

**THE LEGAL VALIDITY OF CRYPTO ASSETS (BITCOIN AND  
ETHEREUM) AS SHARIA INVESTMENT INSTRUMENTS: A  
COMPARATIVE STUDY OF CRYPTO ASSET REGULATIONS IN  
INDONESIA AND MALAYSIA**

**THESIS**

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**SHARIA ECONOMIC LAW STUDY PROGRAM**

**FACULTY OF SHARIA**

**MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY**

**MALANG**

**2026**

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BY:

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MALANG**

**2026**

## STATEMENT OF THE AUNTENTICITY

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allah, I declare that the thesis entitled:

“THE LEGAL VALIDITY OF CRYPTO ASSETS (BITCOIN AND  
ETHEREUM) AS SHARIA INVESTMENT INSTRUMENTS: A  
COMPARATIVE STUDY OF CRYPTO-ASSET REGULATIONS IN  
INDONESIA AND MALAYSIA)”

This thesis is entirely the result of my own thoughts and work. All stages of its preparation, data processing, analysis, and writing were carried out independently without committing plagiarism or taking the work of others in violation of academic regulations. Any opinions, quotations, or ideas from other sources have been clearly acknowledged through citations and a bibliography in accordance with applicable academic writing standards. Therefore, I take full responsibility for the authenticity and originality of this thesis and am willing to accept the consequences in accordance with applicable regulations if any violation of this statement is found in the future..

Malang, 5 Juni 2026

  
Mohammad Isdanil Ghufron

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## APPROVAL SHEET

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“THE LEGAL VALIDITY OF CRYPTO ASSETS (BITCOIN AND  
ETHEREUM) AS SHARIA INVESTMENT INSTRUMENTS: A  
COMPARATIVE STUDY OF CRYPTO-ASSET REGULATIONS IN  
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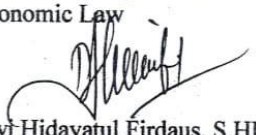
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Indonesia And Malaysia).

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|-----|----------------------------|--------------------------------------|-----------|
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| 2   | Monday, 10 November 2025   | Thesis proposal revision             |           |
| 3   | Monday, 8 December 2025    | Acc proposal seminar                 |           |
| 4   | Thursday, 12 March 2026    | Revision of proposal seminar results |           |
| 5   | Friday, 5 June 2026        | Chapter 3 consultation               |           |
| 6   | Monday, 8 June 2026        | Chapter 3 revision                   |           |
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| 8   | Friday, 19 June 2026       | Abstrack revision                    |           |
| 9   | Monday, 22 June 2026       | Conclusion revision                  |           |
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## MOTTO

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ

### *The Meaning*

*“O you who have believed, do not consume one another’s wealth unjustly, but only through lawful trade conducted by mutual consent among you.”*

(QS. An-Nisa' [4]: 29)

Kita tidak akan pernah tau apa yang akan terjadi dimasa depan, tapi apapun yang akan terjadi, akan jauh lebih baik jika kita sendiri yang memutuskannya.

Karena kita adalah penguasa dari takdir kita sendiri.

~Danil Ghufro~

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Alhamdulillahirabbil ‘alamin, all praise and gratitude are due to Allah SWT for His mercy, grace, and guidance, which have enabled the author to complete the thesis entitled **“The Legal Validity Of Crypto Assets (Bitcoin And Ethereum) As Sharia Investment Instruments (A Comparative Study Of Crypto-Asset Regulations In Indonesia And Malaysia)”** well. May peace and blessings always be upon the Prophet Muhammad SAW, who has guided humanity toward the path of knowledge and Islamic values..

This thesis is prepared as one of the requirements for obtaining a Bachelor of Laws (S.H.) degree in the Department of Sharia Economic Law at Maulana Malik Ibrahim State Islamic University Malang. In the process of its preparation, the author realizes that completing this thesis was not easy. There were many challenges and learning processes that provided valuable experiences for the author to continue developing and thinking critically.

This research was conducted based on the author's interest in the development of digital technology and modern investment, particularly regarding the validity of crypto assets from the perspective of regulations and Sharia Economic Law in Indonesia and Malaysia. The author hopes that this research can provide academic

benefits and serve as an additional reference in the study of Sharia Economic Law related to digital assets and Sharia investment in the modern era.

In preparing this thesis, the author realizes that many parties have provided assistance, support, prayers, and guidance. Therefore, with great respect and sincerity, the author would like to express his gratitude to:

1. To Prof. Dr. Hj. Ilfi Nurdiana, M.Si., as the Rector of Maulana Malik Ibrahim State Islamic University Malang.
2. To Prof. Dr. Hj. Umi Sumbulah, M.Ag., as the Dean of the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University Malang.
3. To Dwi Hidayatul Firdaus, S.HI., M.SI., as the Head of the Department of Sharia Economic Law and thesis supervisor, who has devoted his time, energy, and thoughts to providing direction, guidance, and valuable input throughout the preparation of this thesis.
4. To Dwi Fidhayanti, S.HI., M.H., as the author's academic advisor, who has provided attention, motivation, and academic guidance throughout the author's university studies.
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improvement of this thesis.

6. To my beloved parents, Maskur and Siti Anisah, S.Pd., thank you for your endless prayers, sincere love, sacrifices, and constant support that have always strengthened me in every step of my life. No words are enough to describe how great your role and love have been. This thesis is one small form of the struggle and hopes that you have entrusted to me.
7. To my sister, Nayla Fitri Syafana, thank you for always giving me encouragement, support, and color throughout my journey in completing this thesis.
8. To all my friends who have been part of this journey, thank you for your support, togetherness, assistance, and all the stories we have shared throughout the university years and the preparation of this thesis. These experiences have become very meaningful memories for me. May every step and struggle we have gone through together lead us to a good future filled with success.
9. To myself, Mohammad Isdanil Ghufon, thank you for being able to endure, struggle, and keep moving forward until reaching this point. Thank you for not giving up in the midst of exhaustion, pressure, and the various difficult processes throughout the preparation of this thesis. All the

efforts, prayers, and struggles that have been through are proof that every process will bring results to those who continue to strive. May this achievement be a good beginning for a greater journey and bigger dreams in the future.

With the completion of this thesis report, the hope that knowledge which we have gained during our studies can provide the benefits of life in the world and the hereafter. As a human who has never escaped fault, the author is very hopeful for the forgiveness, criticism and suggestions from all parties for future improvement efforts.

Malang, 5 Juny 2026

Author,

A handwritten signature in black ink, appearing to read 'MS Ghufro'.

Mohammad Isdanil Ghufro

NIM. 220202110079

## TRANSLITERATION GUIDELINES

In writing academic works, the use of foreign terms is often unavoidable. In general, according to the General Guidelines for Indonesian Spelling, foreign words are written in *italics*. In the context of Arabic, there are specific transliteration guidelines that are internationally applicable. The following table presents the transliteration guidelines as a reference for writing academic works.

The Arabic-Indonesian transliteration used by the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University Malang, follows the Library of Congress (LC) model of the United States, as follows:

| Arab | Indonesia | Arab | Indonesia |
|------|-----------|------|-----------|
| أ    | `         | ط    | . t       |
| ب    | b         | ظ    | . z       |
| ت    | t         | ع    | '         |
| ث    | th        | غ    | gh        |
| ج    | j         | ف    | f         |
| ح    | h         | ق    | q         |
| خ    | kh        | ك    | k         |
| د    | d         | ل    | l         |
| ذ    | dh        | م    | m         |
| ر    | r         | ن    | n         |
| ز    | z         | و    | w         |
| س    | s         | ه    | h         |
| ش    | sh        | ء    | '         |
| ص    | . s       | ي    | y         |
| ض    | . d       |      |           |

To indicate long vowel sounds (*madd*), a horizontal stroke is placed above the letter, such as **ā**, **ī**, and **ū** (أ, إ, و). Double Arabic vowel sounds

are transliterated by combining the two letters “**ay**” and “**aw**”, such as *layyinah* and *lawwāmah*. Words ending in *tā’ marbūṭah* and functioning as an adjective or *muḍaf ilayh* are transliterated as “**ah**”, while those functioning as *muḍaf* are transliterated as “**at.**”.

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## ABSTRAK

**Mohammad isdanil ghufon**, 220202110079. Keabsahan Aset Kripto (Bitcoin Dan Ethereum) Sebagai Objek Investasi Syariah (Studi Komparatif Regulasi Kripto Di Indonesia Dan Malaysia). Skripsi, Jurusan Hukum Ekonomi Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang,

Pembimbing Dwi Hidayatul Firdaus, S.HI., M.SI.

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**Kata Kunci:** aset kripto, investasi syariah, Bitcoin, Ethereum, kepastian hukum.

Perkembangan aset kripto sebagai instrumen investasi digital menimbulkan persoalan mengenai keabsahan syariah, khususnya terkait *gharar*, *maysir*, riba, serta kepastian hukum bagi investor Muslim. Penelitian ini bertujuan menganalisis keabsahan Bitcoin dan Ethereum sebagai objek investasi syariah di Indonesia serta membandingkan regulasi dan mekanisme penilaian kepatuhan syariahnya dengan Malaysia. Kajian pustaka meliputi penelitian terdahulu mengenai *cryptocurrency*, investasi syariah, regulasi aset digital, dan *shariah screening*. Analisis menggunakan teori investasi syariah, teori kepastian hukum, dan teori hukum komparatif, dengan konsep *māl*, manfaat, *gharar*, *maysir*, dan riba sebagai parameter.

Penelitian ini merupakan penelitian hukum normatif (*doctrinal legal research*) dengan pendekatan perundang-undangan, konseptual, dan komparatif. Bahan hukum diperoleh melalui studi kepustakaan terhadap peraturan, *Ijtima Ulama Komisi Fatwa MUI*, *Guidelines on Digital Assets*, resolusi SAC, buku, jurnal, dan penelitian terdahulu, kemudian dianalisis secara kualitatif melalui penafsiran hukum.

Hasil penelitian menunjukkan bahwa Bitcoin dan Ethereum dapat menjadi objek investasi syariah sepanjang memenuhi prinsip syariah, terutama kemanfaatan, transparansi, dan pengendalian risiko. Indonesia telah memiliki dasar legalitas perdagangan aset kripto, tetapi mekanisme kepatuhan syariahnya belum terintegrasi komprehensif. Malaysia memiliki mekanisme *shariah screening* lebih sistematis melalui Securities Commission Malaysia dan Shariah Advisory Council.

Penelitian menyimpulkan bahwa diperlukan harmonisasi regulasi dan mekanisme penilaian syariah di Indonesia untuk meningkatkan kepastian hukum dan perlindungan investor Muslim.

## ABSTRACT

**Mohammad Isdanil Ghufon**, 220202110079. The Validity of Cryptocurrencies (Bitcoin and Ethereum) as Sharia Investment Instruments (A Comparative Study of Cryptocurrency Regulations in Indonesia and Malaysia). Undergraduate thesis, Department of Sharia Economic Law, Maulana Malik Ibrahim State Islamic University, Malang.

Supervisor: Dwi Hidayatul Firdaus, S.HI., M.SI.

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**Keywords:** cryptocurrency, Sharia investment, Bitcoin, Ethereum, legal certainty

The development of crypto assets as digital investment instruments has raised concerns regarding their validity under Islamic law, particularly in relation to *gharar*, *maysir*, *riba*, and legal certainty for Muslim investors. This study aims to analyze the validity of Bitcoin and Ethereum as Sharia investment objects in Indonesia and to compare the regulations and mechanisms for assessing their Sharia compliance with those in Malaysia. The literature review covers previous studies on cryptocurrencies, Sharia investment, digital asset regulation, and Sharia screening mechanisms.

The analysis employs the Sharia investment theory, legal certainty theory, and comparative law theory, using the concepts of *māl*, benefit, *gharar*, *maysir*, and *riba* as analytical parameters. This study employs normative legal research (*doctrinal legal research*) using statutory, conceptual, and comparative approaches. Legal materials were collected through library research involving legislation, *Ijtima Ulama* of the MUI Fatwa Commission, the *Guidelines on Digital Assets*, SAC resolutions, books, academic journals, and previous studies, and were analyzed qualitatively through legal interpretation.

The findings indicate that Bitcoin and Ethereum may serve as Sharia investment objects provided that they comply with Sharia principles, particularly utility, transparency, and risk management. Indonesia has established a legal basis for crypto-asset trading; however, its Sharia compliance assessment mechanism has not been comprehensively integrated. Malaysia, in contrast, has a more systematic Sharia screening mechanism through the Securities Commission Malaysia and Shariah Advisory Council.

The study concludes that regulatory harmonization and clearer Sharia assessment mechanisms are needed in Indonesia to strengthen legal certainty and protection for Muslim investors.

## خاتمة

محمد إسدانيل غفرون، ٢٠٢٠. صحة الأصول المشفرة (البيتكوين والإيثريوم) كأداة استثمار إسلامية (دراسة مقارنة للوائح التنظيمية الخاصة بالأصول المشفرة في إندونيسيا وماليزيا). أطروحة تخرج، قسم القانون، الاقتصاد الإسلامي، جامعة مولانا مالك إبراهيم الإسلامية الحكومية في مالانج،

المشرف: دوي هيدياتول فردوس، الماجستير.  
الكلمات المفتاحية: الأصول المشفرة، الاستثمار الإسلامي، البيتكوين، الإيثريوم، اليقين القانوني

أدى تطور الأصول المشفرة بوصفها أداة للاستثمار الرقمي إلى ظهور إشكالات تتعلق بمدى مشروعيتها وفقاً لأحكام الشريعة الإسلامية، ولا سيما فيما يتعلق بعناصر الغرر والميسر والربا، إضافةً إلى مسألة اليقين القانوني للمستثمرين المسلمين. تهدف هذه الدراسة إلى تحليل مشروعية البيتكوين والإيثريوم كموضوع للاستثمار المتوافق مع الشريعة الإسلامية في إندونيسيا، ومقارنة التنظيمات وآليات تقييم الالتزام بأحكام الشريعة المتعلقة بهما مع ماليزيا. وتتناول الدراسة الأدبيات السابقة المتعلقة بالأصول المشفرة والاستثمار الإسلامي والتنظيم القانوني للأصول الرقمية وآليات الفحص الشرعي.

كما تستند في التحليل إلى نظرية الاستثمار الإسلامي، ونظرية اليقين القانوني، ونظرية القانون المقارن، مع اعتماد مفاهيم المال والمنفعة والغرر والميسر والربا كمعايير للتحليل. تستخدم الدراسة منهج البحث القانوني المعياري من خلال المنهج التشريعي والمنهج المفاهيمي والمنهج المقارن. وتم جمع المواد (*doctrinal legal research*) *Guidelines on* القانونية من خلال الدراسة المكتبية للتشريعات والفتاوى الصادرة عن هيئة العلماء الإندونيسية، و، والكتب والمجلات العلمية والدراسات السابقة، (SAC) وقرارات المجلس الاستشاري الشرعي، *Digital Assets*، ثم تحليلها تحليلًا نوعيًا باستخدام التفسير القانوني.

وأظهرت النتائج أن البيتكوين والإيثريوم يمكن أن يكونا موضوعًا للاستثمار المتوافق مع الشريعة متى استوفيا المبادئ الشرعية، ولا سيما تحقيق المنفعة والشفافية وإدارة المخاطر. وقد اعترفت إندونيسيا قانونيًا بتداول الأصول المشفرة إلا أن آلية تقييم الالتزام بالشريعة لم تندمج بصورة شاملة في النظام التنظيمي. في المقابل، تمتلك ماليزيا آلية أكثر منهجية للفحص الشرعي من خلال هيئة الأوراق المالية الماليزية والمجلس الاستشاري الشرعي. وتخلص الدراسة إلى ضرورة تعزيز تنسيق التنظيمات وآليات التقييم الشرعي في إندونيسيا بما يساهم في تحقيق اليقين القانوني وحماية المستثمرين المسلمين.

# CHAPTER 1

## INTRODUCTION

### A. Background

The development of digital technology has driven significant transformation in the global financial sector, particularly through the emergence of crypto assets (*cryptocurrency*) based on blockchain technology. Crypto assets have developed as alternative investment instruments that utilize cryptographic systems to ensure the security, transparency, and decentralization of transactions. This phenomenon has occurred not only in developed countries but also in Indonesia, as indicated by the increasing number of crypto asset investors in recent years.<sup>1</sup> This increase also includes participation from the Muslim community, thereby giving rise to relevant legal implications within the study of Islamic economic law.<sup>2</sup>

In practice, crypto assets such as Bitcoin and Ethereum are used as investment instruments for various purposes, including as a *store of value*, short-term trading instruments, and a foundation for the development of *decentralized finance (DeFi)* services. Nevertheless, the characteristics of crypto assets, which are digital, lack physical form, and exhibit high price volatility, give rise to legal and Shariah-related issues, particularly concerning

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<sup>1</sup> Ridwan Safari dkk., “Perdagangan Aset Kripto dalam Hukum Islam: Studi Fikih Muamālah,” *JSHI: Jurnal Syariah Hukum Islam*, no. 1 (2025): 67, <https://doi.org/10.47902/jshi.v4i1.376>

<sup>2</sup> Otoritas Jasa Keuangan, “Laporan Kinerja OJK Triwulan IV-2024,” 2025, diakses 23 september 2026, <https://www.ojk.go.id/id/data-dan-statistik/laporan-triwulanan/Documents/Laporan%20Triwulan%20IV%20-%202024.pdf>

their validity as investment objects that comply with the principles of Islamic law.<sup>3</sup>

From the perspective of Islamic economic law, an investment object must qualify as *māl* (property) that possesses value, provide tangible benefits, and be free from elements of *gharar* (excessive uncertainty), *maysir* (speculation or gambling), and *riba* (usury or interest). Crypto assets have generated debate because some investment practices involving such assets are considered to contain speculative elements and do not necessarily have an *underlying asset* that can be clearly verified. This condition raises normative questions as to whether crypto assets can be categorized as legitimate Shariah-compliant investment objects.

From the perspective of positive law, Indonesia has recognized the trading of crypto assets by classifying them as commodities that may be traded on the physical market for crypto assets pursuant to regulations issued by the Commodity Futures Trading Supervisory Agency (Bappebti)<sup>4</sup>. Subsequently, through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector, the supervisory authority over crypto assets was transferred to the Financial Services Authority (OJK). Although this demonstrates regulatory development, the regulatory framework has not explicitly integrated the dimension of Shariah compliance, thereby leaving

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<sup>3</sup> Abdul Hafiz dkk., "Crypto Currency Investment from an Islamic Law Perspective: An Overview of Guidelines and Considerations," *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, no. 1 (2025): 201, 206, <https://doi.org/10.19109/nurani.v25i1.26315>

<sup>4</sup> Emiel Salim Siregar dkk., "Kepastian Hukum Aset Kripto sebagai Instrumen Investasi dalam Perspektif Hukum Islam dan Hukum Positif," *El-Mujtama: Jurnal Pengabdian Masyarakat*, no. 1 (2024): 96, <https://doi.org/10.47467/elmujtama.v4i1.413>

legal uncertainty for Muslim investors.<sup>5</sup>

In contrast to Indonesia, Malaysia has developed a relatively more integrated regulatory framework for crypto assets. Through the *Guidelines on Digital Assets* issued by the *Securities Commission Malaysia*, digital assets are regulated within the capital market framework, with the *Shariah Advisory Council* (SAC) serving as the authority responsible for assessing Shariah compliance.<sup>6</sup> The *shariah screening* mechanism implemented by the SAC provides greater legal clarity for Muslim investors, as Shariah assessments are conducted systematically before digital assets are declared eligible for trading.<sup>7</sup> This approach provides a clearer degree of legal certainty for Muslim investors in Malaysia.

Several previous studies have demonstrated differing views regarding the Shariah status of crypto assets. Some studies argue that crypto assets may still be accepted as investment objects provided that they fulfill the principles of benefit, transparency, and risk control<sup>8</sup>. Conversely, other studies emphasize that the predominance of speculative elements and price volatility may result in greater potential *mafsadah* (harm) than *maslahah* (benefit)<sup>9</sup>. Research in

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<sup>5</sup> Yohanes Fidel, Lastuti Abubakar, dan Ema Rahmawati, "Legal Protection for Users of Crypto Assets in Futures Exchange Transactions," *JUSTISI* 11, no. 3 (2025): 749, <https://doi.org/10.33506/js.v11i3.3913>

<sup>6</sup> Securities Commission Malaysia, *Guidelines on Digital Assets* (SC-GL/1-2020 [R3-2024]), 2024; Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 2020.

<sup>7</sup> resea.

<sup>8</sup> Olivia Putri Dahlan, "Shariah-compliant Cryptocurrency: Navigating Opportunities and Challenges at the Intersection of Islamic Finance and Digital Innovation," *Journal of Islamic Economic Insights*, no. 1 (2025): 40–46, <https://doi.org/10.55942/jiei.v1i1.293>.

<sup>9</sup> Wartoyo dan Alvien Septian Haerisma, "Cryptocurrency in The Perspective of Maqasid Al-Shariah: A Critical Analysis of the Mafsadah (Harm) and the Maslahah (Benefit) of Cryptocurrency," *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies*, no. 1 (2022): 110–139, <https://doi.org/10.18196/afkaruna.v18i1.14164>

Malaysia indicates that the implementation of *shariah screening* can enhance legal certainty and protection for Muslim investors<sup>10</sup>. Nevertheless, studies specifically comparing regulatory approaches and Shariah assessment mechanisms for crypto assets between Indonesia and Malaysia remain limited.

Based on the foregoing discussion, there is a research gap concerning the suboptimal integration of positive law and Islamic legal principles in determining the validity of crypto assets as Shariah-compliant investment objects in Indonesia when compared with Malaysia. Therefore, this research is important to comparatively examine the legal status of crypto assets, particularly Bitcoin and Ethereum, as Shariah-compliant investment objects, as well as their implications for legal certainty and the protection of Muslim investors.

## **B. Research Questions**

1. How valid are Bitcoin and Ethereum as Shariah-compliant investment objects based on Shariah investment principles and the applicable positive law and regulations in Indonesia?
2. How do the regulations and Shariah compliance assessment mechanisms concerning Bitcoin and Ethereum in Indonesia and Malaysia compare in providing legal certainty for Muslim investors?

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<sup>10</sup> Jailani dan Muneeza, "Crypto Assets," 35.

### **C. Research Objectives**

1. To analyze the validity of Bitcoin and Ethereum as Shariah-compliant investment objects based on Shariah investment principles and the applicable positive law and regulations in Indonesia.
2. To analyze and compare the regulations and Shariah compliance assessment mechanisms concerning Bitcoin and Ethereum in Indonesia and Malaysia in order to provide legal certainty for Muslim investors.

### **D. Significance of the Research**

#### **1. Theoretical Significance**

This research is expected to contribute to the development of Islamic Economic Law, particularly concerning the validity of Bitcoin and Ethereum as Shariah-compliant investment objects. Furthermore, this research is expected to enrich the scholarly discourse on crypto asset regulation, Shariah-compliant investment, legal certainty, and comparative law in the context of the development of digital assets.

#### **2. Practical Significance**

- a. For muslim Investor, This research is expected to serve as a consideration for Muslim investors in understanding the validity of Bitcoin and Ethereum as Shariah-compliant investment objects, as well as the legal certainty provided by the regulatory frameworks in Indonesia and Malaysia.
- b. For Regulators, This research is expected to provide input for the

formulation and development of policies concerning crypto assets that are aligned with Shariah principles and provide legal protection for investors.

- c. For Academics and Researchers, This research is expected to serve as a reference for further research on Shariah-compliant investment, crypto assets, and comparative regulation of digital finance..

## E. Operational Definitions

### 1. Crypto assets

Crypto assets are digital assets based on blockchain technology that utilize cryptographic systems to ensure the security, validation, and decentralized recording of transactions. In this research, crypto assets are understood as digital investment instruments whose legal status is analyzed from the perspectives of Islamic economic law and positive law in Indonesia and Malaysia.<sup>11</sup>

### 2. Bitcoin Dan Ethereum

Bitcoin and Ethereum are types of crypto assets with different characteristics and functions within the blockchain ecosystem. Bitcoin is generally understood as a digital asset primarily functioning as a *store of value* and, to a limited extent, as a medium of exchange, whereas Ethereum is a digital asset that supports *smart contracts* and *decentralized finance*

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<sup>11</sup> Otoritas Jasa Keuangan Republik Indonesia, “Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto,” 2024, <https://ojk.go.id/id/regulasi/Pages/POJK-27-2024-AKD-AK.aspx>.

(*DeFi*). In this research, both assets serve as the primary objects for assessing the validity of Shariah-compliant investment and its legal certainty.<sup>12</sup>

### 3. Validity of Crypto Assets as Shariah-Compliant Investment Objects

The validity of crypto assets as Shariah-compliant investment objects refers to the assessment under Islamic law of whether crypto assets may be owned and traded as investment instruments based on the principles of principle shariah invesment. In particular, such assets must fulfill the criteria of *māl* (property), possess recognized benefits, and be free from the elements of *gharar* (excessive uncertainty), *maysir* (speculation or gambling), and *riba* (usury or interest).<sup>13</sup>

### 4. Shariah-Compliant Investment

Shariah-compliant investment refers to the activity of investing capital or managing assets based on the principles of Islamic law, with the objective of obtaining lawful (*halal*) returns while avoiding *riba*, *gharar*, *maysir*, and practices that are contrary to Shariah principles. In this research, Shariah-compliant investment serves as the basis for assessing the conformity of Bitcoin and Ethereum as digital investment instruments.<sup>14</sup>

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<sup>12</sup> Kagan Okatan, “An Overview on Key Digital Assets of Decentralized Finance: Cryptocurrency and NFT,” *PressAcademia*, no. 13 (2023): 73–78, <https://doi.org/10.17261/pressacademia.2023.1667>

<sup>13</sup> Emiel Salim Siregar et al., “Kepastian Hukum Aset Kripto sebagai Instrumen Investasi dalam Perspektif Hukum Islam dan Hukum Positif,” *El-Mujtama: Jurnal Pengabdian Masyarakat*, no. 1 (2024): 96, <https://doi.org/10.47467/elmujtama.v4i1.413>

<sup>14</sup> Muhammad Syafi'i Antonio, *Bank Syariah: Dari Teori ke Praktik* (Jakarta: Gema Insani Press, 2001), hlm. 202–203

## 5. Positive Law

Positive law refers to the entire body of legislation and legal regulations that are in force and legally binding within a particular country. In this research, positive law encompasses crypto asset regulations in Indonesia and Malaysia governing the legal status, trading mechanisms, and supervision of crypto assets.<sup>15</sup>

## 6. Crypto Asset Regulation in Indonesia

Crypto asset regulation in Indonesia refers to the legal provisions governing crypto assets as commodities that may be traded, particularly through regulations issued by the Commodity Futures Trading Supervisory Agency (*Badan Pengawas Perdagangan Berjangka Komoditi* or Bappebti), as well as Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector.<sup>16</sup>

## 7. Crypto Asset Regulation in Malaysia

Crypto asset regulation in Malaysia refers to the legal framework governing digital assets under the authority of the *Securities Commission Malaysia*, including the Shariah compliance assessment mechanism conducted by the *Shariah Advisory Council* for digital assets traded within the relevant regulatory framework.<sup>17</sup>

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<sup>15</sup> Bagir Manan, *Hukum Positif Indonesia: Satu Kajian Teoritik* (Yogyakarta: FH UII Press, 2004), 1.

<sup>16</sup> Republik Indonesia, “Undang-Undang Nomor 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan,” 2023, <https://peraturan.bpk.go.id/Details/240203/uu-no-4-tahun-2023>

<sup>17</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 31 December 2023, 179–180.

## 8. Legal Certainty

Legal certainty refers to a condition in which legal regulations are formulated clearly, consistently, and predictably, thereby providing legal protection for legal subjects. In this research, legal certainty is analyzed in the context of protecting Muslim investors in crypto asset investments.<sup>18</sup>

## F. Previous Studies

Research on crypto assets from the perspectives of Islamic law and positive law has been conducted by a number of scholars using various approaches and focusing on different aspects. Nevertheless, studies that specifically position crypto assets as Shariah-compliant investment objects through a normative-comparative legal approach between Indonesia and Malaysia remain relatively limited. Several previous studies relevant to this research are described as follows.

### 1. Research by Iin Indriani Mokodompis, Rizaldy P. Pedju, and A.A. Muhammad (2024)

The research conducted by Iin Indriani Mokodompis, Rizaldy P. Pedju, and A.A. Muhammad (2024), entitled “*Integrating Islamic Law and Modern Regulation: Cryptocurrency as a Sharia-Compliant Digital Asset in Indonesia*,” examines the relationship between Indonesian positive law and Islamic legal principles in the regulation of crypto asset trading. This research employs a normative juridical approach by

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<sup>18</sup> Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar*, ed. 5, cet. 3 (Yogyakarta: Liberty, 2007), 160.

analyzing Bappebti regulations and the concept of *sil'ah* in principle shariah investment.

The findings indicate that although crypto assets have been recognized as commodities, the integration of Shariah principles into positive legal regulations remains suboptimal. The similarity between this research and the present study lies in their examination of the validity of crypto assets from the perspectives of Islamic law and positive law. The difference is that the previous study focuses solely on Indonesia and does not compare its regulatory system with that of another country.<sup>19</sup>

## **2. Research by Muhammad N., Syed Alwi S.F., Katan M., Nasrijal N.M.H., and Buja A.G. (2024)**

The subsequent research was conducted by Muhammad N., Syed Alwi S.F., Katan M., Nasrijal N.M.H., and Buja A.G. (2024), entitled “*The Shariah Perspective on Cryptocurrency: Insights from Malaysian Scholars.*” This research employs a qualitative method through interviews with Islamic scholars and Shariah experts in Malaysia.

The findings demonstrate differences of opinion among scholars regarding the validity of crypto assets, particularly concerning price volatility and the potential for speculation. The similarity with the present research lies in its focus on the Shariah assessment of crypto assets, whereas the difference is that the previous study does not analyze

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<sup>19</sup> Iin Indriani Mokodompis, Rizaldy Purnomo Pedju, dan Adamu Abubakar Muhammad, “Integrating Islamic Law and Modern Regulation: Cryptocurrency as a Sharia-Compliant Digital Asset in Indonesia,” *Antmind Review: Journal of Sharia and Legal Ethics*, no. 2 (2024): 83–85, 89, <https://doi.org/10.63077/r27rd104>

the positive legal aspects and does not employ a comparative approach between countries.<sup>20</sup>

### **3. Research by Aldi Khusmufa Nur Iman and Andriani Samsuri (2022)**

The research conducted by Aldi Khusmufa Nur Iman and Andriani Samsuri (2022), entitled “*Cryptocurrency: Financial Risk and Shariah-Compliant Alternative Concept*,” examines the financial risks associated with crypto assets and the possibility of developing Shariah-compliant cryptocurrencies.

Using a literature review approach, the research concludes that most crypto assets contain speculative elements, although there remains an opportunity to develop Shariah-compliant cryptocurrencies with clear underlying assets. The similarity with the present research lies in the examination of crypto assets from a Shariah perspective, while the difference is that the previous study is conceptual in nature and does not comparatively examine national regulations.<sup>21</sup>

### **4. Research by A. Aliyu, K.A. Bakar, et al. (2020)**

The research conducted by A. Aliyu, K.A. Bakar, and colleagues (2020), entitled “*Review of Some Existing Shariah-Compliant Cryptocurrency*,” examines various crypto assets that claim to be

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<sup>20</sup> N. Muhammad dkk., “The Shariah Perspective on Cryptocurrency: Insights from Malaysian Scholars,” *Global Journal Al-Thaqafah*, no. 2 (2024): 61–62, <https://doi.org/10.7187/GJAT122024-5>.

<sup>21</sup> Aldi Khusmufa Nur Iman dan Andriani Samsuri, “Cryptocurrency: Financial Risk and Shariah-Compliant Alternative Concept,” *Equilibrium: Jurnal Ekonomi Syariah*, no. 1 (2022): 109, <https://doi.org/10.21043/equilibrium.v10i1.13278>.

Shariah-compliant at the global level.

The study finds that most of these cryptocurrencies still contain elements of *gharar* and lack a strong real economic foundation. Its similarity with the present research lies in the assessment of Shariah compliance, whereas its difference is that the study does not situate its analysis within the framework of the national legal regulations of Indonesia or Malaysia.<sup>22</sup>

#### **5. Research by Muhammad Arief Jailani and Aishath Muneeza (2023)**

The research conducted by Muhammad Arief Jailani and Aishath Muneeza (2023), entitled “*Crypto Assets: The Need for Shariah Screening Criteria for Digital Assets in Malaysia*,” emphasizes the importance of establishing *shariah screening* criteria for digital assets. The study concludes that a Shariah screening mechanism is necessary to provide legal certainty for Muslim investors. The similarity between this research and the present study lies in the significance of *shariah screening*, whereas the difference is that the previous study focuses solely on Malaysia and does not compare its regulatory framework with Indonesia.<sup>23</sup>

#### **6. Research by Ermanto Fahamsyah, Kania Venisa Rachim, and Ramadhan Dwi Saputra (2025)**

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<sup>22</sup> Ahmed Aliyu et al., “Review of Some Existing Shariah-Compliant Cryptocurrency,” *Journal of Contemporary Islamic Studies*, no. 1 (2020): 29, <https://doi.org/10.24191/jcis.v6i1.2>

<sup>23</sup> Jailani dan Muneeza, “Crypto Assets,” 35..

The research conducted by Ermanto Fahamsyah, Kania Venisa Rachim, and Ramadhan Dwi Saputra (2025), entitled “*Navigating Fintech Sharia Regulation in Indonesia: Lessons Learned from Malaysia*,” employs a normative-comparative approach to compare Shariah-compliant fintech regulations in Indonesia and Malaysia.

The findings indicate that Indonesian regulations remain fragmented compared with Malaysia, which has a more integrated regulatory system. The similarity with the present research lies in the Indonesia–Malaysia comparative approach, while the difference is that the previous study has a broader focus on fintech rather than specifically examining crypto assets.<sup>24</sup>

## **7. Research by Shomad and Ghani (2025)**

The research conducted by Shomad and Ghani (2025), entitled “*Mechanism of Functional Cryptocurrency Trading from an Islamic Perspective*,” examines the mechanism of crypto asset trading from the perspective of Islamic principle shariah investment. This research employs a normative juridical approach by analyzing contractual concepts in crypto transactions, particularly *bai’* (sale and purchase) and *wakālah* (agency), as applied to Digital Asset Exchanges (DAX) in Malaysia.

The findings indicate that crypto asset trading may be considered

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<sup>24</sup> Ermanto Fahamsyah, Kania Venisa Rachim, dan Ramadhan Dwi Saputra, “Navigating Fintech Sharia Regulation in Indonesia: Lessons Learned from Malaysia,” *Malaysian Journal of Syariah and Law*, no. 1 (2025): 189–190, <https://doi.org/10.33102/mjssl.vol13no1.794>

Shariah-compliant when conducted through transparent mechanisms, based on clear contractual arrangements, and under the supervision of Shariah authorities. The similarity between this research and the present study lies in the examination of the validity of crypto assets from the perspective of Islamic law. The difference is that Shomad and Ghani's research focuses on transaction mechanisms and contractual structures in Malaysia without comparing them with the legal system in Indonesia and without examining the legal certainty of investors from a comparative perspective.<sup>25</sup>

#### **8. Research by Karin Joana Abigail (2025)**

The research conducted by Karin Joana Abigail (2025), entitled “*Analisis Yuridis terhadap Investasi Cryptocurrency dalam Kerangka Hukum Ekonomi Syariah di Indonesia*,” employs a normative juridical approach to examine crypto investment based on Islamic economic law and Indonesian national regulations. The research focuses on the *Ijtima Ulama* of the MUI Fatwa Commission and Bappebti regulations concerning crypto asset trading.

The findings conclude that crypto asset investment still contains potential elements of *gharar* and *maysir*, thereby requiring harmonization between Shariah fatwas and state regulations so that crypto investment may be accepted as Shariah-compliant. The similarity

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<sup>25</sup> Mohammad Ulinnuha Shomad dan Nik Abdul Rahim Nik Abdul Ghani, “Mechanism of Functional Cryptocurrency Trading from an Islamic Perspective,” *Journal of Advanced Research in Business and Management Studies*, no. 1 (2025): 1–3, <https://doi.org/10.37934/arbms.38.1.116>.

with the present research lies in its focus on crypto assets as Shariah-compliant investment objects in Indonesia. The difference is that the previous study does not compare Indonesia with Malaysia and does not relate its analysis to *maqāṣid al-sharī'ah* theory or legal certainty theory.<sup>26</sup>

#### **9. Research by A.S.A. Ramadhan and S. Sukti (2025)**

The research conducted by A.S.A. Ramadhan and S. Sukti (2025), entitled “*Sharia Cryptocurrency Regulations and Fatwas: A Maqasid Shariah Analysis*,” employs a normative approach by applying *maqāṣid al-sharī'ah* theory to the analysis of regulations and fatwas concerning crypto assets. The study focuses on assessing the conformity of crypto-related policies and fatwas with the primary objectives of Shariah, particularly the protection of wealth (*ḥifẓ al-māl*).

The findings demonstrate that the validity of crypto assets largely depends on maintaining a balance between *maṣlaḥah* (benefit) and *mafsadah* (harm). Crypto assets may be considered consistent with Shariah principles when their regulatory and supervisory mechanisms are capable of minimizing the risks of speculation and financial loss. The similarity with the present research lies in the use of Shariah investment theory as an analytical framework. The difference is that the previous research is conceptual in nature and does not specifically

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<sup>26</sup> Karin Joana Abigail, “Analisis Yuridis terhadap Investasi Cryptocurrency dalam Kerangka Hukum Ekonomi Syariah di Indonesia,” *Ekopedia: Jurnal Ilmiah Ekonomi* 1, no. 2 (2025): 449–451, <https://doi.org/10.63822/kd7fp567>

compare the implementation of regulations in Indonesia and Malaysia in the context of legal certainty for Muslim investors.<sup>27</sup>

#### **10. Research by W. Fitriana and M.D. Nuraini (2023)**

The research conducted by W. Fitriana and M.D. Nuraini (2023), entitled “*Juridical Analysis of Legal Updates on Crypto Assets in Indonesia (Comparative Study of Indonesian Law with Singapore and Islamic Law Views)*,” employs a normative and comparative juridical approach to examine developments in crypto asset regulation in Indonesia by comparing them with Singapore and Islamic legal perspectives.

The findings indicate that although Indonesia has recognized crypto assets as legally tradable commodities, its regulatory framework has not yet provided strong legal certainty, particularly from a Shariah perspective. The similarity with the present research lies in the examination of legal uncertainty concerning crypto assets and its relevance to Shariah principles. The difference is that the previous research compares Indonesia with Singapore, whereas the present research specifically compares Indonesia and Malaysia, both of which have established legal and institutional frameworks related to Islamic finance.<sup>28</sup>

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<sup>27</sup> Ahmad Syauqi Azmi Ramadhan dan Surya Sukti, “Sharia Cryptocurrency Regulations and Fatwas: A Maqasid Shariah Analysis,” *Journal of Law, Politic and Humanities*, no. 1 (2025): 138–140, <https://doi.org/10.38035/jlph.v6i1.2468>.

<sup>28</sup> Wulan Fitriana dan Maiza Dea Nuraini, “Juridical Analysis of Legal Updates on Crypto Assets in Indonesia (Comparative Study of Indonesian Law with Singapore and Islamic Law Views),” *Journal of Transcendental Law*, no. 1 (2023): 55–58, <https://doi.org/10.23917/jtl.v5i1.2476>.

Based on the aforementioned previous studies, it can be concluded that there has been no comprehensive study examining the validity of crypto assets as Shariah-compliant investment objects through a normative-comparative legal approach between Indonesia and Malaysia while simultaneously integrating *maqāṣid al-sharī'ah* theory and legal certainty theory. Therefore, this research seeks to address this research gap by offering a more systematic and integrative analysis oriented toward the legal protection of Muslim investors..

| No | Researcher                                                          | Research Title                                                                                                  | Similarity                                                                                                                                     | Difference                                                                                                                                                                                                                                                                                                           |
|----|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Iin Indriani Mokodompis, Rizaldy P. Pedju, & A.A. Muhammad (2024)   | Integrating Islamic Law and Modern Regulation : Cryptocurrency as a Sharia-Compliant Digital Asset in Indonesia | The similarity with this research lies in the relationship between Indonesian positive law and Sharia principles in regulating crypto-assets.. | The previous research focuses only on the Indonesian context and does not compare it with Malaysia. The previous researcher emphasizes the integration of positive law and Sharia principles, while this research also examines its impact on legal certainty and the protection of Muslim investors comparatively.. |
| 2. | Muhammad N., Syed Alwi S.F., Katan M., Nasrijal N.M.H., & Buja A.G. | The Shariah Perspective on Cryptocurrency: Insights                                                             | The similarity with the previous research lies in the fact that both highlight the validity of crypto assets from a                            | The previous research is based on interviews with Malaysian scholars and focuses more on religious opinions without                                                                                                                                                                                                  |

|    |                                                                      |                                                                          |                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                         |
|----|----------------------------------------------------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | (2024)                                                               | from Malaysian Scholars                                                  | Sharia perspective and assess their halal and haram aspects.                                                                                                                                            | examining positive law regulations. This research has a broader scope by combining Islamic law and positive law across countries..                                                                                                                                                                      |
| 3. | Aldi Khusmufa Nur Iman & Andriani Samsuri (2022)                     | Cryptocurrency: Financial Risk and Shariah-Compliant Alternative Concept | The similarity with the previous research lies in the fact that both discuss the opportunities and risks of crypto investment from a Sharia perspective.                                                | The previous research is literature-based and conceptual in nature and focuses on Sharia-compliant crypto assets such as OneGram as a global Islamic economic innovation. Meanwhile, this research focuses on regulatory comparison and the application of Sharia principles in Indonesia and Malaysia. |
| 4. | A. Aliyu, K.A. Bakar, Gen Matsuda, Tasneem S.J. Darwish, dkk. (2020) | Review of Some Existing Shariah-Compliant Cryptocurrency                 | The similarity with the previous research lies in the fact that both assess the compliance of crypto assets with Sharia principles, particularly regarding <i>gharar</i> , speculation, and ownership.. | The previous research has a global scope and does not specifically discuss the legal context of Indonesia or Malaysia. The previous research is more evaluative of “Sharia-compliant” crypto products, while this research focuses on national legal and fatwa aspects.                                 |
| 5. | Muhammad Arief Jailani                                               | Crypto Assets:                                                           | The similarity with the previous                                                                                                                                                                        | The previous research focuses                                                                                                                                                                                                                                                                           |

|    |                                                                       |                                                                                  |                                                                                                                                                                     |                                                                                                                                                                                                                  |
|----|-----------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | & Aishath Muneeza (2023)                                              | The Need for Shariah Screening Criteria for Digital Assets in Malaysia           | research lies in the fact that both highlight the importance of a Sharia assessment mechanism ( <i>Shariah screening</i> ) for digital assets..                     | only on Malaysia and does not compare it with another legal system. This research expands the discussion by comparing how Sharia assessment criteria are applied in Indonesia and Malaysia.                      |
| 6. | Ermanto Fahamsyah, Kania Venisa Rachim, & Ramadhan Dwi Saputra (2025) | Navigating Fintech Sharia Regulation in Indonesia: Lessons Learned from Malaysia | The similarity with the previous research lies in the use of a comparative approach between Indonesia and Malaysia in the context of Sharia financial regulation.   | The previous research focuses on fintech regulations rather than crypto-assets. This research expands the scope to digital assets (Bitcoin and Ethereum) in the context of Sharia investment                     |
| 7. | Mohammad Ulinnuha Shomad & Nik Abdul Rahim Nik Abdul Ghani (2025)     | Mechanism of Functional Cryptocurrency Trading from an Islamic Perspective       | The similarity with the previous research lies in the fact that both examine crypto assets based on <i>muamalah</i> law and the principles of <i>fiqh</i> contracts | The previous research focuses on the mechanism of crypto-asset sales and purchases in Malaysia through the DAX platform, without discussing cross-country regulatory comparisons as conducted in this research.. |
| 8. | Karin Joana Abigail (2025)                                            | Analisis Yuridis terhadap Investasi Cryptocurrency dalam Kerangka Hukum Ekonomi  | The similarity with the previous research lies in the fact that both discuss the validity of crypto assets under Sharia Economic Law and their implications for     | The previous research is limited to the Indonesian context using a normative juridical approach, while this research adds a comparative analysis of Indonesia and                                                |

|     |                                           |                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                              |
|-----|-------------------------------------------|----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     |                                           | Syariah di Indonesia                                                                               | halal investment.                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Malaysia as well as the dimensions of <i>maqāṣid al-sharī'ah</i> and legal certainty for Muslim investors.                                                                                                                                                                                                   |
| 9.  | A.S.A. Ramadhan & S. Sukti (2025)         | Sharia Cryptocurrency Regulations and Fatwas: A Maqasid Shariah Analysis                           | The similarity with the previous research lies in the fact that both compare crypto-asset regulations in Indonesia and Malaysia by considering aspects of positive law, <i>Ijtima Ulama</i> of the MUI Fatwa Commission, and the role of Sharia institutions such as the Securities Commission Malaysia (SC). Both use a normative-comparative approach and apply the <i>maqāṣid al-sharī'ah</i> framework to assess the Sharia compliance of digital asset regulations. | The previous research focuses on <i>maqāṣid</i> as an instrument for assessing legal policies and fatwas, while this research expands the discussion to the legality of crypto assets as Sharia investment instruments and their implications for legal certainty for Muslim investors in the two countries. |
| 10. | Wulan Fitriana & Maiza Dea Nuraini (2023) | Juridical Analysis of Legal Updates on Crypto Assets in Indonesia (Comparative Study of Indonesian | The similarity with the previous research lies in the use of a normative legal approach and the focus on the relationship between positive regulations and Islamic legal perspectives                                                                                                                                                                                                                                                                                    | The previous research compares Indonesia with Singapore, rather than Malaysia. Its focus is more on legal developments and investor protection, rather than <i>maqāṣid al-sharī'ah</i> or legal                                                                                                              |

|  |  |                                           |                                                                                                                                                                     |                                                                                                                                                                                                                                               |
|--|--|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | Law with Singapore and Islamic Law Views) | concerning the validity of crypto-assets. Both also examine the roles of Bappebti and MUI in determining the legal status of crypto assets as tradable commodities. | certainty in Sharia investment. Meanwhile, this research adds a comparative dimension between Indonesia and Malaysia, as well as a <i>maqāṣid</i> analysis to assess the conformity of Sharia principles within the national legal framework. |
|--|--|-------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## G. Research Methodology

### 1. Type of Research

This research falls within the category of normative legal research (*doctrinal legal research*), which focuses on the study of law as a set of written norms (*law in books*) governing social life, rather than as a phenomenon of social behavior. In this approach, law is understood as a system consisting of principles, legal doctrines, and provisions that can be rationally analyzed through the interpretation of legal sources. The primary focus of normative legal research is to examine primary legal materials, such as legislation, fatwas, and guidelines issued by authoritative institutions, as well as secondary legal materials, including scholarly literature, academic journals, and relevant previous research.

The selection of this type of research is considered appropriate because the issue examined concerns the validity of crypto assets as Shariah-compliant investment objects, which requires an in-depth

analysis of positive legal norms and the principles of Islamic law. This research aims to identify legal principles, rules, and doctrines that can provide a conceptual foundation for formulating legal arguments in a systematic and logical manner.<sup>29</sup>

In addition to being descriptive-analytical in nature, this research also has a prescriptive character, as it not only describes the existing legal framework but also provides normative recommendations that may be utilized by policymakers and religious institutions. To strengthen the analysis, a comparative approach is employed to identify similarities and differences between the legal systems of Indonesia and Malaysia, particularly with regard to the regulation and assessment of Shariah compliance concerning crypto assets.<sup>30</sup> This approach is expected to provide a comprehensive understanding of the rationale and legal objectives underlying each system while offering a more integrated regulatory model consistent with Shariah-compliant investment principles.

Furthermore, this research is supported by a statutory approach (*statute approach*) through an examination of the hierarchy and substance of applicable regulations, as well as a conceptual approach (*conceptual approach*) to examine Islamic legal theory, Shariah investment theory, and legal certainty theory as the principal analytical

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<sup>29</sup> Nurul Qamar dan Farah Syah Rezah, *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal* (Makassar: CV. Social Politic Genius (SIGn), 2020), 7–8.

<sup>30</sup> Ratno Lukito, “‘Compare But Not to Compare’: Kajian Perbandingan Hukum di Indonesia,” *Undang: Jurnal Hukum*, no. 2 (2022): 257–260, <https://doi.org/10.22437/ujh.5.2.257-291>.

frameworks. Through the combination of these approaches, this research seeks to provide a comprehensive and in-depth analysis of the legality of crypto assets from the perspectives of Islamic economic law and positive law in both countries.

## **2. Research Approach**

This research employs a comparative approach (*comparative approach*) as its primary approach. Since this is normative (*doctrinal*) research, the materials analyzed consist of legal regulations, fatwas, regulatory guidelines, and scholarly literature obtained through library research. Within the normative framework, law is understood as a system of norms or *law in books*, and therefore the coherence and rationality of the applicable legal rules are examined.<sup>31</sup>

Through the comparative approach, this research compares the regulation of crypto assets in Indonesia and Malaysia in order to identify similarities and differences, the rationale underlying such differences, and their normative implications. This approach is commonly employed in legal research to understand variations between legal systems and to formulate stronger legal arguments and recommendations.<sup>32</sup>

As supporting approaches, this research also employs a statutory approach (*statute approach*) to examine Law Number 4 of 2023

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<sup>31</sup> Nurul Qamar dan Farah Syah Rezah, *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal* (Makassar: CV. Social Politic Genius (SIGn), 2020), 7–8.

<sup>32</sup> Ratno Lukito, “‘Compare But Not to Compare’: Kajian Perbandingan Hukum di Indonesia,” *Undang: Jurnal Hukum*, no. 2 (2022): 270–271, <https://doi.org/10.22437/ujh.5.2.257-291>.

concerning the Development and Strengthening of the Financial Sector (P2SK Law), Bappebti regulations, and the *Guidelines on Digital Assets* issued by the *Securities Commission Malaysia*. In addition, a conceptual approach (*conceptual approach*) is employed using key concepts such as *māl*, *gharar*, *maysir*, *maṣlaḥah*, and the legal classifications of digital assets, securities, and commodities.<sup>33</sup>

### 3. Legal Materials

This research utilizes two types of legal materials.

#### a. Primary legal

Primary legal materials include Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law), Bappebti regulations concerning crypto assets, the Decision of the 7th National Ijtima of the Indonesian Ulema Council's Fatwa Commission in 2021, and the *Guidelines on Digital Assets* issued by the *Securities Commission Malaysia* as the principal references for legal norms and Shariah compliance standards.

#### b. Secondary Legal Materials

Secondary legal materials consist of books on legal research methodology and scholarly articles discussing digital asset governance and Shariah screening issues, which are used to strengthen the analysis and provide a theoretical context.<sup>34</sup>

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<sup>33</sup> Nurul Qamar dan Farah Syah Rezah, *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal* (Makassar: CV. Social Politic Genius (SIGn), 2020), 83–88.

<sup>34</sup> Nurul Qamar dan Farah Syah Rezah, *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal* (Makassar: CV. Social Politic Genius (SIGn), 2020), 47–52.

#### **4. Technique for Collecting Legal Materials**

In collecting legal materials, the researcher employs library research through the browsing and downloading of documents from official sources and scholarly repositories. The process begins with collecting methodological books, general and Islamic scholarly journals, and other relevant literature through both offline sources, such as university libraries, and online sources, including regulatory portals and journal databases. All materials are inventoried and categorized into primary, secondary, and tertiary legal materials, and are subsequently examined through literature review and content analysis to ensure their relevance to the research questions and objectives. This practice is consistent with the principles of normative/doctrinal legal research, which emphasize the examination of *law in books* and the grammatical, systematic, and teleological interpretation of legal texts, supported by relevant literature to strengthen legal arguments.<sup>35</sup>

#### **5. Analysis of Legal Materials**

The analysis of legal materials in this research employs a normative juridical approach with a qualitative method. The researcher examines and interprets positive legal norms, Shariah principles, and relevant scholarly literature to obtain a comprehensive understanding of the

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<sup>35</sup> Kornelius Benuf dan Muhamad Azhar, “Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer,” *Gema Keadilan*, no. 1 (2020): 20–21, <https://doi.org/10.14710/gk.2020.7504>.

validity of crypto assets as Shariah-compliant investment objects. The analytical process is conducted through several systematic stages, namely data examination (*editing*), classification (*classifying*), verification (*verifying*), analysis (*analysing*), and conclusion drawing (*concluding*). Each stage is carried out with methodological rigor to ensure that the research findings possess academic validity and strong argumentative value.

The first stage, data examination (*editing*), constitutes the initial step to ensure that all collected legal materials meet standards of validity and relevance to the research topic. At this stage, various primary and secondary legal sources are screened to verify the authenticity of documents, contextual relevance, and completeness of their bibliographic information. Invalid or irrelevant legal materials are excluded to prevent them from obscuring the focus of the study. This stage is consistent with the view of Benuf and Azhar<sup>36</sup>, who emphasize that accuracy in the initial verification process determines the quality and precision of the resulting legal analysis.

The subsequent stage is classification (*classifying*), which involves grouping legal materials according to their type and degree of relevance. This classification distinguishes between primary, secondary, and tertiary legal materials. Primary legal materials include legislation such as Law Number 4 of 2023 concerning the Development

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<sup>36</sup> Benuf et al.

and Strengthening of the Financial Sector (P2SK Law), Bappebti Regulation Number 8 of 2021, the Decision of the 7th National Ijtima of the Indonesian Ulema Council's Fatwa Commission in 2021, and the *Guidelines on Digital Assets* issued by the *Securities Commission Malaysia* in 2024. Secondary legal materials consist of scholarly books, research findings, and journal articles discussing Islamic economic law, digital asset regulation, and relevant legal theories. Tertiary materials, such as legal dictionaries and encyclopedias, are used as supplementary sources to clarify legal terms and concepts. This stage is consistent with the view of Qamar and Rezah<sup>37</sup>, who emphasize that the systematic classification of legal sources facilitates normative analysis and strengthens the coherence of legal arguments.

The next stage, verification (*verifying*), is conducted to examine the authenticity, validity, and currency of the legal materials used. Verification includes checking the legal status of each regulation, ensuring that the regulations relied upon remain in force, and assessing the credibility of the academic sources used as references. This process aims to prevent errors in interpretation arising from the use of legal or scholarly materials that are no longer relevant. Gunardi<sup>38</sup> emphasizes that verification is a crucial aspect of legal research because it ensures the authenticity of sources and the integrity of the research findings.

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<sup>37</sup> Nurul Qamar dan Farah Syah Rezah, *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal* (Makassar: CV. Social Politic Genius (SIGn), 2020), 47–52.

<sup>38</sup> Gunardi, *Buku Ajar Metode Penelitian Hukum* (Jakarta Selatan: Damara Press, 2022), 107.

The fourth stage, analysis (*analysing*), constitutes the core of normative legal research. The analysis is conducted qualitatively using legal interpretation methods (*legal interpretation*), including grammatical, systematic, historical, and teleological interpretation. Through these methods, the researcher seeks to understand the substantive meaning of applicable legal norms, trace the objectives underlying their formulation, and assess the extent to which such norms are consistent with Shariah principles. The analysis also applies Shariah investment theory to assess the substantive conformity of crypto assets with the principles of *maṣlaḥah* and justice, as well as legal certainty theory as a benchmark for evaluating the clarity and effectiveness of the regulatory framework.

In addition, the analysis employs a comparative approach (*comparative approach*) to examine the similarities and differences between Indonesian and Malaysian regulations. This approach aims to identify the characteristics of each country's legal system in regulating and supervising crypto assets, particularly in relation to the application of Shariah principles. As explained by Lukito<sup>39</sup>, comparative legal research is not merely intended to identify differences but also to formulate models of legal harmonization based on best practices across jurisdictions. In the context of this research, the comparison focuses on

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<sup>39</sup> Ratno Lukito, “‘Compare But Not to Compare’: Kajian Perbandingan Hukum di Indonesia,” *Undang: Jurnal Hukum*, no. 2 (2022): 270–271, 286–288, <https://doi.org/10.22437/ujh.5.2.257-291>

how Malaysia, through the *Shariah Advisory Council (SAC)* under the *Securities Commission (SC)*, has incorporated Shariah compliance assessment into the regulation of digital assets, whereas Indonesia maintains a distinction between fatwa authorities and market supervision.

The final stage is conclusion drawing (*concluding*), which is conducted deductively based on the results of the analysis of all legal materials. Conclusions are formulated to answer the research questions by connecting the relevant theories, legal norms, and applicable legal practices. The conclusions are not merely descriptive but also prescriptive, providing normative recommendations concerning the direction of Shariah-based crypto asset regulation. As explained by Qamar and Rezah<sup>40</sup>, normative legal research serves not only to explain what the law is (*das sein*) but also to provide direction concerning what the law ought to be (*das sollen*).

Throughout the process, the analysis of legal materials in this research does not employ statistical methods because the study is normative and conceptual in nature. The validity of the research is assessed based on the strength of legal reasoning and the relevance of the theories employed, rather than numerical data or empirical testing. Accordingly, the resulting conclusions are pragmatic and applicable in nature, meaning that they can be applied in legal practice and public

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<sup>40</sup> Nurul Qamar dan Farah Syah Rezah, *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal* (Makassar: CV. Social Politic Genius (SIGn), 2020), 165–166.

policy. This research is also value-laden, as law is viewed not merely as a system of rules but also as a reflection of the moral, social, and spiritual values existing within society. Therefore, the theories employed must possess strong ethical and normative relevance, namely Shariah investment theory as a moral foundation and legal certainty theory as a rational framework for assessing the effectiveness of legal norms.

Through these stages, the analysis of legal materials is expected to produce logical, comprehensive, and value-based legal arguments, thereby making a meaningful contribution to the development of Islamic economic law and the formulation of regulatory policies that are more adaptive to the development of digital investment in Indonesia and Malaysi.

## **H. Organization of the Thesis**

The organization of this research is structured systematically and logically to illustrate the researcher's line of reasoning from the introductory stage to the concluding stage. Each chapter is closely interconnected and complements the others, thereby forming a coherent and comprehensive discussion.

**Chapter I: Introduction** provides a comprehensive explanation of the background of the problem underlying this research, namely the validity of crypto assets as Shariah-compliant investment objects from the perspectives of Islamic economic law and positive law in Indonesia and Malaysia. This chapter also presents the research questions, research objectives, theoretical and

practical significance of the research, as well as the operational definitions of the terms used to ensure that the discussion remains focused and aligned with the scope of the study.

**Chapter II: Literature Review and Theoretical Framework** presents a theoretical discussion of Shariah investment theory, legal certainty theory, and comparative legal theory as the analytical foundations for assessing the validity of crypto assets as Shariah-compliant investment objects in Indonesia and Malaysia. This chapter also presents relevant findings from previous studies and discusses important concepts in principle shariah investment, such as *māl*, *gharar*, *maysir*, and *riba*, which serve as indicators for determining the legal permissibility of an investment instrument under Islamic law.

**Chapter III: Research Methodology** describes the approaches and methods employed in conducting this research. The research adopts normative legal research (*doctrinal research*) using a comparative legal approach (*comparative approach*), supported by a statutory approach (*statute approach*) and a conceptual approach (*conceptual approach*). This chapter also explains the sources and types of legal materials used, including primary and secondary legal materials, the method of collecting legal materials through library research, and the technique of qualitative legal analysis using juridical reasoning and relevant methods of legal interpretation.

**Chapter IV: Results and Discussion** constitutes the core of this research and presents the analysis and interpretation of the legal materials obtained. This chapter provides an in-depth comparative analysis of the regulatory

frameworks and Shariah compliance assessment mechanisms concerning crypto assets in Indonesia and Malaysia. The discussion begins with an analysis of the legal status of crypto assets in Indonesia based on the applicable legislation and *Ijtima Ulama* of the MUI Fatwa Commission, followed by an examination of the supervisory and Shariah assessment mechanisms conducted by the *Securities Commission (SC)* and the *Shariah Advisory Council (SAC)* in Malaysia. The chapter subsequently examines the similarities and differences between the legal approaches adopted by the two countries, the normative foundations underlying such policies, and their implications for legal certainty and the protection of Muslim investors. Finally, a synthesis is conducted by integrating Shariah investment theory and legal certainty theory to assess the extent to which the regulatory frameworks of both countries fulfill the principles of *maṣlaḥah* and legal certainty.

**Chapter V: Conclusion** presents the conclusions and recommendations. The conclusions are formulated based on the analysis presented in the preceding chapters as answers to the research questions that have been established. The recommendations are addressed to regulators, fatwa institutions, Islamic financial industry stakeholders, and future researchers as proposals for strengthening the regulatory framework and Shariah assessment mechanisms concerning crypto assets in the future. Through this systematic and consistent organization, this research is expected to make a scholarly contribution to the development of Islamic economic law and enrich the academic literature on digital asset regulation in Muslim-majority countries,

particularly Indonesia and Malaysia.

## CHAPTER II

### LITERATURE REVIEW

#### A. Conceptual Framewor

##### 1. Crypto Assets (Bitcoin and Ethereum)

Crypto assets are digital assets that utilize cryptographic technology and blockchain to ensure the security, transparency, and validity of transactions without requiring a central authority.<sup>41</sup> he development of financial technology has driven crypto assets to function not only as a means of transferring value but also as investment instruments traded globally .<sup>42</sup> In Indonesia, crypto assets are recognized as digital commodities that may be traded pursuant to Bappebti Regulation Number 8 of 2021, thereby possessing economic value and being capable of utilization as investment instruments.<sup>43</sup> This recognition demonstrates that crypto assets have obtained legal legitimacy as part of the development of the digital economy in Indonesia.

In this research, the crypto assets that constitute the primary focus are Bitcoin and Ethereum because both have large market capitalizations and high levels of global adoption. Bitcoin was introduced by Satoshi

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<sup>41</sup> Arvind Narayanan et al., *Bitcoin and Cryptocurrency Technologies: A Comprehensive Introduction* (Princeton: Princeton University Press, 2016), 27–50

<sup>42</sup> Rainer Böhme, Nicolas Christin, Benjamin Edelman, dan Tyler Moore, “Bitcoin: Economics, Technology, and Governance,” *Journal of Economic Perspectives*, no. 2 (2015): 213–238, <https://doi.org/10.1257/jep.29.2.213>.

<sup>43</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto* (Jakarta: Otoritas Jasa Keuangan, 2024)

Nakamoto in 2009 as a peer-to-peer electronic payment system that enables transactions to be conducted without intermediaries.<sup>44</sup> Bitcoin has a limited supply and is therefore often regarded as a *store of value* or digital store of value. Meanwhile, Ethereum, developed by Vitalik Buterin in 2015, is a blockchain platform that supports the execution of *smart contracts* and various *decentralized applications (dApps)*.<sup>45</sup> Therefore, Ethereum functions not only as an investment asset but also as infrastructure for various digital financial services.

As investment instruments, Bitcoin and Ethereum offer the potential for high returns because their values are determined by market mechanisms. However, both assets also carry significant risks due to high price volatility, regulatory uncertainty, and the potential for speculative activity in digital asset trading.<sup>46</sup> These characteristics make crypto assets high-risk investment instruments that require investors to possess adequate understanding and risk management capabilities.

From the perspective of Islamic economic law, Bitcoin and Ethereum have generated debate concerning their status as investment objects. Some Islamic scholars consider crypto assets capable of being categorized as *māl* (property) because they possess economic value, can be owned, and can be traded. Others, however, argue that their high volatility and

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<sup>44</sup> Satoshi Nakamoto, "Bitcoin: A Peer-to-Peer Electronic Cash System" (2008), 1–9.

<sup>45</sup> Vitalik Buterin, "Ethereum: A Next-Generation Smart Contract and Decentralized Application Platform" (2014).

<sup>46</sup> Aldi Khumufa Nur Iman dan Andriani Samsuri, "Cryptocurrency: Financial Risk and Shariah-Compliant Alternative Concept," *Equilibrium: Jurnal Ekonomi Syariah*, no. 1 (2022): 109–110, <https://doi.org/10.21043/equilibrium.v10i1.13278>.

speculative trading activities potentially involve elements of *gharar* and *maysir*.<sup>47</sup> The assessment of the validity of Bitcoin and Ethereum as Shariah-compliant investment objects therefore needs to consider their benefits, risks, and the transaction mechanisms employed in investment practices.

## 2. Shariah-Compliant Investment

Shariah-compliant investment refers to the investment of capital conducted in accordance with the principles of principle shariah invesment, under which economic transactions are generally permissible as long as they do not contradict Shariah provisions (*al-aṣl fī al-mu‘āmalāt al-ibāḥah*). Investment activities in Islam are not solely intended to generate financial returns but must also reflect the values of justice, transparency, and collective welfare.<sup>48</sup> Accordingly, an instrument may be categorized as a Shariah-compliant investment when it is free from the elements of *gharar*, *maysir*, and *riba*, and provides genuine economic benefits.

Several studies have emphasized that many crypto assets currently in circulation remain non-asset-backed and possess strong speculative characteristics.<sup>49</sup> Therefore, in order to be accepted as Shariah-compliant investment instruments, crypto assets should have a tangible basis of value

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<sup>47</sup> Ahmed Aliyu dkk., “Review of Some Existing Shariah-Compliant Cryptocurrency,” *Journal of Contemporary Islamic Studies*, no. 1 (2020): 29, <https://doi.org/10.24191/jcis.v6i1.2>.

<sup>48</sup> Muhammad Syafi’i Antonio, *Bank Syariah: Dari Teori ke Praktik* (Jakarta: Gema Insani, 2001).

<sup>49</sup> Aldi Khusmufa Nur Iman dan Andriani Samsuri, “Cryptocurrency: Financial Risk and Shariah-Compliant Alternative Concept,” *Equilibrium: Jurnal Ekonomi Syariah*, no. 1 (2022): 109–110, <https://doi.org/10.21043/equilibrium.v10i1.13278>

(*underlying asset*) and be conducted through valid contractual mechanisms, such as *bai* ‘ (sale and purchase) or *wakālah* (agency), as argued by Shomad and Ghani.<sup>50</sup> This approach demonstrates that the assessment of the legality of crypto investment should not focus solely on the form of the asset but also on the transaction mechanism and the purpose for which it is used.

### 3. Regulation and Shariah Compliance of Crypto Assets

The development of crypto assets as digital investment instruments has encouraged various countries to establish regulatory frameworks aimed at providing legal certainty, investor protection, and supervision of digital asset trading activities. In Indonesia, crypto assets are recognized as commodities that may be traded pursuant to Bappebti Regulation Number 8 of 2021 concerning Guidelines for the Organization of Physical Market Trading of Crypto Assets on Futures Exchanges. This regulatory framework was subsequently reinforced through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK), which provides for the transfer of supervisory authority over crypto assets to the Financial Services Authority (OJK) as part of the strengthening of the digital financial sector.<sup>51</sup> The regulation provides legal certainty regarding the legality of crypto asset trading; however, it does not specifically establish a Shariah compliance assessment mechanism for digital assets traded by Muslim members of the public.

From the perspective of Islamic law, the Decision of the 7th National Ijtima

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<sup>50</sup> Mohammad Ulinnuha Shomad dan Nik Abdul Rahim Nik Abdul Ghani, “Mechanism of Functional Cryptocurrency Trading from an Islamic Perspective,” *Journal of Advanced Research in Business and Management Studies*, no. 1 (2025): 1–3, <https://doi.org/10.37934/arbms.38.1.116>

<sup>51</sup> Undang-Undang Republik Indonesia Nomor 4 Tahun 2023 tentang Pengembangan dan Penguatan Sektor Keuangan.

of the Indonesian Ulema Council's Fatwa Commission in 2021 concerning Cryptocurrency explains that crypto assets cannot be used as currency because they do not satisfy certain Shariah and national regulatory requirements. Nevertheless, crypto assets may still be traded as commodities or digital assets provided that they have clear benefits, can be lawfully owned, and are free from elements of *gharar* (excessive uncertainty), *maysir* (speculation or gambling), and *ḍarar* (harm).<sup>52</sup> This decision demonstrates that the Shariah assessment of crypto assets is conditional and depends on the characteristics of the asset and the manner in which it is utilized in investment activities.

In contrast to Indonesia, Malaysia has developed a more integrated system for regulating crypto assets by incorporating both market regulation and Shariah compliance considerations. Digital assets are supervised by the *Securities Commission Malaysia* through the *Guidelines on Digital Assets*, which regulate the issuance, trading, and supervision of digital assets within Malaysia's capital market framework (Securities Commission Malaysia, 2020).<sup>53</sup> In its implementation, the *Securities Commission Malaysia* works with the *Shariah Advisory Council (SAC)*, an institution authorized to provide opinions and guidance concerning the Shariah compliance of financial and investment instruments. The involvement of the SAC demonstrates that Shariah considerations form an integrated component of the development and supervision of Malaysia's digital financial market.<sup>54</sup> This integration provides a clearer basis for Muslim investors in assessing the conformity of a digital asset with Shariah principles.

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<sup>52</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto*

<sup>53</sup> Securities Commission Malaysia, *Guidelines on Digital Assets* (Kuala Lumpur: Securities Commission Malaysia, 2020).

<sup>54</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 3rd ed. (Kuala Lumpur: Securities Commission Malaysia, 2022).

One of the mechanisms utilized within Malaysia's Shariah-compliant financial system is *Shariah screening*, namely a process of assessment intended to ensure that an investment instrument complies with Shariah principles. The assessment considers factors such as economic benefits, the activities underlying the asset, transaction transparency, and the potential presence of *gharar*, *maysir*, and *riba*.<sup>55</sup> Through this mechanism, investors obtain more systematic guidance in determining investment instruments that comply with Shariah requirements. The existence of a Shariah screening mechanism provides a higher degree of certainty than a system that relies solely on normative interpretation through fatwas.

The existence of clear regulations and structured Shariah assessment mechanisms is closely related to legal certainty for Muslim investors. Legal certainty concerns not only the legality of crypto asset trading but also clarity regarding the Shariah compliance status of such assets<sup>56</sup>. In this context, Malaysia has a relatively more integrated framework because of the coordination between the capital market regulator and the Shariah authority in the supervision of digital investment activities. In Indonesia, by contrast, the legality of crypto asset trading has been recognized by the state, but the Shariah assessment mechanism remains primarily based on fatwas issued by the *Ijtima Ulama* of the MUI Fatwa Commission and has not been fully integrated into the supervisory system for the digital asset market. A comparison of the two countries demonstrates that harmonization between state regulation and Shariah compliance mechanisms is an important factor in establishing legal protection and certainty for Muslim investors

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<sup>55</sup> Muhammad Arief Jailani dan Aishath Muneeza, "Crypto Assets: The Need for Shariah Screening Criteria for Digital Assets in Malaysia," *International Journal of Islamic Economics and Finance Research*, no. 1 (2023): 28, 39, 45, <https://doi.org/10.53840/ijiefer111>.

<sup>56</sup> Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar*, ed. 5, cet. 3 (Yogyakarta: Liberty, 2007), 160

investing in crypto assets.

## **B. Theoretical Framework**

### **1. Shariah Investment Theory**

Shariah investment theory serves as an important foundation for assessing whether an investment instrument complies with the principles of Islamic law. Within Islamic economic law, investment activities constitute part of *muamalah* transactions, which are fundamentally permissible as long as they do not contradict Shariah provisions. This principle is reflected in the legal maxim *al-aṣl fī al-mu‘āmalāt al-ibāḥah*, meaning that all forms of transactions are fundamentally permissible unless there is evidence establishing their prohibition. Therefore, investment in Islam is not solely intended to generate profits but must also uphold the values of justice, transparency, and *maṣlahah* (public benefit) for the parties involved.<sup>57</sup>

In practice, Shariah-compliant investment is subject to several principles that must be fulfilled for a transaction to be considered valid under Islamic law. An investment instrument must not contain elements of *riba*, *gharar*, or *maysir*. Furthermore, the investment object must provide clear benefits and must not contradict Islamic law. Antonio explains that Shariah-compliant investment emphasizes a balance between economic profit and moral responsibility, meaning that the entire transaction process must be conducted honestly and transparently without causing harm to other

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<sup>57</sup> Wahbah al-Zuhaili, *Al-Fiqh al-Islāmī wa Adillatuh*, Juz IV (Damaskus: Dār al-Fikr, 2005), 199–200

parties. Accordingly, the legality of an investment should not be assessed solely on the basis of its outcomes but also by examining the mechanisms and processes through which the transaction is conducted.<sup>58</sup>

The discussion of Shariah-compliant investment has developed further alongside the emergence of digital assets, particularly crypto assets such as Bitcoin and Ethereum. Crypto assets have emerged as modern investment instruments offering the potential for high returns while also exhibiting substantial price volatility. This condition has generated debate regarding their conformity with Shariah investment principles. Some Islamic scholars argue that crypto assets may be categorized as *māl* or property because they possess economic value and can be traded. Others, however, argue that excessive price fluctuations bring crypto assets closer to elements of speculation (*maysir*) and uncertainty (*gharar*).<sup>59</sup>

Furthermore, Shariah investment theory emphasizes the importance of assets possessing tangible value and genuine benefits. In the context of crypto assets, one frequently debated issue concerns the absence of a clear *underlying asset* in certain cryptocurrencies. Research by Aliyu et al. (2020) indicates that many crypto assets continue to exhibit strong speculative characteristics, thereby raising questions concerning their Shariah compliance. Nevertheless, research by Mokodompis, Pedju, and

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<sup>58</sup> Muhammad Syafi'i Antonio, *Bank Syariah: Dari Teori ke Praktik* (Jakarta: Gema Insani, 2001), 18–29.

<sup>59</sup> Hilmi Abdillah, "Hukum Cryptocurrency sebagai Mata Uang dan sebagai Komoditas (Analisis Fatwa MUI tentang Hukum Cryptocurrency)," *Jurnal Ilmiah Ekonomi Islam*, no. 3 (2023): 4245, <https://doi.org/10.29040/jiei.v9i3.10269>.

Muhammad (2024) explains that crypto assets may still be accepted as Shariah-compliant investment instruments when they involve transparent transaction mechanisms, provide clear economic benefits, and operate under adequate regulatory supervision.<sup>60</sup>

Based on the foregoing discussion, Shariah investment theory is employed in this research to analyze the validity of crypto assets as Shariah-compliant investment objects in Indonesia and Malaysia. The analysis examines the conformity of crypto assets with Shariah investment principles, particularly with regard to their qualification as *māl*, their economic benefits, transaction transparency, and the potential presence of *gharar*, *maysir*, and *riba*. In addition, this theory is used to assess whether the regulatory frameworks in Indonesia and Malaysia are capable of providing legal certainty and protection for Muslim investors.<sup>61</sup>

## 2. Legal Certainty Theory

Legal certainty theory is employed in this research to analyze the role of state regulation in providing legal protection for Muslim investors investing in crypto assets. This theory is rooted in the ideas of Gustav Radbruch and Hans Kelsen, who regard legal certainty as one of the fundamental objectives of positive law, alongside justice and utility.

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<sup>60</sup> Ahmed Aliyu dkk., “Review of Some Existing Shariah-Compliant Cryptocurrency,” *Journal of Contemporary Islamic Studies*, no. 1 (2020): 29, <https://doi.org/10.24191/jcis.v6i1.2>

<sup>61</sup> Iin Indriani Mokodompis, Rizaldy Purnomo Pedju, dan Adamu Abubakar Muhammad, “Integrating Islamic Law and Modern Regulation: Cryptocurrency as a Sharia-Compliant Digital Asset in Indonesia,” *Antmind Review: Journal of Sharia and Legal Ethics*, no. 2 (2024): 83–85, <https://doi.org/10.63077/r27rd104>

According to Gustav Radbruch, legal certainty is an essential condition for law to function as a guide for the conduct of members of society. Hans Kelsen, meanwhile, emphasizes that legal certainty is achieved when a legal system is structured hierarchically and consistently and its application can be reasonably predicted. In the context of crypto assets, legal certainty is particularly important because digital assets are characterized by cross-border transactions, technology-based operations, and rapid development that may outpace regulatory frameworks.

In this research, legal certainty theory is used to assess the extent to which crypto asset regulations in Indonesia and Malaysia provide clarity concerning legal status, supervisory mechanisms, and protection against potential losses for Muslim investors. Regulatory ambiguity, overlapping institutional authority, or the absence of clear Shariah compliance standards are regarded as factors that may contribute to legal uncertainty.

Through this approach, the research compares the regulatory framework in Indonesia, which remains relatively fragmented, with the Malaysian framework, which integrates capital market authorities and Shariah assessment institutions, in order to examine the respective regulatory mechanisms for establishing legal certainty in crypto investment from the perspective of Islamic economic law.<sup>62</sup>

Accordingly, in the study of the validity of crypto assets as Shariah-compliant investment objects, legal certainty theory provides an analytical

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<sup>62</sup> Siti Halilah dan Mhd. Fakhrurrahman Arif, “Asas Kepastian Hukum Menurut Para Ahli,” *Siyasah: Jurnal Hukum Tata Negara*, no. II (2021): 56–65

basis for assessing the extent to which the laws and regulations of both countries provide clear and consistent guidance regarding the legality of and legal protection for crypto investment activities.

### **3. Comparative Law Theory**

Comparative law theory is used to compare the legal systems of two or more countries in order to identify similarities, differences, and variations in the implementation of their respective legal frameworks. In legal research, this approach does not focus solely on the substance of legal rules but also considers the social, economic, and legal objectives underlying the establishment of a particular regulation. Peter de Cruz (2010) explains that comparative law facilitates an understanding of how a country develops its legal system in accordance with the needs of society and changing circumstances. Accordingly, this theory is widely employed in research concerning modern regulatory frameworks, including digital assets and Islamic finance.<sup>63</sup>

In this research, comparative law theory is used to compare crypto asset regulations in Indonesia and Malaysia. Although both countries have Muslim-majority populations, their legal approaches to crypto assets differ. Indonesia classifies crypto assets as digital commodities subject to the supervision of Bappebti and the Financial Services Authority (OJK). Malaysia, on the other hand, regulates digital assets within the framework

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<sup>63</sup> Peter de Cruz, *Comparative Law in a Changing World*, 3rd ed. (London: Routledge-Cavendish, 2007), 3-11.

of its capital market under the supervision of the *Securities Commission Malaysia* (SC). These differences demonstrate that a country's legal policies are influenced by its respective legal system and national regulatory needs.<sup>64</sup>

The analysis also concerns not only state regulation but also the implementation of Shariah principles in the supervision of crypto assets. Malaysia has a relatively integrated framework because the *Shariah Advisory Council* (SAC) is involved in assessing the Shariah compliance of digital assets. In Indonesia, by contrast, state supervision and Shariah fatwas continue to operate through separate institutional mechanisms, including the *Ijtima Ulama* of the MUI Fatwa Commission. Research by Fahamsyah, Rachim, and Saputra explains that Malaysia has developed a more structured supervisory framework for integrating Shariah principles with financial technology and digital asset regulation.<sup>65</sup>

In addition to identifying differences between legal systems, comparative law theory also functions as an instrument for evaluating legal reform. Ratno Lukito explains that comparative legal research helps identify the reasons underlying the establishment of particular legal rules and may therefore serve as a reference for other jurisdictions. In this research, the comparative approach is used to examine whether the *shariah screening* mechanism implemented in Malaysia could serve as a reference for

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<sup>64</sup> Wulan Fitriana dan Maiza Dea Nuraini, "Juridical Analysis of Legal Updates on Crypto Assets in Indonesia (Comparative Study of Indonesian Law with Singapore and Islamic Law Views)," *Journal of Transcendental Law* 5, no. 1 (2023): 55–72, <https://doi.org/10.23917/jtl.v5i1.2476>

<sup>65</sup> Ermanto Fahamsyah dkk., "Navigating Fintech Sharia Regulation in Indonesia: Lessons Learned from Malaysia," *Malaysian Journal of Syariah and Law*, no. 1 (2025): 189–190, <https://doi.org/10.33102/mjst.vol13no1.794>

developing Shariah-based crypto asset regulation in Indonesia. Thus, the comparative findings are not merely descriptive but may also serve as a basis for developing legal policies.<sup>66</sup>

Based on the foregoing discussion, comparative law theory is employed in this research to analyze differences in regulation, supervisory systems, and the application of Shariah principles to crypto assets in Indonesia and Malaysia. Through this approach, the research seeks to provide an understanding of the respective regulatory frameworks and their capacity to establish legal certainty and protection for Muslim investors engaging in crypto asset transactions.<sup>67</sup>

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<sup>66</sup> Ra Ratno Lukito, “‘Compare But Not to Compare’: Kajian Perbandingan Hukum di Indonesia,” *Undang: Jurnal Hukum*, no. 2 (2022): 257–260, <https://doi.org/10.22437/ujh.5.2.257-291>

<sup>67</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 3rd ed. (Kuala Lumpur: Securities Commission Malaysia, 2022).

## CHAPTER III

### RESULTS AND DISCUSSION

#### **A. The Validity of Bitcoin and Ethereum as Shariah-Compliant Investment Objects in Indonesia**

##### **1. Legal Status of Bitcoin and Ethereum under Indonesian Regulations**

The development of crypto assets in Indonesia demonstrates a shift in the legal paradigm concerning digital assets as part of the development of the economy and financial technology. Before obtaining clearer legal recognition, the existence of Bitcoin and Ethereum generated debate because they did not fall within the categories of currency or conventional financial instruments specifically regulated under the national legal system. However, the increasing level of crypto asset trading activities encouraged the government to establish a regulatory framework that provides legal certainty regarding the existence and transactions of such digital assets.<sup>68</sup> This regulatory development demonstrates the state's response to the need for legal protection in continuously evolving digital economic activities.

Normatively, the recognition of crypto assets as lawful objects of trade is reflected in the Regulation of the Commodity Futures Trading

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<sup>68</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto*, sebagaimana diubah dengan *Peraturan Otoritas Jasa Keuangan Nomor 23 Tahun 2025* (Jakarta: Otoritas Jasa Keuangan, 2025).

Supervisory Agency (Badan Pengawas Perdagangan Berjangka Komoditi/Bappebti) Number 8 of 2021 concerning Guidelines for the Organization of Physical Market Trading of Crypto Assets on Futures Exchanges. This regulation classifies crypto assets as digital commodities that may be traded on the physical crypto asset market subject to certain requirements concerning security, transparency, and risk management. This regulatory framework demonstrates that the state does not recognize crypto assets as legal tender, but rather as commodities possessing economic value and capable of serving as investment objects.<sup>69</sup> Recognition as commodities provides a legal basis for the public to engage in crypto asset investment within the framework of national law.

The legal status of crypto assets was further strengthened through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU P2SK). The law provides for the gradual transfer of crypto asset supervision from Bappebti to the Financial Services Authority (Otoritas Jasa Keuangan/OJK) as part of the integration of supervision over the digital financial sector. This regulatory framework demonstrates that crypto assets are no longer viewed solely as trading commodities but also as part of digital financial assets requiring more comprehensive supervision to ensure investor protection and financial system stability.<sup>70</sup> The transfer of supervisory authority constitutes an

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<sup>69</sup> Badan Pengawas Perdagangan Berjangka Komoditi, *Peraturan Bappebti Nomor 8 Tahun 2021 tentang Pedoman Penyelenggaraan Perdagangan Pasar Fisik Aset Kripto (Crypto Asset) di Bursa Berjangka* (Jakarta: Bappebti, 2021)

<sup>70</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang*

effort to strengthen legal certainty concerning crypto asset trading in Indonesia.

In the context of this research, Bitcoin and Ethereum are among the crypto assets officially permitted to be traded in Indonesia because they meet criteria established by the regulator, including market capitalization, liquidity, system security, and the sustainability of the blockchain technology employed. Bitcoin is known as the first crypto asset to introduce a blockchain-based payment system, whereas Ethereum has developed as a blockchain platform supporting *smart contracts* and various forms of decentralized finance (*decentralized finance/DeFi*).<sup>7172</sup> The inclusion of both assets among the crypto assets legally permitted to be traded demonstrates that, under Indonesian positive law, Bitcoin and Ethereum possess legal status as digital commodities and investment instruments.<sup>73</sup> This legality constitutes an important basis for assessing the potential utilization of Bitcoin and Ethereum in public investment activities.

Nevertheless, legal recognition as commodities does not automatically determine the validity of Bitcoin and Ethereum from the perspective of Islamic economic law. Formal legality merely demonstrates that such assets are permitted to be traded under state law, whereas their

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*Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto* (Jakarta: Otoritas Jasa Keuangan, 2024)

<sup>71</sup> Satoshi Nakamoto, "Bitcoin: A Peer-to-Peer Electronic Cash System" (2008), 1–9.

<sup>72</sup> Vitalik Buterin, "Ethereum: A Next-Generation Smart Contract and Decentralized Application Platform" (2014).

<sup>73</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024*, Pasal 9

conformity with Shariah principles requires further assessment of the characteristics of the assets, their economic benefits, transaction mechanisms, and the potential presence of *gharar*, *maysir*, and *riba*.<sup>74</sup> Recognition under positive law therefore constitutes an important initial step; however, the permissibility of crypto asset investment must still be examined through an Islamic legal approach in order to establish more comprehensive legal certainty for Muslim investors.

## **2. Analysis of the Validity of Bitcoin and Ethereum Based on Shariah Investment Principles**

The validity of Bitcoin and Ethereum as Shariah-compliant investment objects must be assessed based on the principles of Islamic law governing *muamalah* activities. In principle shariah investment, an investment instrument is generally permissible as long as it fulfills the criteria of being *māl* (property), provides clear benefits (*manfa'ah*), and is free from the elements of *gharar* (excessive uncertainty), *maysir* (speculation or gambling), and *riba*.<sup>75</sup> This approach is important because the legality of an asset under positive law does not necessarily establish its conformity with the principles of Islamic law..

### **a. Bitcoin and Ethereum as *Māl***

The first aspect requiring analysis is the status of Bitcoin and

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<sup>74</sup> Majelis Ulama Indonesia, *Keputusan Ijtima' Ulama Komisi Fatwa Se-Indonesia VII Tahun 2021 tentang Hukum Cryptocurrency* (Jakarta: Majelis Ulama Indonesia, 2021)

<sup>75</sup> Muhammad Ayub, *Understanding Islamic Finance* (Chichester: John Wiley & Sons, 2007), 101–102, 110–114

Ethereum as *māl*. Under Islamic law, property is not necessarily limited to physical objects but includes anything possessing economic value that can be owned, utilized, and lawfully transferred. Bitcoin and Ethereum possess these characteristics because both have measurable market value, may be owned through digital wallets, traded, inherited, and accepted in various global digital economic activities. These characteristics indicate that Bitcoin and Ethereum may be categorized as *māl mutaḳawwam*, namely property possessing recognized value and utility in transaction.

#### **b. The Benefits of Bitcoin and Ethereum**

In addition to fulfilling the characteristics of property, Bitcoin and Ethereum also possess aspects of utility (*manfaʿah*), which constitute an important requirement for objects of *muamalah*. Bitcoin is widely used as a store of value and an investment diversification instrument, whereas Ethereum has broader functions through the implementation of *smart contracts*, *decentralized finance* (DeFi), and various blockchain-based applications.<sup>7677</sup> These economic and technological functions demonstrate that the two crypto assets do not merely depend on price speculation but also possess practical utility in the development of the digital economy. The technological utility of Ethereum is one of the factors distinguishing it from crypto assets that lack clear utility.

#### **c. Analysis of *Gharar***

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<sup>76</sup> Satoshi Nakamoto, "Bitcoin: A Peer-to-Peer Electronic Cash System," 1–9

<sup>77</sup> Vitalik Buterin, "Ethereum: A Next-Generation Smart Contract and Decentralized Application Platform" (2014)

One of the main debates in Islamic law concerns the presence of *gharar* in crypto assets. The high price volatility of Bitcoin and Ethereum is often considered capable of creating excessive uncertainty for investors.<sup>78</sup> Nevertheless, in principle shariah investment, the prohibited form of *gharar* concerns uncertainty regarding the object, price, quantity, or rights of the parties to a transaction.<sup>79</sup> In the trading of Bitcoin and Ethereum, the identity of the asset, quantity traded, market price, and transaction mechanism can be identified transparently through blockchain technology.<sup>80</sup> Price volatility is therefore more appropriately understood as an investment risk rather than as *gharar fahisy* that renders the object of the transaction uncertain.

#### **d. Analysis of *Maysir***

The next aspect concerns *maysir* or speculation. In crypto asset trading practices, some investors engage in short-term transactions oriented toward obtaining rapid profits from market price fluctuations. Such activities may approach the element of *maysir* when they are conducted without adequate analysis and rely solely on chance. However, not all investment activities involving Bitcoin and Ethereum can be categorized as gambling. Investments undertaken on the basis of risk analysis, long-term objectives, and an understanding of the characteristics

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<sup>78</sup> Aldi Khusmufa Nur Iman dan Andriani Samsuri, "Cryptocurrency: Financial Risk and Shariah-Compliant Alternative Concept," *Equilibrium: Jurnal Ekonomi Syariah*, no. 1 (2022): 109–110, <https://doi.org/10.21043/equilibrium.v10i1.13278>

<sup>79</sup> Ayub, *Understanding Islamic Finance*, 110–111

<sup>80</sup> Satoshi Nakamoto, "Bitcoin: A Peer-to-Peer Electronic Cash System" (2008), 1–9

of the assets differ in nature from gambling practices. The element of *maysir* is therefore more closely related to the behavior and objectives of investors than to the existence of Bitcoin and Ethereum as digital assets.

**e. Analysis of *Riba***

From the perspective of *riba*, Bitcoin and Ethereum do not inherently contain an interest element because neither constitutes a debt instrument that automatically generates an additional return, as occurs in interest-bearing lending practices within conventional financial systems.<sup>81</sup> Returns obtained by investors arise from changes in market value determined by supply and demand mechanisms. Therefore, provided that transactions are conducted transparently, do not involve interest-bearing lending schemes, and do not involve practices contrary to Shariah, the element of *riba* is not directly inherent in the ownership of Bitcoin and Ethereum. The principal concerns associated with crypto assets relate more to risk and speculation than to the element of *riba*.

Nevertheless, there are also potential forms of *mafsadah* arising from high price volatility, cybersecurity risks, market manipulation, and significant investment losses. As long as these risks can be mitigated through regulation, supervision, and investor education, the benefits generated by crypto assets may still be considered within the framework of *maṣlahah*.

Based on the foregoing analysis, Bitcoin and Ethereum may, in

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<sup>81</sup> Ayub, *Understanding Islamic Finance*, 111.

principle, be regarded as fulfilling the criteria for Shariah-compliant investment objects because they possess the status of *māl*, provide genuine economic benefits, and do not inherently contain *riba*. The potential elements of *gharar* and *maysir* arise predominantly from speculative trading practices and investor behavior rather than from the inherent characteristics of the assets themselves. The validity of Bitcoin and Ethereum as Shariah-compliant investment objects is therefore conditional (*conditional permissibility*), provided that transactions are conducted transparently, are not dominated by excessive speculation, comply with applicable regulations, and continue to observe the principles of Islamic law.

## **B. Comparison of Regulatory Approaches and Shariah Assessment Mechanisms in Indonesia and Malaysia**

### **1. Differences in the Regulatory Approaches to Crypto Assets in Indonesia and Malaysia**

The development of crypto assets has encouraged Indonesia and Malaysia to establish regulatory frameworks aimed at providing legal certainty, investor protection, and the stability of the digital financial system. Although both countries recognize crypto assets as assets that may be traded, their regulatory approaches demonstrate fundamental differences in terms of institutional structures, legal status, and the integration of Shariah compliance.

#### **a. Crypto Asset Regulation in Indonesia**

In Indonesia, crypto assets were initially classified as commodities

that could be traded in the futures market based on Bappebti Regulation Number 8 of 2021 concerning Guidelines for the Organization of Physical Market Trading of Crypto Assets on Futures Exchanges. This regulation provides a legal basis for the trading of crypto assets such as Bitcoin and Ethereum through registered traders supervised by the state. Subsequently, through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU P2SK), regulatory and supervisory authority over crypto assets was gradually transferred from Bappebti to the Financial Services Authority (OJK). This change demonstrates a policy transformation that positions crypto assets as part of the national digital financial asset ecosystem.<sup>82</sup>

#### **b. Crypto Asset Regulation in Malaysia**

In contrast to Indonesia, Malaysia has regulated crypto assets from the outset within the framework of the capital market and digital assets under the supervision of the Securities Commission Malaysia (SC Malaysia). This regulatory framework is based on the *Capital Markets and Services Act 2007* and the *Guidelines on Digital Assets*, which regulate the issuance, trading, and supervision of digital assets through platforms licensed by the regulator. Through this approach, crypto assets are positioned as investment instruments forming part of Malaysia's capital market and digital financial system.<sup>83</sup>

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<sup>82</sup> Badan Pengawas Perdagangan Berjangka Komoditi, *Peraturan Bappebti Nomor 8 Tahun 2021 tentang Pedoman Penyelenggaraan Perdagangan Pasar Fisik Aset Kripto di Bursa Berjangka* (Jakarta: Bappebti, 2021)

<sup>83</sup> Securities Commission Malaysia, *Guidelines on Digital Assets* (Kuala Lumpur: Securities

### **c. Similarities in Crypto Asset Regulation in Indonesia and Malaysia**

Despite their different regulatory approaches, Indonesia and Malaysia share several similarities in regulating crypto assets. First, both countries do not recognize crypto assets as legal tender and continue to maintain their respective national currencies as the sole official means of payment. Second, crypto asset trading may only be conducted through platforms licensed by the relevant regulator. Third, both countries apply investor protection principles through licensing requirements, operational supervision of platforms, and the implementation of security and governance standards aimed at reducing the risk of misuse of digital assets.<sup>84</sup>

### **d. Main Differences between the Regulatory Approaches of Indonesia and Malaysia**

Nevertheless, the principal difference between Indonesia and Malaysia lies in the integration of Shariah considerations into crypto asset regulation. In Indonesia, Shariah assessment is reflected in the decision of the National Shariah Board of the Indonesian Ulema Council and the Decision of the 7th National Ijtima of the Fatwa Commission in 2021, while the supervision of crypto asset trading is conducted by state regulatory authorities. This condition demonstrates a separation between market regulation and Shariah assessment.<sup>85</sup> In contrast, Malaysia

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Commission Malaysia, 2020)

<sup>84</sup> Undang-Undang Republik Indonesia Nomor 7 Tahun 2011 tentang Mata Uang

<sup>85</sup> Majelis Ulama Indonesia, *Keputusan Ijtima' Ulama Komisi Fatwa Se-Indonesia VII Tahun 2021 tentang Hukum Cryptocurrency* (Jakarta: Majelis Ulama Indonesia, 2021)

integrates Shariah considerations into its regulatory system through the involvement of the *Shariah Advisory Council* (SAC), which operates within the framework of the Islamic capital market. The involvement of the SAC enables Shariah considerations to form part of the process of developing policies and supervising digital investment instruments.<sup>86</sup>

**e. Tabel komparasi regulasi**

| <b>Aspect</b>                                         | <b>Indonesia</b>                                                                                                                                                                                                                                                                                                   | <b>Malaysia</b>                                                                                                                                                                                          |
|-------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Competent Authority                                   | The Financial Services Authority (Otoritas Jasa Keuangan/OJK) serves as the regulatory and supervisory authority for digital financial assets, including crypto assets, since 10 January 2025.                                                                                                                     | The Securities Commission Malaysia (SC) serves as the authority regulating and supervising digital assets within the Malaysian capital market framework.                                                 |
| Legal Status of Crypto Assets within the Legal System | Crypto assets are classified as part of Digital Financial Assets, with their trading activities subject to OJK supervision.                                                                                                                                                                                        | Certain digital currencies and digital tokens are treated as securities within the Malaysian capital market legal framework.                                                                             |
| Primary Legal Framework                               | Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU P2SK); OJK Regulation Number 27 of 2024 concerning the Organization of Trading in Digital Financial Assets, including Crypto Assets; and OJK Regulation Number 23 of 2025 amending OJK Regulation Number 27 of 2024. | Capital Markets and Services Act 2007; Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019; and the Guidelines on Digital Assets issued by the SC. |

<sup>86</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 3rd ed. (Kuala Lumpur: Securities Commission Malaysia, 2022), 179–180

|                                  |                                                                                                                                                                                                                     |                                                                                                                                                                                                                           |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Transfer of Regulatory Authority | The regulation and supervision of digital financial assets, including crypto assets, were transferred from Bappebti to OJK on 10 January 2025 pursuant to the mandate of the P2SK Law.                              | There was no equivalent transfer from a commodity authority to a capital market authority; the SC has served as the principal authority within the relevant digital asset regulatory framework from the outset.           |
| Trading Regulation               | Trading in digital financial assets, including crypto assets, is regulated under OJK Regulation Number 27 of 2024, together with its implementing provisions and amendments under OJK Regulation Number 23 of 2025. | Digital asset trading is conducted through Digital Asset Exchanges (DAXs) within the regulatory framework of the SC.                                                                                                      |
| Regulation of Trading Operators  | OJK regulates institutional arrangements, licensing, governance, trading operations, reporting, supervision, and consumer and public protection.                                                                    | The SC regulates Digital Asset Exchange operators and related service providers through the capital market framework and provisions concerning recognized markets.                                                        |
| Investor/Consumer Protection     | OJK Regulation Number 27 of 2024 contains provisions concerning consumer and public protection, governance, reporting, and supervision.                                                                             | The SC framework includes requirements for DAX operators and provisions concerning asset and investor protection within the digital asset trading ecosystem.                                                              |
| Status of Bitcoin and Ethereum   | Bitcoin and Ethereum are treated as crypto assets within the Digital Financial Asset framework and may be traded provided that they comply with the applicable regulatory requirements.                             | Bitcoin (BTC) and Ethereum (ETH) are included in the list of digital assets that may be traded on regulated exchanges in Malaysia and are each recognized as Shariah-compliant based on the SAC decision of 20 July 2020. |
| Shariah Compliance               | Shariah principles are among the considerations referred to in the Decision of the 7th National Ijtima of the Fatwa Commission in 2021. However, the institutional mechanism for                                    | Shariah considerations form part of the SC ecosystem and involve the Shariah Advisory Council (SAC), which issues resolutions concerning the Shariah status of digital assets.                                            |

|                                                          |                                                                                                                                                                                                             |                                                                                                                                                                                              |
|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                          | such fatwa differs from the regulatory and supervisory mechanism administered by OJK.                                                                                                                       |                                                                                                                                                                                              |
| Relationship between the Regulator and Shariah Authority | OJK functions as the regulator and supervisor, while <i>Ijtima Ulama</i> of the MUI Fatwa Commission plays a role in issuing Shariah fatwas and guidance. These represent distinct institutional functions. | The SC functions as the capital market regulator, while the SAC provides Shariah resolutions within the institutional framework of the SC.                                                   |
| Character of the Regulatory Approach                     | The regulatory approach has developed from a commodity trading regime toward a digital financial asset regime under OJK supervision.                                                                        | The regulatory approach has placed certain digital assets within the capital market framework since the early development of the regulatory system.                                          |
| Regulatory Development Status                            | The OJK framework came into effect on 10 January 2025 and has subsequently been amended through OJK Regulation Number 23 of 2025.                                                                           | The Guidelines on Digital Assets were issued on 28 October 2020 and revised on 19 August 2024; the SC has also continued to update the regulatory framework governing digital asset trading. |

#### f. Analisis perbandingan regulasi

Based on Table E, Indonesia and Malaysia have both established legal frameworks governing crypto asset trading; however, the two countries employ different regulatory and institutional structures. Indonesia currently places crypto assets within the Digital Financial Asset regime under the authority of the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*). This change constitutes a consequence of Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector, which mandates the transfer of regulatory and

supervisory functions over Digital Financial Assets from Bappebti to OJK. The transfer was implemented on 10 January 2025 and was subsequently reinforced through OJK Regulation Number 27 of 2024 and its amendment through OJK Regulation Number 23 of 2025.<sup>87</sup> Accordingly, it would be inaccurate to state that Indonesia does not have regulations governing crypto assets.

Malaysia likewise has a regulatory framework governing digital assets through the *Securities Commission Malaysia* (SC). The SC issued the *Guidelines on Digital Assets* on 28 October 2020, which were subsequently revised on 19 August 2024. This framework concerns the regulation of digital assets and the organization of trading through Digital Asset Exchanges within Malaysia's capital market system.<sup>88</sup> Therefore, the difference between Indonesia and Malaysia does not lie in the existence or absence of crypto asset regulation, but rather in the legal structure, supervisory authority, and integration of Shariah compliance considerations within each country's regulatory system.

A more significant difference can be observed in the relationship between digital asset regulation and Shariah assessment mechanisms. In Indonesia, the regulation and supervision of crypto asset trading fall under OJK, while guidance concerning the Shariah status of cryptocurrency is

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<sup>87</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto* (Jakarta: Otoritas Jasa Keuangan, 2024)

<sup>88</sup> Securities Commission Malaysia, *Guidelines on Digital Assets* (Kuala Lumpur: Securities Commission Malaysia, 2024)

reflected, among other sources, in the Decision of the 7th National Ijtima of the Fatwa Commission in 2021. In Malaysia, Shariah considerations form part of the Securities Commission ecosystem through the *Shariah Advisory Council* (SAC), which has the authority to issue resolutions concerning the Shariah status of digital assets.<sup>89</sup> This can be observed in the list of digital assets permitted to be traded on regulated exchanges in Malaysia, in which Bitcoin and Ethereum are listed as Shariah-compliant assets.

## 2. Comparison of Shariah Compliance Assessment Mechanisms

A comparison of the mechanisms for assessing Shariah compliance of crypto assets in Indonesia and Malaysia demonstrates differences in institutional structures, assessment methods, the objects being assessed, and the relationship between positive law and Shariah principles. Indonesia refers to the outcome of the *Ijtima Ulama Komisi Fatwa* of the Indonesian Ulema Council (MUI) as one of the normative references for assessing cryptocurrency based on the principles of *gharar*, *dharar*, *qimar*, *sil'ah*, *underlying*, and utility. Malaysia, meanwhile, incorporates Shariah considerations into the capital market institutional framework through the *Shariah Advisory Council (SAC) of the Securities Commission Malaysia*, which issues resolutions concerning the status of *māl*, the classification of digital assets, and Shariah compliance requirements.<sup>90</sup>

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<sup>89</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 3rd ed. (Kuala Lumpur: Securities Commission Malaysia, 2022), 179–180

<sup>90</sup> Majelis Ulama Indonesia, *Keputusan Ijtima' Ulama Komisi Fatwa Se-Indonesia VII Tahun*

#### **a. Status of the Decision of the Ijtima Ulama of the MUI Fatwa**

##### **Commission**

In Indonesia, the discussion of cryptocurrency from a Shariah perspective was conducted through the 7th *Ijtima Ulama* of the MUI Fatwa Commission, held from 9 to 11 November 2021. The discussion resulted in a decision concerning the legal status of cryptocurrency. MUI determined that the use of cryptocurrency as currency is *haram* because it contains elements of *gharar* and *dharar* and does not comply with the provisions of Indonesian law concerning currency.

However, it is important to understand that the decision does not declare all cryptocurrencies to be absolutely *haram* in every form. MUI distinguishes between cryptocurrency as currency and cryptocurrency as a commodity or digital asset. With respect to cryptocurrency as a commodity/digital asset, MUI states that such assets are not legally permissible to be traded when they contain *gharar*, *dharar*, and *qimar* and do not fulfill the requirements of *sil'ah*. Conversely, cryptocurrency that fulfills the requirements of *sil'ah*, has an *underlying*, and possesses clear utility may be traded.<sup>91</sup>

Accordingly, the MUI assessment mechanism may be understood as

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2021 tentang Hukum Cryptocurrency (Jakarta: Majelis Ulama Indonesia, 2021).

<sup>91</sup> Majelis Ulama Indonesia, "Keputusan Ijtima' Ulama Komisi Fatwa se-Indonesia VII Tahun 2021 tentang Hukum Cryptocurrency.

a conditional assessment, meaning that it does not merely assess cryptocurrency technology as a whole but establishes requirements that must be fulfilled for a crypto asset to be regarded as a trading object consistent with Shariah principles.

This view is also reflected in research by Hidayat, which demonstrates that the recognition of cryptocurrency as an asset under Indonesian state policy must be distinguished from its Shariah assessment. The study identifies *gharar*, uncertainty concerning value and quantity, and issues concerning *sil'ah* as important elements in analyzing cryptocurrency from the MUI perspective.<sup>92</sup>

#### **b. Substance of the MUI Decision on Cryptocurrency**

The substance of the MUI decision concerning cryptocurrency may be summarized into three main aspects.

##### **1) Cryptocurrency as Currency**

MUI determines that the use of cryptocurrency as currency is *haram*. The considerations underlying this determination relate to the elements of *gharar* and *dharar*, as well as its status as an instrument that does not comply with the provisions of Indonesian law concerning currency.

This provision must be distinguished from the issue of investment. In other words, the prohibition of cryptocurrency as a means of payment does not automatically resolve the question of whether every

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<sup>92</sup> Asep Syarifuddin Hidayat, "Sharia and State's Intervention: Uncertainty Cryptocurrency in Indonesia," *AHKAM: Jurnal Ilmu Syariah*, no. 1 (2023): 213–214, <https://doi.org/10.15408/ajis.v23i1.31876>.

cryptocurrency may constitute a Shariah-compliant investment object.

## 2) Cryptocurrency as a Commodity or Digital Asset

MUI establishes more specific requirements for cryptocurrency as a commodity or digital asset. Cryptocurrency is not legally permissible to be traded when it contains *gharar*, *dharar*, and *qimar* and does not fulfill the characteristics of *sil'ah*. The *sil'ah* requirements referred to in the decision include the existence of an identifiable object, value, known quantity, ownership, and the ability to deliver the object to the buyer.

Accordingly, several parameters may be used in this research:

- clarity of the object;
- existence of value;
- clarity of quantity;
- lawful ownership;
- ability to deliver the object;
- absence of prohibited *gharar*;
- absence of *dharar*;
- absence of *qimar*;
- existence of an *underlying*; and
- existence of clear utility.

## 3. Cryptocurrency that Meets Shariah Requirements

MUI provides room for the permissibility of cryptocurrency as a commodity or asset when it fulfills the requirements of *sil'ah*, has an

*underlying*, and possesses clear utility. Accordingly, the MUI approach may be understood as an approach based on the characteristics of the asset rather than merely on the name or label of the cryptocurrency.<sup>93</sup>

This is consistent with contemporary research in Indonesia proposing that cryptocurrency assessment should be conducted in a more structured manner based on the *underlying*, asset structure, utility, transaction mechanisms, and the potential presence of *gharar*, *maysir/qimar*, and *riba*.<sup>94</sup>

### c. Shariah Advisory Council (SAC) of Malaysia

In contrast to Indonesia, Malaysia has an institutional mechanism that directly integrates Shariah considerations into the capital market regulatory framework through the *Shariah Advisory Council (SAC) of the Securities Commission Malaysia*.

The SAC is a Shariah advisory body within the institutional structure of the Securities Commission Malaysia. In the context of digital assets, the SAC addresses several fundamental issues, namely whether digital assets can be categorized as *māl*, whether such assets are classified as currency or *'urudh*, and how the Shariah status of a digital token should be determined. These SAC deliberations specifically apply to digital assets falling within the jurisdiction of the Securities Commission.

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<sup>93</sup> Majelis Ulama Indonesia, “Keputusan Ijtima’ Ulama Komisi Fatwa Se-Indonesia VII Tahun 2021 tentang Hukum Cryptocurrency”

<sup>94</sup> Devin Halim dan Ahmad Fathi Alkatiri, “Sharī‘ah Standard for Crypto Assets in Indonesia: A Localised Framework,” *Al-Muamalat: Jurnal Ekonomi Syariah*, no. 1 (2026): 207–208, <https://doi.org/10.15575/am.v13i1.55121>

This mechanism demonstrates that Shariah assessment in Malaysia does not operate entirely separately from capital market regulation. Shariah assessment forms part of the institutional framework used to determine the status and treatment of digital assets falling within the supervisory scope of the SC.

**d. Substance of the Shariah Advisory Council Resolutions in Malaysia**

The SAC resolutions concerning digital assets resulting from the 233rd meeting held on 29 June 2020 and the 234th meeting held on 20 July 2020 establish several important legal constructions.

1) Digital Asset as *Māl*

The SAC recognizes digital currency as *māl* from a Shariah perspective. In the resolution, digital currency is subsequently distinguished according to its characteristics and *underlying*.

2) Digital Currency without an *Underlying*

Digital currency that is technology-based and does not have an *underlying* is categorized as '*urudh* or goods, rather than as currency from a Shariah perspective. Because it is not categorized as *ribawi* goods, transactions involving such digital currency are not subject to the rules of *bai' al-sarf* applicable to currency exchange.

3) Digital Currency Backed by *Ribawi* Goods

The SAC further distinguishes digital currencies backed by *ribawi* goods. Where a digital currency is backed by gold, silver, or currency, it is treated as currency from a Shariah perspective, and transactions must

therefore comply with the rules of *bai' al-sarf*. Conversely, where a digital currency is backed by *ribawi* goods other than gold, silver, or currency, it is categorized as *amwāl ribawiyyah* and is subject to the applicable Shariah provisions governing *ribawi* goods.

#### 4) Digital token

With respect to digital tokens, the SAC recognizes them as *māl* within the category of *'urudh*. However, their Shariah status depends on several requirements.

First, the funds obtained from the issuance of the token must be used for Shariah-compliant activities. Second, the rights and benefits attached to the token must comply with Shariah principles. Third, where the use of funds or the benefits associated with the token involve a combination of Shariah-compliant and non-compliant activities, the Shariah screening approach established by the SAC is applied.

#### 5) Trading through Digital Asset Exchanges

The SAC further states that investment and trading in digital assets that fulfill Shariah requirements and are traded through Digital Asset Exchanges (DAXs) registered with the Securities Commission are permissible from a Shariah perspective.

Accordingly, the Malaysian mechanism does not merely assess the characteristics of an asset but also connects the Shariah status of the asset with the venue and mechanism of trading operating under regulatory

supervision.<sup>95</sup>

#### e. Shariah Assessment of Bitcoin

##### 1) Bitcoin under the MUI Mechanism

In the Indonesian context, particular attention must be given to the fact that the 2021 MUI decision does not individually issue a specific ruling declaring Bitcoin to be *halal* or *haram*. Instead, the decision establishes general criteria concerning cryptocurrency.

Therefore, Bitcoin must be assessed according to the criteria established by MUI, namely *sil'ah*, *underlying*, *utility*, *gharar*, *dharar*, and *qimar*.

Hidayat's research (2023), for example, demonstrates that the issue of cryptocurrency from the MUI perspective concerns uncertainty regarding value and quantity as well as fulfillment of the requirements of *sil'ah*.

Under this approach, the status of Bitcoin in the Indonesian context should not be stated as “MUI absolutely prohibits Bitcoin.” A more accurate statement is that Bitcoin must be assessed based on the parameters established in the MUI decision concerning cryptocurrency.<sup>96</sup>

##### 2) Bitcoin under the SAC Mechanism in Malaysia

Malaysia adopts a different approach. In the list of digital assets permitted to be traded on regulated exchanges, the Securities Commission Malaysia explicitly lists Bitcoin (BTC) as Shariah-compliant based on the SAC decision adopted at its 234th meeting on 20

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<sup>95</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 233rd meeting, June 29, 2020.

<sup>96</sup> Majelis Ulama Indonesia, *Keputusan Ijtima Ulama Komisi Fatwa se-Indonesia VII Tahun 2021* (Jakarta: Majelis Ulama Indonesia, 2021).

July 2020.

This status demonstrates the existence of an institutional Shariah assessment of Bitcoin within Malaysia's digital asset regulatory framework.

Accordingly, there is an important distinction: Indonesia provides general criteria to be applied in assessing cryptocurrency, whereas Malaysia, through the SAC, has explicitly established the Shariah status of Bitcoin in the list of digital assets regulated by the SC.<sup>97</sup>

#### **f. Shariah Assessment of Ethereum**

##### **1) Ethereum under the MUI Mechanism**

As with Bitcoin, the 2021 MUI decision does not specifically mention Ethereum. Therefore, Ethereum must be assessed based on the general cryptocurrency criteria established by MUI.

In contemporary research, Ethereum possesses characteristics that distinguish it from Bitcoin because its ecosystem is not limited to asset transfer functions but also involves blockchain technology and *smart contracts*. Research concerning digital transactions involving Ethereum indicates that Ethereum has broader functions and utility, although it continues to face issues relating to volatility and investment risk.

Therefore, in this research, Ethereum should be assessed based on its utility, asset structure, transaction mechanisms, and the presence or absence of *gharar*, *qimar/maysir*, and *riba*. Such an assessment is more

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<sup>97</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 233rd meeting, June 29, 2020.

appropriate than determining the status of Ethereum solely on the basis of the label “cryptocurrency.”<sup>98</sup>

## 2) Ethereum under the SAC Mechanism in Malaysia

In contrast to Indonesia, the Securities Commission Malaysia explicitly lists Ethereum (ETH) as a Shariah-compliant digital asset. This status is based on the SAC decision adopted at its 234th meeting on 20 July 2020. Accordingly, Malaysia provides more specific certainty regarding the Shariah status of Ethereum within the context of digital assets falling under the SC regulatory framework.

Nevertheless, the Shariah-compliant status must be understood within the context of investment and trading in digital assets conducted under the SC regulatory framework, rather than as a statement that every transaction involving Ethereum is automatically free from Shariah concerns. This distinction is important because the SAC itself distinguishes the status of an asset from the rules applicable to particular transactions and underlying assets.<sup>99</sup>

### g. Comparative Table of Shariah Compliance Assessment Mechanisms

| Aspect                                   | Indonesia                                            | Malaysia                                                             |
|------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------|
| Institution Providing Shariah Assessment | MUI through the Ijtima Ulama of the Fatwa Commission | Shariah Advisory Council (SAC) of the Securities Commission Malaysia |

<sup>98</sup> Majelis Ulama Indonesia, *Keputusan Ijtima Ulama Komisi Fatwa se-Indonesia VII Tahun 2021* (Jakarta: Majelis Ulama Indonesia, 2021).

<sup>99</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 233rd meeting, June 29, 2020.

|                           |                                                                                                                                                                                       |                                                                                                                                                       |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Form of Decision          | Decision concerning the legal status of cryptocurrency                                                                                                                                | SAC resolution concerning digital assets                                                                                                              |
| Object of Assessment      | Cryptocurrency in general                                                                                                                                                             | Digital currency and digital tokens falling within the jurisdiction of the SC                                                                         |
| Legal Status of the Asset | May constitute a commodity/digital asset when it fulfills the relevant Shariah requirements                                                                                           | Digital assets may be recognized as māl and categorized as 'urudh according to their characteristics                                                  |
| *Sil'ah* Criteria         | Constitutes an important parameter in determining the validity of cryptocurrency as a commodity/asset                                                                                 | Assessment is based on the concepts of māl, 'urudh, the characteristics of digital assets, and the relevant Shariah requirements                      |
| Underlying                | Cryptocurrency that may be traded in accordance with Shariah must have an underlying and clear utility according to the MUI decision                                                  | Digital currencies are distinguished according to whether they have an underlying or not; their treatment differs depending on the type of underlying |
| Gharar                    | One of the grounds for determining the invalidity of cryptocurrency where an element of gharar is present                                                                             | Assessment is conducted based on the characteristics of the asset and the transaction structure within the SAC framework                              |
| Maysir/Qimar              | Cryptocurrency containing qimar is not legally permissible to be traded                                                                                                               | Shariah principles are applied to the activities and structure of the digital asset being assessed                                                    |
| Riba                      | The MUI decision on cryptocurrency does not make riba a primary element in its three principal provisions; issues concerning riba must be analyzed based on the transaction structure | Ribawi provisions are expressly considered, particularly where a digital asset is backed by ribawi goods                                              |
| Status of Bitcoin         | No individual status is established by the MUI decision; Bitcoin must be assessed based on the                                                                                        | Shariah-compliant, based on the SAC's 234th meeting decision of 20 July 2020                                                                          |

|                                                          |                                                                                                                                              |                                                                                                                                                               |
|----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                          | established Shariah criteria                                                                                                                 |                                                                                                                                                               |
| Status of Ethereum                                       | No individual status is established by the MUI decision; Ethereum must be assessed based on the established Shariah criteria                 | Shariah-compliant, based on the SAC's 234th meeting decision of 20 July 2020                                                                                  |
| Relationship between the Regulator and Shariah Authority | MUI provides religious/Shariah determinations, while state regulators perform regulatory and supervisory functions concerning digital assets | Shariah assessment is incorporated into the institutional structure of the Securities Commission through the SAC                                              |
| Relationship with the Trading Venue                      | The MUI decision serves as a Shariah reference, while the legality of trading is determined by the competent regulatory authority            | The SAC links the permissibility of investment/trading to digital assets that fulfill the relevant requirements and are traded on DAXs registered with the SC |

#### **h. Comparative Analysis of Regulations**

Based on the table above, there are several fundamental differences between the Shariah compliance assessment mechanisms in Indonesia and Malaysia.

##### **1) Institutional Differences**

The first difference lies in the institutional structure. In Indonesia, the decision concerning cryptocurrency originates from the *Ijtima Ulama* of the MUI Fatwa Commission. In Malaysia, meanwhile, the Shariah assessment of digital assets is conducted through the SAC, which forms part of the institutional structure of the Securities Commission Malaysia. These institutional differences affect how the results of Shariah

assessments are positioned within the regulatory system. Indonesia separates the functions of the state regulator from those of the religious fatwa authority. Malaysia, by contrast, incorporates the Shariah advisory function directly into the institutional structure of its capital market regulator.<sup>100</sup>

## 2) Differences in Assessment Methods

MUI applies an approach that may be understood as establishing general criteria. Cryptocurrency as an asset or commodity is assessed based on the existence of *sil'ah*, an *underlying*, utility, and the absence of *gharar*, *dharar*, and *qimar*.

The Malaysian SAC adopts a more structured approach based on asset classification. A digital asset is first analyzed based on its status as *māl* and is then classified as *'urudh* or currency according to its characteristics and *underlying*. Subsequently, the Shariah requirements applicable to the relevant category are applied.<sup>101</sup>

This approach demonstrates that the legal classification of an asset constitutes an initial stage before determining the rules applicable to the relevant transaction.

## 3) Differences in Determining the Status of Bitcoin and Ethereum

The clearest difference concerns Bitcoin and Ethereum. MUI does not establish an individual Shariah status for these two assets in its 2021

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<sup>100</sup> Majelis Ulama Indonesia, *Keputusan Ijtima Ulama Komisi Fatwa se-Indonesia VII Tahun 2021* (Jakarta: Majelis Ulama Indonesia, 2021).

<sup>101</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 234th meeting, July 20, 2020.

decision concerning cryptocurrency. Therefore, both assets must be assessed based on the general criteria established by MUI.

In contrast, the Securities Commission Malaysia explicitly lists Bitcoin and Ethereum as Shariah-compliant digital assets, each based on the SAC decision adopted at its 234th meeting on 20 July 2020.

This constitutes an important aspect of the research because it demonstrates a difference in the degree of specificity of Shariah assessment between the two countries.

#### 4) Differences in the Treatment of *Riba*

In the MUI decision concerning cryptocurrency, the elements explicitly forming the basis of the provisions include *gharar*, *dharar*, and *qimar*, as well as fulfillment of the requirements concerning *sil'ah*, *underlying*, and *utility*.

Meanwhile, the Malaysian SAC explicitly addresses the issue of *ribawi* goods in its classification of digital currencies. Where a digital currency is backed by gold, silver, or currency, it is categorized as currency and is therefore subject to the principles of *bai' al-sarf*. Where it is backed by other *ribawi* goods, the provisions concerning *amwāl ribawiyyah* apply. Accordingly, the element of *riba* in the assessment of crypto assets should not be understood to mean that “every profit obtained from cryptocurrency constitutes *riba*.” *Riba* must be analyzed based on the contractual structure (*akad*) and the type of transaction. Saleem (2012) places *riba*, *gharar*, and *maysir* within categories of prohibited elements

that possess distinct legal characteristics.

#### 5) Differences in the Degree of Certainty for Muslim Investors

These differences in assessment mechanisms have implications for the certainty of Shariah-related information available to Muslim investors.

In Indonesia, investors need to assess assets based on the general criteria established by MUI because the 2021 decision does not provide an individual Shariah status list for Bitcoin and Ethereum.

In Malaysia, the SC provides information concerning the Shariah status of digital assets permitted to be traded on regulated exchanges and explicitly lists Bitcoin and Ethereum as Shariah-compliant.<sup>102</sup>

Nevertheless, this difference does not mean that all transactions involving Bitcoin or Ethereum automatically fulfill all Shariah requirements. The status of an asset and the status of a transaction are two distinct matters that must be differentiated. Research on cryptocurrency from a Shariah perspective also indicates that transaction characteristics, trading mechanisms, volatility, and the use of the asset may influence the Shariah assessment.

### 3. Analysis of Legal Certainty for Muslim Investors

Legal certainty is one of the essential elements in establishing a legal system capable of providing clear guidance to members of society when undertaking particular actions. In the context of crypto asset investment, legal

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<sup>102</sup> Securities Commission Malaysia, “Digital Assets,” *Securities Commission Malaysia*, accessed September 23, 2026, <https://www.sc.com.my/regulation/guidelines/digital-assets>

certainty is not limited to the question of whether an asset is legally permitted to be traded under positive law, but also concerns the clarity of investors' rights and obligations, the competent institutions, supervisory mechanisms, consumer protection, and the Shariah compliance status of an asset.

Fuller (1964) explains that the validity of law in providing certainty to society is associated, among other things, with the clarity of legal norms, consistency of rules, stability of the law, and conformity between established rules and the actions of the institutions responsible for implementing them. These principles are relevant for assessing whether the legal framework governing crypto assets is capable of providing guidance that can be understood and reasonably anticipated by investors.<sup>103</sup>

In this research, legal certainty for Muslim investors is analyzed through five indicators: clarity of norms, institutional consistency, predictability, investor protection, and clarity of Shariah status. These five indicators are used to compare the legal conditions in Indonesia and Malaysia.

#### **a. Clarity of Norms**

Clarity of norms constitutes the first indicator in assessing legal certainty. A legal system can provide certainty when the norms governing a

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<sup>103</sup> Lon L. Fuller, *The Morality of Law*, rev. ed. (New Haven: Yale University Press, 1969), 38–39.

particular action can be identified, understood, and used as guidance by members of society.

In Indonesia, the regulation of crypto assets has undergone significant development. Based on OJK Regulation Number 27 of 2024, digital financial assets, including crypto assets, fall within the regulatory and supervisory framework of the Financial Services Authority (OJK). The regulation governs, among other matters, tradable assets, the institutional structure of service providers, licensing, governance, trading activities, reporting, supervision, personal data protection, and consumer and public protection.

The framework was subsequently updated through OJK Regulation Number 23 of 2025, which, among other matters, adjusts the mechanisms for trading digital financial assets and digital financial asset derivative.<sup>104</sup>

Accordingly, from the perspective of positive law, Indonesia has established relatively clear norms concerning the organization of crypto asset trading. Investors are no longer in a situation without a legal basis concerning the competent regulator or the manner in which crypto asset trading activities are conducted.

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<sup>104</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang Penyelenggaraan Perdagangan Aset Keuangan Digital termasuk Aset Kripto* (Jakarta: Otoritas Jasa Keuangan, 2024).

However, an issue concerning clarity of norms arises when positive law and Shariah law are considered simultaneously. OJK regulations govern the legality and supervision of crypto asset trading, while Shariah assessment has its own sources and mechanisms. Therefore, a Muslim investor must distinguish between two questions:

1. whether the crypto asset is legally permitted to be traded under positive law; and
2. whether the crypto asset and the transaction conducted comply with Shariah principles.

This distinction is important because the legal status of an asset under positive law does not automatically indicate that the asset has obtained *Shariah-compliant* status.

Malaysia demonstrates a more integrated institutional structure. The Securities Commission Malaysia regulates digital assets through the *Guidelines on Digital Assets*, while Shariah considerations are addressed through the *Shariah Advisory Council (SAC)*. The *Guidelines on Digital Assets* were issued on 28 October 2020 and revised on 19 August 2024.<sup>105</sup>

Accordingly, under the indicator of clarity of norms, both countries have established legal foundations for digital asset trading. The difference

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<sup>105</sup> Securities Commission Malaysia, *Guidelines on Digital Assets* (Kuala Lumpur: Securities Commission Malaysia, 2024) diakses 26 september 2026, <https://www.sc.com.my/regulation/guidelines/digital-assets>

lies in the manner in which Shariah considerations are positioned within the regulatory system. Indonesia tends to separate crypto asset regulation from Shariah assessment, whereas Malaysia connects digital asset regulation with a Shariah assessment mechanism through the SAC.

#### **b. Institutional Consistency**

Legal certainty is also influenced by the consistency of institutions exercising regulatory authority. Investors require certainty concerning which institution is authorized to establish rules, conduct supervision, issue licenses, and provide protection in the event of disputes or losses.

In Indonesia, an important institutional change occurred when regulatory and supervisory authority over digital financial assets, including crypto assets, was transferred from Bappebti to OJK. OJK subsequently issued OJK Regulation Number 27 of 2024 as one of the legal bases for the organization of digital financial asset trading.

This change should be understood as an institutional transition rather than as an absence of regulation. At present, the OJK framework has been strengthened through OJK Regulation Number 23 of 2025. Accordingly, investors in the current regulatory period can identify OJK as the principal regulator of the digital financial asset and crypto asset sector.<sup>106</sup>

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<sup>106</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024*; Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 23 Tahun 2025*

From the perspective of legal certainty, institutional consistency is important because changes in regulatory authority may raise questions concerning the validity of existing licenses, supervisory arrangements, obligations of service providers, and mechanisms for investor protection. Therefore, the existence of transitional provisions and the clarification of OJK's authority constitute important elements in maintaining legal continuity.

In Malaysia, the regulatory functions concerning digital assets operate within the framework of the Securities Commission Malaysia. Meanwhile, the Shariah advisory function is performed by the SAC. This structure creates a relatively clear division of functions between the capital market regulator and the Shariah advisory authority.

The differences can be illustrated as follows:

| <b>Aspect</b>                                            | <b>Indonesia</b>                                      | <b>Malaysia</b>                                                                      |
|----------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------------------------------------|
| Crypto Asset Regulator                                   | Financial Services Authority (OJK)                    | Securities Commission Malaysia (SC)                                                  |
| Shariah Authority                                        | MUI through the fatwa/Ijtima Ulama mechanism          | Shariah Advisory Council (SAC) of the SC                                             |
| Relationship between the Regulator and Shariah Authority | Relatively separate institutionally                   | Integrated within the SC structure through the SAC                                   |
| Institutional Changes                                    | Transfer of regulatory authority from Bappebti to OJK | SC serves as the primary authority within the digital asset capital market framework |
| Impact on Investors                                      | Requires an understanding of the                      | More integrated institutional structure                                              |

|  |                                  |  |
|--|----------------------------------|--|
|  | division of regulatory authority |  |
|--|----------------------------------|--|

Accordingly, based on the indicator of institutional consistency, both countries have clearly established regulatory authorities. However, they differ in terms of the degree of integration between the regulatory authority and the Shariah assessment mechanism.

### c. Legal Predictability

Legal predictability concerns the ability of members of society to anticipate the legal consequences of an action based on the applicable rules. For Muslim investors, predictability means that investors should be able to anticipate at least three matters: the legal status of the asset, the regulator's treatment of transactions involving the asset, and the Shariah status of the asset or transaction.

In Indonesia, legal predictability concerning crypto asset trading has improved following the transfer of regulatory authority to the Financial Services Authority (OJK). OJK Regulation Number 27 of 2024 governs various aspects of trading activities, including licensing, governance, risk management, reporting, supervision, and consumer protection.<sup>107</sup>

OJK also requires digital financial asset trading operators to conduct trading activities in an orderly, fair, transparent, and efficient manner and to

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<sup>107</sup> Otoritas Jasa Keuangan, *Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 tentang Penyelenggaraan Perdagangan Aset Keuangan Digital termasuk Aset Kripto* (Jakarta: Otoritas Jasa Keuangan, 2024).

implement appropriate governance, risk management, market integrity, and consumer protection measures.

However, predictability becomes more complex when investors seek to determine the individual Shariah status of Bitcoin and Ethereum. The MUI decision concerning cryptocurrency establishes general criteria for assessing cryptocurrency but does not provide an individual list expressly designating Bitcoin and Ethereum as *Shariah-compliant* assets.

Malaysia provides a more specific mechanism in this respect. Securities Commission Malaysia officially lists Bitcoin and Ethereum as *Shariah-compliant* based on the decision of the Shariah Advisory Council (SAC) at its 234th meeting held on 20 July 2020.<sup>108</sup>

This provides Muslim investors with more direct information concerning the Shariah status of both assets within the Malaysian regulatory framework.

Nevertheless, such predictability remains subject to certain limitations. The *Shariah-compliant* status of an asset does not necessarily mean that every form of transaction involving that asset automatically complies with Shariah principles. The contractual structure, use of the asset, interest-based

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<sup>108</sup> Securities Commission Malaysia, *Guidelines on Digital Assets* (Kuala Lumpur: Securities Commission Malaysia, 2024) diakses 26 september 2026, <https://www.sc.com.my/regulation/guidelines/digital-assets>

financing, certain forms of speculation, and other activities associated with the transaction must still be assessed according to Shariah principles.

Accordingly, Malaysia provides a higher degree of predictability with respect to the individual Shariah status of particular assets, whereas Indonesia provides predictability through general criteria that must be applied in assessing crypto assets.

#### **d. Investor Protection**

Investor protection constitutes an important element of legal certainty because the existence of clear legal norms is insufficient if investors do not have adequate protection mechanisms when they suffer losses or encounter misconduct by service providers.

In Indonesia, OJK Regulation Number 27 of 2024 expressly contains provisions concerning consumer and public protection, personal data protection, governance, risk management, reporting, and supervision of digital financial asset trading operators.

OJK has also stated that the regulatory framework is intended to establish orderly, fair, transparent, and efficient digital financial asset trading while strengthening governance and consumer protection.

Recent research also indicates that the protection of crypto asset investors remains an important issue requiring further attention, particularly

in relation to blockchain-related risks, cybersecurity, custody, system failures, and the liability of service providers. Antoni, for example, analyzes the legal protection of cryptocurrency investors within the framework of OJK Regulation Number 27 of 2024 and highlights the importance of protection against such risks.<sup>109</sup>

Malaysia similarly places investor protection within its digital asset regulatory framework. The *Guidelines on Digital Assets* establish requirements applicable to participants and operators within the digital asset ecosystem, while regulatory supervision is exercised by Securities Commission Malaysia.

Accordingly, investor protection in both countries is not limited to the provision of compensation after losses have occurred but also encompasses preventive protection through licensing requirements, governance, risk management, information transparency, and regulatory supervision of service providers.

For Muslim investors, such protection has an additional dimension. Investors require not only protection of their capital and legal rights but also adequate information concerning the Shariah compliance status of the assets in which they invest.

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<sup>109</sup> Antoni, H., L. Sjöfjan, E. A. Iskandar, et al., “Perlindungan Hukum bagi Konsumen terhadap Penyalahgunaan Platform Trading Cryptocurrency di Indonesia,” *Juris Prima* (2026). <https://primasakti.web.id/index.php/jurisprima/article/view/87>

#### **e. Clarity of Shariah Status**

Clarity of Shariah status constitutes a particularly important indicator in this research because the objects under examination are Bitcoin and Ethereum as Shariah-compliant investment objects.

In Indonesia, the MUI decision concerning cryptocurrency adopts an approach based on the characteristics of the asset. Cryptocurrency as a commodity or digital asset is not permissible to be traded if it contains elements of *gharar*, *dharar*, and *qimar* and does not satisfy the requirements of *sil'ah*. Conversely, cryptocurrency that satisfies the characteristics of *sil'ah*, possesses an *underlying*, and provides clear benefits is afforded the possibility of permissibility under the decision.

Accordingly, the Indonesian mechanism does not assign an individual Shariah status to Bitcoin and Ethereum in the decision. Their Shariah status must therefore be assessed by applying the criteria established by MUI to the characteristics of the respective assets and transactions.

The situation in Malaysia is different. Securities Commission Malaysia provides a list of digital assets that may be traded on regulated exchanges together with their respective Shariah status. In this list, Bitcoin (BTC) and Ethereum (ETH) are classified as *Shariah-compliant* based on the SAC decision of 20 July 2020.

The SAC also established the principle that digital currency may be recognized as *māl*. Digital currency without an underlying asset is categorized as *‘urudh*, whereas digital currency backed by certain *ribawi* assets is subject to different Shariah treatment. With respect to digital tokens, the SAC establishes requirements including that the proceeds from their issuance must be used for Shariah-compliant purposes and that the rights and benefits attached to the tokens must comply with Shariah principles.<sup>110</sup>

Accordingly, a clear distinction exists between the two approaches. Indonesia provides a criteria-based framework for determining the Shariah compliance of cryptocurrency, whereas Malaysia provides an institutional mechanism that produces Shariah classifications for specific digital assets, including Bitcoin and Ethereum.

This distinction directly affects legal certainty for Muslim investors because a more specific determination of Shariah status may reduce uncertainty as to whether a particular asset may be traded within the relevant Shariah and regulatory framework.

#### **f. Comparative Analysis of Five Indicators of Legal Certainty**

Table. Analysis of Legal Certainty for Muslim Investors in Indonesia and Malaysia

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<sup>110</sup> Securities Commission Malaysia, *Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia*, 233rd meeting, June 29, 2020.

| Indicator                 | Indonesia                                                                                                                                                                                                                                                                                                                       | Malaysia                                                                                                                                                                                                                  |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clarity of Norms          | The regulatory framework for crypto assets has been established through the Financial Services Authority (OJK), particularly OJK Regulation Number 27 of 2024 in conjunction with OJK Regulation Number 23 of 2025. However, positive legal norms and Shariah norms continue to derive from different institutional frameworks. | Digital assets are regulated through Securities Commission Malaysia (SC) and the Guidelines on Digital Assets, while Shariah-related aspects are addressed by the Shariah Advisory Council (SAC) within the SC framework. |
| Institutional Consistency | Regulatory authority currently rests with OJK following the transfer of authority from Bappebti. MUI continues to perform a function in providing Shariah guidance and issuing fatwas.                                                                                                                                          | SC functions as the regulator, while SAC performs the Shariah advisory function within the SC institutional structure.                                                                                                    |
| Predictability            | The legality of crypto asset trading is relatively predictable based on OJK regulations, but the Shariah status of Bitcoin and Ethereum requires assessment based on the general criteria established by MUI.                                                                                                                   | The legality of digital assets and their Shariah status are more specifically determined; SC expressly lists BTC and ETH as Shariah-compliant.                                                                            |
| Investor Protection       | OJK regulations govern licensing, governance, risk management, supervision, reporting, consumer protection, and data protection.                                                                                                                                                                                                | Investor protection forms part of the SC regulatory framework governing digital assets and Digital Asset Exchanges (DAX).                                                                                                 |
| Clarity of Shariah Status | Uses a criteria-based approach involving sil'ah, underlying, benefits, and the absence of gharar, dharar, and qimar.                                                                                                                                                                                                            | SAC provides institutional Shariah classification and assessment; BTC and ETH are listed as Shariah-compliant.                                                                                                            |

|                                   |                                                                                                                                                                                         |                                                                                                                                    |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Implications for Muslim Investors | Investors obtain legal certainty regarding the legality of crypto asset trading but need to conduct additional analysis concerning the Shariah compliance of the asset and transaction. | Investors obtain more specific information concerning the Shariah status of particular digital assets within the regulated market. |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|

## CHAPTER IV

### CONCLUSION AND RECOMMENDATIONS

#### A. Conclusion

Based on the findings of this research, first, Bitcoin and Ethereum may, in principle, be regarded as Shariah-compliant investment objects in Indonesia subject to conditional permissibility. Under positive law, both assets have the status of crypto assets that may be traded within the regulatory framework governing digital financial assets. However, such legal recognition does not automatically establish Bitcoin and Ethereum as *Shariah-compliant* assets.

Based on Shariah investment principles and the analysis of the elements of *māl*, benefits, *gharar*, *maysir/qimar*, and *riba*, Bitcoin and Ethereum may be accepted as investment objects insofar as they provide clear economic benefits, are transacted transparently, do not involve excessive speculation, do not employ mechanisms contrary to Shariah principles, and are conducted within the applicable regulatory framework. In this research, the potential elements of *gharar* and *maysir* are found primarily in speculative transaction practices and investor behavior rather than in the existence of Bitcoin and Ethereum as digital assets themselves. Accordingly, the research assumption that the validity of crypto assets must be assessed simultaneously on the basis of positive law and Shariah investment principles is supported, whereas legal recognition as a tradable asset cannot be equated with Shariah-compliant status.

Second, the comparison between Indonesia and Malaysia demonstrates

that both countries have established legal foundations for crypto asset trading, but differ in the degree of integration between regulation and Shariah assessment mechanisms, with implications for legal certainty for Muslim investors. In Indonesia, crypto asset regulation has developed under the authority of the Financial Services Authority (OJK) through OJK regulations, while Shariah assessment primarily refers to MUI decisions establishing general criteria concerning *sil'ah*, *underlying*, *benefits*, *gharar*, *dharar*, and *qimar*. MUI does not individually designate Bitcoin and Ethereum as *Shariah-compliant* assets; therefore, their Shariah status must be assessed based on the characteristics of the assets and the transactions involved. In contrast, Malaysia places Shariah assessment within the structure of the Securities Commission Malaysia through the Shariah Advisory Council (SAC), and Bitcoin and Ethereum are expressly listed as *Shariah-compliant digital assets* based on the SAC decision dated 20 July 2020.

These differences indicate that Malaysia has a more specific and integrated Shariah assessment mechanism within its regulatory framework, thereby providing Muslim investors with more direct information concerning the Shariah status of particular assets. Nevertheless, the *Shariah-compliant* status of an asset does not mean that every form of transaction involving that asset is automatically compliant with Shariah principles.

These findings also demonstrate the novelty of this research, which does not merely assess whether Bitcoin and Ethereum are permissible or impermissible from the perspective of Islamic law, but connects their validity

with the construction of positive law, Shariah screening mechanisms, and five indicators of legal certainty for Muslim investors: clarity of norms, institutional consistency, predictability, investor protection, and clarity of Shariah status. The comparative findings demonstrate that Indonesia has provided legal certainty concerning the legality and supervision of crypto asset trading, but a degree of separation remains between positive regulation and Shariah assessment.

Malaysia, by contrast, integrates regulatory and Shariah advisory functions within the structure of the Securities Commission, making the Shariah status of particular assets more readily identifiable. Accordingly, this research provides a theoretical contribution to the development of Islamic Economic Law scholarship concerning digital assets, as well as practical benefits for Muslim investors and regulators in understanding the relationship between asset legality, Shariah compliance, and legal certainty.

## **B. Recommendations**

### **1. For Regulators and Relevant Institutions in Indonesia**

Stronger coordination between OJK and authorities or institutions possessing Shariah expertise is necessary so that the assessment of Shariah compliance for crypto assets does not remain limited to general criteria but can be developed into a more systematic and accessible Shariah screening mechanism for investors. Such a mechanism may take into consideration Malaysia's experience in incorporating a Shariah advisory function within the Securities Commission structure, without necessarily adopting the

Malaysian model in its entirety. Strengthening this mechanism is important to ensure that Muslim investors receive clearer information concerning the Shariah status of an asset while continuing to receive protection under the regulatory framework governing digital financial asset trading.

## **2. For Muslim Investors**

The findings of this research may serve as a basis for distinguishing between the legality of an asset under positive law and its Shariah compliance. Investors should not merely ascertain whether Bitcoin or Ethereum is legally permitted to be traded but should also consider the characteristics of the asset, the transaction mechanism, the level of speculation, associated risks, and the use of financing schemes that may potentially conflict with Shariah principles. The *Shariah-compliant* status of an asset also does not eliminate the obligation to ensure that the transactions undertaken remain consistent with Shariah principles.

## **3. For Future Researchers**

Future research may examine developments in crypto asset regulation and Shariah screening mechanisms following the latest regulatory changes and expand the scope of research to digital assets other than Btc and eth. Future studies may also employ an empirical approach to examine how Muslim investors understand the distinction between legality under positive law and Shariah compliance status. Such research could complement normative studies of legal certainty with empirical data concerning actual practices and the needs of investors in the field.

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