaksi Digital Syariah," *Jurnal NURANI: Jurnal Kajian Syariah Dan Masyarakat* 21, no. 1 (2021).

<sup>55</sup> Marliyah Marliyah, dan Fuadi Fuadi Afrizal Afrizal, "Jurisdiction: Jurnal Hukum Dan Syariah," *Jurisdiction: Jurnal Hukum Dan Syariah* 11, no. 2 (2024): 237–61.



Nevertheless, its extreme volatility, lack of intrinsic value, and susceptibility to speculative trading raise concerns related to *gharar* and *qimār*.<sup>56</sup> Consequently, scholarly opinions differ. Some contemporary scholars argue that certain stable, utility-based cryptocurrencies may be permissible under strict conditions, whereas others reject all forms of cryptocurrencies due to the inherently speculative nature of prevailing trading practices.<sup>57</sup>

In the context of ownership, Kusnadi's analysis in the *Juris Journal of Syariah* confirms that the legal validity of a commodity depends on certainty of ownership (*al-milkiyyah*) and the ability to be delivered (*maqdur 'alā taslīmih*). Cryptocurrencies that lack underlying assets or guaranteed security cannot be considered legitimate commodities under Sharia law.<sup>58</sup>

To clarify this debate, the following table outlines the comparison between cryptocurrency characteristics and Islamic investment principles:

Table: Correlation Between Cryptocurrency Features and Islamic Investment Principles

Aspect	Cryptocurrency Characteristics	Islamic Investment Principle	Compatibility
Ownership ( <i>al-milkiyyah</i> )	Digital, stored in wallets; verifiable via blockchain	Ownership must be clear and transferable	Compatible
Value Stability	Highly volatile, speculative	Requires stable, identifiable value	Not compatible
Medium of Exchange ( <i>al-thaman</i> )	Not recognized as legal tender in Indonesia	Currency must be sovereign and stable	Not compatible
Commodity ( <i>al-muthaman</i> )	Tradable asset supply-demand based	Must be lawful, valuable, and deliverable	Conditionally compatible
Avoidance of <i>Gharar</i>	High uncertainty due to price swings	Transactions must avoid ambiguity	Generally incompatible
Avoidance of <i>Qimār</i>	Commonly traded in speculative forms	Investment must avoid gambling elements	Generally incompatible
Benefit	May provide utility in blockchain applications	Investment must provide lawful benefit	Conditionally compatible

Based on this analysis, cryptocurrency cannot function as *al-thaman* in Indonesia due to legal and sharia constraints; however, its status as *al-muthaman* remains subject to scholarly debate, depending on the type of cryptocurrency and the trading mechanisms involved. Therefore, a more structured approach to categorizing cryptocurrencies is essential in order to determine which assets may be considered permissible under Islamic investment principles.

<sup>56</sup> Marliyah, dan Fuadi Afrizal, "Analisis Terhadap Cryptocurrency (Perspektif Mata Uang, Hukum, Ekonomi Dan Syariah)," *E-Mabis: Jurnal Ekonomi Manajemen Dan Bisnis* 22, no. 2 (2021): 1–12.

<sup>57</sup> Ahmad Fajar, "Kekosongan Hukum Dan Tantangan Regulasi Aset Kripto Di Indonesia," *Jurnal Hukum Nasional* 5, no. 1 (2022): 45–50.

<sup>58</sup> Kusnadi M, "Analisis Hukum Islam Terhadap Perdagangan Aset Digital," *Jurnal Juris* 23, no. 1 (2023).

In Islamic jurisprudence, money functions solely as a medium of exchange and is not regarded as a commodity that may be traded for surplus, whether on a deferred or immediate basis. The criteria for money include: (1) recognized and stable value, (2) portability, (3) durability, and (4) divisibility. In Islamic tradition, *‘aqd al-ṣarf* refers to “exchange” and “equivalence.” In fiqh terminology, *al-ṣarf* is defined as a cash transaction involving similar or dissimilar goods.<sup>59</sup> More specifically, it refers to the exchange of two types of valuable items or currencies, commonly known as foreign exchange (forex). In Indonesia, the sharia rules governing forex trading are stipulated in DSN-MUI Fatwa No. 28/DSN-MUI/III/2002 concerning currency exchange (*al-ṣarf*).<sup>60</sup>

Non-cash payment instruments represent an advancement in financial technology and may take the form of electronic money or virtual money. The distinction between electronic money and virtual money lies in the mechanism and system used to record transactions. Bank Indonesia has the authority to regulate electronic money, whose transactions are recorded on centralized servers or chip-based systems (such as BCA Flazz, BRI Brizzi, Mandiri E-Money, and BNI TapCash). In contrast, virtual money such as Bitcoin, Litecoin, and Ethereum operates on blockchain technology. Within this decentralized network, all transactions are recorded on a distributed ledger, allowing open access to the blockchain and enabling users to transact globally without centralized control.<sup>61</sup>

Since 2019, the Ministry of Trade (MoT) has legalized cryptocurrency in Indonesia through the Futures Trading Supervisory Agency (Bappebti). Although legalized, cryptocurrency in Indonesia is classified as a tradable commodity rather than a means of payment. Bappebti Regulation No. 5 of 2019 formally permits cryptocurrency trading and sets out the technical provisions governing the physical market for crypto assets on the futures exchange. In addition, Bappebti issued Regulation No. 7 of 2020 concerning the Determination of the List of Crypto Assets Eligible for Trading in the Crypto Asset Physical Market. This regulation specifies 229 cryptocurrencies, including Bitcoin, that may be legally traded in Indonesia. Accordingly, prospective investors are required to ensure that the cryptocurrencies they intend to trade are duly registered and approved by Bappebti.

Bitcoin and other cryptocurrencies are prohibited from being used as payment instruments. This prohibition is based on Law No. 7 of 2011 and Bank Indonesia Regulation No. 17 of 2015, which stipulate that the currency issued by the Unitary State of the Republic of Indonesia is the Rupiah and that it constitutes the sole legal tender within Indonesia.

The majority of cryptocurrency companies issue their own digital units, commonly referred to as tokens. These companies may also use an online ledger system that records the identities of anonymous users, their cryptocurrency balances, and transaction histories. Such systems are protected by firewalls and robust cryptographic mechanisms to ensure the secure monitoring of all online transactions. The operation of cryptocurrency trading can be outlined as follows:<sup>62</sup>

1. Prospective customers open an account with a Cryptocurrency Asset Commodity Trader.
2. After completing a series of Know Your Customer (KYC) procedures, prospective customers may be approved and receive an account to conduct transactions.

<sup>59</sup> Ghufron A. Mas’adi, *Contextual Fiqh Muamalat* (Jakarta: PT. Raja Grafindo Persada, 2002).

<sup>60</sup> Isnawati Rais and Hasanudin, *Fiqh Muamalat and Its Application in LKS* (Jakarta: Research Institute of UIN Syarif Hidayatullah, 2011).

<sup>61</sup> Hasan Ahmad, *Islamic Currency* (Jakarta: PT Raja Grafindo Persada, 2005).

<sup>62</sup> Renaldi Munir, *Cryptography* (Bandung: Informatics Publisher, 2020).

3. Customers conduct transactions through Cryptocurrency Asset Commodity Traders (exchanges).
4. Transactions may involve the exchange (purchase or sale) of crypto assets using fiat currency (IDR) or the exchange of one cryptocurrency asset for another. Customers may also place buy or sell orders for crypto assets.
5. Customers deposit funds into a segregated account held by the Cryptocurrency Asset Commodity Trader (exchange).
6. The deposited funds are used to purchase cryptocurrency assets, with 70 percent placed with the futures clearing house and 30 percent retained by the Cryptocurrency Asset Commodity Trader.
7. Cryptocurrency asset transaction data, including public and private keys, are stored by the Cryptocurrency Asset Commodity Trader through a Depository Manager using both hot wallets and cold wallets.
8. Financial records are maintained between Cryptocurrency Asset Commodity Traders and the Futures Clearing House, including records of crypto asset ownership.
9. The Futures Clearing House verifies the financial balances against the crypto assets recorded in the Depository Manager.
10. Transaction data from Cryptocurrency Asset Commodity Traders, Futures Clearing Houses, and Depository Managers are reported to the Futures Exchange for price reference and market supervision.

What distinguishes cryptocurrency from commonly used currencies, such as the Rupiah, which is also used in digital transactions, is its decentralized nature. While conventional currencies operate within centralized transaction systems managed by monetary authorities, cryptocurrencies operate through decentralized networks without a central controlling institution.<sup>63</sup>

The status of cryptocurrency remains a subject of debate among Islamic scholars and contemporary jurists. Scholars who permit certain types of cryptocurrency argue that digital assets may function as *al-muthaman* (a tradable asset), provided that the transactions comply with sharia principles. Prominent scholars such as Monzer Kahf (2018) and Abdulkader Thomas (2020) contend that cryptocurrency possesses value, can be owned and transferred, and provides identifiable benefits, thereby qualifying as a lawful commodity under Islamic law. Similarly, the Turkish Diyanet (2017) and scholars from the Fiqh Council of North America (2019) maintain that specific cryptocurrencies may be permissible if they have real utility and are used within regulated systems.

Conversely, several scholars reject cryptocurrency due to its speculative nature. Among them is Sheikh Shawki Allam, the Grand Mufti of Egypt (2018), who issued a fatwa declaring Bitcoin impermissible on the grounds of *gharar* and *qimār*. The European Council for Fatwa and Research (2018) has also expressed concerns regarding price volatility and the absence of intrinsic value. In Indonesia, DSN-MUI Fatwa No. 140/2021 prohibits cryptocurrency as *al-thaman* (currency) and categorizes most cryptocurrency trading practices as containing elements of *gharar*, *dharar*, and *qimār*. This divergence reflects an ongoing global debate between permissive and prohibitive positions, shaped by differing interpretations of economic substance, utility, and risk.

<sup>63</sup> Ibrahim Nubika, *Bitcoin Gets to Know the New Way of Millennial Investing* (Genesis Learning, 2018).

Scholars who legalize cryptocurrency base their *ijtihad* on its perceived merits. They argue that cryptocurrency satisfies the criteria of both a medium of exchange (*al-thaman*) and a commodity (*al-muthaman*), insofar as it provides benefit (*muntafa'*), is transferable (*maqdur 'alā taslīmih*), and is clearly known to both contracting parties (*ma'lūman li al-'āqidain*). From this perspective, cryptocurrency transactions are not considered to involve uncertainty (*gharar*) or gambling (*qimār*), and therefore do not entail inherent harm or excessive risk. Price fluctuations that occur in accordance with market mechanisms are viewed as permissible under Islamic law. Accordingly, if cryptocurrency, whether as a medium of exchange or as a commodity, is free from *gharar* or *jahālah* and does not lead to *ribā*, it may be deemed permissible.

The general fiqh maxim, “*al-aṣl fī al-mu‘āmalāt al-ibāḥah ḥattā yadulla al-dalīl ‘alā taḥrīmihā*” (the basic principle in *mu‘āmalāt* is permissibility unless there is evidence indicating prohibition), serves as the foundational framework for analyzing cryptocurrency transactions. Within this context, four guiding principles—*maṣlahah* (public interest), *taysīr* (ease), *ibāḥah* (permissibility), and ‘*adālah* (fairness)—must be applied to determine whether cryptocurrency may be classified as a permissible investment instrument.

In cryptocurrency transactions, *maṣlahah* relates to the transparency, efficiency, and financial inclusion facilitated by blockchain technology. *Taysīr* is reflected in the ease of conducting digital transactions without geographical limitations. However, ‘*adālah* requires that transactions protect all parties from exploitation and fraud an obligation that is challenged by the high volatility and potential for market manipulation associated with crypto assets. Finally, *ibāḥah* applies only when transactions are free from *gharar*, *dharar*, and *qimār*; consequently, cryptocurrencies used purely for speculative purposes do not meet this standard. The application of these principles allows for a nuanced evaluation of cryptocurrency within Islamic investment activities. From the ethical perspective of *mu‘āmalāt*, scholarly studies further emphasize the importance of justice, transparency, and protection against exploitation in every innovation within the digital economy.<sup>64</sup>

### Legal Protection of Investors against *Gharar*, *Dharar*, and *Qimār* in Cryptocurrency Transactions

The presence of law in society serves to integrate and coordinate interests that may come into conflict with one another. In this regard, the law must be capable of harmonizing these interests in order to minimize potential conflicts. The regulation of interests is achieved through their limitation and protection. In situations of conflicting interests, protecting certain interests necessarily requires limiting others.<sup>65</sup>

The legal relationship between investors and investment managers in cryptocurrency transactions is founded on an agreement.<sup>66</sup> Accordingly, the protection of investors’ interests is both natural and necessary. At the same time, the law also affords protection to investment managers. The essence of legal protection lies in safeguarding investors and their invested capital against the risk of loss. Such protection is intended to preserve public trust, particularly among investors. Therefore, it is appropriate and necessary to ensure legal protection for investors in cryptocurrency transactions.

<sup>64</sup> Alwani A, “Transformasi Ekonomi Islam Di Era Teknologi Finansial,” *Jurnal Millah* 23, no. 1 (2023).

<sup>65</sup> M. Yahya Harahap, *Legal Aspects of Agreement* (Bandung: Alumni, 1986).

<sup>66</sup> R. Subekti, *Law of Treaties* (Jakarta: Intermesa, 1990).



Legal protection is one of the fundamental rights of citizens, as guaranteed by Article 27, paragraph (1), of the Indonesian Constitution. These constitutional provisions ensure that every citizen is entitled to legal protection for all activities conducted within the territory of the Republic of Indonesia. In the context of cryptocurrency transactions, such protection serves to safeguard investors from elements of *gharar*, *dharar*, and *qimār*.<sup>67</sup> This protection extends to both *al-thaman* and *al-muthaman*, including investments in cryptocurrency assets.

#### 1. Preventive Legal Protection

Preventive legal protection serves to uphold human dignity and aims to prevent violations of legal norms. It involves formulating laws and regulations to deter unlawful conduct and define and limit obligations. As a mechanism for safeguarding individual rights, preventive legal protection seeks to protect persons from potential infringements of the law by others.

Crypto asset transactions in the physical market are subject to preventive legal protection. This protection is regulated under the Commodity Futures Trading Supervisory Agency (Bappebti) Regulation No. 5 of 2019 concerning the technical provisions for the implementation of the crypto asset physical market on the futures exchange. The regulation provides the following forms of legal protection:

- a. Article 2 mandates compliance with principles of good corporate governance in crypto asset trading on the Futures Exchange. This includes prioritizing futures exchange members who ensure price transparency and provide protection for crypto asset customers. The article also emphasizes legal certainty in crypto asset trading in order to safeguard the interests of all parties involved.
- b. Article 3 regulates the risk assessment of traded crypto assets. The risks to be assessed include money laundering, terrorist financing, and the proliferation of weapons of mass destruction (WMD).
- c. Article 6 governs transaction mechanisms, including any changes or developments thereto. Proposals for new transaction mechanisms must undergo review and be subject to risk assessment, particularly concerning money laundering, terrorist financing, and WMD proliferation.
- d. Article 8 regulates crypto asset traders, requiring their systems to be accurate, secure, and reliable. Such systems must operate online and in real time, and be compatible with the systems of the Futures Exchange and the Futures Clearing House.
- e. Article 11 regulates crypto asset depository managers, who are required to maintain trading systems and facilities that are accurate, secure, reliable, and real-time, and that are compatible with the systems of the Futures Exchange and the Futures Clearing House.
- f. Articles 20 and 21 regulate sanctions imposed on any party that commits violations of the applicable provisions.

In Indonesia, crypto asset transactions are required to prevent money laundering and terrorist financing in accordance with the Commodity Futures Trading Supervisory Agency (Bappebti) Regulation No. 8 of 2021, which provides guidelines for crypto asset trading on the futures exchange.

<sup>67</sup> Interview with Khatibul Umam, Lecturer, Faculty of Law, UGM, July 25, 2025 at 10:30 a.m.

This regulation applies the Know Your Customer (KYC) principle.<sup>68</sup> As stipulated in Article 27 paragraph (1) of Bappebti Regulation No. 8 of 2021, the implementation of the KYC principle involves identifying the customer's background and identity, monitoring customer accounts and transactions, and reporting suspicious financial transactions.

Crypto asset physical traders must apply the precautionary principle to their customers in accordance with relevant regulations and the Customer Due Diligence (CDD) principle. CDD is a process that involves customer identification, verification, and ongoing monitoring. Crypto asset traders implement this process to ensure transactions align with customers' profiles and transaction patterns. For customers classified as high risk, Enhanced Due Diligence (EDD) must be applied, which entails more comprehensive, in-depth CDD measures for crypto asset physical traders.

One of the objectives of the Know Your Customer (KYC) principle is to prevent money laundering and the financing of terrorism. To achieve this objective, it involves assessing the risks associated with customers, the nature of their business activities, and the countries that may be vulnerable to such crimes. Preventive legal protection is not based solely on Bappebti regulations, but is also provided under Law No. 11 of 2008 on Electronic Information and Transactions. This legal protection is stipulated in Article 9, which provides as follows:

*"Every business that sells products online is required to provide accurate, complete, and clear information. This includes details regarding contractual terms, the identity of the producer, and the products being offered."*<sup>69</sup>

This provision serves to protect all crypto asset traders from potential electronic violations. Crypto asset traders are required to prevent such violations by providing clear and accurate information regarding contracts, producers, and products. In the event of online fraud in crypto asset transactions, such conduct constitutes a violation of Article 28 paragraph (1) in conjunction with Article 45A, as the perpetrator is deemed to have intentionally disseminated false and misleading information in electronic transactions.

In addition, hacking during the crypto asset transaction process constitutes a significant problem, as it benefits one party by granting unauthorized access to another person's computer system. Such actions cause harm to parties involved in crypto asset trading. Under the Electronic Information and Transactions (ITE) Law, hacking is primarily defined as unauthorized access to another person's computer or electronic system. This conduct is regulated under Article 30, with corresponding criminal sanctions stipulated in Article 46 for perpetrators who commit such violations.

The Indonesian Civil Code regulates preventive legal protection against default and unlawful acts, thereby guiding parties to avoid prohibited conduct when entering into agreements. Pursuant to Article 1365 of the Indonesian Civil Code, any person who commits an unlawful act is obliged to provide compensation for the losses arising from such conduct, and the injured party may claim damages from the perpetrator.<sup>70</sup> Fraud occurs when one party intentionally provides false information with the purpose of deceiving the other party into giving consent. Accordingly, if a transaction involving a crypto asset futures exchange involves fraud, the agreement may be annulled.

<sup>68</sup> Perbappebti No. 8 of 2021 Concerning Guidelines for the Implementation of Crypto Asset Physical Market Trading on the Futures Exchange

<sup>69</sup> Law Number 11 Year 2008 on Electronic Information and Transactions

<sup>70</sup> Civil Code

## 2. Repressive Legal Protection

Repressive legal protection is applied after a violation has occurred and is intended to resolve disputes.<sup>71</sup> It constitutes the final form of legal protection through the imposition of sanctions, such as fines and imprisonment. Several forms of repressive legal protection, or remedies, may be pursued through both litigation and non-litigation mechanisms, including the following:

- a. Litigation: Legal remedies for fraud in crypto asset transactions may be pursued through litigation, either through criminal or civil proceedings. Sanctions can be imposed on perpetrators of offenses in crypto asset transactions, particularly those involving cybercrime. Such crimes may harm crypto asset customers by stealing their crypto assets or deceiving them into transferring assets to perpetrators. These acts constitute violations of Law No. 11 of 2008 on Electronic Information and Transactions, with sanctions stipulated under Article 45, including imprisonment and fines.<sup>72</sup>
- b. Non-litigation: Non-litigation mechanisms, or Alternative Dispute Resolution (ADR), are employed to resolve disputes outside the court system.<sup>73</sup> One form of ADR is arbitration. Article 1, point (1), of Law No. 30 of 1999 defines arbitration as a method of resolving civil disputes outside public courts, based on a written agreement between the parties involved in the dispute.

Regulation No. 5 of 2019 of the Commodity Futures Trading Supervisory Agency (hereinafter referred to as Bappebti Regulation No. 5 of 2019 on Crypto Asset Markets) provides for non-litigation remedies for aggrieved parties. One mechanism for dispute resolution under this regulation is recourse to the Commodity Futures Trading Arbitration Board (BAKTI). BAKTI is authorized to resolve civil disputes in the field of commodity futures trading and related sectors, including Warehouse Receipt Systems and other transactions regulated by Bappebti.<sup>74</sup>

Crypto asset disputes may be resolved through the Consumer Dispute Resolution Board (BPSK), which provides mediation, conciliation, and arbitration mechanisms under the Consumer Protection Law. However, this mechanism offers general consumer protection and does not specifically incorporate principles of Islamic law.

In the context of Islamic finance, legal protection must ensure that transactions are free from *gharar*, *dharar*, and *qimār*. DSN-MUI Fatwa No. 140/2021 provides normative Islamic protection by prohibiting crypto assets that contain elements deemed banned under Islamic law. However, this fatwa has not yet been incorporated into statutory regulations or dispute-resolution mechanisms, such as BPSK or the courts.

Thus, while BPSK provides procedural protection, it does not offer substantive Islamic protection. Aligning dispute-resolution mechanisms with Islamic values would require incorporating sharia-compliant standards into national cryptocurrency regulations, including requirements for transparency, verification of asset backing, risk disclosure, and safeguards against excessive speculation. In the absence of such integration, sharia-based investor protection remains incomplete.

<sup>71</sup> Peter Mahmud Marzuki, *Introduction to Legal Science* (Jakarta: Kencana, 2008). Hlm. 157

<sup>72</sup> Law Number 11 Year 2008 on Electronic Information and Transactions

<sup>73</sup> Law Number 30 Year 1999 on Arbitration and Alternative Dispute Resolution.

<sup>74</sup> Regulation of the Futures Trading Arbitration Board Number Per-01/BAKTI/01/2009 concerning Arbitration Rules and Procedures.

## Conclusion

The legality of cryptocurrency in Islamic investment activities is contingent upon its classification and transactional structure. Cryptocurrency cannot be regarded as *al-thaman* due to regulatory prohibitions and Sharia considerations. However, under certain conditions such as asset backing, utility-based design, and transparency it may be classified as *al-muthaman*. DSN-MUI Fatwa No. 140/2021 plays a pivotal role in providing normative guidance on permissible and impermissible forms of cryptocurrency, particularly by highlighting elements of *gharar*, *dharar*, and *qimār* that pose potential risks to investors.

This research contributes to the existing literature in several respects: (1) by integrating normative Islamic legal analysis with Indonesia's regulatory framework, (2) by mapping global scholarly debates on the permissibility of cryptocurrency, and (3) by providing a structured assessment of sharia-compliant investor protection. However, this study is limited to normative analysis and does not empirically examine market behavior, investor perceptions, or the performance of specific cryptocurrencies. Accordingly, future empirical research is necessary to substantiate the theoretical risks identified within Sharia and legal frameworks.

Future studies should focus on (1) empirical risk assessments of sharia-compliant cryptocurrency products, (2) the development of Islamic regulatory models for digital assets, and (3) comparative analyses of fatwas and regulatory approaches across Muslim-majority jurisdictions. Research in these areas will further strengthen the foundation for developing a comprehensive, sharia-compliant digital asset regulatory framework in Indonesia.

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