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CRYPTOCURRENCY FROM MAQĀṢID AL-SHARĪ'AH PERSPECTIVE: Regulatory Comparison Of Indonesia And Malaysia

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Cryptocurrencyhas emerged as a digital asset that has significantly influenced the development of the global financial system through blockchain technology. Despite its growing popularity, cryptocurrency remains controversial in Islamic law due to its high price volatility, speculative characteristics, and potential elements of gharar (uncertainty) and maysir (gambling). These concerns have encouraged Muslim-majority countries to develop regulatory frameworks that balance financial innovation with the protection of public interests.
This study aims to analyze and compare cryptocurrency regulations in Indonesia and Malaysia from the perspective of maqāṣid al-sharī'ah, particularly the principle of ḥifẓ al-māl (protection of wealth).This research employs a qualitative library research method by examining regulations, fatwas, policy documents, and relevant academic literature.
The findings indicate that Indonesia prohibits cryptocurrency as a means of payment but allows it to be traded as a digital commodity under regulatory supervision. Meanwhile, Malaysia regulates cryptocurrency as a digital asset within the capital market and strengthens its governance through Shariah oversight mechanisms. Although the regulatory approaches differ, both countries do not recognize cryptocurrency as legal tender and primarily accommodate it as an investment instrument.The study concludes that cryptocurrency regulation should prioritize wealth protection, risk mitigation, legal certainty, and investor protection to ensure that financial innovation develops in accordance with the objectives of Islamic law.

INTRODUCTION

The advancement of digital technology has precipitated fundamental transformations within the global financial system, most notably through the emergence of cryptocurrency as a digital financial asset underpinned by blockchain technology. Operating on a decentralized framework, cryptocurrency facilitates direct transactions via peer-to-peer (P2P) systems without the intermediation of traditional financial institutions.[1] Since the introduction of Bitcoin in 2009, crypto assets have experienced rapid growth and increasingly deep integration into the global financial ecosystem.[2] This expansion is evidenced by the total market capitalization of cryptocurrencies, which reached approximately USD 3.71 trillion in December 2024, surpassing the previous peak of roughly USD 2.8 trillion in 2022.[3] Such phenomena indicate that cryptocurrency is no longer merely a technological innovation but has evolved into a structural reality within the modern financial system, including in Muslim-majority nations.

For Muslim-majority countries, the proliferation of cryptocurrency presents not only technical and economic challenges but also normative questions regarding its compatibility with Shariah principles. The characteristics of cryptocurrency marked by high price volatility, the dominance of speculative activities, and the potential for practices containing elements of *gharar* (uncertainty), *maysir* (gambling), and *riba* (usury) pose significant challenges to establishing a financial system aligned with Islamic values.[4] In this context, *Maqāṣid al-Sharīʿah*, particularly the principle of wealth Protection(*ḥifẓ al-māl*), serves as a critical normative framework for assessing whether cryptocurrency regulations and practices genuinely foster public benefit (*maslahah*) or, conversely, open avenues for harm (*mafsadah*).[5]

From the perspective of Islamic governance, Indonesia and Malaysia adopt distinct methodological approaches in regulating cryptocurrencies. In Indonesia, cryptocurrency regulation exhibits a dualistic character and is currently undergoing a phase of institutional transition. Within the framework of positive law, crypto assets were initially recognized as digital commodities tradable on futures exchanges under the supervision of the Commodity Futures Trading Regulatory Agency (BAPPEBTI), as mandated by Bappebti Regulation No. 8 of 2021.[6] However, following the evolution of the financial sector's regulatory framework, supervisory authority over crypto assets has shifted from Bappebti to the Financial Services Authority (OJK), in coordination with Bank Indonesia (BI).

Conversely, from the standpoint of Islamic law, the Indonesian Ulema Council (MUI), through the decree of the 7th Ijtima’ of the National Fatwa Commission, has

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[1] Clarise Loke, “Cryptocurrency vs Fiat Currency,” preprint, SSRN, 2025: 2, https://doi.org/10.2139/ssrn.5181541.

[2] Jack Clark Francis, “Bitcoins, Cryptocurrencies and BlockChains,” *SSRN Electronic Journal*, ahead of print, 2019: 2, https://doi.org/10.2139/ssrn.3371051.

[3] Andrey Zubarev and Kirill Shilov, “Trends in the Cryptocurrency Market,” preprint, SSRN, 2025: 1, https://doi.org/10.2139/ssrn.5236599.

[4] Abdullah et al., “Menalaah Cryptocurrency Dan Aset Digital Dalam Perspektif Fiqh Kontemporer,” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 7717.

[5] Wartoyo Wartoyo and Alvien Septian Haerisma, “Cryptocurrency in The Perspective of Maqasid Al-Shariah,” *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies* 18, no. 1 (July 2022), https://doi.org/10.18196/afkaruna.v18i1.14164.

[6] Bappepti, “Peraturan Badan Pengawas Perdagangan Berjangka Komoditi Nomor 8 Tahun 2021 Tentang Pedoman Penyelenggaraan Pasar Fisik Aset Kripto (Crypto Asset) Di Bursa Berjangka,” Jakarta, 2021.

ruled that the use of cryptocurrency as a medium of exchange is *haram* (prohibited). This ruling is based on the presence of elements such as *gharar* (uncertainty), *maysir* (gambling), and *darar* (harm), alongside the absence of clear underlying assets and official state guarantees.[7] Nevertheless, the fatwa of MUI maintains a degree of flexibility by permitting the use of cryptocurrency as a commodity or investment asset, provided it possesses a tangible underlying asset and adheres to Sharia principles. Consequently, the institutional stance in Indonesia reflects a "dual-track" policy: strictly prohibiting cryptocurrency as a currency while conditionally recognizing it as a tradable commodity for investment purposes.[8]

In contrast to Indonesia, Malaysia adopts a more integrated and systemic approach to regulating crypto assets. Through the *Guidelines on Digital Assets* issued by the Securities Commission Malaysia (SC), crypto assets are classified as securities and are comprehensively regulated within the national capital market framework.[9] In this context, compliance with Sharia principles is not merely treated as a normative reference but is structurally institutionalized through the role of the Sharia Advisory Council (SAC), operating under the auspices of Bank Negara Malaysia (BNM) and the Securities Commission. Within this framework, the use of cryptocurrency is permissible provided it is free from elements of *riba* (usury), *gharar* (uncertainty), and *maysir* (gambling), and is supported by transparent and auditable governance mechanisms.[10]

These divergent approaches underscore the urgency of a comparative study on cryptocurrency regulation in Indonesia and Malaysia. A comparative analysis is critical to assess the extent to which each regulatory model realizes the objectives of *Maqāṣid al-Sharīʻah,* particularly regarding the Protectionof wealth (*ḥifẓ al-māl*), the prevention of excessive speculation, and the reinforcement of stability and justice in the digital financial system. By comparing two Muslim-majority nations with comparable levels of economic development and financial systems, this study offers deeper insights into the variations of Sharia governance models in response to digital financial innovations.

Based on the foregoing background, this study aims to examine cryptocurrency regulation in Indonesia and Malaysia from the perspective of *Maqāṣid al-Sharīʻah* using a comparative approach. The focus of the study is directed at analyzing differences in supervisory structures, patterns of integrating Sharia principles, and their implications for wealth Protectionand the realization of public benefit (*maslahah*) in the digital financial system. Consequently, this research is expected to contribute both conceptually and professionally to the formulation of crypto asset governance models that are more aligned with the needs of Muslim countries, specifically in harmonizing state regulation with the fundamental objectives of Islamic law.

METHOD RESEARCH

This study employs a descriptive qualitative approach utilizing a library research method to analyze cryptocurrency as a contemporary digital financial instrument from

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[7] Majelis Ulama Indonesia, "Keputusan Ijtima' Ulama Fatwa Se-Indonesia VII Tentang Hukum Cryptocurrency," *Fatwa MUI 1*, 2021, 1–10.

[8] Ahmad Syauqi Azmi Ramadhan and Surya Sukti, "Sharia Cryptocurrency Regulations and Fatwas: A Maqasid Shariah Analysis Regulasi Dan Fatwa Kripto Syariah: Analisis Maqasid Syariah," *JLPH: Journal of Law, Politic and Humanities* 6, no. 2 (n.d.): 143.

[9] Securities Commission Malaysia., "Guidelines on Digital Assets.," (Kuala Lumpur), July 2020.

[10] Ramadhan, "Sharia Cryptocurrency Regulations and Fatwas: A Maqasid Shariah Analysis Regulasi Dan Fatwa Kripto Syariah: Analisis Maqasid Syariah," *Journal of Law, Politic and Humanities* 6, no. 1 (n.d.): 143.

the perspective of *Maqāṣid al-Sharīʻah*, alongside the regulatory frameworks governing its use and supervision in Indonesia and Malaysia. A qualitative approach is utilized to interpret the meanings embedded in social phenomena through systematic and in-depth text analysis. This approach is standard when the primary objective is to construct a theoretical and comprehensive understanding of a phenomenon, rather than to measure variables or test hypotheses quantitatively.[11] In this context, the qualitative approach is applied to examine the implications of cryptocurrency on the fundamental objectives of Islamic law, particularly the Protectionand management of wealth (*ḥifẓ al-māl*).

This research relies entirely on secondary data and does not involve field data collection. Data sources include statutory regulations related to crypto assets in Indonesia and Malaysia, policies from financial sector regulators, fatwas and scholarly opinions regarding cryptocurrency, Islamic legal literature on *Maqāṣid al-Sharīʻah*, and relevant academic publications, including books and reputable journal articles. Data collection was conducted through the systematic search, review, and classification of legal documents and academic literature. All materials were analyzed and categorized into key themes: *Maqāṣid al-Sharīʻah*, the conceptual and practical characteristics of cryptocurrency, and the regulatory and supervisory frameworks for crypto assets in Indonesia and Malaysia. Through this approach, the research aims to provide a systematic and comprehensive analysis of cryptocurrency within the perspectives of Islamic law and state regulation, while offering conceptual contributions to the development of Sharia-oriented digital financial asset governance.

DISCUSSION RESULTS

The Concept of Cryptocurrency

Cryptocurrency is a digital asset designed to function as a medium of exchange by utilizing cryptographic techniques to secure transactions, regulate the creation of new units, and verify the transfer of assets. The term "cryptocurrency" derives from the Greek words *kryptos* (hidden) and *graphein* (to write), referring to methods of securing communication against unauthorized third parties.[12]

As a digital payment system, cryptocurrency does not rely on banks or central authorities for transaction verification. This system operates on a peer-to-peer basis, enabling users across various locations to send and receive payments directly. Transactions do not exist in physical form but rather as digital entries recorded in a public ledger. Cryptocurrencies are stored in digital wallets and secured through advanced encryption that protects both the storage process and data transmission between users. This technology ensures the integrity and security of transactions within the network.[13]

The emergence of Bitcoin as the first cryptocurrency demonstrated that financial transactions could be conducted without the involvement of intermediary institutions. Its primary objective was to establish a decentralized digital monetary system. According to Satoshi Nakamoto, a peer-to-peer electronic cash system enables payments to be sent directly between parties without requiring financial institutions. This is made possible

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[11] Matthew Miles B. and Michael Huberman A., *Qualitative Data Analysis* (Thousand Oaks, California: SAGE Publication, 1994): 8.

[12] Ibrahim Mohammed Lawal, "The Suitability of Cryptocurrency in the Structure of Islamic Banking and Finance," *Jurnal Perspektif Pembiayaan Dan Pembangunan Daerah* 6, no. 6 (2019): 640.

[13] Scott Andrew Yetmar, "What Is Cryptocurrency," *Journal of Business Theory and Practice* 11, no. 2 (May 2023): 36, https://doi.org/10.22158/jbtp.v11n2p35.

through blockchain technology, which functions as a public ledger to record all transactions securely while simultaneously providing a solution to the double-spending problem without necessitating third-party intervention.[14]

Following Bitcoin's public introduction in 2009, various other cryptocurrencies such as Ethereum, Ripple, Litecoin, and Bitcoin Cash emerged as alternatives (altcoins). Functionally, cryptocurrencies bear resemblance to fiat currencies as mediums of exchange and stores of value. However, the distinction lies in their entirely digital nature and absence of central authority control, in contrast to fiat currencies, which are issued and regulated by central banks.[15]

Evaluating Cryptocurrency Practices through the Lens of Maqāṣid al-Sharīʿah

Maqāṣid al-Sharīʻah functions as the normative framework of Islamic law, aiming to realize public welfare (*maṣlaḥah*) and to prevent harm (*mafsadah*) across all dimensions of life.[16] Within this framework, *maqāṣid al-Sharīʻah* is not merely a supplementary concept in Islamic legal discourse, but rather constitutes the core and directional foundation of the entire structure of the Sharīʻah. Maqāṣid represents the teleological dimension of the law, emphasizing the purposes and wisdom underlying legal rulings, rather than focusing solely on what the law prescribes and how it is implemented.[17] In this sense, *maqāṣid* serves as a point of convergence between text and reality, between divine revelation and the evolving needs of human society, including in the fields of economics and finance.

In addressing contemporary financial innovations such as cryptocurrency, the *maqāṣid*-based approach becomes particularly pertinent. It enables legal assessment that transcends the binary determination of permissibility or prohibition, by incorporating consideration of the structural, social, and ethical implications inherent in such economic practices.

1. Protection of Religion (*Ḥifẓ al-Dīn*)

From the perspective of protecting religion (*ḥifẓ al dīn*), Islamic law rejects all forms of transactions that involve elements of *gharar* (excessive uncertainty), *maysir* (gambling or speculation), and *ribā* (interest).[18] The primary criticism of cryptocurrencies, particularly assets such as Bitcoin and various altcoins, lies in their extreme price volatility and their frequent use for speculative purposes. This condition has led some contemporary scholars to issue prohibitive fatwas on the grounds that the associated harms outweigh the anticipated benefits. Nevertheless, the blockchain

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[14] Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System*, August 21, 2008, https://bitcoin.org/bitcoin.pdf.

[15] Sandeep Kumar Panda, A. R. Sathya, and Sukanta Das, "Bitcoin: Beginning of the Cryptocurrency Era," in *Recent Advances in Blockchain Technology*, vol. 237, ed. Sandeep Kumar Panda et al., Intelligent Systems Reference Library (Cham: Springer International Publishing, 2023), 26, https://doi.org/10.1007/978-3-031-22835-3_2.

[16] Muhammad Shahrul Ifwat Ishak and Nur Syahirah Mohammad Nasir, "Maqasid Al-Shari'ah in Islamic Finance: Harmonizing Theory and Reality," *The Journal of Muamalat and Islamic Finance Research*, June 1, 2021, 109, https://doi.org/10.33102/jmifr.v18i1.334.

[17] Ibnu Paqih Hasan, "CHILDFREE CHOICE IN THE DIALECTIC BETWEEN HUMAN RIGHTS AND ISLAMIC LAW: Navigating Bodily Autonomy and Hifz al-Nasl," *MAQASHID* 8, no. 1 (May 2025): 117, https://doi.org/10.35897/maqashid.v8i1.2073.

[18] Abdul Fattah, "Implementasi Maqashid Syariah Dalam Ekosistem Ekonomi Dan Keuangan Syariah Di Indonesia: Analisis Pencapaian Kesejahteraan Sosial Dan Ekonomi Berkelanjutan," *El-Iqtishady: Jurnal Hukum Ekonomi Syariah* 6, no. 2 (n.d.): 201.

technology underlying cryptocurrencies can be directed toward positive purposes that are consistent with Sharīʿah principles. Recent studies indicate that blockchain technology can be utilized in the management of zakat, ṣadaqah, and waqf through transparent and accountable systems. Such innovations not only strengthen religious objectives but also create opportunities for the modernization of Islamic financial instruments.[19]

2. Protection of Life (*Ḥifẓ al-Nafs*)

In the context of the Protectionof life, known as *ḥifẓ al nafs*, economic stability represents a fundamental prerequisite for safeguarding both individual and societal well being. Cryptocurrency presents potential advantages by expanding financial inclusion and facilitating access to the digital economy, particularly for populations that remain excluded from formal financial institutions.[20] However, the extreme volatility characteristic of cryptocurrency markets poses substantial risks, including significant financial losses and psychological distress. The phenomenon of "fear of missing out" (*FOMO*) and herd behavior in crypto investments often precipitates excessive risk-taking akin to gambling.[21] Furthermore, the potential misuse of cryptocurrency for illicit activities poses a threat to social security, which fundamentally contravenes the objective of protecting life.[22]

3. Protection of Intellect (*Ḥifẓ al-ʿaql*)

The Protection of the intellect (*ḥifẓ al-ʿaql*) dictates that economic activities must be conducted rationally, transparently, and based on knowledge.[23] Ideally, blockchain technology provides a transparent and immutable distributed ledger, conceptually supporting transactional honesty and clarity.[24] However, the complexity of cryptographic systems combined with low public financial literacy creates vulnerabilities to information manipulation and irrational economic decision-making.[25] Under these conditions, without adequate understanding and clear regulation, cryptocurrency risks undermining the function of the intellect rather than enhancing it.

4. Protection of Lineage (*Ḥifẓ al-Nasl*)

[19] Abdul Chadjib Halik, Idris Parakkasi, and Rika Dwi Parmitasari, "Blockchain Dan Keuangan Sosial Islam: Merevolusi Zakat Dan Wakaf Untuk Distribusi Kesejahteraan Sosial Yang Lebih Transparan," *J-CEKI: Jurnal Cendekia Ilmiah* 4, no. 3 (2025): 582.

[20] Rudy C Tarumingkeng, *Blockchain Dan Cryptocurrency: Masa Depan Ekonomi Digita* (Bogor: RUDYCT e-PRESS, 2025): 7.

[21] Lakshit Jain et al., "Cryptocurrency Trading and Associated Mental Health Factors: A Scoping Review," *Journal of Primary Care & Community Health* 16 (2025): 14, https://doi.org/10.1177/21501319251315308.

[22] Lendra Dika Kurniawan, Alfin Dwi Rahmawan, and Jeanne Darc Noviayanti Manik, "Kajian Kriminologi Terhadap Pengunaan Mata Uang Kripto Sebagai Media Pencucian Uang," *Jurnal Suara Hukum* 5, no. 1 (August 2023): 99, https://doi.org/10.26740/jsh.v5n1.p89-101.

[23] Mohamad Aniq Aiman Alias et al., "The Integration of Five Main Goals of Shariah in The Production of Science and Technology for Human Well-Being," *Al-Maqashid: International Journal of Maqashid Studies & Advanced Islamic Research* (Malaysia) 5, no. 1 (2024): 6.

[24] Ade Rivaldi Rivaldi and Juliana Putri, "Integrasi Teknologi Blockchain Dalam Meningkatkan Transparansi Akad Syariah," *Iqtishodiah: Jurnal Ekonomi Dan Perbankan Syariah* 7, no. 2 (November 2025): 113, https://doi.org/10.62490/iqtishodiah.v7i2.1703.

[25] Andi Mustika Amin, "Financial Literacy and Cryptocurrency Investment Decision-Making: A Qualitative Study of University Students in Makassar," *META-JOURNAL: Management, Economics, Trade & Accounting Journal* 2, no. 5 (2025): 226.

Regarding the Protection of lineage (*ḥifẓ al-nasl*), *Maqāṣid al-Sharīʿah* emphasizes the importance of intergenerational economic sustainability.[26] Cryptocurrency has the potential to become a future economic instrument that fosters innovation and investment opportunities, utilizing decentralized blockchain technology that records transactions securely and transparently while enabling applications across various sectors.[27] Nevertheless, its speculative character and sharp price fluctuations threaten household economic stability, particularly when used as a primary investment vehicle without mature risk assessment. Consumptive patterns, impulsivity, and a short-term profit orientation can weaken family economic resilience, thereby negatively impacting future generations.[28]

5. Protection of Wealth (*Ḥifẓ al-Māl*)

The Protection of wealth *(ḥifẓ al-māl)* constitutes a central objective of *maqāṣid al-sharīʿah* in the economic domain, encompassing the safeguarding and proper management of assets, responsible utilization, equitable distribution, and the avoidance of wastefulness or misuse in their management.[29] In this context, blockchain technology as employed within the cryptocurrency ecosystem, through its decentralized architecture, transparency, permanent record-keeping in a distributed ledger, and consensus-based verification mechanisms,[30] offers a transaction management model that is conceptually aligned with the objective of wealth Preservation. These characteristics enable the reduction of risks related to abuse of power and data manipulation.[31] From the perspective of *maqāṣid al-sharīʿah*, the Protectionof wealth (*ḥifẓ al-māl*) is not solely contingent upon technological systems, but also upon the inherent nature and characteristics of the assets being transacted. In the case of cryptocurrency, pronounced price volatility, speculative behavior, and the absence of clearly defined and stable underlying assets may weaken the realization of (*ḥifẓ al-māl*), particularly when cryptocurrencies are utilized primarily for short-term speculative purposes. Furthermore, the potential presence of *gharar* and *maysir* remains a critical concern when cryptocurrencies are traded without a sufficiently robust foundation of intrinsic value.[32]

Accordingly, an analysis based on *Maqāṣid al-Sharīʿah* demonstrates that cryptocurrency cannot be evaluated through a binary lens as strictly legitimate or

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[26] Leny Sukmawati and Subkhan Alimudhin, “Analisis Literasi Keuangan Syariah Pada Masyarakat Desa Tinatar Terhadap Produk Pembiayaan Syariah Ditinjau Perspektif Maqashid Syariah,” *Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah* 7, no. 7 (2025): 2238.

[27] Silvia Jesika et al., “Potential Analysis of Bitcoin Cryptocurrency as a Future Investment Asset: A Systematic Literature Review,” *Open Access Indonesia Journal of Social Sciences* 6, no. 4 (June 2023): 1012, https://doi.org/10.37275/oaijss.v6i4.165.

[28] Amy Mosbey, Paul Delfabbro, and Daniel King, “The Harmful Consequences of Cryptocurrency Speculation and Associated Risk Factors,” *International Journal of Mental Health and Addiction*, October 17, 2024, 14, https://doi.org/10.1007/s11469-024-01405-x.

[29] Dimas Fadilah, “Peran Kebijakan Pemerintah Indonesia Dalam Menjaga Stabilitas Ekonomi: Tinjauan Maqasid Syariah Tentang Hifzh Al-Mal,” *Jurnal Global Ilmiah* 2, no. 6 (March 2025): 9, https://doi.org/10.55324/jgi.v2i6.196.

[30] Albert et al., “Blockchain Sebagai Fondasi Transparansi Dan Keamanan Digital di Era Ekonomi Erdesentralisasi,” *JIM: Jurnal Ilmiah Multidisipliner* 3, no. 04 (October 2025): 784, https://doi.org/10.70294/jimu.v3i04.1384.

[31] Arnadi Chairunnas et al., “Teknologi Blockchain Dalam Transformasi Keuangan Dan Perbankan: Potensi Dan Tantangan,” *JE3S: Journal of Economic, Education and Entrepreneurship Studies* 5, no. 2 (June 2025): 363.

[32] Lindawati et al., “TINJAUAN MAQASHID SYARIAH TERHADAP INVESTASI KRIPTO DALAM PERSPEKTIF HUKUM EKONOMI SYARIAH,” *Journal of Islamic Business Law* 2, no. 1 (2025): 31.

illegitimate. Its alignment with Sharia objectives is highly contingent upon usage patterns, user literacy levels, and the existence of regulations capable of mitigating *gharar*, *maysir*, and potential harms. The *maqāṣid* approach enables a more substantive and proportional assessment, allowing digital financial innovations to be directed toward supporting public benefit and economic justice in accordance with Islamic values.

Cryptocurrency Regulation in Indonesia

Cryptocurrency first attracted significant attention in Indonesia around 2013, concomitant with the global rise in Bitcoin's popularity. During its initial development phase, crypto assets lacked a clear legal status within the national regulatory framework.[33] By mid-2018, many [34]individuals regarded crypto assets as promising investment instruments, despite the absence of specific legislation governing their trade. This regulatory gap posed potential future risks, prompting the government to recognize the necessity of regulating crypto asset trading.[35]

Given cryptocurrencies' high volatility, speculative nature, and susceptibility to illicit activities, Bank Indonesia has consistently affirmed that cryptocurrencies are not recognized as legal tender.[36] This prohibition is fundamentally grounded in Law No. 7 of 2011 on Currency[37] and Bank Indonesia Regulation No. 17 of 2015, which mandates the exclusive use of the Rupiah in all domestic financial transactions.[38] Consequently, the Rupiah remains the sole legally recognized medium of exchange in Indonesia. It is crucial to note, however, that these restrictions emanate from the national monetary legal framework and do not constitute an absolute ban on the existence of the crypto assets themselves.

To accommodate the growth of the crypto market while preserving monetary stability, the Indonesian government reclassified cryptocurrency as a digital commodity. This legal positioning refers to Law No. 10 of 2011 on Commodity Futures Trading, which defines commodities to include goods, services, rights, or other interests tradable on futures exchanges. Under this framework, crypto assets were characterized as blockchain-based "rights or interests," thereby permitting their trade as commodities under the supervision of the Commodity Futures Trading Regulatory Agency (Bappebti).[39]

Under this legal classification, crypto assets are juridically positioned as tradable digital commodities rather than as instruments of payment within the national monetary system. This classification was further formalized by Minister of Trade Regulation No. 99 of 2018 on the General Policy for the Implementation of Crypto Asset Futures

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[33] Jonathan Hendson Passagi, "Bitcoin: A Comparative Study of Cryptocurrency Legality in America and Indonesia," *JURIS GENTIUM LAW REVIEW*, 2017, 64.

[34] "Peraturan Bank Indonesia Nomor 17/3/PBI/2015 Tahun 2015 Tentang Kewajiban Penggunaan Rupiah di Wilayah Negara Kesatuan Republik Indonesia," unpublished manuscript, Jakarta, 2015, 17.

[35] Guntoro and Elfrida Ratnawati, "REGULASI TATA KELOLA CRYPTOCURRENCY DALAM SISTEM PEMBAYARAN DI INDONESIA," *Ensiklopedia of Journal* 6, no. 4 (July 2024): 191.

[36] Bank Indonesia, "Bank Indonesia Memperingatkan Kepada Seluruh Pihak Agar Tidak Menjual, Membeli Atau Memperdagangkan Virtual Currency," *Departemen Komunikasi*, January 12, 2018, https://www.bi.go.id/id/publikasi/ruang-media/news-release/Pages/sp_200418.aspx.

[37] "Undang-Undang (UU) Nomor 7 Tahun 2011 Tentang Mata Uang," Jakarta, June 28, 2011.

[38] "Peraturan Bank Indonesia Nomor 17/3/PBI/2015 Tahun 2015 Tentang Kewajiban Penggunaan Rupiah di Wilayah Negara Kesatuan Republik Indonesia."

[39] "Undang-Undang (UU) Nomor 10 Tahun 2011 Tentang Perubahan Atas Undang-Undang Nomor 32 Tahun 1997 Tentang Perdagangan Berjangka Komoditi," Jakarta, Agustus 2011, 10.

Trading, which explicitly designates crypto assets as commodities tradable on futures exchanges.[40]

To strengthen this regulatory regime, Bappebti issued several consequential regulations, including Regulation No. 2 of 2019 on the Implementation of Physical Commodity Markets on Futures Exchanges; Regulation No. 5 of 2019 on Technical Provisions for the Implementation of Physical Crypto Asset Markets; Regulation No. 6 of 2019 on the Implementation of Anti-Money Laundering and Counter-Terrorism Financing Programs; Regulation No. 9 of 2019 as an amendment to Regulation No. 5 of 2019;[41] and Regulation No. 3 of 2020, stipulates the procedural trading mechanisms, licensing prerequisites for market participants, and governance standards for the physical crypto-asset market within futures exchanges.[42] These statutory mandates were further consolidated under Bappebti Regulation No. 8 of 2021, which solidifies the juridical legality of physical crypto-asset trading while comprehensively outlining the operational requirements for business entities, transactional protocols, and the specific eligibility criteria for tradable digital assets.[43]

The principal objective of regulating physical crypto asset trading is to provide legal Protectionfor investors, consumers, and clients transacting with crypto assets, particularly regarding risk management and information transparency. Under the prior supervisory framework, crypto service providers were required to comply with applicable laws and regulations and to submit periodic reports to Bappebti as the competent authority. Nevertheless, the increasing losses experienced by crypto users indicate that the protective mechanisms within the futures trading supervisory regime have not fully accommodated the evolving complexity of crypto transaction risks. This situation underscores the need for more comprehensive, consumer-oriented supervisory strengthening. [44]

In response to these developments, the government enacted Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector. Pursuant to Article 6 of this law, supervisory authority over digital assets, including crypto assets, was transferred to the Financial Services Authority (Otoritas Jasa Keuangan, OJK). This transfer signaled a shift toward a more integrated supervisory approach within the national financial system.[45] Through this legislation, crypto assets were officially reclassified as Digital Financial Assets, and supervisory authority was shifted from Bappebti to the Financial Services Authority, as further clarified by Government

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[40] Peraturan Menteri Perdagangan, "Permendag Nomor 99 Tahun 2018 Tentang Kebijakan Umum Penyelenggaraan Perdangan Berjangka Aset Kripto (Crypto Asset)," Jakarta, 2018.

[41] Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti), "Peraturan Bappebti Nomor 2 Tahun 2019; Nomor 5 Tahun 2019; Nomor 6 Tahun 2019; Dan Nomor 9 Tahun 2019.," Jakarta, 2019.

[42] Bappepti, "Peraturan Bappepti Nomor 3 Tahun 2020 Tentang Perubahan Ketiga Atas Peraturan Badan Pengawas Perdagangan Berjangka Komoditi Nomor 5 Tahun 2019 Tentang Teknis Penyelenggaraan Pasar Fisik Aset Kripto (Crypto Asset) Di Bursa Berjangka," Jakarta, 2020.

[43] Bappepti, "Peraturan Bappepti Nomor 8 Tahun 2021 Tentang Pedoman Penyelenggaraan Pasar Fisik Aset Kripto (Crypto Asset) Di Bursa Berjangka," Jakarta, 2021.

[44] Muhammad Tunjang Syaeh et al., "URGENSI STANDARISASI END USER LICENSE AGREEMENT (EULA) GUNA MENJAMIN PERLINDUNGAN HUKUM BAGI INVESTOR CRYPTOCURRENCY DI INDONESIA," *Jurnal BATAVIA* 2, no. 1 (January 2025): 20.

[45] "Undang-Undang (UU) Nomor 4 Tahun 2023 Tentang Pengembangan Dan Penguatan Sektor Keuangan," Jakarta, January 12, 2023, 4.

Regulation No. 49 of 2024.[46] Subsequently, the OJK issued POJK No. 27 of 2024 and SEOJK No. 20/SEOJK.07/2024 to strengthen licensing standards, governance, and consumer Preservation.[47]

Although the institutionalization of crypto asset supervision reflects a strengthened regulatory framework, the transition of authority from Bappebti to the Financial Services Authority generated uncertainty and confusion among industry actors.[48] This condition indicates that the existing regulatory framework has not been fully accompanied by institutional coordination readiness. Consequently, the shift to the new supervisory regime requires more detailed implementing regulations, effective regulatory communication, and formal coordination and collaboration mechanisms between the Financial Services Authority and Bank Indonesia. Such measures should align with the concept of distribution of power to ensure legal certainty, supervisory effectiveness, and a balanced outcome between investor Protectionand regulatory efficiency in accordance with the objectives of Law No. 4 of 2023.[49]

Cryptocurrency Regulation in Malaysia

Following an analysis of Indonesia's cryptocurrency asset regulatory landscape, examining Malaysia's regulatory approach offers valuable comparative insights. Malaysia implements a dual regulatory framework for cryptocurrency assets, involving the Bank Negara Malaysia (BNM) and the Securities Commission Malaysia (SC).[50]

BNM holds authority to formulate national monetary policy and maintain financial system stability, while affirming that privately issued digital currencies lack recognition as legal tender. Under the *Central Bank of Malaysia Act 2009*, legal tender remains confined to banknotes and coins issued by the BNM. This position receives reinforcement from the BNM's official statement on 3 January 2014, which declares Bitcoin non-recognized as legal tender and aligns with the *Currency Act 2020*.[51] As a result, cryptocurrencies such as Bitcoin serve not as official payment instruments but as tradable and investable digital assets.[52]

[46] Kementerian Keuangan, *Peraturan Pemerintah (PP) Pasal 3 Nomor 49 Tahun 2024 "Peralihan Tugas Pengaturan Dan Pengawasan Aset Keuangan Digital Termasuk Aset Kripto Serta Derivatif Keuangan,"* 2024.

[47] Otoritas Jasa Keuangan (OJK), "Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 Tentang Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto," Jakarta, Desember 2024.

[48] Arjana Bagaskara Solichin, "Implikasi Hukum Atas Peralihan Kewenangan Pengaturan Dan Pengawasan Aset Kripto Dari Badan Pengawas Perdagangan Berjangka Komoditi Kepada Otoritas Jasa Keuangan Pasca Undang-Undang Nomor 4 Tahun 2023," *Lex Prospicit* 3, no. 1 (October 2025): 36–37, https://doi.org/10.19166/lp.v3i1.7762.

[49] Aluna Putri Sagita, Annisa Almaqhvira, and Eka Merdekawati Djafar, "TRANFORMASI DIGITAL: PERALIHAN KEWENANGAN PENGAWASAN CRYPTOCURRENCY DALAM SEKTOR KEUANGAN ERA SOCIETY 5.0," *ADIL: Jurnal Hukum* 16, no. 1 (2025): 261.

[50] TopologyLab, *Overview of Cryptocurrency in Malaysia: Dual Regulatory Model*, accessed February 1, 2026, https://www.panewslab.com/en/articles/lc23yr39f56e.

[51] Muhammad Hafizuddin et al., "Navigating the Cryptocurrency Maze: A Comprehensive Analysis of Regulatory Frameworks in Malaysia," *The Journal of Management Theory and Practice* 5, no. 1 (2024): 2.

[52] Securities Commission Malaysia, "BNM and SC's Joint Response on 'Policy Confusion over Cryptocurrencies,'" n.d., accessed February 1, 2026, https://www.bnm.gov.my/-/bnm-and-sc-s-joint-response-on-policy-confusion-over-cryptocurrencies-.

On the other hand, the Securities Commission Malaysia (SC) regulates cryptocurrencies as capital market products when they exhibit specific securities characteristics. The primary statutory cornerstone for this regulation is the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019. This instrument established essential legal certainty by defining digital currencies and tokens as value representations based on distributed ledger technology (DLT), while simultaneously stripping them of any status as a medium of exchange. Consequently, crypto assets meeting specific investment criteria fall under the rigorous supervisory purview of the Securities Commission.[53]

Operational governance is further delineated in the Guidelines on Digital Assets (enacted in 2020 and revised in 2024), which govern token issuance, Initial Exchange Offering (IEO) mechanisms, and digital asset trading protocols. Pursuant to the Capital Markets and Services Act 2007, all token issuances must be facilitated through a Digital Asset Exchange registered as a Recognized Market Operator (RMO) and approved by the SC. These exchanges are subject to exacting requirements, including minimum capital thresholds, robust governance structures, and mandatory domestic incorporation, to ensure market resilience and investor Preservation.[54] Furthermore, the framework institutionalizes the role of the Digital Asset Custodian, tasked with the fiduciary responsibility of ensuring asset security through stringent internal control standards.[55]

Malaysia's oversight regime is bolstered by a formidable enforcement architecture; unauthorized issuance or trading of digital assets is strictly prohibited and carries severe penal sanctions, including substantial fines and incarceration. The SC proactively monitors the market by blacklisting unregistered platforms via an Investor Alert List and collaborating with digital service providers to block illicit access. This integrity is further reinforced by the implementation of a regulatory sandbox and comprehensive Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) protocols.[56] The issuance of these regulations aims to enhance transparency, combat illegal activities, and furnish a regulatory framework for digital currencies. This reflects Malaysia's proactive stance in addressing the challenges and opportunities presented by cryptocurrencies.

To foster responsible innovation and maintain order in the digital asset market, the Bank Negara Malaysia (BNM) and Securities Commission Malaysia (SC) implement a coordination mechanism for cryptocurrency oversight. This framework seeks to preserve financial system stability, market integrity, and investor Protectionvia a "same activity, same risk, same regulation" approach.[57] Nevertheless, Malaysia's cryptocurrency regulations remain developmental, leaving consumers exposed to

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[53] CAPITAL MARKETS AND SERVICES ACT 2007, "CAPITAL MARKETS AND SERVICES (PRESCRIPTION OF SECURITIES) (DIGITAL CURRENCY AND DIGITAL TOKEN) ORDER 2019," n.d., accessed January 1, 2026, https://www.sc.com.my/api/documentms/download.ashx?id=8c8bc467-c750-466e-9a86-98c12fec4a77.

[54] Securities Commission Malaysia, "Guidelines on Digital Assets," August 19, 2024, https://www.sc.com.my/api/documentms/download.ashx?id=ae96213d-e71b-4682-8ac6-127a6da558ea.

[55] "Guidelines on Recognized Markets Section 15.01," n.d.

[56] Bank Negara Malaysia, "Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Digital Currencies (Sector 6)," n.d., accessed February 1, 2026, https://www.bnm.gov.my/documents/20124/65312/20180515+-+PD+Digital+currency.pdf/7b78cbfe-96b5-b92c-f1a9-4c9fb21b80cf?t=1577084026315.

[57] Bank Negara Malaysia, *Navigating the Future of Digital Asset "Annual Report 2024,"* 2024, 104.

substantial risks such as fraud, market manipulation, and cyber threats. Moreover, the current regulatory structure lacks full comprehensiveness in ensuring security and supervisory effectiveness.[58]

Malaysia should consider revising relevant legislation or, at minimum, articulating clearer, firmer, and more systematic legal principles for cryptocurrency regulation. The digital currency ecosystem requires a comprehensive, adaptive, and forward-looking legal standard to provide certainty for market participants, investors, and regulators. Such measures would mitigate fraud and cyber risks while supporting the establishment of a robust, progressive, and sustainable legal framework for cryptocurrencies in Malaysia.

Comparative Regulatory Framework of Cryptocurrency in Indonesia and Malaysia

As a paradigm of digital financial innovation, cryptocurrency mandates a systemic adjustment of legal structures globally. In Indonesia, the regulatory landscape for crypto has witnessed a fundamental reorientation, characterized by the devolution of supervisory authority from the Commodity Futures Trading Regulatory Agency (Bappebti) to the Financial Services Authority (OJK). This institutional restructuring transcends mere administrative reform; it signifies a profound conceptual shift in the legal classification of cryptocurrency. Consequently, these instruments are no longer exclusively categorized as commodities within the futures trading regime but are increasingly integrated into the digital financial asset ecosystem.[59]

Nevertheless, Indonesia maintains a rigid normative demarcation concerning the monetary utility of cryptocurrency. Under the mandate of Law No. 7 of 2011 on Currency and Bank Indonesia regulations, cryptocurrency is explicitly denied status as legal tender.[60] Its legal recognition remains strictly confined to investment and trading activities, governed by a prudential framework designed to attenuate risks associated with volatility, speculative excesses, and potential market distortions.

Diverging from the Indonesian regulatory paradigm, Malaysia has strategically anchored cryptocurrency within a highly structured and anticipatory capital market framework. Through the application of the Capital Markets and Services Act 2007 as reinforced by the Capital Markets and Services Prescription of Securities Digital Currency and Digital Token Order 2019 and the Guidelines on Digital Assets, these instruments are legally classified as digital securities under the oversight of the Securities Commission Malaysia.[61] This methodology subsumes digital assets into an established securities regime by prioritizing rigorous information disclosure, governance standards, and market integrity. Such systemic alignment effectively mitigates the legal indeterminacy that typically pervades the transitional phases of financial regulation.

Despite pursuing divergent regulatory paradigms, Indonesia and Malaysia demonstrate substantial convergence regarding foundational policy objectives. Both jurisdictions explicitly disavow the monetary validity of cryptocurrency as legal tender

[58] Mohammad Hidir Baharudin et al., "Cryptocurrency in Malaysia: Navigating Islamic Legal Perspectives for Economic Innovation and Resilience," *Environment-Behaviour Proceedings Journal* 10, no. SI28 (May 2025): 121–26, https://doi.org/10.21834/e-bpj.v10iSI28.6952.

[59] Kementerian Keuangan, *Peraturan Pemerintah (PP) Pasal 3 Nomor 49 Tahun 2024 "Peralihan Tugas Pengaturan Dan Pengawasan Aset Keuangan Digital Termasuk Aset Kripto Serta Derivatif Keuangan."*

[60] "Undang-Undang (UU) Nomor 7 Tahun 2011 Tentang Mata Uang."

[61] CAPITAL MARKETS AND SERVICES ACT 2007, "CAPITAL MARKETS AND SERVICES (PRESCRIPTION OF SECURITIES) (DIGITAL CURRENCY AND DIGITAL TOKEN) ORDER 2019."

while strictly relegating its utility to the function of an investment asset class.[62][63] Furthermore, these nations enforce a rigorous supervisory architecture encompassing mandatory licensure, asset feasibility due diligence, surveillance of exchange operators, periodic disclosure requirements, and robust investor Protectionmechanisms. Ideally, the principle of prudentialism serves as the shared bedrock underpinning digital asset governance which is operationalized through institutional oversight designed to mitigate systemic financial risks.

Nevertheless, Indonesia's regulatory framework continues to exhibit several structural challenges. The reassignment of supervisory authority over crypto assets to the Financial Services Authority (Otoritas Jasa Keuangan/OJK) has not yet been fully operationalized through comprehensive and harmonized technical regulations, thereby generating legal uncertainty and impeding regulatory compliance and business model realignment, particularly for entities previously subject to the supervisory regime of Bappebti.[64] Moreover, the coexistence of overlapping and differentiated regulatory mandates among Bappebti, Bank Indonesia, and OJK creates the potential for regulatory arbitrage, wherein market participants strategically exploit discrepancies in regulatory treatment, thereby exacerbating legal ambiguities and systemic financial risks. Beyond the regulatory dimension, the development of the cryptocurrency industry in Indonesia is further constrained by inadequate supporting infrastructure and persistently low levels of digital financial literacy, conditions that collectively limit market adoption and heighten exposure to fraudulent practices masquerading as legitimate crypto-investment activities.[65]

The Malaysian jurisdiction similarly grapples with complex regulatory challenges. Its framework, still in a formative phase, exhibits significant legal ambiguities requiring serious attention. Critical shortcomings exist regarding consumer Protectionand the absence of a dedicated statutory regime creates an environment where cryptocurrency is neither banned nor fully recognized. Consequently, the onus of risk falls disproportionately upon the individual.[66] Beyond these domestic challenges, Malaysia also faces global competitive pressures, particularly from jurisdictions such as Singapore and Hong Kong. These competitors offer more adaptive regulatory frameworks through regulatory sandboxes and various pro-innovation incentives. Such conditions have the potential to precipitate a migration of industry players to those nations, thereby undermining Malaysia's appeal as a regional hub for digital asset development.[67]

The divergence in the enforcement of crypto-asset regulations in Indonesia and Malaysia is evidenced by the specific character of the sanctions regimes employed. In Indonesia, the post-transition regulatory landscape under the Financial Services Authority (OJK) exhibits a marked preference for administrative enforcement. As

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[62] "Surat Menko Perekonomian Nomor S-302/M.EKON/09/2018," September 24, 2018.

[63] "Statement on Bitcoin," January 3, 2014, https://www.bnm.gov.my/-/statement-on-bitcoin.

[64] Norman, "Transformasi Hukum Aset Kripto di Indonesia: Analisis Komparatif Dengan Malaysia Mengenai Pergeseran Dari Komoditas Ke Instrumen Keuangan," 2025: 109.

[65] Arzeti Tri Handayani et al., "Tinjauan Legalitas Cryptocurrency Dalam Pertumbuhan Pasar Kripto di Indonesia," *Jurnal Thengkyang* Vol 10 (2025): 52.

[66] Muhammad HafizuddinSufia Sufian, Nur Amisha Sutan Syahril, and Norhasliza Ghapa, "Regulatory Framework for Cryptocurrency: A Comparative Analysis of Malaysia, Indonesia and Singapore," *Malaysian Journal of Social Sciences and Humanities (MJSSH)* 9, no. 11 (November 2024): 9, https://doi.org/10.47405/mjssh.v9i11.3113.

[67] Norman, *Loc.cit.*

codified in Article 306 of the P2SK Law and POJK No. 27 of 2024, sanctions range from written admonitions and operational restrictions to license revocation and fines, specifically referencing a late-reporting penalty of IDR 200,000 per day, capped at a maximum of Rp2,000,000.[68] In stark contrast, Malaysia implements a rigorous punitive approach involving a concurrence of administrative and criminal liabilities. Pursuant to the CMSA 2007, violations may precipitate fines reaching RM 10 million or custodial sentences of up to ten years, in addition to the Securities Commission Malaysia's prerogative to annul digital asset operator licenses.[69] Ultimately, this comparative analysis indicates that Indonesia's framework is oriented towards administrative compliance, while Malaysia emphasizes legal certainty underpinned by a stronger deterrent efficacy.

From the perspective of Sharia governance, both Indonesia and Malaysia establish adherence to the prohibitions of *ribā* (usury), *gharar* (uncertainty), and *maysir* (gambling) as the primary tenets of cryptocurrency regulation. However, the mechanisms for implementing these principles diverge significantly. In Indonesia, the role of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) is predominantly consultative; consequently, its fatwas lack legally binding force unless formally codified within the regulations of the Financial Services Authority (OJK) or Bank Indonesia. This structural arrangement potentially precipitates legal uncertainty. In contrast, Malaysia formally integrates Sharia principles through the Shariah Advisory Council (SAC). Under the Central Bank of Malaysia Act 2009, the rulings of the SAC are final, binding, and constitute an integral part of positive law. This institutional framework ensures a more robust degree of legal certainty regarding the Sharia status and regulatory treatment of digital assets.[70]

In the specific context of cryptocurrency, the Indonesian Ulema Council (*Majelis Ulama Indonesia* or MUI) issued a ruling in 2021 prohibiting its utilization as a medium of exchange, classifying it as illicit (*haram*). However, the MUI permits the trading of cryptocurrency as a commodity or digital asset, contingent upon adherence to Sharia stipulations. These requisites mandate that the asset possesses inherent utility (*manfa'ah*), is devoid of uncertainty (*gharar*), gambling (*maysir*), and harm (*ḍarar*), and is substantiated by a clear underlying asset.[71] Beyond the MUI, Islamic organizations such as Nahdlatul Ulama (NU) also exercise scholarly authority in formulating *fiqh* (Islamic jurisprudence) perspectives regarding cryptocurrency. The *Lajnah Bahtsul Masail* of the NU Regional Board (LBM PWNU) in the Special Region of Yogyakarta permits the classification of cryptocurrency as a commodity. This stance is predicated on the argument that it fulfills the criteria for a valid object of transaction (*ma'qud 'alayh*) under *muamalah* principles, specifically regarding utility, transferability, and the clear identification of its properties and specifications by the transacting parties. In contrast, the LBM NU of East Java proscribes cryptocurrency both as a medium of exchange and

[68] PERATURAN OTORITAS JASA KEUANGAN REPUBLIK INDONESIA NOMOR 27 TAHUN 2024 TENTANG PENYELENGGARAAN PERDAGANGAN ASET KEUANGAN DIGITAL TERMASUK ASET KRIPTO, "Pasal 17 Ayat 2," 2024.

[69] "CAPITAL MARKETS AND SERVICES ACT 2007 Part V Subdivision 1 Section 182," July 1, 2021, https://www.sc.com.my/api/documentms/download.ashx?id=70b43137-9a48-4540-b955-f1114ceb3445.

[70] Dwi Fidhayanti et al., "Regulatory Frameworks In Islamic Fintech: Comparative Insights from Indonesia and Malaysia," *JALREV: Jambura Law Review* 7, no. 2 (2025): 683–85.

[71] Majelis Ulama Indonesia, "Keputusan Ijtima' Ulama Fatwa Se-Indonesia VII Tentang Hukum Cryptocurrency."

as a commodity. This prohibition is grounded in the assessment that cryptocurrency lacks a transparent underlying asset and fails to meet the formal criteria for a legitimate *fiqh* object. Furthermore, it is deemed to possess the potential to undermine financial stability and directly contravene positive law regarding national currency and legal tender.[72]

In the Malaysian context, the Shariah Advisory Council of the Securities Commission Malaysia resolved in 2020 that digital currencies and digital tokens can be categorized as property (*al-māl*) from a Shariah perspective.[73] This resolution establishes the foundation that crypto assets are principally recognized within the framework of Islamic commercial jurisprudence (*muamalah*). However, jurisdiction over Islamic law in Malaysia resides with the state governments, as stipulated in List II, Ninth Schedule of the Federal Constitution.[74] This structural arrangement prevents a unified fatwa on cryptocurrency; instead, rulings vary across states.

For example, during its 38th meeting in 2018, the Perlis State Fatwa Committee stated that Bitcoin possesses the attributes and value of legitimate property under Shariah law, given its multifaceted functions and economic benefits.[75] Similarly, the State Fatwa Committees of Perak and Selangor determined that the use of cryptocurrency is permissible as a medium of exchange, a fund transfer mechanism, and a store of value.[76] This permissibility is contingent upon the transactions occurring through officially licensed platforms, users comprehending the associated risks, and the assets not being utilized for activities contravening Shariah principles. Conversely, the Kelantan Islamic Religious and Malay Customs Council ruled that utilizing Bitcoin in transactions is prohibited (*haram*).[77] This prohibition is predicated on the absence of official state supervision, extreme price volatility, susceptibility to illicit activities, and the presence of significant elements of *gharar* (uncertainty) and speculation. A comparable view was articulated by the Mufti of the Federal Territories through *Bayan Linnas*, which prohibited the use of Bitcoin as currency because it fails to fulfill the criteria of Islamic currency and poses a potential for harm.[78] These divergent perspectives indicate that fatwas concerning cryptocurrency in Malaysia are non-uniform. Rather, they depend on the independent reasoning (*ijtihad*) approach adopted by each state's fatwa authority, which weighs factors such as public interest (*maslahah*), financial system stability, and compliance with Shariah principles.

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[72] M. Burhanudin, "Diskursus Fatwa Cryptocurrency di Indonesia," *Sil'ah: Jurnal Ekonomi Syariah* 2, no. 1 (2025): 31–33.

[73] Majlis Penasihat Syariah Suruhanjaya Sekuriti Malaysia, "The 233rd and 234th Shariah Advisory Council of the Securities Commission Malaysia Meeting (29 June 2020 and 20 July 2020): Digital Assets from Shariah Perspective," Suruhanjaya Sekuriti Malaysia, 2020.

[74] Federal Constitution of Malaysia, "Ninth Schedule, List II (State List), Dalam Interpretation Acts 1948 and 1967 (Act 388)," Laws of Malaysia.

[75] Jabatan Mufti Negeri Perlis, "Fatwa Bitcoin Keputusan Mesyuarat Kali Ke-38/2018," November 8, 2018.

[76] Jabatan Mufti Negeri Perak, "Urus Niaga Menggunakan Mata Wang Digital (Mata Wang Kripto/Cryptocurrency)," Zulhijjah 1442H / 4 Ogos 2021.

[77] Majlis Agama Islam dan Adat Istiadat Melayu Kelantan, "Hukum Duit Digital (Bitcoin) Menurut Perspektif Islam, Keputusan Mesyuarat Jamaah Ulama' Bil. 3/1/2018," Mei 2018, https://mufti.kelantan.gov.my/index.php?view=article&id=114:hukum-duit-digital-bitcoin-menurut-perspektif-islam&catid=56.

[78] Jabatan Mufti Wilayah Persekutuan, "BAYAN LINNAS SIRI KE-153: HUKUM PENGGUNAAN MATA WANG BITCOIN," 2018, https://muftiwp.gov.my/ms/artikel/bayan-linnas/2773-bayan-linnas-153-hukum-penggunaan-mata-wang-bitcoin.

Operationalizing the Principle of Ḥifẓ al-Māl in Cryptocurrency Asset Policy

To prevent the principle of *ḥifẓ al-māl* from remaining at a purely normative level, it must be concretely translated into operational and measurable policy instruments. In the context of cryptocurrency regulation, wealth protection cannot be achieved solely through administrative oversight; rather, it requires preventive mechanisms capable of identifying and controlling risks at an early stage. A comprehensive regulatory framework is expected not only to provide legal certainty, protection, and fairness for stakeholders, but also to ensure transactional security and maintain the sustainable stability of the financial system.[79]

One strategic measure involves the implementation of risk classification based on the degree of speculation. Cryptocurrency assets should be categorized according to price volatility, instrument complexity, project transparency, and the potential presence of *gharar* and *maysir*. Through such classification, regulators can establish proportionate protection standards while ensuring that risk information is transparently disclosed to investors prior to transactions. This approach reflects the prudential principle consistent with the orientation of *ḥifẓ al-māl* in preventing losses and harmful uncertainty within society.

Regulation must also impose restrictions on highly speculative products, such as extreme leveraged trading and crypto-derivative instruments that may amplify elements of *maysir*. Without such restrictions, the crypto market risks shifting into an unproductive speculative arena, contrary to the principle of stability in Islamic economics. Accordingly, the control of high-risk instruments represents the application of *sadd al-dharīʿah*, a preventive measure designed to close potential avenues of harm before they generate systemic impacts on the economy.

The operationalization of *ḥifẓ al-māl* in cryptocurrency policy requires cross-sectoral coordination that integrates financial regulation, digital market governance, and Sharīʿah ethical considerations. In Indonesia, the role of the National Sharīʿah Council of the Indonesian Council of Ulama (*Dewan Syariah Nasional Majelis Ulama Indonesia*)[80] could be strengthened through more structured consultative mechanisms with financial authorities, similar to the integration of *fatwas* in the regulation of the Islamic capital market. In this context, *fatwas* need not function as formal regulation but may serve as normative references in the development of investor protection standards grounded in Sharīʿah values.[81]

Indonesia may also draw lessons from Malaysia, where the Shariah Advisory Council has been integrated into the governance of the financial sector. Although this framework was not specifically designed for cryptocurrency, the institutional experience demonstrates the importance of clarifying the role of Sharīʿah authorities in supporting market stability without altering the character of the national legal system.

Thus, *ḥifẓ al-māl* in cryptocurrency asset policy can be understood as a preventive approach guiding regulatory design, risk supervision, and the control of

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[79] Ariza Fachrur Razak et al., *Pengaturan Dan Perlindungan Hukum Aset Kripto Sebagai Objek Jaminan Dalam Kajian Hukum Jaminan*, 4, no. 1 (2026): 1561.

[80] Mirza Ikmaliyah et al., “Kripto Aset Dalam Keuangan Syariah: Tinjauan Sistematis Tentang Tantangan Dan Peluang Kesesuaian Syariah,” *TIN: Terapan Informatika Nusantara* 6, no. 5 (2025): 489.

[81] Hozinul Asror and Iskandar Ritonga, “DSN-MUI Dan ESG (Environmental, Social, and Governance): Kerangka Keberlanjutan Pasar Modal Syariah Indonesia,” *JPM: Jurnal Prima Management* 1, no. 2 (2025): 24–25.

speculative instruments. This principle functions not merely as a response to losses already incurred, but as a normative framework for strengthening digital economic stability in Indonesia and Malaysia.

Recommendations

As a conceptual reinforcement, this study proposes a maqāṣid-based regulatory model for cryptocurrency assets that places wealth protection (*ḥifẓ al-māl*) at the core of policy orientation. The model emphasizes risk-based supervision through speculation-level classification and restrictions on high-risk instruments, while simultaneously integrating Sharīʿah governance into regulatory processes to ensure synergy between technical and normative oversight.

In addition, prioritizing retail investor protection and enhancing digital financial literacy are essential components for minimizing losses arising from volatility and information asymmetry. Through this approach, cryptocurrency regulation is directed not only toward market growth but also toward achieving public benefit (*maṣlaḥah*) and sustainable digital economic stability. Within this framework, *ḥifẓ al-māl* evolves from a normative principle into an operational policy design. It demonstrates that *maqāṣid* functions not only as an ethical foundation but also as a parameter for public policy design, capable of being translated into measurable and applicable mechanisms of supervision and protection in the contexts of Indonesia and Malaysia.

CONCLUSION

A comparative analysis of cryptocurrency regulation in Indonesia and Malaysia reveals that both countries share a common orientation in restricting cryptocurrency usage as a payment instrument while positioning it as an investment subject within a stringent supervisory framework. Indonesia has strengthened governance through the consolidation of supervision under financial sector authorities, whereas Malaysia has implemented a dual supervisory model incorporating Sharia compliance dimensions. Nevertheless, the findings of this study indicate that the existence of formal regulation has not fully ensured the substantive realization of wealth protection as envisioned under the principle of ḥifẓ al-māl.

The primary challenge lies not in the absence of regulation, but rather in its implementation effectiveness and the depth of its normative orientation. Extreme volatility, high-risk speculative practices, inadequate digital financial literacy, and supervisory fragmentation remain structural impediments to ensuring optimal societal wealth protection. These conditions demonstrate that compliance-based regulatory approaches must be transformed into more preventive, integrated, and risk-based frameworks.

From the perspective of *maqāṣid al-sharīʿah*, particularly *ḥifẓ al-māl*, crypto asset regulation should function not merely as a market control instrument but also as a systematic mechanism for preventing public losses before they occur (*sadd al-dharīʿah*). Accordingly, this study emphasizes the importance of operationalizing this principle through speculation-level-based risk classification, restrictions on high-risk instruments, and the integration of Sharia oversight within licensing and supervisory systems.

As a conceptual contribution, this study proposes a *maqāṣid*-based crypto asset regulation model grounded in preventive wealth protection, integrated Sharia governance, priority protection for retail investors, and the strengthening of digital financial literacy. This model is intended to serve as both a normative and practical framework for policy enhancement in Indonesia and Malaysia, while remaining relevant for other countries confronting similar dynamics in digital economic governance.

Therefore, the future development of crypto asset regulation must be directed not only toward financial system stability and digital economic growth, but also toward the sustained protection of societal wealth in accordance with *maqāṣid al-sharīʿah* values. This approach enables the achievement of equilibrium between technological innovation and moral responsibility in contemporary digital economic governance.

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+PD+Digital+currency.pdf/7b78cbfe-96b5-b92c-f1a9-4c9fb21b80cf?t=1577084026315.

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