



## FIQH, FATWA, AND FINANCIAL TECHNOLOGY IN INDONESIA

Ahmad Munif<sup>1</sup>, Siti Tatmainul Qulub<sup>2</sup>

<sup>1</sup> Universitas Islam Negeri Walisongo Semarang ([ahmadmunif@walisongo.ac.id](mailto:ahmadmunif@walisongo.ac.id))

<sup>2</sup> Universitas Islam Negeri Sunan Ampel Surabaya ([tatmainulqulub@uinsby.ac.id](mailto:tatmainulqulub@uinsby.ac.id))

### Abstrak:

Financial technology is regulated by the National Sharia Council of the Indonesian Ulema Council in the DSN-MUI Fatwa Number 116/DSN-MUI/IX/2017 and the DSN-MUI Fatwa Number 117/DSN-MUI/II/2018. The two fatwas provide basic rules on how to transact electronically in sharia economic activities. Also related to the validity of electronic money used as a means of payment in transactions. By using a normative *usuliyah* approach, this paper presents two findings. First, the electronic money used is in accordance with the provisions of *fiqh* and the *fiqh* proposal in its formulation. Second, the provisions of the *majlis* in transactions and financing services follow the *ittihad al-majlis* perspective which allows the use of written contract signatures.

**Key word:** Financial technology, *fiqh*, fatwa.

### 1. INTRODUCTION

Financial technology has developed and coloured the wheels of Islamic economy and finance in Indonesia in the last decade. Various services and products are offered to support economic activities, from the macro sector to the small and medium sector.<sup>1</sup> No less than 35.35 million dollars in circulation in it. Services such as market place business lending, market place consumer lending, and market place real estate lending are becoming a trend that people are interested in.<sup>2</sup>

The development of sharia economic activities with the support of technology is a challenge in the study of *fiqh* and Islamic law. *Fiqh* as a product of *ijtihad* by *ulama* to respond and provide operational guidance for the Muslim community, is required to contribute. As is the characteristic of *fiqh* which is flexible and keeps up with the times, the answer is expected to provide convenience and comfort for the Muslim community to engage in activities in the sharia economy.<sup>3</sup>

One of the *fiqh* products that are present in Indonesia is in the form of a fatwa issued by the National Sharia Council of the Indonesian Ulema Council (hereinafter referred to as the DSN-MUI Fatwa). Following and responding to the demands of the Muslim community in Indonesia, a fatwa was issued relating to financial technology activities and operations, namely the DSN-MUI Fatwa Number 116/DSN-MUI/IX/2017 concerning Sharia Electronic Money and the DSN-MUI Fatwa Number 117/DSN-MUI /II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles .

This paper explores and analyse the two DSN-MUI fatwas. A study that aims to see the extent to which the validity and authenticity of the main contents contained therein.

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<sup>1</sup> Mochammad Fajar, Cintia Larasati, Peran Financial Technology (Fintech) dalam Perkembangan UMKM di Indonesia: Peluang dan Tantangan, HUMANIS (Humanities, Management and Science Proceedings) Vol 1, No 2 (2021): 702-715

<sup>2</sup> Muhammad Afdi Nizar, Teknologi Keuangan (Fintech): Konsep dan Implementasinya di Indonesia, Warta Fiskal Edisi No. 5 (2017): 5-12

<sup>3</sup> Irma Muzdalifa, Inayah Aulia Rahma, dan Bella Gita Novalia, Peran Fintech dalam Meningkatkan Keuangan Inklusif pada UMKM di Indonesia (Pendekatan Keuangan Syariah), Jurnal Masharif Al-Syari'ah Vol. 3 No. 1 (2018): 73-86. Rahman Helmi, Manhaj Penetapan Fatwa Hukum Ekonomi Syariah di Indonesia, Syari'ah: Jurnal Hukum dan Pemikiran Vol. 8 No. 2 (2018): 301-314



## 2. METHOD

This paper is the result of research or literature review. The materials in the study were obtained from various literatures related to the theme of the study, such as journal articles relating to the development and existence of financial technology in Indonesia, as well as the DSN-MUI Fatwa Number 116/DSN-MUI/IX/2017 concerning Sharia Electronic Money and the DSN-MUI Fatwa. MUI Number 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles. These two fatwas are the main focus of the study because they are two fatwas that specifically provide answers about the use and application of financial technology in business transactions in Indonesia. The normative approach is used to see the extent to which the novelty of the two fatwas is compared to the fatwas and (or) existing Islamic law. Because the fatwa is the result of *ijtihad* or *istinbat al-hukm*, it is also analyzed with the *usuliyah* approach.

## 3. ANALYSIS OF STUDY FINDINGS

### 3.1 Sharia Electronic Money Fatwa Analysis

Electronic money referred to by DSN-MUI Fatwa Number 116/DSN-MUI/IX/2017 concerning Sharia Electronic Money includes four criteria that are in line with Bank Indonesia's version of electronic money.<sup>4</sup> The four criteria include ;

1. Issued on the basis of the nominal amount of money that was deposited in advance to the issuer;
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;
4. Used as a means of payment to merchants who are not the issuers of the electronic money;<sup>5</sup>

The electronic money used is fixed in the value of the rupiah. Units recognized and issued by the Indonesian government. This provision is important so that electronic money is still recognized and in accordance with Islamic legal criteria. According to Imam Ghazali, as quoted by Hasan, money is considered valid and valid if it is issued and recognized by a legitimate government.<sup>6</sup>

The use of electronic money for the needs of economic transactions must be in line with the provisions of other fatwas that regulate money storage and its administration. Therefore, the provisions of the sharia contract for the issuer of electronic money and the holder of electronic money apply. Among the contracts used are *qard* contracts and *wadi'ah* contracts. Both contracts allow the holder and the issuer to use the available funds flexibly. In addition, an *ijarah* agreement is also used to provide an operational basis for providing fees for various parties related to electronic money operations.<sup>7</sup>

Therefore, although electronic money diction is a new thing in fiqh and Islamic law, it is still in harmony with the provisions of *fiqh* and *usuliyah* rules. Because the operational principles used use various types of contracts that are familiar in the *fiqh* treasures. Even the arguments from the Qur'an and the hadith of the prophet remain in harmony and can be used even though they are based on general instructions (*dilalah 'am*).<sup>8</sup>

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<sup>4</sup> Bank Indonesia, Uang Elektronik, <https://www.bi.go.id/id/statistik/metadata/sistem-pembayaran/Documents/MetadataEMoney.pdf>

<sup>5</sup> Fatwa DSN-MUI Nomor 116/DSN-MUI/IX/2017 tentang Uang Elektronik Syariah

<sup>6</sup> Maysarah Rahmi Hasan, Regulasi Penggunaan Uang Digital *Dagcoin* dalam Prespektif Hukum Islam dan Hukum Positif, *el-BUHUTH*, Vol. 1 No.1 (2018): 1-24

<sup>7</sup> M. Yazid Afandi, Fiqh Muamalah dan Implementasinya dalam Lembaga Keuangan Syariah, (Yogyakarta: Logung Pustaka, 2009): 185

<sup>8</sup> Abdul Karim Zaidan, al-Wajiz fi Ushul al-Fiqh, (Bagdad: al-Dar al-Arabiyyah li al'Tiba'ah, 1977). 177



### 3.2 Analysis of Fatwa of Information Technology-Based Financing Services Based on Sharia Principles

DSN-MUI Fatwa No. 117/DSN-MUI/II/2018 concerning Sharia Principles-Based Information Technology-Based Financing Services mentions three legal subjects that must exist in financing services, namely the provider, the recipient of the financing, and the financier. The three subjects can be said in *ittihad al-majlis*, as full of valid transactions, even though at the same time they are not sitting together. According to al-Dardiri, *sigat* contract can also be in the form of writing (*al-kitabah*). The origin of the writing clearly shows the intent of the contract and is not easily damaged or lost.<sup>9</sup> Information technology certainly meets the criteria for writing that is not easily damaged and lost earlier.

In the next provision, there are six points that must be met so that information technology-based financing is considered valid. Among these, it is stated that the contract used by the parties in the implementation of information technology-based financing services can be in the form of contracts that are in line with financing services, including 1) *al-bai'*, *ijarah*, *muḍārabah*, *musyarakah*, *wākalah bil ujah*, and *qard* contracts. and 2) Operators may charge fees (*ujrah*) based on the principle of *ijarah* for the provision of information technology-based financing service infrastructure and systems.<sup>10</sup>

The six contained contracts are used for transactions between holders and issuers of electronic money. It also includes financing that involves third-party peer to peer lending (p2p) or crowd funding. Also, these provisions can always respond to the development of financial technology and customer needs. The variety of transactions developed will also not be separated from the six types of contracts above.<sup>11</sup>

### 4. CONCLUSION

Electronic money that develops and is used in sharia economic transactions has been regulated in two DSN-MUI Fatwas regarding sharia electronic money and information technology-based financing services based on sharia principles. Various existing economic transactions are in line with the needs of economic development and in accordance with the foundations of *fiqh* and Islamic law .

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<sup>9</sup> al-Dardiri, al-Syarhul Kabiir Juz 3, (Kairo: al-Baabi al-Halabi), tt.: 3

<sup>10</sup> Fatwa DSN-MUI No. 117/DSN-MUI/II/2018 tentang Layanan Pembiayaan Berbasis Teknologi Informasi Berbasis Prinsip Syariah

<sup>11</sup> Ridwan Muchlis, Analisis SWOT Financial Technology (Fintech) Pembiayaan Perbankan Syariah di Indonesia (Studi Kasus 4 Bank Syariah di Medan), *At-Tawassuth* Vol. 3 No. 2 (2018): 335-357



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