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Revitalization of Sharia Securities-Based Crowdfunding: A Regulatory Review and Its Impact on Halal MSME Development

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Abstract: Sharia Securities-Based Crowdfunding (Sharia SBC) has significant potential in supporting the development of halal MSMEs in Indonesia. Halal MSMEs often face limited access to conventional financing. The presence of Sharia SBC, based on information technology, can serve as an alternative source of funding in accordance with Sharia principles for halal MSMEs. This study aims to examine the regulations governing Sharia SBC and its impact on the development of halal MSMEs. The research method used is a qualitative approach with descriptive analysis. Data is collected from secondary sources such as literature studies, and analysis of regulatory documents. The results indicate that mature and comprehensive regulations are crucial to support the success of Sharia SBC. Existing regulations, such as the Financial Services Authority Regulation Number 57 of 2020 amended by OJK Regulation No. 16/POJK.04/2021 of 2021 provide a basic framework for the operation of Sharia SBCs. However, challenges persist, including the lack of Sharia financial literacy among MSMEs and investors, as well as the need to enhance technological infrastructure and accessibility of the SBC platform. Properly regulated, Sharia SBCs can enhance halal MSMEs' access to capital, thereby boosting their business growth and sustainability. Optimizing regulations and improving education and infrastructure are essential to maximizing the potential of Sharia SBC in supporting the development of halal MSMEs in Indonesia.

Keyword: Sharia Securities-based Crowdfunding, Halal MSMEs, Regulation, Economic Development.

INTRODUCTION

Micro, small, and medium enterprises (MSMEs) are crucial for economic development as they can create jobs with minimal investment. According to the Ministry of Cooperatives and MSMEs data from March 2021, there are 64.2 million MSMEs contributing 61.07% to the GDP, amounting to IDR 8,573.89 trillion. By 2023, the number of MSMEs

increased to 66 million, accounting for 99% of business actors and contributing 61% to the GDP, equivalent to IDR 9,580 trillion (KADIN, 2024). MSMEs are adaptable to market changes, making them less vulnerable to external pressures (Fandika et al., 2024). They also reduce reliance on imported materials and use more local resources (Febrian & Kristianti, 2020), contributing to economic diversification and long-term growth. MSMEs create more jobs compared to large companies, employing 97% of the workforce, or 117 million individuals (Limanseto, 2023).

The role of MSMEs is supported by halal MSMEs in Indonesia, although the number is still relatively small, with only around 725,000 halal-certified products originating from 405,000 MSMEs (Hakim, 2022). Indonesia with a majority Muslim population, has a significant potential for halal MSMEs. According to the Royal Islamic Strategic Studies Center (RISSC), the Muslim population in Indonesia reached 240.62 million in 2023, equivalent to 86.7% of the national population of 277.53 million (Annur, 2023). Such a large Muslim population makes Indonesia a very potential country to develop halal MSMEs. Halal MSMEs is a term used to refer to MSMEs that produce halal products, starting from raw materials, manufacturing processes, and packaging, all in accordance with Islamic teachings. However, the development of MSMEs is often hampered by inherent weaknesses.

The weaknesses of MSMEs include simple accounting systems (Siagian and Indra, 2019), low commercial margins, limited company management experience, small economic scale leading to difficulties in achieving cost reductions for long-term efficiency, limited market diversification, and capital constraints. Danarti Hariani further explained that several obstacles hinder the progress of halal MSMEs, such as uncertified businesses, low HR skills, limited technology adoption, inadequate halal literacy, lack of integrated data, limited access to innovation and digital services, underutilization of related institutions, and insufficient funding distribution to MSMEs (Hariani, 2023).

Financial institutions tasked with providing professional funding (microfinance) play a crucial role in offering competitive funding sources for MSMEs. However, the majority of halal MSMEs are not considered bankable, necessitating alternative funding sources with easy and flexible access requirements to support their growth. The demand for flexible financing among halal MSMEs presents an opportunity for alternative financing institutions leveraging information technology or financial technology. One such information technology-based financing model is Sharia securities-based crowdfunding (Sharia SBC) services. This crowdfunding service offers halal MSMEs easier, faster, and more transparent access to financing opportunities (Hasan, 2023). Sharia SBC is a securities offering service to the public (investors) directly through electronic systems based on Sharia principles (Majid & Nugraha, 2022). Sharia principles are rooted in Islamic legal values that prohibit elements such as gambling, fraud, usury, abuse, bribery, prohibited goods, and unethical behavior in economic activities (Noor et al., 2021). The adherence to Sharia principles sets Sharia SBC apart from conventional crowdfunding models.

Sharia SBC is a form of financial industry activity based on technology or financial technology. The use of technology in the financial industry as an alternative financing for halal MSMEs requires certainty and legal protection for the parties involved. Practically, fundraising through Sharia SBC carries a high risk because most of the issuers are start-up businesses that lack sufficient collateral and certainty of return in case of default. Legal protection is essential to guarantee the existence of Sharia SBC and to build trust among service users regarding the funds invested. Failure to protect the parties in Sharia SBC services could lead to an economic crisis and economic instability (Noor, 2022). Therefore, studying the regulation of Sharia SBC and its impact on the development of halal MSMEs is crucial to support the growth of halal MSMEs as a significant economic entity that can contribute to national economic growth. Clear, transparent, and progressive regulations are essential for establishing a robust and sustainable sharia-based financing ecosystem. This will

enable halal MSMEs in Indonesia to effectively leverage sharia-based financing to enhance their business growth and expansion.

METHOD

This study is qualitative research with a legal perspective, chosen to provide a comprehensive understanding of the regulation of Sharia Securities Crowdfunding and its influence on the growth of halal Micro, Small, and Medium Enterprises (MSMEs) in Indonesia. The primary data sources consist of legal materials such as laws and regulations (Noor, 2023), while secondary data sources include literature from previous research, journal articles, books, and institutional reports focusing on Sharia securities-based crowdfunding and halal MSMEs. Content analysis is the data analysis technique employed to examine regulatory documents and related literature (Harris, 2001), with a focus on identifying key themes and sub-themes relevant to the regulation and its impact on halal MSMEs.

RESULTS AND DISCUSSION

Sharia SBC is a form of financial technology that utilizes digital platforms to connect investors with issuers of securities or parties in need of capital (Noor, et al., 2023). Sharia SBC operates similarly to other crowdfunding methods, but with a distinct feature: investors receive returns in the form of ownership or financial rights in the funded company, unlike donation or reward-based crowdfunding where contributions are typically rewarded with gifts or products. One of the main advantages of Sharia SBC is its ability to link startups or MSMEs with a wide range of potential investors, including individuals who may not have access to traditional investment opportunities in the capital market. This enables MSMEs and small-scale enterprises to raise funds more efficiently and at a lower cost compared to conventional fundraising methods like bank loans or venture capital.

One important aspect of Sharia SBC's existence as an alternative source of financing for MSMEs is its regulation under the Indonesian legal system. These regulations encompass reporting requirements, limits on the amount that investors can invest, and supervision of the Sharia SBC platform to ensure compliance with the law. Proper regulation and adequate education for investors can make Sharia SBC a powerful tool to connect investors as capital owners with halal MSMEs in need of funds, promoting more inclusive and dynamic economic growth.

Regulatory Framework for Sharia Securities-Based Crowdfunding

Regulation plays a crucial role in the development of MSMEs (Dharmajaya et al., 2023). From an economic perspective, regulation represents government intervention in economic activities and the functioning of the free market system. It can also be seen as the government's involvement in social and economic life through legal means (Wijaya, 2021). Legal instruments compel individuals or community organizations to adhere to the regulations established by the government, as these regulations are enforced with legal sanctions. Government intervention through regulations aims to improve conditions compared to a scenario without regulations, as regulations set the rules for the government, businesses, and the community (Silalahi, 2020). Therefore, regulations are expected to provide protection for all segments of society. However, stringent regulations can also hinder economic competitiveness by imposing additional documentation requirements on businesses, unexpected costs, and misconduct by government officials. From this perspective, in the context of Sharia SBC, regulations established by the government are deemed beneficial if they can enhance the utilization of Sharia SBC as an alternative funding source for MSMEs. Conversely, regulations are deemed detrimental if they hinder the use of Sharia SBC as an alternative funding option for MSMEs.

Regulation is a crucial component of a legal system, as argued by Lawrence M. Friedman (Friedman, 1975). He posits that a legal system comprises substance, structure, and legal culture, which interact to shape the functioning of the law in society. The legal structure encompasses the institutions and mechanisms responsible for creating, enforcing, and interpreting laws. The substance of law pertains to the rules, norms, and principles embedded within the legal framework. Legal culture encompasses individuals' attitudes, values, and beliefs regarding the law and the legal system. According to Friedman, the rules, or substance, play a vital role in achieving social objectives and justice in people's lives. Therefore, the government, as part of the legal structure, is empowered to enact laws in the form of regulations.

The authority of the government to establish regulations, including regulations governing Sharia SBCs, is outlined in Articles 4 and 5 of the 1945 Constitution of the Republic of Indonesia. These articles grant power to the president as the holder of government authority. In this capacity, the president has the authority to regulate and establish rules in various sectors, including the financial sector, to achieve a just and prosperous society as mandated by the state constitution.

Article 33, paragraph 4 of the Indonesian Constitution emphasizes that the national economy is founded on economic democracy guided by principles such as togetherness, efficiency, justice, independence, and maintaining a balance of progress and national economic unity. This article highlights the economic policy that allows individuals to engage in business activities to enhance their welfare. This aligns with the presence of Sharia SBCs as a means of economic activity that facilitates MSMEs in accessing funding directly from the community. The role of Sharia SBCs in promoting micro and small businesses to realize a populist economy and enhance the welfare of the community is consistent with Article 33 of the 1945 Constitution, which is rooted in Pancasila. Therefore, Sharia SBCs, as economic activities originating from, by, and for the community, have a legal foundation in the constitution, particularly in Article 33, which advocates for a populist economy based on kinship and economic democracy.

In an effort to boost national economic growth and development through investment activities, the government enacted Law No. 8 of 1995 on Capital Markets. This law provides opportunities for all companies, including halal MSMEs, to access a wider range of funding sources. Companies seeking funds can utilize various capital market instruments, such as stocks and bonds, to secure the necessary funds for expansion and business operations. By leveraging these instruments, companies are not solely reliant on traditional bank financing but can also attract investors from the capital market by offering various securities traded on the market. The funds raised through the issuance of securities can be allocated towards investments in technology, increasing production capacity, developing new products, and expanding into new markets.

Not all companies can raise funds through the capital market, especially halal MSMEs with net assets below 5 billion. To list securities on the capital market, a company must have Net Tangible Assets of at least IDR 100,000,000,000 (one hundred billion rupiah). For the development market, the requirement is a Net Tangible Asset of at least IDR 5,000,000,000 (five billion rupiah) (Tobing, 2015). These criteria pose challenges for MSMEs. The difficulty for MSMEs to list securities on the capital market creates opportunities for the technology-based financial industry. This industry can provide avenues for halal MSMEs to raise funds through an internet-based platform known as securities-based crowdfunding (SBC). Halal MSMEs can utilize a Sharia SBC platform for fundraising.

The use of the internet for fundraising differs from traditional capital market fundraising, which is regulated by capital market laws and their implementing regulations. While fundraising for business development falls under capital market laws, there are no specific regulations for securities crowdfunding. Therefore, the Financial Services Authority,

a non-governmental institution mandated by Law No. 21 of 2011, regulates and supervises the financial industry in Indonesia. They issued Financial Services Authority Regulation No. 57/POJK.04/2020 on Securities Offerings Through Information Technology-Based Crowdfunding Services which was last amended by Financial Services Authority Regulation No. 16/POJK.04/2021.

The regulation of securities offerings through information technology-based crowdfunding services in POJK 57/2020 covers four main aspects: regulation of crowdfunding services, crowdfunding service providers, investors, and issuers. According to Article 1 paragraph 1 of POJK 57/2020, crowdfunding services involve the offering of equity or debt-based securities directly to investors through an open electronic network. This type of fundraising is considered a financial service activity within the capital market sector. While parties involved in equity offerings through crowdfunding services are deemed to engage in financial services activities, such offerings are not classified as public offerings or Initial Public Offerings (IPOs) in the capital market. To qualify, the offering must be conducted by a licensed crowdfunding service provider, last no longer than 12 months, and raise no more than IDR 10,000,000,000 (ten billion rupiah) for the issuer.

The securities offering conducted by the issuer through crowdfunding services is facilitated on a crowdfunding platform provided by a crowdfunding service organizer. This organizer serves as an intermediary connecting securities issuers and investors for transactions. As per POJK No. 57/2020, a crowdfunding service organizer must be a legal entity established and based in Indonesia, operating a crowdfunding platform. The regulation outlines specific requirements for crowdfunding service providers, including obtaining a license from the Financial Services Authority, being structured as a limited liability company or service cooperative, maintaining a minimum capital of IDR 2,500,000,000 having qualified personnel, verifying issuer documentation, offering user education, and submitting reports to the Financial Services Authority. Additionally, the organizer is liable for any losses resulting from errors or omissions.

In securities-based crowdfunding, one of the parties that has an important role is the investor. In POJK 57/2020, investors are defined as individuals who purchase securities offered by issuers in fund raising services. Investors play a crucial role in the success of fundraising activities by issuers. POJK 57/2020 outlines requirements for investors before purchasing securities; must have the ability to buy securities through fund raising platforms and maintain a securities account with a custodian bank and must meet certain criteria and be aware of purchase limits based on income. Those earning up to IDR 500,000,000 per year can invest up to 5% of their annual income, while those earning more than IDR 500,000,000 can invest up to 10%. Exceptions apply to legal entities and experienced investors with at least two years of market experience. The rules do not apply to debt securities or sukuk guaranteed by at least 125% collateral value assessed by a registered appraiser. Investors can cancel their purchase within 48 hours, and the fund must be refunded within 2 working days after cancellation.

In Sharia SBC, the issuer is a key participant alongside investors and service providers. According to POJK No. 57/2020, the issuer is a business entity, such as a limited liability company or cooperative, that issues securities for crowdfunding. The issuer cannot be a part of a business group or conglomerate, a publicly listed company, or a subsidiary of a publicly listed company with a net worth exceeding IDR 10,000,000,000 (ten billion rupiah), excluding land and buildings used for business. The issuer must provide necessary documents and information to the organizer, including details about the entity, capital before and after offering securities, shareholder and management profiles, type and amount of securities offered, funding goals and usage, licensing, financial statements, agreement with depository institutions, risks, and other relevant information for investors. For equity securities, annual reports are due within 6 months after the financial year ends while debt securities require

quarterly reports in March, June, September, and December. Issuers must also report any issues affecting business continuity or fund repayment promptly through the organizer's website.

To establish a business entity offering Sharia SBC services, the requirements are similar to conventional SBC. The organizer must adhere to provisions in Articles 5-14 of POJK No. 57/2020. Additionally, Sharia SBC providers must have articles of association aligned with Sharia principles and a Sharia supervisory board licensed as a capital market Sharia expert by the Financial Services Authority. They must also use escrow accounts from Sharia banks for investor funds. Issuers and investors must comply with regulations in Articles 46-55 and 56-58, respectively.

However, POJK 57/2020 has a conflict in its framework, particularly in Article 2, which states that the SBC platform operation is a financial service in the capital market sector. According to Article 13 of the Capital Market Law No. 8/1995, financial services in the capital market sector must be in the form of a limited liability company. However, POJK 57/2020 allows all forms of businesses, including legal entities and other entities, to issue securities through the SBC platform, as long as their assets do not exceed IDR 10 billion. This contradicts Article 1. Laws and regulations should not have contradictions (Araszkievicz et al., 2021). POJK 57/2020 does not address unlicensed SBC platforms adequately. Providers must have a business license from OJK, and violations will face administrative sanctions. However, the regulation does not cover unlicensed SBC platforms. It only applies to licensed platforms (Noor et al., 2023).

Impact of Sharia Securities-Based Crowdfunding on Halal MSME Development

The growth of halal MSMEs is fueled by a combination of factors that create a conducive environment for businesses adhering to sharia principles. Key drivers include increased public awareness of the significance of halal products, supportive regulations, and policies, as well as access to financing from Islamic financial institutions like Islamic banks, cooperatives, and sharia SBC platform (Fathoni, 2020; Kustinah and Nisa, 2024). Additionally, support from business communities education, training, and a nurturing business ecosystem are crucial in fostering the development of halal MSMEs (Sutarsih, 2023). Through various initiatives and favorable policies, halal MSMEs have the potential to significantly contribute to inclusive and sustainable national economic growth.

Public awareness of the importance of halal products has significantly increased to Sharia requirements, extend beyond food and beverages to include cosmetics, pharmaceuticals, and financial services. Halal products encompass goods and services that comply with Islamic law in terms of raw materials and production processes, including ethical production practices (Fitri & Jumiono, 2021). Raw materials and production processes must be free from haram substances like alcohol and pork, and must not be contaminated by haram substances during production. Additionally, the concept of halal extends to ethical aspects of production, such as fairtrade practices and environmental protection.

Fathoni's research revealed that Indonesians exhibit a high level of consumer awareness regarding halal food, which is supported by Indonesia's status as the country with the largest Muslim population globally (Fathoni, 2021). In 2020, Indonesia's halal consumption amounted to US\$184 billion and is projected to rise to US\$282 billion by 2025, with an average annual growth rate of 14.96% (Said, 2022). The food and beverage sector makes the most significant contribution to this consumption, with Indonesia being the world's largest consumer of halal food and beverages, reaching US\$135 billion in 2020 and expected to reach US\$204 billion by 2025. The media and recreation sector follow as the second-largest contributor, with a consumption value of US\$20.73 billion in 2020, projected to increase to US\$31.82 billion by 2025. Conversely, the tourism sector, heavily impacted by the pandemic, had a consumption value of only US\$3.37 billion in 2020 (Pahlevi, 2022). The

increasing consumption of halal products by Indonesians reflects the growth of halal micro, small, and medium enterprises since the majority of halal products are produced by MSMEs.

Regulatory and policy factors supporting the development of halal MSMEs also contribute to the growth of national halal MSMEs. Government policies and regulations establish a solid legal framework, foster a favorable business environment, and enhance consumer and investor trust in halal products. The enactment of Law No. 33 of 2014 on Halal Product Guarantee, long with its implementing regulations like Government Regulation No. 31 of 2019 on the Implementation of Law No. 33 of 2014, mandates MSME products to obtain halal certification from authorized bodies such as the Indonesian Ulema Council (MUI). This certification assures consumers that the products they purchase meet the required halal standards, boosting their confidence. Moreover, it creates opportunities to market halal products in Islamic countries. In addition to these regulations, Government Regulation No. 39 of 2021 on the Implementation of the Halal Product Guarantee Sector mandates that food and beverage products, raw materials, food additives, auxiliary materials for food and beverage products, slaughter products, and slaughter services must obtain halal certification by October 2026. This requirement has prompted halal MSMEs to expedite the certification process for their products. The success of halal-certified products is evident in the data from the Halal Product Guarantee Agency of the Ministry of Religion, which shows that by the end of 2023, 4,657,832 products had received halal certification (Badan Penyelenggara Jaminan Produk Halal, 2024).

Public awareness of the importance of halal products and regulations supporting the development of halal MSMEs, along with the accessibility of financing from Islamic financial institutions like Sharia SBC, play a crucial role in fostering the growth of halal MSMEs in Indonesia. Sharia SBC provides halal MSMEs with access to capital that was previously challenging to obtain through conventional channels. Platforms like Shafiq and LBS Urun Dana, enable MSMEs to sell shares or sukuk to a wide range of investors online, simplifying the capital acquisition process without the complexities of traditional bank loans. Moreover, Sharia SBC ensures that the fundraising process adheres to Sharia principles, prohibiting *riba* (interest), *gharar* (uncertainty), and *maisir* (speculation). This is particularly significant for halal MSMEs seeking to align all aspects of their business with Islamic teachings.

Financing obtained through Sharia SBC not only provides capital, but also instills a sense of security and confidence for business actors, ensuring that their business operations remain within the Sharia compliant framework. According to OJK data as of May 17, 2024, there are currently 17 SBC platforms authorized by OJK, with 533 issuers and a total funding value of IDR 1.1 trillion raised. Moreover, over 170 thousand individuals have become investors in SBC. In terms of product types, out of the total IDR 1.1 trillion securities issued through SBC, 50 percent are shares, 45 percent are sukuk, and 5 percent are bonds. Notably, sukuk issuance dominates through SBC, indicating a growing acceptance and adoption of Sharia-compliant funding by business actors (Puspaningtyas, 2024). Access to financing through Sharia SBC presents significant opportunities for the growth of halal MSMEs. By providing necessary capital and ensuring adherence to Sharia principles, Sharia SBC plays a crucial role in enhancing the competitiveness and sustainability of halal MSMEs.

CONCLUSION

The revival of Sharia Securities-Based crowdfunding (Sharia SBC) holds significant promise for supporting the growth of halal MSMEs in Indonesia. Clear and supportive regulations, such as OJK Regulation No. 57/2020 amended by OJK Regulation No. 16/POJK.04/2021 of 2021 play a crucial role in ensuring the success and reliability of the SBC platform by establishing stringent requirements and a robust framework to protect all stakeholders involved. Sharia SBC has a positive impact on halal MSMEs by providing

increased access to funding, enabling them to expand and innovate their offerings. It also aligns with Shariah principles in financing, offering a viable option for businesses seeking to adhere to Islamic teachings. Sharia SBC not only fosters the economic advancement of halal MSMEs but also promotes financial inclusion and supports sustainable national economic development. With regulatory backing and effective implementation, Sharia SBC can serve as a key tool in accelerating the growth of halal MSMEs in Indonesia, addressing funding challenges, and fostering a more equitable and prosperous economy.

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