

## Review Of Cryptocurrency Based On Sharia Economic Law

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### Abstract

*cryptocurrencies still often clash with applicable law, not least with sharia economic law because Indonesia has a majority Muslim population, so sharia review in the use of cryptocurrencies is essential, so in this case, the Indonesian Ulema Council issued an unlawful fatwa regarding the use of cryptocurrencies both as currency. or as a digital asset. This study aims to analyze and explain cryptocurrencies based on the provisions of Islamic economic law in their use in money or as digital assets, using normative juridical research methods. The results of this study found that the use of cryptocurrencies has two functions, namely as currency and digital investments, but the use of cryptocurrencies clashes with the concept of Islamic economics because cryptocurrency has elements of dharar, ghrara, and qimar, also the idea of money in cryptocurrency clashes with the concept of money in Islam.*

## I. Introduction

In this era, the world is experiencing rapid development, this is a result of the industrial revolution 4.0, the effects of the 4.0 revolution have almost touched all aspects of human life in this era, including the economy. Developments in this economic field strongly affect a country's economy, both positively and negatively. One of the results of economic development in the current era is the emergence of virtual-based digital money and assets, which in use use an internet network that can connect everyone around the world.

Cryptocurrency in its use has two functions, namely as digital money and as a digital asset made of cryptography and secret codes. Cryptocurrency has a free market concept because in its use it is not controlled by financial institutions and even the state, so in the transaction process everyone can transact freely, because in transactions there is no third party as a dealer, recorder, or supervisor like a transaction system at a financial institution. (Rahmah & Jannah, 2021)

In its use, cryptocurrency has two functions, namely as a digital currency as well as a commodity asset that can be traded on the stock exchange, but Indonesia's existing legal provisions regulate cryptocurrency not as currency because it is not in accordance with the provisions of Law Number 7 of 2011 Concerning Currency, the provisions stipulate that the only money that is recognized as circulating within the country is the Rupiah currency, which is officially issued by the state.

But this does not make cryptocurrency an object that has no clear legal aspects, the government then recognizes crypto as a commodity asset, this can be seen clearly in the rules issued by the Commodity Futures Supervisory Agency, (BAPEBTI) and the Ministry of Trade through the Minister of Trade Regulation which explains that a crypto asset is a digital asset that can be used in futures contracts for Islamic derivatives or other derivatives which can then be used in commodity futures exchange trading (Kusuma, 2020).

However, even though the dual function of using cryptocurrency in Indonesia has developed from year to year, even though the use of crypto as currency in digital transactions does not yet have clear legal aspects, its use in society is increasingly prevalent. This is then a concern for the scholars to make a clear Fatwa according to Islamic law regarding the use of digital currency.

Considering that Indonesia is a country with a majority Muslim population, the issuance of fatwas from scholars is very important so as not to cause confusion among the public as cryptocurrency users. to a problem that exists in society so as not to cause confusion among Muslims in the use of cryptocurrency.

In 2017 the Indonesian Ulema Council then issued a fatwa regarding the use of Digital Electronic Money, namely in DSN-MUI No. 116 of 2017 concerning Islamic electronic money which explained that:

1. Published on the basis of the value of money paid in advance to the publisher.
2. The nominal amount of money is stored electronically in a registered media.
3. The nominal amount of electronic money managed by the issuer is not a deposit as referred to in the law governing banking, and
4. Used as a means of payment to merchants who are not issuers of the electronic money.

The fatwa also explains that sharia electronic money is money that must be used according to sharia principles, so that it can only be used in transactions as a means of payment.

However, this fatwa cannot fully answer the confusion of crypto users in Indonesia considering that cryptocurrency is included in a type of digital currency. However, as previously explained, cryptocurrency has a dual function besides currency as well as a commodity asset. (Mulvi Aulia, 2021).

Even though it has issued a sharia use of electronic money, this has not fully answered the community's confusion about the legal aspects of sharia economics

in society, so later in the Ijtima Ulama the 7th Fatwa Commission of the Indonesian Ulema Council which was held on 9-11 November 2021 in Jakarta , the Indonesian Ulema Council then agreed on 17 points of discussion, one of which was the Law on Cryptocurrency Use, namely :

1. The use of cryptocurrency in the form of currency is illegal, because it contains elements of Gharar and Dharar. Cryptocurrency also conflicts with Law Number 7 of 2011 and Bank Indonesia Regulation Number 17 of 2015 when presented as currency.
2. The use of cryptocurrency as a digital asset is illegal when it is traded, because it contains elements of Gharar, Dharar, and Qimar. So that it does not meet the requirements of Sil'ah according to the Shari'a, namely; must have a physical form, a value that must be known for certain, have property rights so that they can be handed over to the buyer.
3. Cryptocurrency as a commodity/asset that fulfills the requirements as a sil'ah and has an underlying and has clear legal benefits to be traded.

So by looking at some of the phenomena from social turmoil in society, the writer feels that it is necessary to write about "Use of Cryptocurrency Based on the Provisions of Sharia Economic Law" with this paper, the writer hopes to be able to make a scientific contribution to society so that there is no confusion and commotion about the use of cryptocurrency.

## **2. Research Method**

The research used in this writing is a type of normative juridical research, namely by looking at and then analyzing the problems in this research with reference to the applicable laws and regulations as well as legal norms or principles. The main discussion in this study is the legal aspects of sharia economics regarding the use of cryptocurrency, then a study is carried out based on the provisions of Law Number 7 of 20011 concerning Currency and combined with the concept of money in the economy. The data sources in this study include primary legal materials, namely Law Number 7 of 20011 Concerning Currency, Regulation of the Indonesian Minister of Trade number 99 of 2018 Concerning General Policy for Organizing Crypto Asset Futures Trading, as well as several fatwas of scholars regarding money, secondary legal materials in This research is the result of the publication of journals, books, and research results that are relevant to the legal aspects of cryptocurrency use.

## **3. Results and Discussion**

### **a) Cryptocurrencies and Their Uses**

Cryptocurrency is the effect of technological developments in the economic field in the industrial revolution 4.0, in the sense that cryptocurrency consists of two words namely "cryptography" which means

secret code and "currency" which means currency, and in its use for cryptocurrency transactions must use the internet network as a link in this transaction for both parties because the hallmark of this cryptocurrency is digital currency, the transaction is carried out virtually. (Disemadi & Delvin, 2021).

At the beginning of the discovery of cryptocurrency, originally discovered by David Chaum from the University of California, he first published his discovery by introducing a method of payment using cryptography with the advantage of being able to maintain the confidentiality of the owner. Then following the development of his discovery, David Chaum founded a company called DigiCash, by offering two virtual currency products, namely a type of virtual currency that functions as a means of payment and centralized management by an institution or company that is legally recognized. This first product now works like electronic money or E-Money as used on credit cards at banks or Gopay, Shoopepay and others whose value in money is based on standard rupiah currency in Indonesia. Next is a type of virtual currency that uses cryptographic technology which in its use is not centralized or managed by an institution in the country. This type of virtual currency is known as Cryptocurrency. (Ferry Mulyanto, 2015).

However, at the beginning of the development of cryptocurrency, at that time it was not very warmly welcomed and was not developing rapidly due to the lack of availability of technology, only then in 2008 an engineer from Wangshinton University introduced B-Money. Only then did someone with the pseudonym Satoshi Nakamoto appear who introduced Bitcoin Cryptocurrency which stated that cryptocurrency transactions use a peer-to-peer electronic system. Nakamoto launched the world's first Cryptocurrency called Bitcoin with a total of 21,000,000 BTC coins in circulation and will not reduce or increase that amount with the aim of maintaining the value of the bitcoin type cryptocurrency.

This then became a lively conversation and was welcomed by the world community, the crucial thing that made cryptocurrency crowded at that time was due to the world financial crisis that occurred in 2008 due to Bear Stearns and Lehman Brother being declared bankrupt. Bear Stearns is a global-level investment bank and also a securities trading company based in New York, while Lehman Brothers is the fourth largest investment bank in America engaged in investment, sale and trading of stocks and bonds which were later declared bankrupt too, this was the largest bankruptcy in America, triggering a financial crisis that was felt throughout the world, so after this event cryptocurrency became popular and was well received throughout the world. Because the

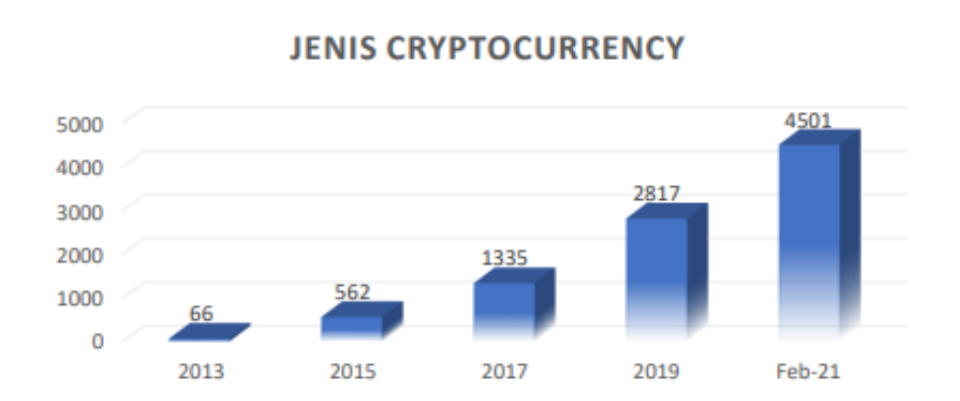
emergence of Cryptocurrency Bitcon was based on a response to financial institutions that often privatize the advantages and disadvantages that are socialized, Another impetus from the birth of cryptocurrency was based on the need to create a system that allows work quickly and cheaply, as well as transactions of trusted third party intermediaries such as Banks. In addition, there are also many scholars, enthusiasts and futurists who regard Bitcoin as a valuable alternative currency. (Nuryanto & Pramudianto, 2021).



















Over time, cryptocurrency has developed so rapidly from time to time, this is also thanks to technological developments in each country, because cryptocurrency use requires an internet network as well as advantages in that cryptocurrency users are considered practical when transacting. In addition, cryptocurrencies can also connect users around the world as long as both parties have cryptocurrency supplies in the transaction. Because cryptocurrency is not centralized by an institution or company, this is also an advantage for its users because it creates an economic system that is free all over the world and has no intermediaries in the transaction process, different from the country's currency which makes banks as intermediaries or companies that are recognized as intermediary.

In its use, cryptocurrency has two functions, namely as a digital asset as well as digital money. Ownership of crypto assets themselves is regulated by a centralized registry, namely Blockchain. In managing blockchain using a global computer network called Minners, this record is open so that everyone can know and use it when owning these digital currency assets. A cryptocurrency user or owner must have a wallet in their software, this is called a Wallet, which can only be accessed by the owner through a secret password. This aims to store their crypto safely and can only be accessed by the owner, because someone outside the user will be rejected by Minners when trying to access without a password from the owner.

In its circulation, cryptocurrency has many and varied types throughout the world which continue to experience development from time to time, this development began with 66 types in 2013, then increased to 562 types in 2015, increased to 1,335 types in 2017, then increased to 2,817 types in 2019 and finally to 4,501 species in February 2020.

Sumber : Databox 2021



No	Logo	Nama Crypto	Jumlah Koin Tersedia	No	Logo	Nama Crypto	Jumlah Koin Tersedia
1		Bitcoin	21 Juta	16		Litecoin	84 Juta
2		Ethereum	117,613 Juta	17		Bitcoin Cash	21 Juta
3		HEX	633,543 M	18		Algorand	10 M
4		Tether	71,366 M	19		Wrapped Bitcoin	206,421 Ribu
5		Cardano	45 M	20		Filecoin	108,701 Juta
6		Binance Coin	168,137 Juta	21		Internet Computer	469,214 Juta
7		XRP	100 M	22		Polygon	10 M
8		Solana	504,506 Juta	23		Cosmos	279,499 Juta
9		USD Coin	29.42 M	24		Stellar	50,002 M

However, even though from time to time cryptocurrency has developed rapidly and has various kinds and types that are spread and used throughout the world, this is a serious concern for the government, the Indonesian government through the Commodity Futures Trading Supervisory Agency made regulations for types of cryptocurrencies that are can circulate in Indonesia, the regulation only allows 229 types of Cryptocurrency that can circulate in Indonesia, by looking at the risks from small to high to its users. (Nuryanto & Pramudianto, 2021).

The following are examples of the types of cryptocurrencies that are popular in Indonesia As previously explained the use of cryptocurrency in transactions :

Peer-to-peer electronics that connects both parties using a network and internet stuff and it's recorded in a blockchain. But also here the author will explain easily and clearly how cryptocurrency works, namely using computational practices by replacing plain text as encoded data to provide secure communication for its users and each type of cryptocurrency has its own electronic payment network available on The digital ledger claimed using the blockchain, the blockchain then records all transactions for every cryptocurrency that occurs and stores them in an encoded block, in this process using complex mathematics so that it can ensure that no one can update, delete and break every transaction that is stored. The network is managed by users, known as “miners”, who perform complex algorithms and verify incoming transactions. This means that cryptocurrencies are decentralized for which no absolute authority (eg government or central bank) is in charge. (Sihombing et al., 2021). After knowing the working concept of cryptocurrency, then the author will also explain the basic

concept of Blockchain which was mentioned earlier which functions as a book that records transactions from cryptocurrency. The blockchain concept can be described as a ledger that is useful for recording every transaction and tracking assets in an available business network. Information from this blockchain runs with encrypted data to implement, identify, authenticate, and authorize access to information, so the purpose of this is to generate a sense of trust and integrity for users. Because blockchain is a tool created to comply with data integrity, in terms of completeness, correctness, and freedom from contradictions, in a distributed software system, a network system or distributed software consists of a number of independent computer devices that work with each other in transactions. without having a centralized network or computer so that it can control or monitor these transactions so as to minimize the risk of fraud. So that later a company will use a decentralized system, in this system a user must have three proofs of ownership, namely; a. owner identification b. identification of owned objects, c. owner mapping with correspondent objects. and later the evidence is stored in the book. Blockchain technology has several types as follows :

1. Public Blockchain, is a blockchain that is not controlled or managed by institutions, companies or individuals so that it can be accessed by anyone.
2. Private Blockchain, is a blockchain that is used to facilitate private transactions in a group so that its use is limited to that group or someone who gets an invitation from that group.
3. Consortium Blockchain, is a combination of public and private, so there is no single group that is responsible for managing or controlling the network, so the controller or manager and those who are responsible are determined in advance, which is called a Node. So after that the node determines who can be part of the network and becomes a miner. (Diasca et al., 2021).

### **The concept of money in Islamic economics and the difference with conventional economics**

In the conventional economic view it is interpreted as it should be, namely as a means of payment or a medium of exchange, but in addition to that function, money also has a derivation function, namely as a medium of exchange or payment, store of value, payment standards at different times, units of calculating value. Also in other conventional economic theories mentions the theory of the evolution of money which makes commodity money, representative money and fiat money. (Fachri et al., 2020) Even though these have some similarities, there are slight differences in the concept of fiqh, the term currency is known as nuqud . As a currency, money cannot be a commodity at the same time, because fiqh laws have different rules between commodities and currencies. Money will not be used as an investment object because money is a means of payment. (Rizqi Febriandika & Sukmana, 2019).

In the history of the development of Islam, money has existed since the time of the Prophet, but the money used at that time was Dinnar, which was made of gold and Dirham, which was made of silver. in the era of khalifa before the emergence of modern conventional economic concepts, but this was the forerunner of the concept of money in Islam. (Ichsan, 2020).

The application of the Islamic economic system at the time of Islamic development by using dirhams and dinars whose units are calculated on the basis of gold and silver so that the value of the currency is stable so that there is no monopoly on the value of the currency nor is there inflation on the currency. This is also explained in the Hadith, which means :

Also in the hadith narrated by Imam Bukhari which means

"Ali bin Abdullah told us, Sufyan told us, Syabib bin Gharqadah told us, he said 'I heard the people tell about 'Urwah, that the Prophet SAW. gave him one dinar to buy a goat for him. Then with the money he bought two goats, then he sold one for one dinar. He returned with a dinar and a goat. Prophet SAW. pray for him with blessings in buying and selling. If 'Urwah had bought dust, he would have been lucky.'" (HR Bukhari)

So these two legal bases became the basis for the use of currency in the practice of buying and selling using dinars during the development of Islam at the time of Rasulullah SAW. (Muhammad Iqbal, 2012).

In this article, Imam Al-Ghazali saw that there were many problems in the economic system. At that time, the only thing was about the barter system used by people who used goods that were no longer appropriate to the context of the time, therefore problems in the system had to be resolved, therefore the question arose to him that whether this problem could be overcome by making currency, then what material was the currency made of, what material was the money made of so that it would last a long time, and who would make the money. (Guntoro & Thamrin, 2021).

- a. Money as *Qiwam al-Dunya* is something that is useful for assessing and being a comparison of value with other things.
- b. *Mutawasith* judges, namely money can be used as a standard or a tool to determine different goods.
- c. *Al-Muawidilah*, namely money as a means of exchanging goods in buying and selling activities or transactions. (Aswad, 2021)

Therefore the concept of finance in Imam Al-Ghazali's thought has its own distinctive style which is reflected in his *tasawwuf* scholarship, this concept of money combines philosophical meaning and real conditions that occur from the social turmoil that occurred at that time giving rise to a rational and transparent financial concept. without monopoly. (Aswad, 2021).



So then the thing that becomes the similarities and differences in the perspective of money in the Islamic economic system and conventional economics is that the equation is the same as making money as;

- a. Money is used as a medium of exchange
- b. used as a unit of value.

But what is the fundamental difference in the conventional economic system is that the function of money increases as a store of value which then develops into a trading commodity. Imam Al-Ghazali argues that trading money is the same as imprisoning the nature and function of money, because if more and more money is traded, the money in circulation will not be able to function as money, so trading money can trigger usury. (Fachri et al., 2020).

### **Views of Islamic Law on the Use of Cryptocurrency in Indonesia**

In Indonesia the use of currency has been regulated in Law Number 7 of 2011 concerning Currency in this provision it is stated that money is a symbol of state sovereignty, and the currency that is legally recognized in Indonesia is Rupiah, and the use of Rupiah applies throughout all regions. in Indonesia. (M. Najbur, 2021) then with an understanding based on these legal provisions it is legally aborted that Cryptocurrency is used as currency in Indonesia is prohibited and has no legal basis

However, this does not make cryptocurrency users in Indonesia experience a decrease or decrease, in fact cryptocurrency users in Indonesia are increasing and increasing from time to time. The government then took steps to make clear regulations regarding the existence or existence of cryptocurrencies in Indonesia. So through the Commodity Futures Trading Regulatory Agency (BAPPEBTI) Number 5 of 2019 concerning Technical Provisions for Organizing a Physical Crypto Asset Market on the Futures Exchange and Regulation of the Indonesian Minister of Trade Number 99 of 2018 concerning General Policy for Organizing Crypto Asset Futures Trading (Crypto Asset) This provision emphasizes that the use of cryptocurrency in Indonesia is legally recognized as a commodity asset that can be traded on the futures exchange market. (M. Najbur, 2021).

But then this makes the debate in Islamic economic law the existence or existence of cryptocurrency either as a currency or as a commodity asset to be haram or halal in its use. So then the Chairman of the MUI Da'wah Commission, KH. Cholil Nafis put forward his statement about Bitcoin which is a type of cryptocurrency, that according to him the law of bitcoin is permissible if used as a medium of exchange for those who use it, but it will be illegal if it is used as an investment, because bitcoin is only as a means of speculation, a game of profit and loss, not like a profitable business. (Elsha Aulia, 2020).

As time went on, this statement was deemed not to be of much concern to the public because the MUI as an official institution had not issued an official fatwa regarding the use of cryptocurrency, so after that the Indonesian Ulema Council issued an official fatwa regarding the use of cryptocurrency for Muslims in Indonesia, quoted from the official MUI website Digital on November 21 2021, the results of the 7th Indonesian Ulema Council Fatwa Commission which was

held on November 9-11 in Jakarta, the results of the ijtima put forward three fatwas regarding Cryptocurrency namely :

1. The use of cryptocurrency in the form of currency is illegal, because it contains elements of Gharar and Dharar. Cryptocurrency also conflicts with Law Number 7 of 2011 and Bank Indonesia Regulation Number 17 of 2015 when presented as currency.
2. The use of cryptocurrency as a digital asset is illegal when it is traded, because it contains elements of Gharar, Dharar, and Qimar. So that it does not meet the requirements of Sil'ah according to the Shari'a, namely; must have a physical form, a value that must be known for certain, have property rights so that they can be handed over to the buyer.
3. Cryptocurrency as a commodity/asset that fulfills the requirements as a sil'ah and has an underlying and has clear legal benefits to be traded

So based on the fatwa, it can be concluded that the elements that forbid the use of cryptocurrency are because there are elements of gharar, dharar and qimar. Gharar, according to fiqh experts, is a trait in muamalah that causes some of the ruku to be uncertain or called Mastur al-aqibah so that this is forbidden in the Shari'a. (Azizah & Irfan, 2020) Dharar is an element that is detrimental or harmful in fiqh rules called La darar wa la dirar meaning don't harm yourself and don't harm other people either. (Rachmad Risqy K, Ph & Ashfiya, 2021) Qimar or maysir is etymologically called easy, but in terms of Islamic law it means gambling. (Azizah & Irfan, 2020).

These elements, as previously explained by the author, are contained in the elements contained in cryptocurrency, the gharar element, which means that there is no certainty in cryptocurrency, namely in its creation, cryptocurrency was first created by Satoshi Nakamoto, but after that the original identity of the creator of this cryptocurrency was never known for certain. it is clear that this is causing an element of gharar, then cryptocurrency users use a network called peer-to-peer which is not centralized by an institution resulting in unmanaged transactions so that they become prone to hacking, in terms of currency, the value of this cryptocurrency is unstable so that the increase or decrease in the value of this currency cannot be known clearly, also in the form of cryptocurrency does not have a physical form like the money used, and when referring to the provisions of the cryptocurrency legislation not legally recognized, these are the things that make the element of gharar attached to cryptocurrency. Elements of harm or harm in cryptocurrency include, in that cryptocurrency users are vulnerable to hacking, fraud and so on because they use the internet network in their use and are not centralized by institutions that are legally recognized. and in terms of its value, cryptocurrency cannot be measured with certainty because its value sometimes drops drastically, sometimes it rises drastically, either as a currency or as a digital asset, so this causes the dharar element in cryptocurrency. (E-issn et al., 2022) The Qimar element or Maysir in Cryptocurrency, qimar or

maysir means gambling so that the element of qimar in the use of cryptocurrency is that in its use cryptocurrency does not have a physical form so it is used to become a betting arena because cryptocurrency can be used as a digital asset whose value has no certainty. value because it often increases and decreases suddenly.

#### **4. Conclusion**

By looking at the legal provisions, theories, facts and fatwas that have been described, the authors can argue that cryptocurrency in its use has two functions, namely the function as a currency and as a commodity asset in digital form, but in its use in Indonesia cryptocurrency as a currency is not recognized legally. valid because it contradicts Law Number 7 of 2011 Concerning Currency but in fact its use as a commodity asset is recognized under the regulation of the Commodity Futures Trading Regulatory Agency (BAPPEBTI) Number 5 of 2019 concerning Technical Provisions for Organizing the Physical Market for Crypto Assets (Crypto Asset) on the Exchange Futures and Regulation of the Minister of Trade of Indonesia Number 99 of 2018 concerning the General Policy for Organizing Crypto Asset Futures Trading. However, when looking at it from a sharia economic point of view, the use of cryptocurrency is illegal both as digital currency and as a digital asset, cryptocurrency as a currency in the Islamic concept is very contradictory because it has no physical form, its value is unstable, and money is only used as a medium of exchange. transaction is not as an investment tool or as an object that can be traded. This is then in line with the fatwa stipulated by the Indonesian Ulema Council which states that cryptocurrency is illegal because it is contrary to the laws and regulations in force in Indonesia and cryptocurrency contains elements that are illegal according to the Shari'a, namely, gharar (uncertain) elements. dharar (harm) and qimara or maysir (gambling) then this element then makes cryptocurrency haram, so that the question that arises in the community about whether the use of cryptocurrency is haram or halal can then be answered clearly through this paper.

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## **Legislation**

- Undang-Undang Nomor 7 Tahun 2011 Tentang Mata Uang
- Peraturan Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI) Nomor 5 Tahun 2019 tentang Ketentuan Teknis Penyelenggaraan Pasar Fisik Aset Kripto (Crypto Asset) di Bursa Berjangka
- Peraturan Menteri Perdagangan Indonesia Nomor 99 Tahun 2018 tentang

Kebijakan Umum Penyelenggaraan Perdagangan Berjangka Aset Kripto  
(Crypto Asset).

**Fatwa**

Fatwa DSN-MUI No.116 Tahun 2017 tentang uang elektronik syariah