

Digitalization of Islamic Finance: Epistemological Study of the National Sharia Board-Indonesian Council of Ulama's Fatwa

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Abstract

The dynamic and rapid development of digital business and finance requires progressive Sharia legal certainty. National Sharia Board-Indonesian Council of Ulama (Dewan Syariah Nasional – Majelis Ulama Indonesia/DSN-MUI) has issued several fatwas related to digital finance. This research aims to examine the portrait of DSN-MUI's progressiveness towards the digital finance paradigm and aspects of Islamic legal epistemology in the DSN-MUI Fatwa in digital finance. This research uses a qualitative approach. The primary data for this research are the DSN-MUI fatwas up to 2021 with a digital theme, plus secondary data in the form of relevant literature that was analyzed by content analysis techniques. The findings show there are three DSN-MUI fatwas regarding digital finance in Sharia financial institutions, namely Fatwa No. 116/DSN-MUI/IX/2017, 117/DSN-MUI/II/2018, and 140/DSN-MUI/VIII/2021. These three fatwas constitute progressive Islamic business law and are important for the Sharia financial industry in Indonesia. DSN-MUI used the *ta'lili* and *isti'slahi* methods with the consideration that electronic money, digital-based financing, and crowdfunding are permissible (*mubah*) based on sharia principles to achieve benefit. These three DSN-MUI fatwas need to be transformed into Otoritas Jasa Keuangan (OJK) regulations and can become a source for making derivative fatwas.

Keywords: digitalization; Islamic finance; Islamic law; the DSN-MUI fatwa



Perkembangan bisnis dan keuangan digital yang dinamis dan pesat membutuhkan kepastian hukum syariah yang progresif. Dewan Syariah Nasional – Majelis Ulama Indonesia (DSN-MUI) telah menetapkan beberapa fatwa terkait keuangan digital. Penelitian ini bertujuan untuk menelaah potret progresifitas DSN-MUI terhadap paradigma keuangan digital, dan aspek epistemologi hukum Islam dalam fatwa DSN-MUI tentang keuangan digital. Penelitian ini menggunakan pendekatan kualitatif. Data primer penelitian ini adalah fatwa-fatwa DSN-MUI hingga tahun 2021 tentang keuangan digital, dan data sekunder berupa literatur yang relevan, yang dianalisis dengan teknik content analysis. Temuannya yaitu ada tiga fatwa DSN-MUI mengenai keuangan digital pada lembaga keuangan Syariah, yaitu Fatwa No. 116/DSN-MUI/IX/2017, 117/DSN-MUI/II/2018, dan 140/DSN-MUI/VIII/2021. Ketiga fatwa ini merupakan hukum bisnis Islam yang progresif dan penting untuk industri keuangan syariah di Indonesia. DSN-MUI menggunakan metode *ta'lili* dan *isti'slahi* dengan pertimbangan bahwa uang elektronik, pembiayaan dan *crowdfunding* yang berbasis digital adalah boleh (*mubah*) berdasarkan prinsip-prinsip syariah untuk mencapai kemaslahatan. Ketiga fatwa DSN-MUI ini perlu ditransformasikan menjadi peraturan Otoritas Jasa Keuangan (OJK) dan dapat menjadi sumber pembuatan fatwa derivatif.

Kata Kunci: digitalisasi; keuangan syariah; hukum Islam; fatwa DSN-MUI

Introduction

The digital era is a manifestation of changes in modern human civilization that demands time, cost, and energy efficiency in various aspects of life, along with the development and advancement of information and communication technology.¹ In this case, the economic and corporate sectors are heavily involved in the digital era through the internet as their primary tool. From a business perspective, digitization is key to improving customer relationships and business processes and creating and adapting new business models. A large number of internet users have reacted to this opportunity, especially Indonesia, which has been ranked 4th in the world by the end of 2021. The internet penetration rate in Indonesia reached 69.8% in 2020 and is estimated to reach 82.53% in 2026.² In the banking sector, digital banking developed so far includes ATM, internet, mobile, video, phone, and SMS banking. Several banks have also introduced branchless banking services, especially for the unbanked population.³ The digital era also affects the trend of using electronic money, which is now rife in society, ranging from card-based to server-based electronic money.⁴

All the descriptions of the revolution above are aspects of *mu'āmalah* that are relatively new (contemporary) in the field of Islamic law and, of course, have become a challenge in the formation and renewal of Islamic law in Indonesia. In this case, determining good and evil requires a philosophical approach using epistemological reasoning to conform to Islamic business principles. One of the epistemological foundations of the construction of Islamic law is a benefit.⁵

¹ Irfan Nurfalah and Aam Slamet Rusydiana, "Digitalisasi Keuangan Syariah menuju Keuangan Inklusif: Kerangka Maqashid Syariah," *Eksposisi: Jurnal Ekonomi, Keuangan, Perbankan dan Akuntansi* 11, no. 1 (2019): 55–76, <https://doi.org/10.35313/ekspansi.v11i1.1205>.

² Gilang Akbar Prambadi, "Dunia Digital Indonesia Dinilai Kian Mengilap pada 2022," *Republika*, November 30, 2021, <https://tekno.republika.co.id/berita/r3d28j456/dunia-digital-indonesia-dinilai-kian-mengilap-pada-2022?>

³ Abdus Salam Dz., "Inklusi Keuangan Perbankan Syariah Berbasis Digital-Banking: Optimalisasi dan Tantangan," *Al-Amwal: Jurnal Ekonomi dan Perbankan Syaria'ah* 10, no. 1 (2018): 63–80, <https://doi.org/10.24235/amwal.v10i1.2813>.

⁴ Yohana Artha Uly and Yoga Sukmana, "Melonjak 61,8 Persen, Transaksi Uang Elektronik Capai Rp 31,3 Triliun," *Kompas.com*, December 16, 2021, <https://money.kompas.com/read/2021/12/16/172015626/melonjak-618-persen-transaksi-uang-elektronik-capai-rp-313-triliun>.

⁵ Sarifudin Sarifudin, "Hukum Islam Progresif: Tawaran Teori Maslahat at-Thufi sebagai Epistemologi untuk Pembangunan Hukum Nasional di Indonesia," *Jurnal Wawasan Yuridika* 3, no. 2 (2019): 135–54, <https://doi.org/10.25072/jwvy.v3i2.269>.

Because the purpose of Islamic law is to benefit human life, Islamic law must be able to follow developments and changes in society and understand contemporary issues.

Several countries, including Malaysia and Indonesia, have carried out progressive *ijtihad* towards the digital era in Islamic business law. The Sharia Advisory Council of Bank Negara Malaysia (MPS-BNM) has issued guidelines for “e-Money as a Shariah Compliant Instrument” in 2020 by the provisions of Article 28 (1) and (2), Deed of Service of Islamic Finance 2013.⁶ Meanwhile, international-scale fatwa institutions such as the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) have not issued fatwa or sharia standards related to electronic money.⁷

As for Indonesia, the National Sharia Board-Indonesian Council of Ulama (Dewan Syariah Nasional–Majelis Ulama Indonesia) —after this, referred to as DSN-MUI— has issued fatwas relating to electronic money, information and technology-based payment transactions. Under the establishment of the DSN-MUI, namely realizing the aspirations of Muslims regarding economic issues and encouraging the application of Islamic teachings in the economic/finance sector according to the guidance of Islamic law. To promote the application of Islamic law in economic and financial life, DSN-MUI must be proactive in responding to dynamic and rapid developments in the economic and financial sector.⁸

Studies on progressive Islamic law, or progressive *fiqh*, have been carried out by previous researchers. These include Maulidi, who studied the progressive paradigm and *maqāṣid al-sharī'ah* as a new *manhaj* in finding responsive law,⁹ and Anshori, who studied Jaser Auda’s thoughts regarding *maqāṣid al-sharī'ah* as a methodological system in modern *fiqh* towards

⁶ Wan Nurliza W. Ramli et al., “The Application of E-Wallet In Malaysia: An Analysis of Shariah Point of View,” *Al-Qanatir: International Journal of Islamic Studies* 23, no. 2 (2021): 44–54, <https://al-qanatir.com/aq/article/view/357>; Cucu Susilawati et al., “Comparative Study on the Regulation of Sharia Financial Technology in Indonesia and Malaysia,” *Jurisdictie: Jurnal Hukum dan Syariah* 12, no. 1 (2021).

⁷ AAOIFI, *Shari'ah Standard* (Bahrain: AAOIFI, 2017).

⁸ See <https://dsnmu.or.id/kategori/fatwa/>

⁹ Maulidi Maulidi, “Paradigma Progresif dan Maqashid Syariah: Manhaj Baru Menemukan Hukum Responsif,” *Asy-Syir'ah: Jurnal Ilmu Syariah dan Hukum* 49, no. 2 (2015), <https://doi.org/10.14421/ajish.v49i2.141>.

progressive fiqh.¹⁰ Elfrinadi's writing also touches on legal progressiveness as a methodological reconstruction in the *ijtihād* to renew Islamic law.¹¹

With the increasingly rapid digitalization of finance and business, the concept of progressive Islamic legal epistemology is very relevant and important to continuously study for the sustainability of its implementation in fatwa institutions such as the DSN-MUI, which has the function and role of determining the provisions of contemporary *fiqh mu'āmalah māliyyah* in Indonesia. Izmudin has researched 116 fatwas issued by DSN-MUI from 2000 to 2017 and found that the DSN-MUI fatwa methodology model in responding to the problems of Muslims in Indonesia related to the economy is unique, namely by means of *mutawassīṭah* (moderation) between the *mutasāhil* method (liberal) and *mutashaddid* (textualist) methods.¹² Fachrunnas found several fatwas that experienced disputes among ulama and Islamic fatwa institutions, which affected the performance of sharia financial products.¹³ As for research on Sharia digital finance, Sahabuddin et al. examine the Islamic financial perspective (general opinion of scholars) regarding the presence of fintech (blockchain and bitcoin) in the digital-based financial industry.¹⁴ Meanwhile, comparative research on Sharia digital financial law in Indonesia and Malaysia includes Darma,¹⁵ Noh and Fidhayanti,¹⁶ and Susilawati.¹⁷

¹⁰ Teguh Anshori, "Menuju Fiqih Progresif (Fiqh Modern Berdasarkan Maqashid al Syariah Perspektif Jaser Auda)," *Al-Syakhsyiyah: Journal of Law & Family Studies* 2, no. 1 (2020): 168–81, <https://doi.org/10.21154/syakhsyiyah.v2i1.2166>.

¹¹ Efrinaldi Efrinaldi, "Usul Fikih: Rekonstruksi Metodologis dalam Dinamika Hukum Islam," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 5, no. 2 (2019): 109–18, <https://doi.org/10.29300/mzn.v5i2.1440>.

¹² Iiz Izmuddin, "Fatwa Methodology of National Sharia Board of Indonesian Ulama Council in Islamic Economics," *Miqot: Jurnal Ilmu-Ilmu Keislaman* 42, no. 1 (2018): 43–58, <https://doi.org/10.30821/miqot.v42i1.499>.

¹³ Faaza Fakhrunnas, "Fatwa on the Islamic Law Transaction and Its Role in the Islamic Finance Ecosystem," *Al Tijarah* 4, no. 1 (2018): 42–53, <https://doi.org/10.21111/tjarah.v4i1.2372>.

¹⁴ Mohammad Sahabuddin et al., "Digitalization, Innovation and Sustainable Development: An Evidence of Islamic Finance Perspective," *International Journal of Asian Social Science* 9, no. 12 (2019): 651–56, <https://doi.org/10.18488/journal.1.2019.912.651.656>.

¹⁵ Satria Darma, "Peran Pemerintah Indonesia dan Malaysia dalam Mendukung Implementasi Teknologi Keuangan Islam pada Aspek Regulasi," *Jurnal Ekonomi & Ekonomi Syariah* 5, no. 2 (2022): 2185–98, <https://doi.org/https://doi.org/10.36778/jesya.v5i2.814>.

¹⁶ Mohd Shahid bin Moch Noh and Dwi Fidhayanti, "Riba and Gharar on Digital Payment Applications: Comparison between Malaysia and Indonesia," *Jurisdictie: Jurnal Hukum dan Syariah* 13, no. 1 (2022): 40–62, <https://doi.org/10.18860/j.v13i1.16131>.

Some research above has not specifically discussed the progressive Islamic legal paradigm regarding the DSN-MUI fatwa regarding digital finance. This study explores the content of DSN-MUI's fatwa regarding the digital finance paradigm and the epistemological aspects of Islamic law in the digital-themed DSN-MUI Fatwa. This study uses a qualitative approach. The primary data are the fatwas of the MUI DSN until 2021 with a digital theme, plus secondary data in the form of books and journals on the methodology of legal findings in Islamic law, Sharia economic law, and the digital era. Data were analyzed using content analysis techniques on the contents of the fatwas of DSN-MUI with the theme of digital business. This content analysis method uses three stages: first, describing the content of the message in the form of existing thoughts from the character being studied, namely the legal provisions in the DSN-MUI fatwa with the theme of the digital era. Second, checking the background in the form of values, attitudes, motives, and problems so that the DSN-MUI makes fatwas related to digital-based Islamic business. Third, examine the impact or implications of message content on the development of Islamic business law in Indonesia.¹⁸ After conducting the analysis, the authors make conclusions from the research results.

The Digital Era and the Flexibility of Islamic Law

Social change is necessary, along with the development and complexity of the needs of human life. Islam is recognized as a universal religion (QS. al-Aḥzāb: 40, Saba': 28, and al-Anbiyā': 107), flexible, and dynamic, which is identified through its legal products, both Sharia and fiqh in answering all the problems of human life. According to Ash Shiddieqy, Islamic law has the characteristics of takaful (whole), *wasatīyah* (balanced, harmonious), and *ḥarakah* (dynamic), which are always present based on *maqāṣid al-sharī'ah* as its philosophy by paying attention to the principles of Islamic law contained therein.¹⁹ Interpreting Islamic law sources must update Islamic law, considering the needs, current circumstances, and situations as a paradigm.²⁰ Islamic Sharia, which is always

¹⁷ Susilawati et al, "Comparative Study on the Regulation of Sharia Financial Technology in Indonesia and Malaysia."

¹⁸ Morris Janowitz, "Harold D. Lasswell's Contribution to Content Analysis," *The Public Opinion Quarterly* 32, no. 4 (1969): 646-53.

¹⁹ M. Hasbi Ash-Shiddieqy, *Falsafah Hukum Islam* (Jakarta: Bulan Bintang, 1975), 91-104.

²⁰ I. Izomiddin, *Pemikiran dan Filsafat Hukum Islam* (Jakarta: Kencana, 2018), 60.

consistent with its principles, will be able to respond to the development and progress of the times, especially in this digital era.

Soekanto argues that community change can occur without being attempted, desired, or planned by humans (unintended change/unplanned change) or through human efforts (planned change) as agents of change.²¹ Internal and external factors influence social change. Internal factors include changes in population, discoveries, and internal societal conflicts, while external factors include natural disasters and seasonal changes.²² Khaeruman concludes that three factors drive social change: population, environment, and technology.²³

Social changes that include politics, economy, and culture can affect the form and evolution of law. The object of law is an act of human behavior that naturally will continue to change according to the culture and knowledge surrounding it. For this reason, the law will also change from time to time. Dynamic changes in the law, indicate that the law is living (living law), so according to its context, it provides solutions and answers to all social problems for which the law is unclear.²⁴ In the science of *uṣūl al-fiqh*, there is even an adage that becomes the rule for changing the law. Ibn Qayyim al Jauziyyah, in his book *I'lām al-Muwaqqi'in* discusses the issue of changing this law by mentioning the limitations of *uṣūl*, which read: "Changes and differences in fatwas according to changes in times, places, circumstances, intentions, and customs habit."²⁵ Al-Jaizānī, in his book *Ma'ālim Uṣūl al-Fiqh 'ind Ahl al-Sunnah wa al-Jamā'ah*, also mentions almost the same rules, but there are slight differences by not including "customs," but which is the last factor is "wisdom".²⁶ This rule has become a philosophical, juridical, and sociological basis for mujtahids to find new laws and fill legal voids by constructing Islamic law through a series of agreed legal *istinbāt* methods.

²¹ Soerjono Soekanto, *Sosiologi Suatu Pengantar* (Jakarta: RajaGrafindo Persada, 2006), 281–282.

²² Soekanto, 352.

²³ Badri Khaeruman, *Hukum Islam dalam Perubahan Sosial* (Bandung: Pustaka Setia, 2010), 33–34.

²⁴ Maulidi, "Paradigma Progresif dan Maqashid Syariah: Manhaj Baru Menemukan Hukum Responsif"

²⁵ Muḥammad bin Abū Bakr bin al-Qayyim al-Jauziyyah, *I'lām al-Muwaqqi'in 'an Rabb al-Ālamīn*, 3rd ed. (Cairo: Maktabah al-Kulliyāt al-Azhariyah, 1968), 2.

²⁶ Muḥammad bin Ḥusain bin Ḥasan al-Jaizānī, *Ma'ālim Uṣūl al-Fiqh 'ind Ahl al-Sunnah wa al-Jamā'ah* (Cairo: Dār Ibn al-Jauzī, 2006), 547.

The purpose of combining classical and contemporary Islamic law methodologies in the field of madhhab theory is to respond to social changes, including the impact of the digital era on business and the Islamic financial system. The classical Ulama methodology focuses on the literal interpretation of the Qur'an and al-Sunnah. In contrast, the newer (modern) methods are offered mainly by liberal religious groups (according to Hallaq, two groups provide new ways, namely, religious utilitarianism and religious liberalism). Contemporary Islamic legal methodology emphasizes the dialectical relationship between revealed texts (*naṣ*) and the reality of the modern world (*al-waqi'*). The relationship between the revealed texts and the reality of the contemporary world is established through interpreting the soul and the universal messages contained in the text, not their literal interpretation. *Naṣ* and *al-waqi'* are two areas that will lead to a comprehensive understanding if we can combine them. According to al-Shatibi, there are three styles of reading textual texts, namely *qirā'ah salafiyah*, *qirā'ah ta'wiliyyah*, and *qirā'ah maqāṣidiyyah*. As for the area of *al-waqi'*, to understand social phenomena, politics, etc., use several disciplines—sociology and anthropology. The scientific method is good enough to be the study commander in this area. Therefore, reading texts and the subsequent contextualization of social phenomena should not leave the scientific field with all the tools of the scientific method that exist in the realm of *al-waqi'*. Otherwise, the understanding of the text will be out of date, so it is not applicable.²⁷

In the context of developing methodological thinking toward 'modern scientific *ijtihād*' (the term used by Qodri A. Azizi), combine the two methodologies. The modern scientific *ijtihād* uses the *eclectic manhaji* or *manhaji* plus *scientific* method, as the implementation of *al-muḥafazah' ala al-qadīm al-ṣhāliḥ wa al-akhdh bi al-jadīd al-aṣḥlah*.²⁸ In its implementation, the combination of the two methods must meet the main prerequisites, namely making *al-maṣḥahah' āmmah* (general propriety) or *maqāṣid al-sharī'ah* as a

²⁷ Mahsun Mahsun, "Rekonstruksi Pemikiran Hukum Islam melalui Integrasi Metode Klasik dengan Metode Saintifik Modern," *Al-Ahkam* 1, no. 25 (2015): 1-18, <https://doi.org/10.21580/ahkam.2015.1.25.191>.

²⁸ A. Qadri A. Azizi, *Reformasi Bermazhab, Sebuah Ikhtiar menuju Ijtihad Saintifik Moder* (Jakarta: Teraju, 2003); Fauzi M, "Urgensi Ijtihad Saintifik dalam Menjawab Problematika Hukum Transaksi Kontemporer," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 13, no. 2 (2013): 1-21, <https://doi.org/10.30631/al-risalah.v13i02.408>.

determining consideration in exploring a law in its three main domains, namely *darūriyyah* (urgent needs), *hajjiyyah* (regular needs), and *taḥsīniyyah* (complementary needs).

The methodological approach as a science field is insufficient to characterize the legal status of social phenomena. It requires an approach to other scientific areas that can be integrated comprehensively. Regarding digital culture in business and economic activities, an epistemological aspect of Islamic economics is needed, which is currently influenced by three schools: the Bakir Sadr (*iqtiṣādunā*) school, the mainstream school, and the alternative-critical school. This Islamic economic epistemology uses deductive and inductive methods. An axiological point of view can study the difference between economics and *fiqh mu'āmalat*. Economics aims to help humans meet their needs.²⁹

The construction of Islamic law, both classical and contemporary, is generally carried out in a way that is divided into three patterns, namely: 1) *Bayānī* pattern (semantic study); 2) *Ta'līlī* pattern (determination of 'illat or legal factors); 3) *Istiṣlāḥī* pattern (consideration of the benefit or interests of the community). *Bayānī* pattern focuses more on language studies (semantics) in the form of grammatical interpretation, such as when a word means intrinsic or *majazī* (actually or figuratively). It is to know how to choose one of the meanings of the word *mushtarak* (which contains several meanings), and determine and choose verses that are *qaṭ'ī* (definite) and which verses are *ẓanni* (uncertain) and so on, which are discussed in the science of *uṣūl al-fiqh* in detail. The *ta'līlī* pattern is a pattern that focuses more on the study of determining 'illat (determination of legal factors that become legal anchors). Procedurally, it discusses ways to assess 'illat, conditions for 'illat, the use of 'illat in *qiyās*, and found a new 'illat in legal changes. The *istiṣlāḥī* pattern focuses more on the consideration of benefit, which means studies relating to new problems, not in the Qur'an and the Sunnah of the Prophet, which usually arise due to advances in science and technology. The application of the three patterns is carried out in stages and collaboratively. If the *bayānī* pattern is deemed insufficient to reach the legal objectives, use the *ta'līlī* pattern. Likewise, the *istiṣlāḥī* pattern will be used if the *bayānī* and *ta'līlī* patterns are used and considered not to meet the legal objectives.³⁰

²⁹ Agus Arwani, "Epistemologi Hukum Ekonomi Islam (Muamalah)," *Religia: Jurnal Ilmu-Ilmu Keislaman* 15, no. 1 (2012): 125–46.

³⁰ M. Cholil Nafis, *Teori Hukum Ekonomi Syariah* (Jakarta: UI Press, 2011), 44, 93.

Progressivity of DSN-MUI towards Digital Finance Paradigm

The current dynamic development of the times makes us unable to deny the existence of technological advances that led to the digital era. Digitization uses digital technology to create new business models and provide opportunities that generate value. Digitalization of the financial system and technology is an innovation of the digital financial system so that people can easily access financial products and services and weaken the barrier to entry.³¹ Digitalization requires all to move dynamically due to global competition with the competitiveness of financial products and services. Business people carry out various efforts to pamper consumers, users, or customers by making online business transaction innovations in e-commerce and e-payment applications with payment instruments in the form of card-based or server-based e-money.

According to data compiled by iPrice, 50 e-commerce companies have been operating in Indonesia since 2018. Until the third quarter of 2021, it is reduced to 39 e-commerce companies. There are ten e-commerce companies, including in the third quarter of 2021. They won in business competition based on average website visits from first place, namely Tokopedia, Shopee, Bukalapak, Lazada, Blibli, Orami, Ralali, Bhinneka, JD.ID, and Zalora.³² These data show that digital money and platforms for digital business and financial institutions have grown massively and will continue to grow more advanced.

These various innovative digital-based services are not impossible to create new problems for the parties involved in the electronic transaction, namely the principal (issuer and/or acquirer: bank and non-bank), issuer (bank or non-bank), acquirer (responsible for payments), holders, traders, clearing operators, and transaction final settlement operators. The issue in question concerns the validity of the law and the clarity of the responsibilities of each party. That is because Islamic law emphasizes the halal aspect and the limits of benefit and harm. According to the decree of the MUI National Sharia Council, No. 02 of 2000 concerning the basic guidelines for the DSN-MUI No. 01 of 2000 on the duties and authorities of DSN-MUI, the authority to provide legal clarity is the duty of the DSN-MUI as the only institution mandated by law to stipulate fatwas

³¹ Nurfalah and Rusydiana, "Digitalisasi Keuangan Syariah menuju Keuangan Inklusif: Kerangka Maqashid Syariah," 60–61.

³² "Peta E-Commerce Indonesia," accessed July 31, 2023, <https://iprice.co.id/insights/mapofecommerce/>.

on Islamic economics and finance for the public and Islamic Financial Institutions as the legal basis for operations. DSN-MUI Fatwa for Islamic financial institutions has four functions. *First*, as operational guidelines and products of Islamic financial institutions. *Second*, as a basis and reference for product development. *Third*, as a guideline for conforming to operational Sharia and sharia financial institution products. *Fourth*, as a basic guideline for DPS to oversee sharia compliance in supervised Islamic financial institutions.³³ The DSN-MUI fatwa is sought to minimize differences in sharia interpretations which can result in differences in the legal determination of a case.³⁴ Without a fatwa and *ijtihad*, Islamic law will seem static.³⁵ The era, with all its forms of *mu'amalah* develops dynamically with the emergence of new cases and problems that demand an answer and legal solution. Hence, the presence of the DSN-MUI fatwa is very urgent in responding to this.

Fatwa occupies an essential position in Islamic law because fatwas are opinions expressed by *fuqahā'* about the legal standing of a new problem in society. When new issues arise without strict legal provisions, both in the Qur'an, al-Sunnah, and *ijma'* and the opinions of previous *fuqahā'*, the fatwa is one of the normative institutions authorized to answer or determine the legal position.³⁶ In a legal opinion, the DSN-MUI fatwa is an essential part of the development of Sharia economics. Islamic values contained in sharia norms are confirmed in the fatwa. In terms of Sharia economics, the fatwa itself is determined by scholars who are considered to have qualified scientific authority in *fiqh mu'amalah māliyyah* and Islamic economics. In principle, the fatwa is not binding because fatwas are legal opinions. However, the DSN-MUI fatwa has critical power when it is established as the basis for verifying compliance with Sharia norms by law to create a Sharia financial ecosystem.³⁷

³³ Akhmad Faozan, "Pola dan Urgensi Positivisasi Fatwa-Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia tentang Perbankan Syariah di Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 10, no. 2 (2017): 309–21, <https://doi.org/10.24090/mnh.v10i2.941>.

³⁴ Nafis, *Teori Hukum Ekonomi Syariah*, 89–90.

³⁵ Ibnu Elmi Achmat Slamet Pelu and Jefry Tarantang, "Fatwa Majelis Ulama Indonesia sebagai Solusi Permasalahan Umat Islam di Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 2 (2020): 307–16, <https://doi.org/10.24090/mnh.v14i2.3927>.

³⁶ Doli Witro, Atang Abdul Hakim, and Koko Komaruddin, "Characteristics and Essence of Fatwas on Islamic Economic Law in Indonesia," *Ahkam: Jurnal Hukum Islam* 9, no. 1 (2021): 155–74, <https://doi.org/10.21274/ahkam.2021.9.1.155-174>.

³⁷ Fakhrunnas, "Fatwa on the Islamic Law Transaction and Its Role in the Islamic Finance Ecosystem"; Sofian Al Hakim, "Analytical Framework for Study the Fatwas of Sharia Economics," *Ahkam: Jurnal Ilmu Syariah* 19, no. 2 (2019): 315–30, <https://doi.org/10.15408/ajis.v19i2.12219>.

DSN-MUI was formed based on the Decree of the Leadership Council of the Indonesian Ulama Council No. Kep-754/MUI/II/1999, dated February 10, 1999, concerning the Establishment of the MUI National Sharia Council. Until 2021, 141 fatwas have been issued. Among all these fatwas, there are three fatwas with the theme of a digital-based Islamic financial system, see Table 1.

The first and second fatwas in Table 1 are determined based on a request for a fatwa submitted by an IT-based financial institution. Sharia electronic money fatwa is at the request of Veritra Sentosa International Limited Liability Company dated April 4, 2017, and Fatwa No. 117/DSN-MUI/II/2018 is a response to the request of Investree Radhika Jaya Limited Liability Company dated December 8, 2017, and Ammana Fintek Syariah Limited Liability Company dated February 6, 2018.

The third fatwa is the result of the DSN-MUI initiative, which held a meeting on May 2, 2021, and asked for a response from the Financial Services Authority (OJK) and the Indonesian Crowdfunding Service Association (ALUDI) until it was later determined on August 24, 2021.

The third fatwa is the fatwa on Sharia securities offering through information technology-based crowdfunding based on Sharia principles (Islamic Securities Crowdfunding). Securities Crowdfunding (SCF) is an offering of securities or securities by the issuer as a party that requires funding through information technology-based crowdfunding services organized by crowdfunding organizers.

Table 1
Digital-Based Financial System Fatwa

No.	Fatwa Number	Title of Fatwa
1	116/DSN-MUI/IX/2017	Sharia Electronic Money
2	117/DSN-MUI/II/2018	Information Technology-Based Financing Services-based on Sharia Principles
3	140/DSN-MUI/VIII/2021	Sharia Securities Offering through Information Technology-based Crowdfunding based on Sharia Principles (Islamic Securities Crowdfunding)

Source: DSN-MUI website <https://dsnemui.or.id/kategori/fatwa/>

directly to investors through an open electronic system network.³⁸ In simple terms, in the context of commercial transactions, SCF is a method of raising funds with a partnership scheme carried out by business owners to start or develop their business through specific online applications or platforms that SCF organizers run. This SCF activity is a financial services activity in the capital market sector. This SCF fatwa results from the DSN-MUI *ijtihad* initiative, which developed Fatwa No. 117/DSN-MUI/II/2018 concerning information technology-based financing services based on Sharia principles.

Although the first and second fatwas were based on a request, not an initiative of the DSN-MUI in responding to the digitalization era, the DSN-MUI was quite agile and progressive in responding to concerns about the certainty of sharia law on digital-based financial transaction activities. Discuss the e-money fatwa until it is determined to have taken about five months, and the IT-based financing service fatwa is even in a matter of one month.

Reflecting on the progressive legal theory, the law is for humans.³⁹ In the context of progressive Islamic business law as represented by the DSN-MUI Fatwa, the meaning constructed is Islamic business law which moves on to progressive *ijtihad*, which not only solves legal problems by trying to understand the meaning of the texts, both al-Quran and al-Sunnah. Then connects the text it is with its socio-historical context (*asbāb al-nuzūl* and *asbāb al-wurūd*). Still, more than that, it seeks to communicate with the current context by reading reality carefully to present legal solutions that are right on target and can be applied.⁴⁰ Therefore, to answer the problems of contemporary *fiqh* with the spirit that Islam is *shāliḥ li-kulli zamān wa makān*, considering the *maqāṣid al-sharī'ah* approach as a legal system is necessary. Because the challenges of Islamic law are related to internal Muslims

³⁸ Iggi Haruman Achsien and Dien Lukita Purnamasari, "Islamic Crowd-Funding as the Next Financial Innovation in Islamic Finance: Potential and Anticipated Regulation in Indonesia," *EJIF - European Journal of Islamic Finance* 5 (2016), <https://doi.org/10.13135/2421-2172/1771>; Achmad Iqbal et al., *Modul Pelatihan Securities Crowdfunding (SCF) Syariah untuk Penerbit/UMKM* (Jakarta: Komite Nasional Ekonomi dan Keuangan Syariah (KNEKS), 2022).

³⁹ M Mashudi, "Membumikan Hukum Islam Progresif: Respons Konsumen Muslim terhadap Undang-Undang Jaminan Produk Halal," *International Journal Ihya' Ulum al-Din* 19, no. 1 (2017): 47–72, <https://doi.org/10.21580/ihya.18.1.1742>.

⁴⁰ Febri Anto and Zainul Muin Husni, "Metode Penggalan Hukum Prespektif Islam Progresif Abdullah Saeed," *Hakam: Jurnal Kajian Hukum Islam dan Hukum Ekonomi Islam* 5, no. 2 (2022): 102–20, <https://doi.org/10.33650/jhi.v5i2.3504>.

themselves and to the extent to which Islamic teachings can contribute to modern civilization.⁴¹ The progressive Islamic business law paradigm seeks to explore the values of *fiqh* law to be transformed into life. As well as the transformation of *fiqh* legal values into national law, which is expected to bring benefits and shows the application of Sharia brings benefits and creates prosperity.⁴²

Epistemological Aspects in the Fatwa of DSN-MUI with the Theme of Digitalization

The fatwa aims to produce a good law with an objective assessment based on in-depth study, not justify a law requested by Islamic financial institutions and financial authorities based on personal or group interests with financial motives. For this purpose, fatwas must not be used as Sharia legitimacy to justify financial products and institutions that are not by Sharia in their operations and practices.⁴³ Therefore, the purpose of establishing the DSN-MUI is to provide advice and fatwas to the government and financial authorities, produce fatwas and recommendations to Islamic financial institutions and maintain the socialization and acceleration of sharia economic development to the public.⁴⁴

The determination of the DSN-MUI fatwa follows the guidelines set by the MUI Fatwa Commission No. U-596/MUI/X/1997 dated October 2, 1997.⁴⁵ Judging from the legal *istinbāt* method, the three fatwas above seem to have been determined using a combination of the *ta'līlī* method (the *qiyās* method) and the *istiṣlāḥī* method.⁴⁶

Ta'līlī method, or what Syamsul Anwar calls the “causation method” as quoted by Hasballah, can be identified in the legal considerations in the fatwa

⁴¹ Anshori, “Menuju Fiqih Progresif (Fiqih Modern berdasarkan Maqashid al Syariah Perspektif Jaser Auda).”

⁴² Moh Dahlan, “Fiqh Progressive–Economics Ijtihad Paradigm in Indonesia,” *Al-Intaj: Jurnal Ekonomi dan Perbankan Syariah* 4, no. 2 (2018): 192–208, <https://doi.org/10.29300/aij.v4i2.1209>.

⁴³ Muhammad Maksum, “The Relationship Model of Sharia and Financial Authorities,” *Ahkam: Jurnal Hukum Islam* 20, no. 1 (2020): 115–36, <https://doi.org/10.15408/ajis.v20i1.16235>.

⁴⁴ Maksum, 120.

⁴⁵ Nafis, *Teori Hukum Ekonomi Syariah*, 92.

⁴⁶ Nafis, 44, 93.

that can ascertain the practice of electronic money and IT-based financing to have never existed in the past when the Prophet Muhammad lived until the time of the companions. DSN-MUI uses the legal '*illat* that money is the same as gold and dirhams, which were previously used as a means of payment in *mu'āmalah* transactions.⁴⁷ So that, whatever form it takes, as long as it functions as a means of payment, it is included in the category of money (*thamān* or *nuqud*). This opinion was put forward by Ibn Hazm in the book of *al-Muḥalla* and is in line with the thought of Ibn Taimiyah in the Book of *Majmū' al-Fatāwa* which was quoted in the Fatwa of DSN-MUI No. 116/DSN-MUI/IX/2017 regarding sharia electronic money. As for the legal '*illat* for IT-based financing, it starts from the meaning of the contract in one assembly because the assembly intended is more of the sense of *tawajjub* (mutual determination). It results in a link between consent and *qabūl* without considering the place where the contract takes place (the opinion of Muḥyiddīn Sharf al-Nawāwī, 'Abd al-Raḥmān al-Juzayrī, and Wahbah al-Zuhaylī).

The method *istiṣlāḥī* used in the three fatwas above can be observed from the *fiqh* rules listed in the fatwa preamble, namely:

"All forms of *mu'āmalat* are allowed unless there is proof that forbids it."

"All *dharār* (danger/loss) must be removed."

"All *dharār* (danger/loss) must be prevented as much as possible."

"Something that applies based on custom is the same as something that applies based on *shara'* (as long as it doesn't conflict with Sharia)."

"Customs can be established as law."

"The rule of law depends on the presence or absence of '*illat*."

"The leader's policy towards the people must follow the benefit of the (society)."

According to al-Shāṭibī, *maṣlahah* is for the benefit of God servants (Prophet). Al-Shāṭibī said, "*Indeed, these laws were made/required for the benefit of the servant.*"⁴⁸ So the laws are not made for the law themselves but are made for benefit.⁴⁹ This goal is basically to be achieved through *taklif* whose

⁴⁷ Khairuddin Hasballah et al., "Identifying 'Illat through Munasabah in Islamic Law: A Perspective of Imam al-Ghazali," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 5, no. 2 (2021): 598-618, <https://doi.org/10.22373/sjhk.v5i2.10914>.

⁴⁸ Abū Ishāq al-Shāṭibī Ibrāhīm ibn Mūsā al-Lakhmi al-Gharnaṭī Abū Ishāq al-Shāṭibī, *al-Muwāfaqāt* (Riyāḍ: Dār Ibn 'Affān, 1997), 86.

⁴⁹ Fathī al-Dāraynī, *al-Minhāj al-Uṣūliyyah fī Ijtihād bī al-Ra'yi fī al-Tashrī'* (Damascus: Dār al-Kutub al-Hadīth, 1975), 28.

implementation depends on the reasoning of the primary legal sources, namely the Qur'an and Hadith.⁵⁰

According to 'Abd al-Salām, all laws of the Sharia are beneficial, rejecting evil and attracting good.⁵¹ Therefore, the benefit is closely related to the Sharia. The comprehensiveness of Islamic teachings that are *rahmatan li l-'ālamīn* has shown Islamic law as the law that regulates *ḥablun min al-Allāh* and *ḥablun min al-nās* as well as the natural surroundings in life with worship and *mu'āmalah*. Sharia cannot be separated from the purpose of presenting *maṣlahah*, and vice versa, *maṣlahah* cannot be separated from the existence of Sharia. The *fiqh* rule reads: "Where the *shara'* law is implemented, there is created benefit".⁵² Another rule reads: "Where benefit is realized, there is God's law".⁵³

Sharia economic fatwas must be valid and accurate so that all products have a strong Sharia foundation. The formulation of a sharia economic fatwa is not enough to look at contemporary *mu'āmalah fiqh* books academically, let alone fixate on classical *fiqh* books hundreds of years ago. Still, it must look at the factual reality of the financial industry's needs with *maqāṣid* (benefit) glasses and their relevance to the present context.⁵⁴ Therefore, the combination of the *naqli* proposition and the *'aqli* proposition is necessary for answering all contemporary problems and solving complex legal issues today,⁵⁵ supported by the correct reading and understanding of reality. Therefore, texts and *ra'y* (reason) must be placed in the correct position according to their role and portion so that their existence creates harmonious synergy.

The legality of the *istiṣlāhī* method depends on whether the text is supported. In this case, the scholars formulate three types of *maṣlahah*, namely *maṣlahah al-mu'tabarah*, *maṣlahah al-mulghah*, and *maṣlahah al-mursalah*. *Maṣlahah al-*

⁵⁰ Fathurrahman Djamil, *Filsafat Hukum Islam* (Jakarta: Logos Wacana Ilmu, 1997), 125.

⁵¹ al-'Izz bin 'Abd al-Salām, *Qawā'id al-Aḥkām fī Maṣāliḥ al-Anām* (Beirut: Dār al-Kutub al-'Ilmiyyah, 2001), 9.

⁵² Muḥammad Muḥammad Ismā'īl, *al-Fikr al-Islāmī* (Beirut: al-Maktabah al-Wa'ī, 1958), 54.

⁵³ Wahbah al-Zuhaylī, *al-Fiqh al-Islāmī wa Adillatuh* (Damaskus: Dār al-Fikr, 1985); Muḥammad al-Amīn bin Muḥammad al-Mukhtār bin 'Abd al-Qādir al-Jaknī al-Shinqīṭī, *al-Maṣāliḥ al-Mursalah* (Madīnah: al-Jāmi'ah al-Islāmiyyah, 1990).

⁵⁴ Muhammad Nafi, *Hybrid Contract pada Perbankan Syariah dalam Perspektif Maqashid Syari'ah* (Yogyakarta: Diandra Kreatif, 2017), 231.

⁵⁵ Ubbadul Adzkiya', Ahmad Lukman Nugraha, and Mustofa Hasan, "Reposisi Akal sebagai Sumber Dalil Ekonomi Islam," *Jurnal Ilmiah Ekonomi Islam* 8, no. 2 (2022): 1626–32, <https://doi.org/10.29040/jiei.v8i2.4836>.

mu'tabarah is a benefit supported or mentioned directly by the *shara'* argument. *Maṣlaḥah al-mulghah* is a benefit of being in an event or action activity that is rejected by *shara'* because it is contrary to Islamic teachings.⁵⁶ This benefit is not a true benefit it is only suspected of being a benefit.⁵⁷ *Maṣlaḥah al-mursalah* is a benefit that is between two other forms of *maṣlaḥah*: *maṣlaḥah al-mu'tabarah* (admitted/accepted benefits) and *maṣlaḥah al-mulghah* (rejected benefits). Suppose *maṣlaḥah al-mu'tabarah* is a benefit that is in line with and is directly supported by the text, while *maṣlaḥah al-mulghah* is a benefit contrary to the text. In that case, *maṣlaḥah al-mursalah* is a benefit believed to exist in a problem but is not supported by arguments that allow or command. At the same time likewise, there is no argument against it.⁵⁸

The general principle of *maqāṣid al-sharī'ah* is to uphold the meaning of *jalb al-maṣāliḥ wa daḥ' al-mafāṣid* (getting benefits and avoiding harm). *Maqāṣid al-sharia* is an independent legitimacy because it shows the function of *ra'y* (reason) in seeking *maṣlaḥah* in every problem. The rapid development and the emergence of successive issues led to the need for applying *maqāṣid al-sharī'ah* to open up gaps to move and take legal decisions to the demands of the times.⁵⁹ The achievement of *maqāṣid al-sharī'ah* is in benefit; therefore, in achieving this benefit, it must remain within the shariah order so that it is not part of *maṣlaḥah al-mulghah*, but what is expected is benefit in the category of *maṣlaḥah al-mu'tabarah* and *maṣlaḥah al-mursalah*. Therefore, Sharia cannot be separated from *maṣlaḥah*, and vice versa, the benefit cannot be separated from Sharia.⁶⁰

The Sharia aims to uphold human benefit in this world and the hereafter. Because the benefit is not measured by lust,⁶¹ if something contains the benefit

⁵⁶ Imron Rosyadi and Muhammad Muinudinillah Basri, *Usul Fikih Hukum Ekonomi Syariah* (Surakarta: Muhammadiyah University Press, 2020), 152.

⁵⁷ Amrullah Hayatudin, *Ushul Fiqh: Jalan Tengah Memahami Hukum Islam* (Jakarta: Amzah, 2019), 83.

⁵⁸ Rosyadi and Basri, *Usul Fikih Hukum Ekonomi Syariah*, 121.

⁵⁹ Iffatin Nur, Syahrul Adam, and M. Ngizzul Muttaqien, "Maqāṣid al-Sharī'at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020): 331–60, <https://doi.org/10.15408/ajis.v20i2.18333>.

⁶⁰ Muhammad Syarif Hidayatullah, "Formulasi Rechtsvinding dengan Penalaran Analogis dalam Epistemologi Hukum Islam (Telaah Metodologis Qiyas sebagai Ra'y terhadap Mashādir al-Ahkām asy-Syar'iyah)," *JURIS (Jurnal Ilmiah Syariah)* 19, no. 2 (2020): 177, <https://doi.org/10.31958/juris.v19i2.2490>.

⁶¹ Mayyadah Mayyadah, "Komparasi Maslahat Perspektif al-Tufi dan al-Syatibi," *Bilancia: Jurnal Studi Ilmu Syariah dan Hukum* 12, no. 2 (2018): 263–278, <https://doi.org/10.59638/dirasatislamiah.v2i2.35>;

of the world without the benefit of the Hereafter, it is not a benefit. Al-Ghazālī emphasized the existence of *maṣlaḥah* by explaining what is meant by *maṣlaḥah* is the safeguarding of the objectives of the Sharia. The goals of the Sharia consist of five things, namely safeguarding religion (*ḥifẓ al-dīn*), defending the soul (*ḥifẓ al-naḥs*), and safeguarding the mind (*ḥifẓ al-'aql*), guarding against offspring (*ḥifẓ al-nasl*) and protecting property (*ḥifẓ al-māl*). Therefore, anything that guarantees the preservation of these five main things is called benefit, and everything that escapes it is called *mafsadat* (damage).⁶² Al-Ghazālī makes a method of thinking by using *maṣlaḥah* one level below *qiyās* and accepts *maṣlaḥah* but the qualifications he provides to receive *maṣlaḥah* do not place *maṣlaḥah* as an independent thought principle.⁶³

The *maṣlaḥah* is the main goal in determining the three fatwas mentioned above. Refers to the epistemology of Islamic law developed by al-Shaṭībī and complemented by Najmuddīn al-Ṭūfī in the *maṣlaḥah* theory, both of which emphasize the criteria for *maṣlaḥah* in three levels: *ḍarūriyyah* (primary), *ḥajjiyyah* (secondary), and *taḥsīniyyah* (complimentary). In addition, in order not to be too free and remain in the Sharia corridor, the benefits raised also have relevance to the theory of al-Ghazālī's *maṣlaḥah*. DSN-MUI considers electronic money and technology-based services a necessity in the digital era and can provide convenience in *mu'āmalah* transactions. However, the technology-based Islamic financial system must comply with the standardization of Islamic financial contracts. It is because the concept of Islamic finance is different from the concept of conventional finance that transactions containing *maysir* (gambling), *gharār* (unclear), *tadlīs* (fraud), and *ribā* (usury) are not allowed. In addition, in its implementation, every transaction carried out must refer to the main goal of Sharia, namely *maṣlaḥah* in the *maqāshid al-sharia* corridor, especially taking care of oneself (*ḥifẓ al-naḥs*) and guarding assets (*ḥifẓ al-māl*).⁶⁴ For this reason, the DSN-MUI stipulates that

Amiruddin Aminullah, "Urgensi Maslahat dalam Pengembangan Hukum Islam," *Dirasat Islamiah: Jurnal Kajian Keislaman* 2, no. 2 (2021): 67–88, <https://doi.org/10.59638/dirasatislamiah.v2i2.35>.

⁶² Abū Ḥāmid Muḥammad ibn Muḥammad al-Ghazālī, *al-Mustashfā min Ilm al-Uṣūl* (Dār al-Kutub al-'Ilmiyyah, 1993), 174.

⁶³ Nur Asiah Kudaedah, "Maslahah menurut Konsep al-Ghazali," *Diktum: Jurnal Syariah dan Hukum* 18, no. 1 (2020): 118–28, <https://doi.org/10.35905/diktum.v18i1.663>.

⁶⁴ Nurfalah and Rusydiana, "Digitalisasi Keuangan Syariah Menuju Keuangan Inklusif: Kerangka Maqashid Syariah," 58.

using digital technology in electronic money and financial services is permissible as long as it fulfills these two considerations.

Based on these epistemological considerations, DSN-MUI requires that digital-based financing services based on Sharia principles meet general provisions. Such as, implementing financial technology must not conflict with Sharia principles. Namely, it must not contain elements of usury, *gharār*, *maysir*, *tadlīs*, *riṣwah* (bribes), and *isrāf* (extravagant) in the transactions carried out, and the object of the transaction must not contain haram and disobedience. The legal relationship in using sharia electronic money should use several contracts regulated in several other DSN-MUI fatwas. Electronic money transactions involve several parties who must use *ijārah*, *ju'alah*, and *wakalah bi al-ujrah* contracts. These parties are issuers and electronic money providers (principals, acquirers, merchants), clearing providers, final settlement providers, and issuers and digital financial service agents, meanwhile, between publishers and users of digital money using *wadī'ah* or *qard* contracts.

The existence of these three digital financial fatwas shows the progress of the DSN-MUI fatwa in providing specific guidance for all business activities that use digital payment systems. According to its meaning, progressive means progress, so the DSN-MUI fatwa has accommodated technological advances and financial transactions that are developing dynamically. The DSN-MUI fatwa is not stagnant in classic manual business models and financial transactions but is open to developments over time and seeks to formulate sharia standards for business models that have adapted to technological advances because no matter how digitalization occurs in financial transactions, the mechanism must still be regulated. and maintain Sharia to avoid prohibited elements in *mu'amalah*. In line with the progressive legal theory by Satjipto Rahardjo, that the law is for humans and not vice versa, humans are for the law,⁶⁵ the progressive starting point here is the benefits presented to humans. In this way, the DSN-MUI fatwa has realized legal objectives that are not only based on legal certainty but seek to bring benefits to Muslims in Indonesia. The *istiṣlāḥī* method applied in the DSN-MUI fatwa has also become the legal *istinbāt* methodology that underlies the progressivity of the DSN-MUI fatwa, namely the consideration of the value of blessings for humanity.

⁶⁵ Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Yogyakarta: Genta Publishing 2009), 5.

To achieve this *maṣlaḥah* value, these fatwas are certainly not enough to be morally binding for parties who use digital finance; there needs to be government regulation through the OJK and Bank Indonesia so that they have legal force. Meanwhile, only fatwa No. 140/DSN-MUI/VIII/2021 has been transformed into Financial Services Authority Regulation No. 16/POJK.04/2021 concerning amendments to financial services authority regulation No. 57/POJK.04/2020 concerning securities offerings through services information technology-based crowdfunding (securities crowdfunding), while the other two fatwas have not been accepted by Bank Indonesia or the OJK. In contrast, Malaysia has been well established in regulating the sharia financial system with the 2013 Islamic Financial Services Act,⁶⁶ and in accordance with the provisions of Article 28 (1) and (2), it has become a reference for the Shariah Advisory Council of Bank Negara Malaysia (MPS-BNM) in making e-money a Shariah-compliant instrument in 2020.

Conclusion

The use of digital technology in the Sharia financial sector in Indonesia has received certainty of Sharia legitimacy through progressive efforts by DSN-MUI in the form of an Electronic Money Fatwa, a Fatwa on Information Technology-Based Financing Services Based on Sharia Principles, and further developed in the Fatwa on Sharia Securities Crowdfunding. Epistemologically, the value of *maṣlaḥah* (benefit) is the main point in the three fatwas through the *ta'līlī* and *istiṣlāḥī* methods in exploring the law. These three fatwas show the progress of Islamic law in developing digital financial businesses through a series of epistemological studies conducted by DSN-MUI.

Financial Services Institution (OJK) must issue regulations to create binding legal certainty for various parties involved in digital-based business transactions by Sharia principles. In the future, DSN-MUI should be more active in responding to the other digital-based business activities that require affirmation of sharia signs. Such as online shops, crypto, non-fungible tokens (NFT), and all related activities or transactions with metaverses.[a]

⁶⁶ Darma, "Peran Pemerintah Indonesia dan Malaysia dalam Mendukung Implementasi Teknologi Keuangan Islam pada Aspek Regulasi."

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