



Volume 39 No 3, September 2024

DOI: <https://doi.org/10.20473/ydk.v39i3.46741>

Fakultas Hukum Universitas Airlangga, Jalan Dharmawangsa Dalam Selatan Surabaya, 60286 Indonesia, +6231-5023151/5023252

Fax +6231-5020454, E-mail: yuridika@fh.unair.ac.id

Yuridika (ISSN: 0215-840X | e-ISSN: 2528-3103)

by <http://e-journal.unair.ac.id/index.php/YDK/index> under a Creative Commons Attribution 4.0 International license.

FAKULTAS HUKUM UNIVERSITAS AIRLANGGA



Article history: Submitted 19 June 2023; Accepted 5 June 2024; Available Online 25 September 2024.

Characteristics of Sharia Crowdfunding as an Alternative to Financing the Development of the National Capital City

Dyah Ochterina Susanti¹, Aan Efendi² and Ahmad Suhaimi³

dyahochtorina.fh@unej.ac.id

^{1 2} Universitas Jember, Indonesia

³ Sekolah Tinggi Ilmu Hukum Sultan Adam, Indonesia

Abstract

This research started from the construction of the new National Capital City of the Nusantara which has not yet been completed and requires a very large budget. In this regard, a financing model is needed that can be used as an alternative financing for the development of the new National Capital City. The aim of this research is to find the characteristics of sharia crowdfunding as an alternative financing in the process of building the new National Capital City. The research method used is a normative juridical research method with a statutory and a conceptual approach. The results of this research show that there are several characteristics of sharia crowdfunding as an alternative financing for the development of the New National Capital, namely: it is only intended for halal projects and products so that it complies with sharia principles and is free from interest rates; there is fairness in the distribution of profit and loss margins using a profit-sharing system; and supervised by the Sharia Supervisory Board.

Keywords: Sharia Crowdfunding; Alternative Financing; National Capital City.

Introduction

The center of government of the Republic of Indonesia, which was previously in Jakarta, will be moved to the Nusantara, East Kalimantan.¹ The transfer process was officially carried out after the ratification of Law Number 3 of 2022 concerning the National Capital.² Construction of the National Capital of the Nusantara will begin in March 2022 and then the National Capital will be moved in stages from 2024 to 2045.³ This of course requires large funding sources, which are estimated

¹ See Article 1 number 2 of Law Number 3 of 2022 concerning the National Capital.

² Doni Nugroho, 'Bentuk Ibu Kota Negara Nusantara Dalam Negara Kesatuan Republik Indonesia' (2022) 4 The Indonesian Journal of Politics and Policy.[53-54].

³ *ibid.*

at IDR 466 trillion.⁴ In this regard, the government plans to source financing for the development of the National Capital to come from the State Revenue and Expenditure Budget (APBN) and other financing sources. According to Sidik Pramono as Head of the National Capital Communication Team, one of the sources of financing for National Capital development could be through crowdfunding.⁵

Crowdfunding is a financing scheme with the concept of collecting funds via the internet in the form of a crowdfunding platform.⁶ The ease of investment and raising funds through crowdfunding has a positive impact on the economy and development. It is proven that the funds collected through crowdfunding based on the Financial Services Authority (OJK) report have reached IDR 413.19 billion in 2021 and experienced an increase of 22.75% until June 2022, namely IDR 507.20 billion.⁷ This amount will increase at the end of 2022 to IDR 721.84 billion.⁸

In sharia finance and business, there is sharia crowdfunding which is an investment mechanism in the form of sharia-based crowdfunding that funds halal projects and products by paying attention to sharia principles.⁹ Sharia crowdfunding, which is based on the principle of helping each other for good, has the potential to be a financial innovation in the sharia financial industry.¹⁰ The development of sharia crowdfunding in Indonesia as a country with a majority Muslim population has a great opportunity to become an alternative financing for various sectors.

⁴ Sarnita Sadya, 'Kebutuhan Anggaran Pembangunan IKN Nusantara Capai Rp466 Triliun' (dataindonesia.id, 2022) <<https://dataindonesia.id/ekonomi/detail/kebutuhan-anggaran-pembangunan-ikn-nusantara-capai-rp466-triliun>> accessed 1 July 2024.

⁵ Kompas. <<https://www.google.co.id/amp/s/www.kompas.tv/amp/article/273870>> accessed on 18 January 2023

⁶ Anisah Novitarani and Rof'ah Setyowati, 'Analisis Crowdfunding Syariah Berdasarkan Prinsip Syariah Compliance serta Implementasinya dalam Produk Perbankan Syariah' (2018) 12 Al-Manahij: Jurnal Kajian Hukum Islam.[247-249].

⁷ Cindy Mutia Annur, 'Dana Securities Crowdfunding Tembus Rp507 Miliar per Juni 2022' (databoks, 2022) <<https://databoks.katadata.co.id/datapublish/2022/06/09/dana-securities-crowdfunding-tembus-rp507-miliar-per-juni-2022>> accessed 18 January 2023.

⁸ Diki Mardiansyah, 'Bisnis Securites Crowdfunding Meningkatkan Sepanjang 2022, Ini Penopangnya' (kontan.co.id, 2023) <<https://keuangan.kontan.co.id/news/bisnis-securites-crowdfunding-meningkat-sepanjang-2022-ini-penopangnya>> accessed 18 January 2023.

⁹ Roos Nelly and others, 'Studi Empiris Perkembangan Crowdfunding Syariah di Indonesia' (2022) 4 Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah.[1283-1284].

¹⁰ Novitarani and Setyowati (n 6).[251].

In connection with the explanation above, the existence of sharia crowdfunding is an innovation in sharia finance that has the potential to be used as an alternative means of financing the development of the new National Capital. The ease of raising funds by utilizing online media that involves the wider community in sharia crowdfunding is in line with the Indonesian principle of mutual cooperation.¹¹ In this regard, the problem formulation in this research is: What are the characteristics of sharia crowdfunding as an alternative financing for the new National Capital City development?.

Other research as comparative material to show the originality or novelty of this research is: First, the article by Rizki Fajar Kurniawan et al. with the title “Analysis of Crowdfunding as an Alternative to Financing Infrastructure Development in the Nusantara Capital Project” which discusses the potential of crowdfunding as an alternative to financing the development of the new National Capital City infrastructure.¹² Second, the article by Habibah Moslem et al. titled “Sharia Crowdfunding as An Alternative Financing Solution for The Nusantara Capital City Authority” which describes the sharia crowdfunding model that can be used in National Capital financing in the form of the Waqf Crowdfunding Model (CWM), loan-based crowdfunding (*qard*) and equity crowdfunding.¹³ Third, an article by Kristianus Jimy Pratama with the title “Regulatory Challenges in Digital Foreign Investment Through Securities Crowdfunding in Indonesia” which discusses foreign investment regulations through Securities Crowdfunding, one of which is contained in Law Number 3 of 2022 concerning National Capital which does not yet provide protection and risk management for securities crowdfunding for National Capital funding.¹⁴ Based on this description, the difference with this research is that

¹¹ Ardhwinda Kusumaputra, Ronny Winarno and Endang Retnowati, ‘Penguatan Legalitas Crowdfunding sebagai Alternatif Pembiayaan Pembangunan Kawasan Perdesaan Guna Menumbuhkan Ekonomi Nasional’ (2020) 17 Jurnal Legislasi Indonesia.[355-359].

¹² Rizki Fajar Kurniawan and others, ‘Analisis Crowdfunding Sebagai Alternatif Pembiayaan Pembangunan Infrastruktur dalam Proyek Ibu Kota Nusantara’ (2024) 5 Economics and Digital Business Review.[387].

¹³ Habibah Moslem and Hasbi Abdul Al-Wahhab Kh, ‘Sharia Crowdfunding as An Alternative Financing Solution for The Nusantara Capital City Authority’ (2023) 9 Jurnal Ilmiah Ekonomi Islam. [3371].

¹⁴ Kristianus Jimy Pratama, ‘Regulatory Challenges in Digital Foreign Investment Through Securities Crowdfunding in Indonesia’ (2022) 15 Indonesian Law Jurnal.[111].

the researcher focuses more on finding the characteristics of sharia crowdfunding as an alternative financing for the development of the new National Capital, where the funding mechanism for National Capital development through sharia crowdfunding has never been done before, either in Indonesia or other countries.

This research uses a normative juridical research type, namely legal research that emphasizes existing legal norms that apply in society as the object of research.¹⁵ Normative juridical research is also known as doctrinal legal research, namely literature-based research carried out by reviewing legal documents in the form of statutory regulations and library materials.¹⁶ Statutory and conceptual approaches are used. The legislative approach is a research approach that examines all laws and regulations related to the legal issue being studied,¹⁷ namely related to all legal regulations regarding sharia crowdfunding as an alternative financing for the development of the New National Capital City. Furthermore, the conceptual approach originates from the views and doctrines that have developed in legal science, which can be used to form legal arguments.¹⁸ The conceptual approach in this research is used to examine the characteristics of sharia crowdfunding as an alternative financing for the development of the New National Capital City.

The legal materials used in this research consist of primary legal materials in the form of legal regulations consisting of Law Number 3 of 2022 concerning National Capital; Financial Services Authority Regulation of the Republic of Indonesia Number 16/POJK.04/2021 concerning Amendments to Financial Services Authority Regulation Number 57/POJK.04/2020 concerning Securities Offerings Through Information Technology-Based Crowdfunding Services; DSN-MUI Fatwa No: 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles; and DSN-MUI Fatwa No: 140/DSN-MUI/

¹⁵ I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Prenada Media Grup 2017).[89].

¹⁶ Dyah Ochterina Susanti and Aan Efendi, *Penelitian Hukum (Legal Research)* (Sinar Grafika 2014).[11].

¹⁷ Peter Mahmud Marzuki, *Penelitian Hukum* (Kharisma Putra Utama 2017).[133].

¹⁸ *ibid.*[135–136].

VIII/2021 concerning Sharia Securities Offerings Through Information Technology-Based Crowdfunding Services Based on Sharia Principles (Islamic Securities Crowd Funding). Furthermore, there is also secondary legal material in the form of legal research books that have relevance to the legal issues being researched.¹⁹ The collection of legal materials was carried out through a literature review by analyzing all of the legal materials,²⁰ so that a final argument can be obtained in the form of an answer to the legal issue, namely related to the characteristics of sharia crowdfunding as an alternative financing for the development of the New National Capital City.

Sharia Crowdfunding as an Islamic Financial Instrument

The increasing development of fintech has become a special attraction in the financial system so that it can encourage the potential of the digital economy. This is because the fintech system is more efficient and reduces costs compared to the formal financial system. One of the implementations of fintech in the form of financing is crowdfunding as a trendy fundraising mechanism in society.²¹ Crowdfunding is financing carried out jointly or jointly based on the concept of mutual cooperation (*gotong royong*).²² The concept of crowdfunding is rooted in the concept of crowdsourcing which uses crowds of people to get feedback or solutions with the aim of developing a business activity by collecting funds through social media networks.²³ Crowdfunding is carried out by many people (investors) with the

¹⁹ *ibid.*[196].

²⁰ Diantha (n 15).[152].

²¹ Nelly and others (n 9).[284].

²² Mutual cooperation or *gotong royong* is a philosophy inherent in crowdfunding which reflects the third principle of Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia, through a form of concern to realize useful goals. Rooted in the traditional concept of mutual cooperation transformed into a modern way by utilizing technological developments, the presence of the crowdfunding financing model can become a force for economic democracy through community participation that is in line with Indonesia's ideals of life. See Kusumaputra, Winarno and Retnowati (n 11). See also in Muhammad Saleh, Andiny Utari and Abdul Wahab, 'Analisis Penggunaan Fintech Syariah Perspektif Mashlahah Mursalah (Studi Pada Dana Syariah.Id)' (2020) 16 Al-Buhuts.[61]. <<https://www.journal.iaingorontalo.ac.id/index.php/ab/article/view/1766>>.

²³ Abidullah Khan, Raditya Sukmana, and Abid Mahmood, 'Islamic Social Finance Ecosystem and The Role of Crowdfunding: A Proposed Model' (2023) 46 Hamdard Islamicus.[102] <<https://hamdardislamicus.com.pk/index.php/hi/article/view/876>> accessed 15 March 2024.

aim of financing a particular project through online media or internet platforms.²⁴ Crowdfunding is a link between entrepreneurs who need funds and people who have funds so they can finance the business.

Further regarding crowdfunding services as regulated in Financial Services Authority Regulation Number 57/POJK.04/2020 concerning Securities Offerings Through Information Technology-Based Crowdfunding Services as amended into Financial Services Authority Regulation No. 16/POJK.04/2021 explains that crowdfunding services are the provision of securities offering services carried out by issuers to sell securities directly to investors through an open electronic system network.²⁵ In this regard, crowdfunding is included in financial activities in the capital markets sector which utilizes an electronic system with a mechanism where a number of people or groups collect funds or financial donations from various individuals whose aim is to support certain projects, initiatives or businesses that require funding.

Crowdfunding has become a popular way for individuals or groups with an idea or project to raise funds without having to rely on traditional financial institutions. Furthermore, in sharia finance there is sharia crowdfunding. Sharia crowdfunding is based on the principle of mutual assistance (*ta'awun*), the legal basis for which is found in Q.S. *Al-Maidah* verse 2, which means: "... *please help you in (doing) virtue and piety, and do not help in committing sins and enmity...*" Based on this, sharia crowdfunding activities are carried out with the basic principle of mutual assistance (*ta'awun*) between parties who have funds and parties who need funds to finance a particular business.²⁶ In Biancone's opinion, sharia crowdfunding is an investment activity in halal projects or products, with provisions for sharing the risk of the

²⁴ Fithriatus Shalihah and others, *Equity Crowdfunding di Indonesia* (UAD Press 2022).[7].

²⁵ See Article 2 of the Financial Services Authority Regulation (POJK) Number 57/POJK.04/2020 concerning Securities Offerings Through Information Technology-Based Crowdfunding Services.

²⁶ Ibn Akhfays, quoted by al-Qurthubi in his commentary, explains mutual assistance (*ta'awun*) according to which "*ta'awun ala birri wa-taqwa*" is a moral in Islam that gives and strengthens each other according to their abilities, where knowledgeable people help by putting their knowledge into practice, and people who are rich help with their wealth. This then becomes the philosophy or basic principle in implementing sharia crowdfunding. See Muhammad Labib Syauqi and Sofi Faiqotul Hikmah, 'Optimalisasi Peran Crowdfunding Syariah pada Lembaga Filantropi untuk Peningkatan UMKM di Indonesia' (2023) 4.[158].

investment and being free from interest.²⁷

The implementation of sharia crowdfunding is aimed at financing halal projects and products, the implementation of which must also comply with sharia principles.²⁸ This is as regulated in DSN-MUI Fatwa No. 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services based on Sharia Principles. Based on this fatwa, the implementation of information technology-based financing, including sharia crowdfunding, must not conflict with sharia principles in order to avoid usury, *gharar*, *maisir*, *tadlis* and *dharar*.²⁹ Sharia crowdfunding is specifically regulated in DSN-MUI Fatwa No: 140/DSN-MUI/VIII/2021 concerning Sharia Securities Offerings Through Information Technology-Based Crowdfunding Services Based on Sharia Principles (Islamic Securities Crowd Funding). In the general provisions of the fatwa, it is stated that crowdfunding services are a mechanism for openly collecting public funds to be used as business capital or to finance a business by utilizing information technology-based digital platforms.

Furthermore, sharia crowdfunding is also defined as a medium for using funds obtained from several individuals or organizations to fund a project or other needs through an online platform designed in accordance with sharia principles.³⁰ This is in line with the provisions regarding crowdfunding services in DSN-MUI Fatwa No. 140/DSN-MUI/VIII/2021 which states that the implementation of crowdfunding services must not conflict with sharia principles, and must comply with the precautionary principle and applicable laws and regulations. The characteristics that differentiate sharia crowdfunding from conventional crowdfunding generally lie in: investment objectives for halal projects and products; free from interest rates; and supervised by the Sharia Supervisory Board.³¹

²⁷ Nur Rahmah Sari and others, 'Equity Crowdfunding for SMEs: Sharia Compliance Challenge amid the Covid-19 Pandemic' (2020) 6 Jurnal Iqtisaduna.[198-202].

²⁸ Nelly and others (n 9).[1284].

²⁹ Sari and others (n 27).[202].

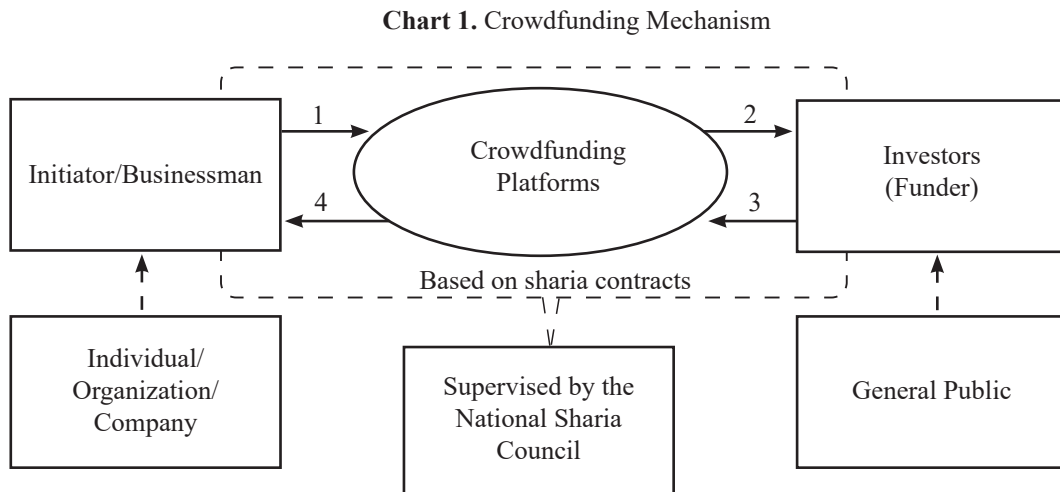
³⁰ Lilik Rahmawati, Baiq el Badriati and Iqbal Tanjung, 'Analisis Permintaan dan Perilaku Konsumen Fintech Syariah Model Crowdfunding' (2018) 2 Profit: Jurnal Kajian Ekonomi dan Perbankan.[35-44].

³¹ Nelly and others (n 9).[1289].

Sharia crowdfunding in the Islamic financial system has the potential to open investment opportunities with higher returns that prioritize transparency, mutual involvement and trust.³² The development of sharia crowdfunding in fintech schemes in Islamic finance is increasing globally with the emergence of various sharia crowdfunding platforms, such as HalalSky and LaunchGood (USA), Pitchin and Waqf World (Malaysia), The Ethical Cowd Yelders (UK), and so on.³³ In Indonesia, sharia crowdfunding has great and promising opportunities, this is based on several things, namely:³⁴

1. The majority of Indonesia's population is Muslim, thereby increasing the target use of sharia fintech schemes including sharia crowdfunding;
2. The sharia economy continues to experience growth and more and more industries are running their businesses by adopting the sharia economic system;
3. There is technological support that is well-established and continues to develop;
4. Regulations related to sharia crowdfunding in the sharia fintech scheme are still in the process of being worked out, thus opening up opportunities for innovation.

Furthermore, regarding the sharia crowdfunding mechanism, it can be seen in the following chart:



Source: personal, processed, 2023.

³² *ibid.*

³³ Rahmawati, Badriati and Tanjung (n 30).[44].

³⁴ *ibid.*

The chart above, shows the parties involved in sharia crowdfunding and the implementation of sharia crowdfunding, namely:

- a. The parties involved in sharia crowdfunding consist of four components, namely: 1) The initiator or entrepreneur who submits the business project, can be an individual, organization or company; 2) The organizer or operator of the crowdfunding platform; 3) Investors or funders from the community; 4) Sharia Supervisory Board which supervises the implementation of sharia crowdfunding so that it does not deviate from sharia principles.³⁵
- b. In the first stage, entrepreneurs will provide business ideas to apply for funding through crowdfunding platforms. Next, in the second stage, the operator on the crowdfunding platform will examine the application from the initiator and then forward it to potential funders (investors).
- c. Investors from the community can see investment offers through the crowdfunding platform, then give approval to fund the project. In this third stage, investors will channel their funds through the crowdfunding platform to be collected.
- d. In the fourth stage, after the funds have been collected, the crowdfunding operator will forward the funds to fund the project that has been proposed by the initiator (entrepreneur).
- e. In sharia crowdfunding activities, profit sharing will be divided based on the contract used. One of the contracts that can be used in sharia crowdfunding is the *musyarakah* contract. Furthermore, every process or activity in sharia crowdfunding will be supervised by the Sharia Supervisory Board so that it complies with sharia principles and does not violate the provisions of Islamic law.

Characteristics of Sharia Crowdfunding as an Alternative to Financing the Development of a New State Capital

The capital city of Indonesia, which was previously located in Jakarta, was the center of all government, trade, investment, political, cultural and technological activities, making development and the economy only concentrated in Jakarta and the island of Java.³⁶ This was one of the reasons for moving the National Capital from Jakarta to East Kalimantan, which was named Nusantara.³⁷ The relocation

³⁵ Saleh, Utari and Wahab (n 22).[63].

³⁶ Tyas, 'Pemindahan Ibu Kota Negara dan Transisi ASN untuk Mencapai Pemerintahan yang Berkelas Internasional dan Smart Governance' (2022) 43 Simpul Perencana.[3]<bit.ly/baca-simpul>.

³⁷ See Article 1 paragraph (2) of Law Number 3 of 2022 concerning National Capital, which states that: "The capital city called Nusantara and hereinafter referred to as Nusantara Capital is a regional government unit at the provincial level whose territory is the seat of the National Capital as stated in determined and regulated by this law".

and construction of the National Capital began to be carried out officially since the enactment of Law Number 3 of 2022 concerning the National Capital (the National Capital Law). Through the ratification of this law, it is hoped that the relocation of the National Capital in the Nusantara will be a solution for equitable development that will encourage the formation of the economy in the New National Capital of the Nusantara and the Eastern Region, so that it can support the creation of economic transformation to realizing the vision of Advanced Indonesia 2045, where the Indonesian economy is in the top five categories in the world.³⁸

The national capital city of the Nusantara, which is currently still in the process of development, certainly requires large costs estimated at IDR 446 trillion. Of this amount, one of the financing alternatives that can be used as a source of funding for the development of the new national capital is crowdfunding.³⁹ The use of crowdfunding as an alternative funding for the development of the New National Capital is included in the creative financing category mentioned in the National Capital funding scheme in Appendix II of the National Capital Law. The crowdfunding scheme as an alternative financing for the development of the National Capital City is something new, where previously crowdfunding tended to be used as business funding, especially for Micro, Small and Medium Enterprises (MSMEs), so there is still no concrete form of implementing the use of crowdfunding in the development of the National Capital City either in Indonesia and other countries. The success of crowdfunding in business financing is the background to the emergence of crowdfunding as an alternative to National Capital financing. This can be seen in the rapid growth of the crowdfunding market, namely 22% in 2012 which increased globally to 68.3% in 2014.⁴⁰ In Indonesia, as recorded by the Financial Services Authority, crowdfunding has increased from IDR 184.90 billion in 2020 to IDR

³⁸ Tyas (n 36).[3].

³⁹ Sonia Nuramalia Turohmah and others, 'Membongkar Rencana Pemindahan Ibu Kota Pemindahan Ibu Kota Analisis Penerapan Sistem Tata Kelola Pemerintahan Baik (Good Governance)'. [8]<<https://gamapi.fisipol.ugm.ac.id/membongkar-rencana-pemindahan-ibukota-analisis-penerapan-sistem-tata-kelola-pemerintahan-baik-good-governance/>>.

⁴⁰ Nelly and others (n 9).[1290].

721.84 billion in 2022.⁴¹

Crowdfunding contains social values aimed at the public interest, not solely for investing with the aim of making a profit from the allocation of funds provided.⁴² This is in line with the principle of mutual cooperation held by the Indonesian people, so that the community can participate in developing the economy and help fund the development of the New National Capital.⁴³ The use of a crowdfunding scheme can provide an opportunity for the Government to achieve its goal of funding the infrastructure development of the new National Capital by involving the role and funding support of the wider community through crowdfunding.⁴⁴

Next, the researchers focus more on discussing sharia crowdfunding as an alternative financing for the development of the new capital city of the Nusantara. Infrastructure development in the Nusantara using a sharia crowdfunding scheme means that the construction and provision of infrastructure in the New National Capital, especially related to halal projects, will be funded by funds collected from the people involved or invested through the sharia crowdfunding platform that has been provided. Utilizing sharia crowdfunding as an alternative financing for the development of the New National Capital can be an option for people who want to invest and help accelerate the development of the New National Capital in accordance with Islamic sharia principles.

Sharia crowdfunding as an alternative financing for the development of the new National Capital certainly has different characteristics from conventional crowdfunding. This can be seen in the following table:

⁴¹ Diki Mardiansyah, "Pendanaan UMKM Melalui Securities Crowdfunding Capai Rp 721,84 Miliar pada Tahun 2022", , <<https://keuangan.kontan.co.id/news/pendanaan-umkm-melalui-securities-crowdfunding-capai-rp-72184-miliar-pada-tahun-2022>> accessed March 10, 2024

⁴² Kristianus Jimy Pratama, 'Tinjauan Kritis Terhadap Manajemen Risiko Pengembalian Investasi Asing Pada Pembangunan Ibu Kota Nusantara' (2022) 52 *Majalah Hukum Nasional: Media Pembinaan & Pembangunan Hukum*. [47-58].

⁴³ Mochamad Dandy Hadi Saputra and Vika Annisa Qurrata, 'Securities crowdfunding: Bagaimana Relevansinya pada Nilai- Nilai Pancasila?' (2021) 1 *Prosiding Seminar Nasional Ekonomi Pembangunan*. [28-34].

⁴⁴ Pratama (n 42). [58].

Table 1. Comparison of Sharia Crowdfunding and Conventional Crowdfunding

No	Category	Conventional Crowdfunding	Sharia Crowdfunding
1.	Base	Humanity	Sharia Principles
2.	Budget Allocation	All Sectors	Halal Projects and Products
3.	Mechanism	Crowdfunding Peer to Peer (P2P)	Using Sharia contracts, such as <i>Musyarakah</i> , <i>Mudharabah</i> and <i>Qardh</i> contracts.
4.	Profit Sharing	Profits and Interest	Profit and Loss Sharing Ratio (<i>Nisbah</i>).
5.	Licensing and Supervision	Bank Indonesia and the Financial Services Authority	Bank Indonesia, Financial Services Authority, and Sharia Supervisory Board.

Source: Personal, processed, 2024

Based on this table, the characteristics of sharia crowdfunding are: **First**, financing is aimed at halal projects and products, so it is free from interest rates. Interest rates (*riba*) in Islam are prohibited in Islamic law. The prohibition of usury in the Islamic economy can encourage an investment climate that is channeled well into the real sector for fully productive purposes, not solely to gain profit.⁴⁵ **Second**, there is fairness in the distribution of profit and loss margins (profit and loss sharing). Sharia crowdfunding with a profit and loss sharing system can have a positive impact on fair, stable and sustainable economic activities toward achieving community welfare.⁴⁶ **Third**, in the implementation process, sharia crowdfunding is under the supervision of three institutions, namely Bank Indonesia, the Financial Services Authority and the Sharia Supervisory Board.⁴⁷ The Sharia Supervisory Board is a special supervisory institution tasked with supervising the operations and practices of Sharia Financial Institutions so that they remain consistent and do not deviate from sharia principles.⁴⁸

Furthermore, regarding the amount of profit and loss sharing in the sharia crowdfunding scheme, it depends on the sharia contract used. The use of

⁴⁵ Risanda Alirastra Budiantoro, Riesanda Najmi Sasmita and Tika Widiastuti, 'Sistem Ekonomi (Islam) dan Pelarangan Riba dalam Perspektif Historis' (2018) 4 Jurnal Ilmiah Ekonomi Islam [1, 12].

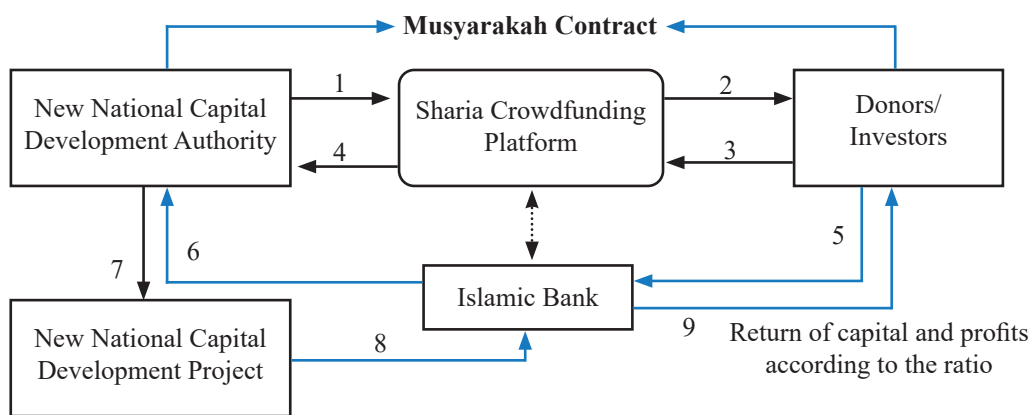
⁴⁶ *ibid.*

⁴⁷ Nelly and others (n 9).[1295].

⁴⁸ Muhamad Muhamad, Inovasi, Rekayasa dan Pengembangan Produk-Instrumen Keuangan Syariah (UII Press 2019).[153].

sharia crowdfunding schemes as an alternative financing for the development of the New National Capital can be done with several contracts, including the *musyarakah* contract. A *musyarakah* or *syirkah* agreement (partnership, project financing participation) according to Article 20 point 3 of the Compilation of Sharia Economic Law is cooperation between two or more people in terms of capital, skills or trust in a particular business with profit sharing based on a ratio. The sharia crowdfunding scheme based on the *musyarakah* contract can be seen in the following chart:

Chart 2. Sharia Crowdfunding Based on *Musyarakah* Contract



Source: Personal, processed, 2023.

Referring to the scheme chart above, it can be seen that the sharia crowdfunding scheme is based on a *musyarakah* contract as an alternative financing for the development of the New National Capital, starting from applying for funding from the New National Capital development authority via the sharia crowdfunding platform. Sharia crowdfunding operators then display funding offers for the construction of the New National Capital so that they can be accessed by the public as potential donors or investors. People who agree to provide funding can provide responses and fulfill several prerequisite conditions through the crowdfunding platform, which will then be forwarded by the crowdfunding platform operator to the New National Capital development authority. In this process, the crowdfunding platform acts as an intermediary system that connects funders with the development

authorities of the New National Capital City.⁴⁹

Furthermore, the relationship between the community as funders and the development authority for the New National Capital will be bound through an agreement based on a *musyarakah* contract. After there is an agreement, the donor will provide the funds through a sharia bank as a fund intermediary, then the sharia bank will channel the funds to the National Capital development authority to fund the New National Capital development project. Refunds and profits will be given to funders after the development project is completed through a crowdfunding platform through a sharia bank.

Based on the description above, it can be seen that the characteristics of sharia crowdfunding as an alternative financing in the construction of new National Capital, namely: first, financing aimed at halal projects and products, one of which is in infrastructure development such as Sharia Hotels, Halal Tourism, Islamic Schools and Islamic Boarding Schools, and can also be in the form of halal food programs and providing clean water for halal communities in the new National Capital area. Second, fairness in the distribution of profit and loss margins, because the sharia crowdfunding scheme is implemented based on sharia contracts, one of which is a *musyarakah* contract with a profit-sharing system (*nisbah*). Third, the implementation of sharia crowdfunding is supervised by four institutions, namely the Task Force for the Implementation of National Capital Development, Bank Indonesia, the Financial Services Authority, and the Sharia Supervisory Board.

Sharia Crowdfunding Based on Maqashid Sharia

Maqashid sharia consists of two words, namely *maqashid* which is the plural of the word *maqshud* meaning intention and purpose, and the word sharia which

⁴⁹ Putri Maydi Arofatur Anhar, 'Analisis Sistem Urun Dana Usaha Melalui Crowdfunding Perspektif Al-Maqashid Jasser Auda' (2021) 2 Rechtenstudent Journal.[266, 270].

means the path to water or toward the source of life.⁵⁰ *Maqashid* sharia is the goal stated in Islamic law in the form of basic elements that must be fulfilled and protected by law.⁵¹ *Maqashid* sharia is intended to realize benefits in this world and the hereafter. This benefit is realized in three basic needs, namely primary needs (*dharuriyyah*), secondary needs (*hajiyyah*) and tertiary needs (*tahsiniyyah*).⁵²

The scholars generally divide the primary needs in *maqashid* sharia into five, namely *hifz al-din* (protecting religion), *hifz an-nasl* (protecting descendants), *hifz al-'aql* (protecting the mind), *hifz nafs* (protecting the soul), and *hifz al-mal* (protecting wealth).⁵³ The realization of these five things will result in a noble, prosperous life and blessings in the afterlife. In this regard, benefit can be realized in two ways, namely realizing benefits and avoiding damage or evil (*jalbul mashalih wa dar'ul mafasid*).⁵⁴

As time progressed, there was a development of classical *maqashid* theory into modern *maqashid* sharia which was developed by Jasser Auda so that it could answer the challenges of Muslims relating to contemporary issues.⁵⁵ Jasser Auda, in his work entitled *Maqashid al-Shariah as Philosophy of Law: A System Approach*, defines *maqashid* as four things, namely: (1) the wisdom behind a law; (2) the good final goal that the law wants to achieve; (3) groups of divine purposes and moral concepts of law; (4) *mashalih* (benefit).⁵⁶ Jasser Auda tries to reconstruct the old *maqashid* concept which was protection and preservation toward modern *maqashid* which leads to development and rights, as can be seen in the following table of differences:⁵⁷

⁵⁰ Ika Rarawahyuni and Via Rismaya, 'Analisis Peer to Peer Lending dan CrowdFunding pada Fintech Syariah Ditinjau dari Fatwa DSN MUI dan Pendekatan Maqashid Syariah' (2022) 5 Jurnal Maps (Manajemen Perbankan Syariah).[96, 100].

⁵¹ Arina Haqan, 'Rekonstruksi Maqasid Al-Syari'ah Jasser Auda' (2018) 1 Jurnal Pemikiran dan Ilmu Keislaman.[69, 135].

⁵² *ibid.*

⁵³ *ibid.*

⁵⁴ Rarawahyuni and Rismaya (n 50).[101].

⁵⁵ Retna Gumanti, 'Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem dalam Hukum Islam)' (2018) 2 Jurnal Al-Himayah.[97, 104].

⁵⁶ Haqan (n 51).[146].

⁵⁷ *ibid.*

Table 2. The Shift of Classical *Maqashid* Theory Toward Contemporary

No.	Classical Maqashid	Contemporary Maqashid
1.	<i>Hifz al-Din</i> (protect religion)	Maintain, protect, and respect the freedom of different religions and beliefs.
2.	<i>Hifz al-Nasl</i> (protect offspring)	Protection for families and more concern for family institutions.
3.	<i>Hifz al-Aql</i> (protects reason)	Improve mindset and scientific research, prioritize travel to seek knowledge, and avoid efforts that undermine brain performance.
4.	<i>Hifz an-Nafs</i> (protect soul)	Maintain and protect human dignity and human rights.
5.	<i>Hifz al-Mal</i> (protect property)	Prioritizing social care, paying attention to development and economic development, promoting welfare for the community, and eliminating the difference between the poor and the rich.

Source: Arina Haqan, processed, 2023

Based on the table above, it can be seen that there has been a shift from classical to contemporary *maqashid* sharia theory, namely from protecting religion (*hifz al-din*) to protecting freedom of belief (*hurriyah al-i'tiqad*); from progeny protection (*hifz al-nasl*) to family protection (*hifz al-usrahl*); from protecting reason (*hifz al-aql*) to becoming the embodiment of scientific thinking and enthusiasm in seeking knowledge; from protection of life (*hifz al-nafsl*) to protection of human honor (*hifz al-karamah al-insaniyah*) and human rights (*hifz huquq al-insan*); from protection of assets (*hifz al-mal*) to the embodiment of social solidarity.⁵⁸

The *maqashid* sharia put forward by Jasser Auda, when linked to the sharia crowdfunding scheme as an alternative financing for the development of the New National Capital, is suitable and can be implemented. First, in protecting reason (*hifz al-aql*) and improving mindsets, the use of sharia crowdfunding as an alternative financing is a manifestation of innovation in thought patterns, with the idea of collecting public funds through sharia crowdfunding platforms as a form of mutual cooperation in the development of the New National Capital City. Second, life protection (*hifz an-nafs*), which is realized through the protection of human rights in the sharia crowdfunding scheme which is

⁵⁸ Anhar (n 49).[275].

implemented based on sharia contracts and supervised by the Sharia Supervisory Board, shows that there is protection for each party's rights and obligations in the sharia crowdfunding scheme.

Furthermore, the last one is the protection of assets (*hifz al-mal*) which is manifested in social care and development and economic development. In this regard, the aim of sharia crowdfunding as an alternative financing for the development of the New National Capital is in line with the aim of protecting wealth in *maqashid* sharia. Collecting funds through sharia crowdfunding is an effective way as an alternative to financing the development of the New National Capital. The collected community funds will be managed in accordance with sharia principles and applicable laws and regulations. The purpose of using these funds is also clear to finance halal products and projects, so that they are free from usury. This can certainly encourage the acceleration of economic development in the Indonesian capital region, where the profits from crowdfunding will also be given to the community as a form of encouraging the welfare of the community itself.

Conclusion

Based on the discussion above, it can be concluded that sharia crowdfunding is a digital platform that is used as an intermediary medium to collect a certain amount of funds from the public to fund a halal project or product designed in accordance with sharia principles. The characteristics of sharia crowdfunding are: first, financing is aimed at halal projects and products so it is free from interest rates, this is because the implementation of sharia crowdfunding must comply with sharia principles which prohibit interest (*riba*). Second, there is fairness in the distribution of profit and loss margins, because the sharia crowdfunding scheme is implemented based on sharia contracts, one of which is a *musyarakah* contract with a profit-sharing system (*nisbah*). Third, the implementation of sharia crowdfunding is supervised by three institutions, namely Bank Indonesia, the Financial Services Authority and the Sharia Supervisory Board.

Bibliography

- Abidullah Khan, Raditya Sukmana, and Abid Mahmood, 'Islamic Social Finance Ecosystem and The Role of Crowdfunding: A Proposed Model' (2023) 46 Hamdard Islamicus <<https://hamdardislamicus.com.pk/index.php/hi/article/view/876>> accessed 15 March 2024.
- Anhar PMA, 'Analisis Sistem Urun Dana Usaha Melalui Crowdfunding Perspektif Al- Maqashid Jasser Auda' (2021) 2 Rechtenstudent Journal.
- Annur CM, 'Dana Securities Crowdfunding Tembus Rp507 Miliar per Juni 2022' (*databoks*, 2022) <<https://databoks.katadata.co.id/datapublish/2022/06/09/dana-securities-crowdfunding-tembus-rp507-miliar-per-juni-2022>> accessed 18 January 2023.
- Budiantoro RA, Sasmita RN and Widiastuti T, 'Sistem Ekonomi (Islam) dan Pelarangan Riba dalam Perspektif Historis' (2018) 4 Jurnal Ilmiah Ekonomi Islam.
- Cindy Mutia Annur, 'Dana Securities Crowdfunding Tembus Rp507 Miliar per Juni 2022' (*databoks*, 2022) <<https://databoks.katadata.co.id/datapublish/2022/06/09/dana-securities-crowdfunding-tembus-rp507-miliar-per-juni-2022>> accessed 18 January 2023.
- Damarjati D, 'Otorita IKN Buka Opsi Urun Dana Masyarakat: Sah, Tak Ada Pemaksaan' (*Detiknews*, 2022) <<https://news.detik.com/berita/d-6000129/otorita-ikn-buka-opsi-urun-dana-masyarakat-sah-tak-ada-pemaksaan>> accessed 18 January 2023.
- Diantha IMP, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Prenada Media Grup 2017).
- Diki Mardiansyah, 'Bisnis Securites Crowdfunding Meningkatkan Sepanjang 2022, Ini Penopangnya' (*kontan.co.id*, 2023) <<https://keuangan.kontan.co.id/news/bisnis-securites-crowdfunding-meningkat-sepanjang-2022-ini-penopangnya>> accessed 18 January 2023.
- Gumanti R, 'Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem dalam Hukum Islam)' (2018) 2 Jurnal Al-Himayah.
- Haqan A, 'Rekontruksi Maqasid Al-Syari'ah Jasser Auda' (2018) 1 Jurnal Pemikiran dan Ilmu Keislaman.
- Kurniawan RF and others, 'Analisis Crowdfunding Sebagai Alternatif Pembiayaan Pembangunan Infrastruktur dalam Proyek Ibu Kota Nusantara' (2024) 5 Economics and Digital Business Review.

- Kusumaputra A, Winarno R and Retnowati E, 'Penguatan Legalitas Crowdfunding sebagai Alternatif Pembiayaan Pembangunan Kawasan Perdesaan Guna Menumbuhkan Ekonomi Nasional' (2020) 17 *Jurnal Legislasi Indonesia*.
- Mardiansyah D, 'Bisnis Securites Crowdfunding Meningkatkan Sepanjang 2022, Ini Penopangnya' (*keuangan.kontan.co.id*, 2023) <<https://keuangan.kontan.co.id/news/bisnis-securites-crowdfunding-meningkat-sepanjang-2022-ini-penopangnya>> accessed 18 January 2023.
- Marzuki PM, *Penelitian Hukum* (Kharisma Putra Utama 2017).
- Moslem H and Kh HAA-W, 'Sharia Crowdfunding as An Alternative Financing Solution for The Nusantara Capital City Authority' (2023) 9 *Jurnal Ilmiah Ekonomi Islam*.
- Muhamad M, *Inovasi, Rekayasa dan Pengembangan Produk-Instrumen Keuangan Syariah* (UII Press 2019).
- Nelly R and others, 'Studi Empiris Perkembangan Crowdfunding Syariah di Indonesia' (2022) 4 *Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah*.
- Novitarani A and Setyowati R, 'Analisis Crowdfunding Syariah Berdasarkan Prinsip Syariah Compliance serta Implementasinya dalam Produk Perbankan Syariah' (2018) 12 *Al-Manahij: Jurnal Kajian Hukum Islam*.
- Nugraheny DE, 'KSP: Pembangunan Ibu Kota Baru Perlu Anggaran Rp 466 T, Tak Semua Ditanggung APBN' (*Kompas.com*, 2021) <<https://nasional.kompas.com/read/2021/06/29/06162041/ksp-pembangunan-ibu-kota-baru-perlu-anggaran-rp-466-t-tak-semua-ditanggung>> accessed 19 January 2023.
- Nugroho D, 'Bentuk Ibu Kota Negara Nusantara Dalam Negara Kesatuan Republik Indonesia' (2022) 4 *The Indonesian Journal of Politics and Policy*.
- Pratama KJ, 'Regulatory Challenges in Digital Foreign Investment Through Securities Crowdfunding in Indonesia' (2022) 15 *Indonesian Law Jurnal*.
- , 'Tinjauan Kritis Terhadap Manajemen Risiko Pengembalian Investasi Asing Pada Pembangunan Ibu Kota Nusantara' (2022) 52 *Majalah Hukum Nasional: Media Pembinaan & Pembangunan Hukum*.
- Rahmawati L, Badriati B el and Tanjung I, 'Analisis Permintaan dan Perilaku Konsumen Fintech Syariah Model Crowdfunding' (2018) 2 *Profit: Jurnal Kajian Ekonomi dan Perbankan*.
- Rarawahyuni I and Rismaya V, 'Analisis Peer to Peer Lending dan CrowdFunding

pada Fintech Syariah Ditinjau dari Fatwa DSN MUI dan Pendekatan Maqashid Syariah' (2022) 5 Jurnal Maps (Manajemen Perbankan Syariah).

Saleh M, Utari A and Wahab A, 'Analisis Penggunaan Fintech Syariah Perspektif Mashlahah Mursalah (Studi Pada Dana Syariah.Id)' (2020) 16 Al-Buhuts <<https://www.journal.iaingorontalo.ac.id/index.php/ab/article/view/1766>>.

Saputra MDH and Qurrata VA, 'Securities crowdfunding: Bagaimana Relevansinya pada Nilai- Nilai Pancasila?' (2021) 1 Prosiding Seminar Nasional Ekonomi Pembangunan.

Sari NR and others, 'Equity Crowdfunding for SMEs: Sharia Compliance Challenge amid the Covid-19 Pandemic' (2020) 6 Jurnal Iqtisaduna.

Shalihah F and others, *Equity Crowdfunding di Indonesia* (UAD Press 2022).

Susanti DO and Efendi A, *Penelitian Hukum (Legal Research)* (Sinar Grafika 2014).

Syauqi ML and Hikmah SF, 'Optimalisasi Peran Crowdfunding Syariah pada Lembaga Filantropi untuk Peningkatan UMKM di Indonesia' (2023).

Turohmah SN and others, 'Membongkar Rencana Pemindahan Ibu Kota Pemindahan Ibu Kota Analisis Penerapan Sistem Tata Kelola Pemerintahan Baik (Good Governance)' <<https://gamapi.fisipol.ugm.ac.id/membongkar-rencana-pemindahan-ibukota-analisis-penerapan-sistem-tata-kelola-pemerintahan-baik-good-governance/>>.

Tyas, 'Pemindahan Ibu Kota Negara dan Transisi ASN untuk Mencapai Pemerintahan yang Berkelas Internasional dan Smart Governance' (2022) 43 *Simpul Perencana* <bit.ly/baca-simpul>.

HOW TO CITE: Dyah Ochterina Susanti, Aan Efendi and Ahmad Suhaimi, 'Characteristics of Sharia Crowdfunding as an Alternative to Financing the Development of the National Capital City' (2024) 39 *Yuridika*.