

Crypto Currency Transactions: A Shariah Guideline

BITARA

Volume 5, Issue 4, 2022: 095-100
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e-ISSN: 2600-9080
http://www.bitarajournal.com
Received: 9 Jun 2022
Accepted: 2 October 2022
Published: 16 November 2022

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Abstract

The utilization of digital currency is gaining its place in foreign and local societies. There are countries that recognize digital currency and there are also countries that ban it. Islamic scholars also have different views on it. Some argue that digital currency is legitimate while some even forbid it. This study formulates Islamic guidelines related to digital currency. The study was qualitative by taking a library approach and expert interviews to collect data. Data were analyzed through data analysis methods. This study produced a Shariah guideline for the usage of digital currency to be the basis of its utilization.

Keywords: Transaction, digital currency, crypto currency

Cite This Article:

Engku Muhammad Tajuddin Engku Ali, Wan Mohd Yusof Wan Chik, Nadhirah Nordin, Sumayyah Abdul Aziz & Ahmad Jazlan Mat Jusoh. (2022). Crypto Currency Transactions: A Shariah Guideline. *BITARA International Journal of Civilizational Studies and Human Sciences* 5(4): 095-100.

Introduction

The utilization of crypto currency increasingly gaining a place in society not only in our country but also abroad. Some countries have recognized digital currency as a legal tender while others are considered as Bitcoin friendly. At the same time there are countries that ban its usage. Russia and Malaysia do not consider it a legitimate currency. Islamic scholars also have different views on it. Some of them argues that cryptocurrency is legal according to Sharia while the others banning it. The Governor of Bank Negara Malaysia in a statement hinted that the government would issue guidelines on the usage of digital currency before the end of 2017 which is yet to be done.

Research Methodology

Type of Study: This study uses a qualitative approach with a descriptive study design. The descriptive design studies are often used with the aim of providing a systematic description of the facts and characteristics of a population or field of interest factually and accurately (Noah, 2002).

Data Collection Methods

Data were collected using two methods namely document analysis method and field study.

Document Analysis

Document analysis method is the most important method in this study, as most of the information are obtained through this method. Information was obtained from primary and secondary data. Primary data are sought from the interpretation of al-Quran, sayings of the Prophet and from the classical and contemporary books in Islamic Jurisprudence. As for the secondary data, it is obtained from seminar papers, scholarly books, articles in journals and trusted websites.

Field Study

This study also used field study method to obtain primary data. These primary data were collected through semi-structured interviews with selected experts in the fields relevant to this study. There are two types of interviews that have been conducted, namely in-depth one to one interviews and focus group interviews (Focus Group Discussion). In-depth interviews were chosen to study events and activities, which could not be observed directly. The respondent interviewed is expertise in the social environment studied. The second type of interview is the focus group discussion. Focus group discussions are a good data collection technique in qualitative research. Through this method, the researcher selects a group of people with certain characteristics to hold a discussion session. There were two pre-arranged discussion sessions involving Information Technology experts, Islamic Finance experts and industry players in the field of crypto. The questions were formulated based on discussions in digital currency in terms of operations and functions as well as its future in Malaysia. In addition, questions are also constructed to relate with the Islamic rulings related to the usage of digital currency according to its classification which has various other functions, other than payment instruments.

Respondents of the study

This study has selected three groups of respondents. The first group consists of experts in technology and computing. The second group is of industry players who are directly involved in the field of crypto and the third group consists of experts in the field of fiqh muamalat and Islamic Finance.

Data Analysis Methods

Data that has been collected from document analysis and interviews will be analyzed using content analysis methods. These data will be analyzed based on three main themes, namely the practical form of the use of current digital currency, Islamic compliance in the process of issuing digital currency and the necessity of its use in current transactions. The findings from this analysis will be processed into a guideline for the use of digital currency based on Islamic law.

Literature Review

The utilization of digital currency or better known as crypto currency today is gaining its place in the society not only abroad but also in the country (Marjan Muhammad, 2017). Among the

characteristics of Bitcoin is, it has no intrinsic value, no physical form (exists only in digital form), its production is not determined by the central bank (does not own the country) and it is not issued by any company, individual or organization. (Marjan Muhammad, 2017). There are countries that have recognized digital currency as a legal currency. There are also countries that are considered as Bitcoin friendly. At the same time there are countries that ban its usage (Marjan Muhammad, 2017). Bank Negara Malaysia in a statement issued on 2 January 2014 in its official website does not consider it as a legal currency (Bank Negara Malaysia, 2014.) Islamic scholars also have different views on it. Daud Bakar argues that digital currency in conclusion is necessary and legal according to Syarak. Zaharuddin Abdul Rahman (Astro Oasis, 23 December 2017) agrees with Daud Bakar when he thinks that Bitcoin can be considered as money even though it is not a 'legal tender'. (<http://www.zaharuddin.net/senarai-lengkap-artikel/3/1046-nota-ringkas-Bitcoin-a-wang-virtual.html>). Charles W Evans (2015) in his writing concluded that digital currency can be used without violating the Islamic prohibition of *riba*. The Egyptian Mufti banned it (Metro Daily, 2018). The Director of Turkish Affairs stated, Bitcoin is against Islam (Hakimah Yaacob, 2018). Luqman Nurhisham (2017) concluded that Bitcoin is not a legitimate currency. Bitcoin according to the views of Nashirah Abu Bakar, Sofian Rosbi and Kiyotaka Uzaki (2017) believed, the framework of the Bitcoin operating system is still in the scope of uncertainty (*gharar*). Marjan Muhammad (2017) argues that Bitcoin does not meet the characteristics to be considered as a commodity nor a currency or financial asset. The fatwa council in Malaysia has also actually given its answer on the Bitcoin issue in its post published via the e-fatwa website in 2014 (<http://www.e-fatwa.gov.my/blog/hukum-penggunaan-Bitcoin-sebagai-medium-untuk-bermuamalat>). The existence of these different views necessitates the intervention of the authorities to clear the air. A clear guideline needs to be issued, considering all aspects including the aspects of the related Islamic laws. As of this review, there have been no official guidelines issued by Bank Negara Malaysia on this issue. Therefore, this study needs to be initiated for that purpose.

Findings

This Guideline is designed to guide Muslim consumers who intend to conduct transactions involving digital currency. It will cover the procedures to be followed in each related transaction. Each guidance is supported by propositions as well as arguments, where applicable. This guideline is general in nature and only apply to transactions that classify digital currency as a currency. The following guideline should be followed in the several aspects:

Guidelines on Zakat

When digital currency is recognized as a form of currency, it is subjected to the law of zakat on currency. Zakat must be paid out of the digital currency savings when all the conditions for zakat on currency savings are met. The conditions are as follows:

a. Islam

The owner of the digital currency must be a Muslim. This is because only Muslims are obliged to pay zakat which is a form of worship towards Allah.

b. Free from slavery

This condition is still maintained even though there is no more slavery today.

c. Perfect ownership

The meaning of perfect ownership is that the digital currency is fully owned by its owner, and he is not subject to anyone's permission to use it as he wishes

d. Sufficient *Nisab*

The digital currency owned must reach the minimum rate that has been set to enable the zakat obligation to be imposed on it. The *nisab* of digital currency is the same as other currencies i.e. the value of 20 *mithqal* (85 grams of gold).

e. The Completion of One *Haul*

One *haul* is equivalent to 1 hijri year which is for 354 days or if following the AD year for 365 days. The amount of digital currency owned must not be less than its *nisab* during the *haul* period.

f. Growth

The meaning of growth here is a property that is growing or has the potential to grow. In the context of digital currency, it does have the potential to grow and under normal circumstances has already grown.

The proposition for the obligation of zakat on digital currency is based on the proposition that obligates zakat on gold and silver. Allah says in surah al-Taubah verses 34-35 which means: "Give good news of a painful torment to those who hoard gold and silver and do not spend it in Allah's cause. The Day 'will come' when their treasure will be heated up in the Fire of Hell, and their foreheads, sides, and backs branded with it. 'It will be said to them, 'This is the treasure you hoarded for yourselves. Now taste what you hoarded!'"

Guidelines on Exchange with Currency

In situations where digital currency is to be exchanged for digital currency or with fiat currency, certain guidelines need to be followed so that the exchange is not categorized as a usurious transaction. Currency conversion is also known as *al-Sarf* in Arabic and is included in the category of sale and purchase because sale and purchase are the process of exchanging property for property. Exchanging currency for currency is one form of property -to -property exchange. The currency exchange can occur in two situations:

Exchanges involve the same type of currency.

For example, Bitcoin with Bitcoin or Ethereum with Ethereum. The guidelines to be followed are as follows:

a. The quantities of both must be the same

For an Example: Exchange of 1 unit of Bitcoin for 1 unit of Bitcoin. If there is a difference in the quantity, then it will be considered as *riba al-Fadl* that is prohibited. Rasulullah SAW said in a Hadith narrated by al-Bukhari which means: "Do not exchange gold for gold except with the same quantity and do not exchange it with a larger quantity. Do not exchange silver for

silver except in equal quantities and do not exchange with greater quantities. Do not exchange existing items for items that do not exist”.

b. Occurrence of *qabadh* by both parties to the contract

Qabadh means acceptance. Both parties to the contract must accept the desired currency and hand over his currency in exchange to the other party in the trading event (*majlis al aqd*). If this does not happen, then the transaction will cause the occurrence of *riba al-Yad*.

Rasulullah SAW said in a Hadith narrated by Muslim which means: “Exchange gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt with equal quantity and hand to hand). When different items are exchanged then change according to what you like with the condition of delivery at the same time”.

c. There is no delay in the exchange

The meaning of this condition is, it is forbidden to require or state during the contract the delivery deferment of the converted currency. For example, the owner of a money exchange kiosk requires to hand over a USD 100.00 note to the customer within a week while the customer hands over USD 100.00 in fractions of five USD 20.00 notes to him. If this happens, this currency exchange is not valid because it involves *riba al-Nasi'ah*.

Rasulullah SAW said in a Hadith narrated by al-Bukhari which means: “Exchanging silver for gold is *riba* except surrender at the same time. Exchanging wheat for wheat is usury except for delivery at the same time. Exchanging barley for barley is usurious except for surrender at the same time. Exchanging dates for dates is *riba* except for submission at the same time”.

Exchanges Involve Different Types of Currencies

For example, Bitcoin with Ethereum. The guidelines to be followed are as follows:

a. Occurrence of *qabadh* by both parties to the contract

Both parties to the contract must accept the desired currency and hand over his currency in exchange to the other party in the trading event (*majlis al-aqd*). If this does not happen, then the transaction will cause the occurrence of *riba al-Yad* as been mentioned before.

b. There is no delay in the exchange.

As has been mentioned before, it is forbidden to require or mention during the contract the delivery deferment of the converted currency. If this happens, the currency exchange is not valid due to the occurrence of *riba al-Nasi'ah*.

Exchange for Goods/Commodities

When digital currency is exchanged for other goods or commodities that are not considered as *ribawi* items, then no specific guideline or requirement need to be followed. Both parties are free to conduct transactions and only need to meet the general rules and conditions for a valid sale and purchase contract.

Conclusion

Digital currencies have the potential to be used as one of the alternatives in the buying and selling process around the world as well as replacing financial instruments such as securities and equities in the form of cryptocurrencies. The development of these guidelines can be used as a basis and guidance by stakeholders such as the Bank Negara Malaysia and the public to ensure that the utilization of digital currency is in accordance with the Islamic law.

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