

Sharia Economic Law Analysis of Crypto Investment Transactions through Applications

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Abstract:

There are numerous use cases for investing in cryptocurrencies. The PINTU Application is one of the most well-known programs. More than 4.85 million people use this app. The Pintu application has ISO 27001 certification and is licensed and registered with BAPPEPTI, under KOMINFO's supervision. Using this application, cryptocurrency is turned into an investing tool rather than a means of exchange. This program makes it simpler for investors to buy and sell bitcoin assets by offering various cryptocurrencies in rupiah. However, the issue with Islamic law in the Pintu Application is how the contract is legal. Do cryptocurrencies meet the criteria for items traded according to Islamic fiqh? Does gharar factor into pricing calculation depending on market movements? Is it acceptable under Islamic law for the purchasing price to be more than the selling price? This article uses a literature study method using ushul fiqh, fiqh rules, and *muā'malah* fiqh instruments. These are the conclusions: With sharf contracts, bitcoin transactions are equivalent to those involving regular money. Digital assets can be traded in the same way as physical ones. Still, since transactions are made through third-party applications, verifying that these crypto-assets cannot be compromised is essential. If there are no signs of fraud or *ihtikar* (hoarding), setting the price released to the market is a natural and legitimate thing to do. The application also requires operational expenditures, so the price difference policy is appropriate. However, The National Sharia Council of the Indonesian Ulema Council (DSN-MUI) must issue a fatwa for cryptocurrency investment transactions to be more operational and give people greater confidence in their transactions. Similarly, it is necessary to communicate which signs are permitted and which are not, and the Indonesian Ulema Council (MUI) is one of these authorities.

Keywords: Cryptocurrency, Investment, Sharia Economics Law.

Introduction

Crypto asset trading has experienced a very significant increase in recent years. In the Commodity Futures Trading Supervisory Agency (BAPPEBTI) records, throughout 2021, the transaction value of crypto assets touched Rp. 859.4 trillion. This figure is 1,222% higher than the transaction value in 2020, which only reached IDR 64.9 trillion. Transaction value growth averages 16.2% per month in 2021, with a transaction value of IDR 2.35 trillion daily.¹

This figure is directly proportional to the number of players in the crypto market, both as traders and investors. Still, in BAPPEBTI's records, the number of investors in 2020 is only 4 million. Crypto players also increased at the end of 2021 to 11.2 million investors, 180% from the previous year.² In Indonesia, 22.4% of internet users who own crypto assets use cryptocurrencies.³

In Indonesia, many applications are used for crypto transactions, including Toko Crypto, Indodax, Luno, Upbit, Binance, Zipmex, Pluang, Pintu, Rekeningku, and Trif. Some of these applications come from abroad, and some are domestically made. Most domestic applications have obtained permits from BAPPEBTI and the Ministry of Communication and Information of the Republic of Indonesia. This local application uses Rupiah currency for transactions and collaborates with local banks and fintech such as Gopay and OVO.⁴ Alfafa stated that companies' cryptocurrency investments can be considered equity investments with minor modifications.⁵

Among the public, crypto assets can be used as a medium of exchange (even though they are not declared legal by the authorities), as

¹ Cindy Mutia Annur, "Nilai Transaksi Aset Kripto di Indonesia Meroket 1.222% pada 2021," December 4, 2022, <https://databoks.katadata.co.id/datapublish/2022/04/12/nilai-transaksi-aset-kripto-di-indonesia-meroket-1222-pada-2021>.

² Annur.

³ Vika Azkiya Dihni, "Pengguna Mata Uang Kripto Indonesia Peringkat ke-4 Terbesar di Dunia," March 17, 2022, <https://databoks.katadata.co.id/datapublish/2022/03/17/pengguna-mata-uang-kripto-indonesia-peringkat-ke-4-terbesar-di-dunia>.

⁴ Muhammad Faisal Hadi Putra, "10 Aplikasi Trading Crypto Terbaik & Terlengkap di Indonesia," *Telset* (blog), April 28, 2022, <https://telset.id/apps/aplikasi-trading-crypto-terbaik-terlengkap/>.

⁵ Qisthi Wajanatin Alfafa and Murniati Mukhlisin, "Accounting Issue in Cryptocurrency Investment: Islamic Perspective," in *Islamic Accounting and Finance*, vol. Volume 6, Transformations in Banking, Finance and Regulation, Volume 6 (WORLD SCIENTIFIC (EUROPE), 2021), 399–427, https://doi.org/10.1142/9781800612426_0014.

a means of investment, and trading.⁶ Nowadays, cryptocurrency is a somewhat controversial financial instrument: on the one hand, it has significant investment appeal, but on the other hand, it experiences high volatility and is considered a slightly risky financial asset. Additionally, from a legal perspective, cryptocurrencies have yet to achieve consistent consolidation and comprehensive legal regulation.⁷

In research, cryptocurrency has become an important issue, especially regarding compliance with Sharia law and regulations. The study identifies that Sharia compliance related to cryptocurrency and blockchain is the biggest challenge facing Islamic FinTech organizations.⁸ In Islamic law, Bitcoin and digital money do not meet the criteria of Islamic economic principles because they involve obscurity (*jahalah*), high speculation, and potential harm to individuals and the state, lacking transparent sources and authentic balances.⁹

Bintarto and others mentioned that in Islamic law, cryptocurrency can also be considered a form of wealth subject to zakat at a rate of 2.5%.¹⁰ Muneeza added that besides being an object of zakat, cryptocurrency can also be used to pay zakat, whether on cryptocurrency itself or other zakat-eligible assets.¹¹ Zain examines the practice of cryptocurrency transactions in the Indodax application with the Bitcoin currency. Zain examines the advantages and disadvantages of the transaction.¹²

⁶ Andi Siti Nur Azizah and Irfan Irfan, "Fenomena Cryptocurrency dalam Perspektif Hukum Islam," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab dan Hukum* 1, no. 1 (January 4, 2020): 62–80, <https://doi.org/10.24252/shautuna.v1i1.12424>.

⁷ Shamil Shovkhalov and Hussein Idrisov, "Economic and Legal Analysis of Cryptocurrency: Scientific Views from Russia and the Muslim World," *Laws* 10, no. 2 (June 2021): 32, <https://doi.org/10.3390/laws10020032>.

⁸ Mustafa Raza Rabbani, Shahnawaz Khan, and Eleftherios I. Thalassinou, "FinTech, Blockchain and Islamic Finance: An Extensive Literature Review," *International Journal of Economics and Business Administration* VIII, no. 2 (April 5, 2020): 65–86.

⁹ Husnul Fatarib and Meirison Alizar Sali, "CRYPTOCURRENCY AND DIGITAL MONEY IN ISLAMIC LAW: Is it Legal?," *Jurisdictie: Jurnal Hukum dan Syariah* 11, no. 2 (2020): 237–61, <https://doi.org/10.18860/j.v1i1i2.8687>.

¹⁰ Muhammad Al Ikhwan Bintarto et al., "Zakah and Waqf for Cryptocurrency in Islamic Law," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 May (May 23, 2022): 21–38, <https://doi.org/10.29240/jhi.v7i1.4229>.

¹¹ Aishath Muneeza et al., "Zakat Payment from Cryptocurrencies and Crypto Assets," *International Journal of Islamic and Middle Eastern Finance and Management* 16, no. 3 (January 1, 2022): 482–97, <https://doi.org/10.1108/IMEFM-12-2021-0487>.

¹² 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>.

Previous studies have focused more on the object being transacted, whether it exists or not, which has implications for the contract's validity. This is because crypto assets are physically intangible. Can this intangible object be transacted or not? Azizah, for example, discussed that this aspect leads to the potential for *gharar* to occur, so it has the potential to lead to haram laws. Another issue is the matter of unaffordable price fluctuations that can potentially cause *maysir* elements.¹³

Another study is by Kusuma, who states that the practice of cryptocurrency transactions is close to *gharar* and *maysir*. Therefore, the law of transactions is close to haram. However, Kusuma offered that cryptocurrencies have underlying assets in the form of gold and require protection from the government.¹⁴ Most previous research has highlighted the negative side of crypto, both as a transaction object and an investment instrument, like Aulia, who noted the many opposing sides of crypto, which led to *haram lighayrihi*.¹⁵

Starting from this point, researchers try to review these factors with a more optimistic fiqh approach so that the positive potential of crypto can be empowered and provide more dominant benefits for the Indonesian nation. This article will examine investment practices in the Pintu application with an approach to Sharia economic law.

This research uses field research, which uses field data as the primary data source to find, develop, and test a science. The research design is qualitative-descriptive, revealing all aspects of natural life.¹⁶ This research will examine the phenomenon of buying and selling cryptocurrencies as a digital buying and selling practice and then explain qualitatively the study's results using the theory of Islamic legal norms approach. The researcher chose an approach using the theory of Islamic legal norms because it aims to discuss the culture of buying and selling development with Islamic law.

In this case, you want to look at the practice of buying and selling cryptocurrencies, which incidentally is a modern buying and selling

¹³ Azizah and Irfan, "Fenomena Cryptocurrency dalam Perspektif Hukum Islam."

¹⁴ Teddy Kusuma, "Cryptocurrency dalam Perdagangan Berjangka Komoditi di Indonesia Perspektif Hukum Islam," *TSAQAFAH* 16, no. 1 (May 3, 2020): 109–26, <https://doi.org/10.21111/tsaqafah.v16i1.3663>.

¹⁵ Asep Zaenal Ausop and Elsa Silvia Nur Aulia, "Teknologi Cryptocurrency Bitcoin Dalam Transaksi Bisnis Menurut Syariat Islam," *Jurnal Sositologi* 17, no. 1 (2018): 74–92, <https://doi.org/10.5614/sostek.itbj.2018.17.1.8>.

¹⁶ M. Sayuthi Ali, *Metodologi Penelitian Agama: Pendekatan, Teori, Dan Praktek* (Jakarta: Raja Grafindo Persada, 2002).

practice. As for buying and selling, theoretically, it is understood as a contract of surrendering one thing for something else. There is an exchange process in the buying and selling contract.

In other words, buying and selling, according to Islamic law is the exchange of property with other people based on the pleasure of the two of them. This exchange is marked by transferring property rights to another person based on material approval or consideration.¹⁷ The aim of researchers in bringing crypto practices into the lens of buying and selling theory is to reveal legal certainty in the practice of buying and selling crypto and its legal protection.

Result and Discussion

Basic Conception of Selling and Buying

The validity of buying and selling is influenced by the pillars and terms of buying and selling, as it is known that there are 3 pillars of buying and selling, namely the contract (contract and consent), the people who agree (seller and buyer) and *ma'qūd a'layh* (object of the contract). In addition to the things above, there is something that needs to be considered in buying and selling, namely the exchange rate of goods as the most crucial element most people call money.

Fiqh scholars distinguish between *adh-dhaman* and *as-si'r* in terms of the value of goods. There are two prices in terms of the exchange rate of goods: the price between traders and consumers and the price between traders and consumers. *Adh-dhaman* is the prevailing market price in society.¹⁸ Concerning pricing in buying and selling crypto, researchers will see a trend in crypto prices in the two categories above, besides trying to describe a pricing scheme for these two categories.

The object of sale and purchase is generally referred to as a legal object or *amwal*, which can be owned, controlled, cultivated, and transferred. *Amwal* can be in the form of tangible or intangible objects, registered or unregistered objects, and movable or immovable objects, all of which have economic value.¹⁹

Continuing the theory of the object of sale and purchase, then guided by the doctrine of contract law, for an agreement to be valid, the legal object of the agreement must meet legal requirements, namely: It

¹⁷ Sayyid Sabiq, *Fiqh Sunnah* (Beirut: Dar al Fikr, 2006), 112.

¹⁸ Rahmat Syafei, *Fiqh Muammalah* (Bandung: Pustaka Setia, 2001), 124–25.

¹⁹ Rizky Maidan Ilmy and Iwan Setiawan, "The Concept of Production, Distribution, and Consumption in Islamic Economics," *Review of Islamic Economics and Finance* 2, no. 1 (June 20, 2019): 41–46, <https://doi.org/10.17509/rief.v2i1.17637>.

can be used; tradable (allowed to be traded); can be done; it has economic value; can be valued in money.²⁰

Crypto as an object of sale and purchase will be investigated based on the requirements above concerning usability, the possibility of being transacted, and its economic value so that legal certainty and legal protection in buying and selling crypto will be systematically described.

Cryptocurrency Transaction Application

In practice, cryptocurrency can be used for transactions or investments. Crypto has been widely used as a transaction tool in countries such as the United States, Japan, and Finland and as an investment tool by people worldwide. In 2020, Tesla, the world's largest automaker, bought \$1.5 billion worth of bitcoins to invest.²¹

Cryptocurrency is virtual currency or electronic money. This e-currency is processed through an open user-to-user payment network. Because this currency is virtual, there is no physical form. Not the same as the physical currency issued by the bank or the country's currency.²² Cryptocurrency, the most popular digital currency, uses cryptography for creation, management, and security.

Cryptocurrencies build a global currency system based on supply and demand. Prices fluctuate due to high demand. Under these circumstances, cryptocurrency functions as a free currency not influenced by any party.

Digital products that can be made quickly and according to market demand are digital currency products launched on the market. When a business is fraudulent, i.e., making as much profit as possible, the company quickly gains while the rest of the business owners suffer losses. Unlike Bitcoin, which is decentralized, no one controls the circulation of bitcoins. The production of bitcoins is also so complex that only a few can be produced over time. The difficulty will continue to increase until it finally runs out.

²⁰ Noor Mohammed, "Principles of Islamic Contract Law," *Journal of Law and Religion* 6, no. 1 (January 1988): 115-30, <https://doi.org/10.2307/1051062>.

²¹ Steve Kovach, "Tesla Buys \$1.5 Billion in Bitcoin, Plans to Accept It as Payment," CNBC, February 8, 2021, <https://www.cnbc.com/2021/02/08/tesla-buys-1point5-billion-in-bitcoin.html>.

²² Wee Seng Wong, Dennis Saerbeck, and Dante Delgado Silva, "Cryptocurrency: A New Investment Opportunity? An Investigation of the Hedging Capability of Cryptocurrencies and Their Influence on Stock, Bond and Gold Portfolios," SSRN Scholarly Paper (Rochester, NY, January 29, 2018), <https://doi.org/10.2139/ssrn.3125737>.

Based on data released by BAPPEBTI, twenty-seven institutions have been certified to carry out crypto trading, among others:²³

1. PT Indodax Nasional Indonesia (INDODAX)
2. PT Crypto Indonesia Berkat (TOKOCRYPTO)
3. PT Zipmex Exchange Indonesia (ZIPMEX)
4. PT Indonesia Digital Exchange (IDEX)
5. PT Pintu Kemana Saja (PINTU)
6. PT Luno Indonesia LTD (LUNO)
7. PT Cipta Koin Digital (KOINKU)
8. PT Tiga Inti Utama (TRIV)
9. PT Upbit Exchange Indonesia (UPBIT)
10. PT Rekeningku Dotcom Indonesia (REKENINGKU.COM)
11. PT Trinita Investama Berkat (BITOCTO)
12. PT Plutonext Digital Aset (PLUTO NEXT)
13. PT Bursa Cripto Prima
14. PT Tumbuh Bersama Nano
15. PT Kagum Teknologi Indonesia
16. PT Aset Digital Berkat
17. PT Aset DIGITAL Indonesia
18. PT Bumi Sentosa Cemerlang
19. PT Coinbit Digital Indonesia
20. PT Galad Koin Indonesia
21. PT Gudang Kripto Indonesia
22. PT Kripto Maksima Koin
23. PT Mitra Kripto Sukses
24. PT Pantheras Teknologi Internasional
25. PT Pedagang Aset Kripto
26. PT Utama Aset Digital Indonesia
27. PT Ventura Koin Nusantara

The best and most complete crypto-buying application in Indonesia is the PINTU application. The application provides features such as buying and selling digital assets, storing digital assets, and sending crypto money to other users. The PINTU application also accepts investments in Rupiah currency deposits and withdrawals from banks throughout

²³ Bappebti, "Calon Pedagang Fisik Aset Kripto," accessed August 1, 2022, https://bappebti.go.id/calon_pedagang_aset_kripto.

Indonesia. The weakness of this application is that it provides limited crypto assets with high transaction fees.

Transaction Problems in Applications

In buying and selling crypto assets, several issues almost always come to the surface, starting from the object of buying and selling, the subject of buying and selling, price, designation, and other influencing factors. All of this boils down to the validity and legitimacy of buying and selling crypto assets.

a. Objects being transacted (exist or not), potential *gharar*

Digital assets have different properties from physical assets. Physical assets are bound by the laws of Euclidean physics, requiring three-dimensional space: length, width, and height, and of course, they can be physically sensed. This is different from cryptocurrencies, which do not have a physical form that can be transferred to other parties physically.

This lack of physical form has caused many thinkers among Islamic jurists to become confused when dealing with digital objects. Regarding digital money, Islamic scholars tend to tolerate it because digital currency in digital banking applications is equivalent to the physical currency that can be held and transacted daily.

Meanwhile, cryptocurrencies have no reference in physical form at all. The electrical signal codes in a networked computer system state a specific value. However, due to several factors, it is agreed that it has value so that it can be used as a medium of exchange. This is the same as paper money, where the community agrees upon the nominal value printed on a piece of paper.

On this basis, cryptocurrencies should be accepted as digital objects to transact. So far, the ordinary public has been transacting digital objects, such as credit transactions, so crypto assets are clear in form and can be transacted. With this clarity, the potential for *gharar* can be minimized.

b. Price fluctuations (potentially *maisir*)

Ideally, the price of an object of sale and purchase is determined with certainty, so the buying and selling process gets a more secure balance. However, in buying and selling crypto assets, prices on the market tend to be very volatile. The method which is closer to what is known as *as-si'r* is the determination of the actual prevailing price.

Pricing depends more on the interest of buyers or prospective buyers in crypto assets so that at any time (if interest decreases), the

price of crypto coins will be vulnerable to decline compared to before. Unfortunately, this interest is based more on public sentiment, not based on factual and fundamental analysis.

Therefore, even though cryptocurrency transactions are carried out peer to peer, it is better for applications that sell cryptocurrencies as investment instruments to have a familiar concept to create a system to control transactions, even though in much looser limits, but at least not there are too wide price fluctuations so that the potential for *maisir* in crypto investment contracts is acceptable.

a. Underlying Asset

So far, crypto assets are legal as investment instruments, not state-approved virtual currencies. Generally, investments are based on transferable or beneficial rights, as in tangible assets. The problem that occurs in crypto investment is that there is no definitive underlying asset that is considered to meet the criteria.

In this case, investors should consider the declaration submitted by each crypto asset, which has a solid underlying asset and is not solid. By choosing crypto assets that have solid underlying assets, the potential for investment evaporation can be minimized.

b. Presence of State Protection Authorities

In the muamalah fiqh concept, the presence of the state does not determine the validity of a contract because muamalah contracts are in the private domain and are not managed directly by the state. However, the state must be present to ensure no harm is caused by economic activity. Therefore, BAPPEPTI, the Financial Services Authority (OJK), and the Ministry of Communication and Information must maintain this goal. With guarantees and supervision, security will be better maintained to prevent investors from being anxious and do not apply an attitude of speculation that invests a *maisir*.

c. Potential abuse for money laundering

The transaction system in cryptography is very thick with decentralized security and is carried out using the peer-to-peer method without intermediary institutions. To complete the peer-to-peer spirit, someone can carry out transactions without a valid identity or use an alias (anonymous) name. According to him, anonymity in transactions strengthens the security of user data in crypto peer-to-peer transactions.

On the other hand, peer-to-peer transactions make a transaction less likely to be revoked once it has been made. For example, a crypto coin of 1 ETH is sent from A to B. Once the transaction has been made, it can no longer be reversed. Even when someone is sending to the wrong address.

Furthermore, the ability to carry out transactions under aliases widens the loophole for money laundering. With ease, someone will send several crypto coins to other parties without the supervision of an institution that can be responsible for the occurrence of a transaction. Therefore, even though cryptography can relatively escape from state supervision, the state can control and regulate applications that become mediators in these transactions because they were formed in compliance with state law. Thus, *madharat* will decrease.

d. MUI Fatwa

Referring to the factors above, it is appropriate for the MUI to issue a fatwa that clarifies what cryptocurrencies are permitted and which are forbidden. Likewise, government authorities also carry out their role optimally so that supervision and protection for investors are more optimal so that negative aspects can be minimized as much as possible.

Conclusion

The prohibition of crypto transactions is not because the object is illegal or *haram*, but because of another thing outside the object. This means that other factors cause crypto to become unlawful or *haram*. At least five points start from objects that exist, price fluctuations that can be controlled, underlying assets that can be procured, state authorities that can be presented, and the potential for misuse for crimes that can also be controlled. If these points can be controlled, crypto assets become lawful to transact.

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