

## **ISLAMIC DONATIONS-BASED CROWDFUNDING PLATFORMS IN MALAYSIA: AN EVALUATION OF REGULATORY AND *SHARIAH* ISSUES**

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**Abstract:** The emergence of innovative digital financial technologies has made donation-crowdfunding viable as a method that can supplement traditional fundraising mechanisms. Crowdfunding has recently gained worldwide attention as an alternative financing mechanism to the traditional fundraising methods for business ventures or social projects. While donation-crowdfunding which utilise platforms has demonstrated promising growth, there is no established legal framework available to accommodate its operation, especially for Islamic ones. Therefore, this study provides intuitive information pertaining to legal and *Shariah* issues in governing Islamic donation-based crowdfunding in Malaysia. Drawing from the conceptual framework of Islamic economics and qualitative data collection through semi-structured with six representatives of the Islamic donation-crowdfunding platforms, this study concludes that the issues associated with Malaysian regulations regimes and *Shariah* issues revolve around the donation-based crowdfunding platforms business model should be considered when devising a *Shariah* framework for donation-crowdfunding schemes. The findings will help policymakers to formulate and put in place the appropriate regulatory framework to facilitate Islamic donation-based crowdfunding practice.

**Keywords:** Crowdfunding platform, Donation-based crowdfunding, framework, Islam, Regulation, *Shariah* (Islamic law)

**Abstrak:** Keberhasilan teknologi keuangan digital yang inovatif telah membuat sumbangan melalui crowdfunding menjadi metode yang dapat melengkapi mekanisme penggalangan dana tradisional. Crowdfunding baru-baru ini mendapat perhatian global sebagai alternatif pembiayaan untuk bisnis atau proyek sosial dibandingkan dengan metode penggalangan dana tradisional. Meskipun sumbangan melalui platform crowdfunding telah menunjukkan pertumbuhan yang menjanjikan, hingga kini belum ada kerangka hukum yang dibentuk untuk mengakomodasi operasinya, terutama yang berbasis Islam. Oleh karena itu, penelitian ini menyediakan informasi intuitif tentang isu hukum dan *Syariah* dalam mengatur crowdfunding sumbangan Islam di Malaysia. Berdasarkan kerangka konseptual ekonomi Islam dan pengumpulan data kualitatif melalui wawancara semi-terstruktur dengan enam perwakilan platform crowdfunding sumbangan Islam, penelitian ini menyimpulkan bahwa isu-isu yang terkait dengan regulasi hukum Malaysia dan isu-isu *Syariah* yang berkaitan dengan model bisnis platform crowdfunding sumbangan perlu dipertimbangkan saat merancang kerangka *Syariah* untuk skema crowdfunding sumbangan. Temuan ini akan membantu pembuat kebijakan untuk merumuskan dan melaksanakan kerangka regulasi yang sesuai untuk memfasilitasi praktik crowdfunding sumbangan Islam.

**Kata Kunci:** Platform pendanaan awam, sumbangan pendanaan awam, kerangka, Islam, Regulasi, *Shariah* (Hukum Islam).

## INTRODUCTION

Crowdfunding has recently gained worldwide attention as an alternative financing mechanism to the traditional fundraising methods for business ventures or social projects. In Western economies *per se*, crowdfunding is certainly not something new in the global capital markets. With roots going back to the 1700s, when the Irish Loan Fund was established by the author and Irish nationalist Jonathon Swift as a way to provide loans to poor but creditworthy people in Dublin, the global crowdfunding market size is now valued at USD1.67 billion in 2022. It is expected to expand at a compound annual growth rate (CAGR) of 16.7% from 2023 to 2030.<sup>1</sup> Through social media sites such as Facebook, Twitter, Reddit, Instagram, and LinkedIn, advance digitalization is evidently expanding crowdfunding activities and they are valued as highly significant factors driving the market's growth.<sup>2</sup> Benefiting from digital technology, crowdfunding platforms can disclose information on funds collections, where stakeholders can view numbers of collection concurrently. This feature attracts the users who demand for disclosure and transparency of information.

Similar to other financial-related products or services, crowdfunding also can be divided into conventional and Islamic models. Unlike the conventional crowd-funding model, Islamic crowdfunding must adhere and comply with *Shariah* principles. This includes intentions of crowdfunding projects (*halal*) as well as being free from prohibited activities like *riba'* (interest-based income), *maysir* (gambling), *gharar* (uncertainty) and other *haram* activities. Besides, Islamic donations-based crowdfunding

1 Grand View Research, 'Grand View Research Crowdfunding Market Size & Share Analysis Report 2030' (2021).

2 Salido-Andres and others, 'Mapping the Field of Donation-Based Crowdfunding for Charitable Causes: Systematic Review and Conceptual Framework' [2021] VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations 288.

is normally involved with Islamic social finance funds like *zakat*, *waqf* and *sadaqah* in crowdfunding activities. By its very nature, crowdfunding does not contradict with Islamic teaching and in fact the concept of crowdfunding is in line with Islamic teachings in which Allah said in the Quran, “Cooperate in righteousness and piety”.<sup>3</sup> Furthermore, honesty, accountability, mutual trust and responsibility have the highest consideration in both crowdfunding and Islamic finance. With this notion in mind, the crowdfunding philosophy is in line with the spirit of *Shariah* in terms of promoting wealth distribution, encouraging transparency and supporting socio-justice principles.

While the philosophies are similar, however, it is not to the extent in terms of development and guidelines. The global Islamic crowdfunding sector is considered to be an emerging market, with the estimation of 1% below conventional crowdfunding, the expected market size will be nearly USD100 million as of 2022.<sup>4</sup> With regards to the guidelines or framework, US, the UK, China, Australia, Singapore and others, have taken steps to provide necessary adjustments to their regulatory regimes to accommodate the operation of crowdfunding.<sup>5</sup> As a matter of comparison, to date very few Islamic finance standard-setting bodies have issued a specific *Shariah* model for Islamic donation-crowdfunding. Only recently, the Islamic Crowdfunding Governance – a comprehensive framework for Islamic crowdfunding governance with detailed coverage of areas relating to the cybersecurity and disclosure requirements was issued by Accounting and Auditing Organization for Islamic Financial Institutions.<sup>6</sup> In Malaysia, the Securities Commission introduced requirements for the registration of Equity Crowdfunding (ECF) platforms in year 2015<sup>7</sup> and provide governance arrangements for the operators of such platforms and issued the regulatory framework for Peer-to-Peer financing (P2P) in year 2016.<sup>8</sup> The current position of its regulatory framework seems to only support the emergence of financial return crowdfunding, be it P2P lending or equity crowdfunding, which leaves laws and regulations for the donation-based crowdfunding remaining unclear.

The absence of regulations regarding donation-based crowdfunding provides a strong motivation for this study to examine issues to be considered in developing a framework for donation-crowdfunding in Malaysia with special reference to the regulations. Without a proper *Shariah* governance framework, Islamic donation-crowdfunding runs the risk of causing reputational damage to the Islamic finance industry. If trouble happens, there is argument on ‘what’ and ‘how’ are the responsibilities especially of service providers, in the absence of a legal authority that requires them to adhere to certain standards of care .

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3 Muneeza Aishath, Nur Aishah Arshad and Asma’ Tajul Arifin, ‘The Application of Blockchain Technology in Crowdfunding: Towards Financial Inclusion Via Technology’ [2018] International Journal of Management and Applied Research 82.

4 Muhammed Karakulah, ‘The Potential of Islamic Crowdfunding Is Much Higher Than That of the Conventional System’ ([www.islamicfinancenews.com](http://www.islamicfinancenews.com), 2022) <<https://www.islamicfinancenews.com/the-potential-of-islamic-crowdfunding-is-much-higher-than-that-of-the-conventional-system.html>>.

5 Apnizan Abdullah, ‘Crowdfunding as an Emerging Fundraising Tool: With Special Reference to the Malaysian Regulatory Framework’ [2016] Islam and Civilisational Renewal 98.

6 AAOIFI, *Islamic Crowdfunding Governance* (Accounting and Auditing Organization for Islamic Financial Institutions 2021).

7 SC Malaysia, ‘Guidelines on Recognized Markets’ (Securities Commission 2015).

8 Securities Commission, *Sc Announces Six Peer-to-Peer Financing Operators - Malaysia First in Asean to Regulate P2p Financing* (Securities Commission 2016).

Following this introduction, this paper will, in order, explain the literature review and the methodology used by this study. Next section, will provide an overview of crowdfunding and Islamic crowdfunding regulation in Malaysia. Then, the issues in developing a *Shariah* framework for donation-based crowdfunding in Malaysia are contemplated into two discourse. While the first part will discuss the regulations, the second will concentrate on *Shariah* issues associated with the operations of the Islamic donation-based crowdfunding platform. It concludes that certain issues with special reference to the Malaysia regulatory framework and the current business model of donation-based crowdfunding need to be taken into account when developing the desired framework.

#### *Literature review*

Before crowdfunding became a global phenomenon as an alternative funding source, the Muslim community had been actively engaging in crowdfunding activities through Islamic social finance funds. Historically, Islamic countries established *zakat* (obligatory alms-giving) and *waqf* (charitable endowment) institutions as mechanisms for wealth creation and distribution, particularly to address socio-economic issues and well-being being.<sup>9</sup> Traditionally, Islamic social instruments included philanthropic practices such as *zakah*, *sadaqah* (voluntary alms-giving/charity), *waqf*, or were based on the Qur'anic principle of *ta'awun* (cooperation), which encompasses *qard hasan* (benevolent loan) and *kafala* (guarantee). In fact, some argue that donation-based crowdfunding is more traditional than other types such as reward-based, equity-based, and lending-based crowdfunding, and is more widely embraced.<sup>10</sup>

With the advancement of technology, crowdfunding has evolved beyond its initial socio-economic purposes to become a means of raising capital for supporting innovations, entrepreneurial ideas, and ventures.<sup>11</sup> In this context, crowdfunding plays a crucial role in providing seed capital, testing unique ideas with the public, and establishing engagement with consumers.<sup>12</sup> Despite its potential and growth, several issues have emerged as significant concerns. These include the abuse of funds, breaches of commitment, loss of privacy, and fake campaigns.<sup>13</sup> For example, donation-based crowdfunding faces the risk of lacking transparency in fund management and moral obligations. Reward-based crowdfunding is susceptible to issues such as receiving the promised product, violation of intellectual property rights, and misrepresentation. Equity-based crowdfunding encounters challenges like recapitalization and realignment, equity pricing, unskilled investors, and the potential for an economic

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9 Kamaruddin and others, 'Waqf Management Practices: Case Study in a Malaysian Waqf Institution' [2018] *World Journal of Social Sciences* 1; Sukron Ma'mun and Ibnu Akbar Maliki, 'A Socio-Historical Study of Women's Rights Advocacy in Islamic Legal Construction' (2023) 7 *Journal of Southeast Asian Human Rights* 1 <<https://jurnal.unej.ac.id/index.php/JSEHR/article/view/39156>>.

10 Othman and others, 'Overview of Community-Based Crowdfunding in Malaysia: Legal Issues and the Way Forward' [2021] *International Journal of Academic Research in Business and Social Sciences* 1213.

11 Hossain, Mokter and Gospel Oparaocha, 'Crowdfunding: Motives, Definitions, Typology and Ethical Challenges' [2017] *Entrepreneurship Research Journal*.

12 Younkin, Peter and Keyvan Kashkooli, 'What Problems Does Crowdfunding Solve?' [2016] *California Management Review* 20.

13 Hossain, Mokter and Oparaocha (n 11); Rotem Shneor and Stina Torjesen, 'Ethical Considerations in Crowdfunding' in Rotem Shneor, Liang Zhao and Bjørn-Tore Flåten (eds), *In Advances in Crowdfunding: Research and Practice* (Springer International Publishing 2020).

bubble. Lending-based crowdfunding faces the threat of broken promises.<sup>14</sup> In this regard, Islamic crowdfunding is no exception; it also grapples with fraud issues, particularly in crowdfunding campaigns.

As extensively discussed in Islamic finance literature, the primary distinction between Islamic and conventional finance lies in the principles and practices that govern them, with Islamic finance strictly adhering to *Shariah* (Islamic law) principles.<sup>15</sup> This means the prefix 'Islamic' is attached to any financial activity, it serves as an explicit assurance that all involved operations and transactions will comply with *Shariah*.<sup>16</sup> This adherence extends to the intentions of crowdfunding projects, ensuring they are halal (permissible by *Shariah*), and a commitment to being free from prohibited activities such as *riba'* (interest-based income), *maysir* (gambling), *gharar* (uncertainty), and other haram activities. However, with the establishment of Islamic donation-based crowdfunding platforms, there is currently no established framework to guide both funders and platform operations.<sup>17</sup> In the event of trouble, questions arise regarding the responsibilities of service providers in the absence of a legal authority requiring adherence to specific standards of care.<sup>18</sup> Therefore, without a proper *Shariah* governance framework, Islamic donation crowdfunding runs the risk of causing reputational damage to the Islamic finance industry.

As frequently cited in the literature, crowdfunding has grown based on two major categories: community-based crowdfunding and financial return crowdfunding. The former category can be further divided into two, namely, donation-based and reward-based crowdfunding, while the latter can either be peer-to-peer (P2P) lending or equity crowdfunding.<sup>19</sup> However, a significant portion of Islamic finance literature has focused on equity crowdfunding.<sup>20</sup> Conversely, for donation-based crowdfunding, most of the literature concentrates on models and overviews of such crowdfunding without considering the discourse on *Shariah* issues.<sup>21</sup> This gap underscores the necessity for a comprehensive study on potential *Shariah* issues surrounding Islamic donation-based crowdfunding transactions. Such research can serve as valuable input for policymakers to formulate and implement an appropriate regulatory framework, facilitating the development of Islamic donation crowdfunding.

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14 Shneor and Torjesen (n 13).

15 M Umer Chapra, 'Is It Necessary to Have Islamic Economics?' [2000] *Journal of Socio-Economics* 21; Mahmoud A El-Gamal, *Islamic Finance: Law, Economics and Practice* (Cambridge University Press 2006); Muhammad Taqi Usmani, 'Sukuk and Their Contemporary Applications' ([www.failaka.com](http://www.failaka.com), 2007) <[http://www.failaka.com/downloads/Usmani\\_SukukApplications.pdf](http://www.failaka.com/downloads/Usmani_SukukApplications.pdf)>.

16 Rosylin Mohd Yusof, Mejda Bahlous and Salina Kassim, 'Ethical Investment and Shari'ah-Compliant Investment Compared: Can Investors Benefit from Diversification?' [2010] *Savings and Development* 389.

17 Abdullah (n 5).

18 Ahmed Aban Zubair and Aishath Muneeza, 'The Need for Shariah Governance Framework for Islamic Crowdfunding' [2021] *The Halal Journal*.

19 Othman and others (n 10).

20 Abdullah, Syahida and Umar A Oseni, 'Towards a Shari'Ah Compliant Equity-Based Crowdfunding for the Halal Industry in Malaysia' [2017] *International Journal of Business and Society* 223; Wahjono, Sentot Imam and Anna Marina, 'Islamic Crowdfunding: Alternative Funding Solution', *1st world Islamic Social Science Congress* (Islamic Social Science Congress 2015).

21 Michelle Cumyn, *Donation-Based Crowdfunding: Legal Framework for Crowdfunding and Governance of Online Platforms* (Government of Canada 2022); Muhammad Amir Lutfi and Mohd Adib Ismail, 'Sadaqah-Based Crowdfunding Model for Microfinancing and Health Care' [2016] *Journal of Muamalat and Islamic Finance Research* 31; Othman and others (n 10).

## Methods

In line with the objectives of the study, two phases of methodology were carried out. First, the conceptual framework of Islamic economics is utilized by examining rules and regulations governing charities as part of the legal system in Malaysia. This study is based on secondary data largely in the form of guidelines, statutes, reports and precedents that deal with donation-crowdfunding platforms.

Second, utilizing the qualitative methodology, this study reports information garnered from semi-structured interviews conducted with six representatives of the donation-crowdfunding platforms. Since the second part of this study is qualitative in nature and involves managerial spokespeople, the exact sample size's estimation is not applicable compared to what previous studies revealed. In fact, sample size in qualitative research has been the subject of enduring discussion and debate<sup>22</sup> and there is no precise mechanism for identifying what is the desirable number of individuals or number of panels for inclusion in any individual study.<sup>23</sup> In fact, the appropriate sample size in qualitative studies is answered by 'saturation' or there is nothing new to learned from each subsequent interview.<sup>24</sup> Furthermore, considering the absence of the data population for the donation-based crowdfunding platforms, regardless of whether they are conventional or Islamic, the number of key informants for this study is deemed sufficient.

The interview method was chosen for this study to obtain insights into current regulatory and *Shariah* issues pertaining to donation-based crowdfunding platform operations in Malaysia. Conducting interviews with individuals directly involved in the operational and management processes including in Islamic donation-based crowdfunding platforms allows for a more in-depth understanding of the actual activities taking place.<sup>25</sup> The selection of platforms was based on five criterias:

1. Registration as a company under the Companies Commission of Malaysia, non-profit organisation under the Registry of Society (ROS) or under the Office of the Prime Minister in Malaysia;
2. Located in Malaysia and operation by Muslims;

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22 Margarete Sandelowski, 'Sample Size in Qualitative Research' [1995] *Research and Nursing in Health* 179; Vasileiou and others, 'Characterising and Justifying Sample Size Sufficiency in Interview-Based Studies: Systematic Analysis of Qualitative Health Research over a 15-Year Period' [2018] *BMC Medical Research Methodology*.

23 Williams, Patricia L. and Christine Webb, 'The Delphi Technique: A Methodological Discussion' [1994] *Journal of Advanced Nursing* 180; Simone J Zolingen and Cees A Klaassen, 'Selection Processes in a Delphi Study About Key Qualifications in Senior Secondary Vocational Education' [2003] *Technological Forecasting and Social Change* 317.

24 and Anselm L Strauss Glaser, Barney G, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Transaction publishers 2009); Strauss, Anselm L. and Juliet M Corbin, *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (SAGE Publications 1998); Muhammad Siddiq et all Armia, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 *JILS* 525; Muhammad Siddiq Armia, 'Ultra Petita and the Threat to Constcaitucional Justice: The Indonesian Experience' [2018] *Intellectual Discourse*.

25 Kamaruddin and others (n 9); Bismi Khalidin and Armiadi Musa, 'Murabaha Financing Of The Indonesian Islamic Banks Under An Islamic Economic Law And The Fatwa DSN MUI' (2023) 8 *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* <<https://petita.ar-raniry.ac.id/index.php/petita/article/view/238>>; Johari Ab Latiff, 'Halal Certification Procedure In Malaysia And Indonesia' (2020) 5 *PETITA: Jurnal Kajian Ilmu Hukum dan Syari'ah* <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/102>>.

3. Implementing donation-based crowdfunding model;
4. Involvement of Islamic social finance funds such as; *zakat*, *waqf*, *sadaqah*, *hibah* and *infaq*; and
5. The projects and activities are undertaken strictly avoid engaging in prohibited activities such as *riba'* (usury), *maysir* (gambling), *gharar* (uncertainty), and any other *haram* (forbidden) practices.

The research tool is the semi-structured interviews form (guides). The form was designed after a detailed in-depth literature survey and documentary review on aspects of Islamic crowdfunding, specifically donation-based crowdfundings. The interviews concentrate on issues related to their the current operations and their business models were documented, in particular campaign assessment, contracts between parties, pricing and monitoring and surveillance. Additionally, this study undertook a desktop research process in which discussions on the subject are based on what crowdfunding platforms websites have elucidated.

### Results And Discussions

#### *An overview of crowdfunding and Islamic crowdfunding regulation in Malaysia*

The novel complementary and substitutional products, such as peer-to-peer lending and crowdfunding provide finance in an online environment, consequently eliminating the requirement for physical interaction. Realizing the finance sector is now greatly digitalized, the Securities Commission of Malaysia (SC) has issued specific guidelines, after several efforts and open discussions had been undertaken with interested stakeholders. Governed by the Capital Markets and Services Act 2007 (“CMSA 2007”) the Securities Commission of Malaysia several years ago introduced new requirements for the registration of Equity Crowdfunding (ECF) platforms<sup>26</sup> and governance arrangements for the operator of such platforms. It also issued the regulatory framework for Peer-to-Peer financing (P2P).<sup>27</sup> This new requirement issued under Guidelines on Regulation of Markets under Section 34 of the Capital Markets and Services Act 2007 was released on 10 February 2015, the objective being to reinstate the Guidelines on Regulation of Markets which were issued in September 2007.

In general, crowdfunding is the practice of funding a project or venture by raising small amounts of money from a large number of people, typically via the Internet, P2P on the other hand is the practice of lending money to individuals or businesses through online services that match lenders with borrowers. As such, the introduction of ECF in 2015 to provide early-stage financing for start-up entrepreneurs while the P2P financing framework, introduced in April 2016, aims to address funding needs of SMEs to raise working capital or capital for growth.<sup>28</sup> This issuance makes Malaysia the first country in the ASEAN region to put in place a regulatory framework for both.<sup>29</sup> The Guidelines provide general provisions on the requirements for registration and its procedure, conduct, and operations of the platforms. The Guidelines are based on the US model in regulating the finances generated by crowdfunding.<sup>30</sup>

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26 SC Malaysia (n 7).

27 Securities Commission (n 8).

28 SC Malaysia (n 7); Securities Commission (n 8).

29 Yap Ming Hui, ‘Equity Crowdfunding and Peer-to-Peer Lending’ (*The Star*, 2017) <<https://www.thestar.com.my/business/business-news/2017/12/09/equity-crowdfunding-and-peertopeer-lending/>>.

30 Abdullah (n 5).

Since the framework's approval, equity crowdfunding has received a positive response from the general public, with over half of the investors being retail investors and mostly below 35 years of age, signalling a tech-savvy and financially comfortable demographic. As of September 2019, equity crowdfunding has provided capital to the tune of RM65.35 million to 69 successful issuers.<sup>31</sup> The conventional platforms that fill the Malaysian market space are led by seven players that are Ata Plus, Crowdo, FundedByMe, Crowdplus, Eureeca, PitchIN, and Fundnel. Meanwhile in the Islamic scenario, Ethis Malaysia stands out with the first equity crowdfunding license dispensed by Malaysia's Securities Commission (SC) as a *Shariah*-compliant or Islamic platform.<sup>32</sup>

On another development front, SC Malaysia approved six P2P crowdfunding as a new substitute approach to funding businesses. On this note, an outstanding 2,505 P2P crowdfunding campaigns have been successful with RM212.7 million raised in 2020.<sup>33</sup> P2P lending platforms in Malaysia are designed to generate loans only to businesses, given that individual borrowers are not eligible to participate in such platforms; however, individual investors can. As P2P lending is open to all Malaysians from different income groups, more individual investors would prefer to subscribe to platforms with affordable subscription fees. Of 11 licensed P2P lending platforms in Malaysia, only ten platforms (Funding Societies, B2B FinPal, Fundaztic, QuickKash, AlixCo, Nusa Kapital, CapSphere, MicroLEAP, Cofundr, and Money Save) require affordable initial deposits, ranging from RM5 to RM1,000, from individual investors.<sup>34</sup>

This regulatory/legislative background demonstrates Malaysia recognizes both equity and P2P lending as methods of eligible crowdfunding, thus fulfilling the promising growth of crowdfunding activities. Since Malaysia is recognized as one of the world's most important Islamic finance hubs, the Guidelines on Regulation of Markets (Part E), also spell out the requirements for the appointment and disclosure of Islamic capital market products. However, the current efforts are focused mainly on financial return crowdfunding, which governs either P2P lending activities or equity crowdfunding, or both. As far as the donation-based crowdfunding in Malaysia is concerned, be it donation-based or reward-based, regardless of whether it is conventional or Islamic in substance, there is no proper legal framework yet available.

#### *Assessing the regulatory concerns surrounding the Islamic donation-based crowdfunding transactions*

##### Jurisdictional conflicts between Federal and State Laws

In Malaysia, the laws governing charities are piecemeal. Some charities are governed by the federal government; some are exclusively in the hands of the state authorities while others are regulated by both forms of government.<sup>35</sup> This jurisdictional demarcation is stipulated in Article 74 of the Federal Constitution and its Ninth Schedule. Constitutionally, the provision of charitable endowment or charities is provided by Item 1 of the List II (State List) in the Ninth Schedule of the Malaysian Federal Constitution. State List is a list of matters to be dealt with by each state government of the federation

31 Ethis, 'Equity Crowdfunding (Ecf) in Malaysia: At First Glance' (*ethis.co*, 2020) <<https://ethis.co/blog/equity-crowdfunding-ecf-malaysia/>>.

32 *ibid.*

33 Rahman and others, 'Developing a Shari'ah-Compliant Equity-Based Crowdfunding Framework for Entrepreneurship Development in Malaysia' [2020] *ISRA International Journal of Islamic Finance* 239.

34 Nguyen and others, 'P2p Lending Platforms in Malaysia: What Do We Know' (2022).

35 Abdullah (n 5).



independently, without interference by the federal government. Article 74 of the Malaysian Federal Constitution clearly builds a demarcation of the legislative power of the federal and state governments. The federal legislature has the power to enact laws for the matters listed in List I (Federal List) of the Ninth Schedule and List III (Concurrent List). The state legislature on the other hand is empowered to make laws in relation to matters listed in List II and List III subject to the restrictions imposed by the Federal Constitution<sup>36</sup>.

National Cancer Council Malaysia, Yayasan Pembangunan Ekonomi Islam Malaysia, Koperasi Belia Islam Malaysia Berhad, Institute of Strategic and International Studies and International Institute of Advanced Islamic Studies Malaysia are examples of non-profit organizations (NPOs) established under the federal government. Meanwhile Islamic charities, such as *zakah* (obligatory giving), *waqf* (endowment), *hibah* (gift), *nazr* (vow) and other charitable endowments concerning Muslims operate under the aegis of the states through the supervision of their Islamic Religious Councils. In fact, the charities governed by the states may vary from one to another since each one possesses exclusive power over the matter. This power is to be exercised without any interference from the federal authorities.

Since *zakah* and *waqf* are large parts activities in the Islamic donations-based crowdfunding, such regulatory regimes demonstrated that the Islamic community-based crowdfunding framework has the potential to trigger jurisdictional issues between federal and state laws. While some argue that even if there is potential for collaboration between Islamic financial institutions and Islamic Religious Councils in the states when deploying *zakah* and *waqf*, such collaboration only can materialize with the states' consent.<sup>37</sup>

#### The absence of a standard for NPOs Financial Reporting

In Malaysia, charities are mostly executed via the establishment of NPOs, and may either be called a foundation, trust fund, company limited by guarantee or society or organization. Similar to the regulatory regimes governing charities, the financial reporting requirement for NPOs also depends on which regulatory bodies NPOs are registered with. As demonstrated in Table 1 below, the main legislative bodies in Malaysia that deal with NPOs are the Companies Commission of Malaysia (CCM), Registry of Society (ROS), Inland Revenue Department and Legal Department, Prime Minister's Department.

By evaluating the governing provisions of each regulatory body, each one has its own legal requirements for financial statements as required. Non-profit organizations that are registered under the Companies Commission of Malaysia are incorporated under the Companies Act 1965. The financial statements of the non-profit organizations

36 Laws of Malaysia, Federal Constitution

37 Abdullah, Apnizan, Mohammad Mahbubi Ali and Ahmad Badri Abdullah, *Leveraging the Untapped Potential of Sadaqah Crowdfunding for a Child Protection Programme in Malaysia* (UNICEF-IAIS Research Brief 2020). Massimo Lando, 'Identification as the Process to Determine the Content of Customary International Law' (2022) 42 *Oxford Journal of Legal Studies* 1040 <<https://doi.org/10.1093/ojls/gqac015>>; Joas Wagemakers, *The Muslim Brotherhood in Jordan* (Cambridge University Press 2020) <<https://www.cambridge.org/core/product/identifier/9781108884778/type/book>>; Raditya Sukmana, 'Critical Assessment of Islamic Endowment Funds (Waqf) Literature: Lesson for Government and Future Directions' (2020) 6 *Heliyon* e05074 <<https://linkinghub.elsevier.com/retrieve/pii/S2405844020319174>>.

registered under Companies Commission of Malaysia are required to comply with the Malaysian Financial Reporting Standards (MFRS), which are issued by the Malaysian Accounting Standard Board (MASB) and must be audited, in line with all other private entities in Malaysia.

However, those that registered with the Registry of Society are only encouraged to comply with the MFRS and it is not compulsory for their financial statements to be audited. Nonetheless they are encouraged to get their financial statements audited on a voluntary basis. Governed by the Societies Act 1966 (Act 335), non-profit organizations only require the statement of receipts and payments and the balance sheet. The last financial year within sixty days after the annual general meeting has to be documented. However, submission of cash flow statements, statements of changes in the general fund, notes on significant accounting policies and other supplementary statements are only optional. Meanwhile, the Inland Revenue Department (IRD), under section 44(6) of the Income Tax Act 1967, only requires audited financial statements for tax exemption purposes. The Legal Department of the Prime Minister's Department, without governing provisions, has imposed a similar requirement.

Table 1: Regulatory Requirement for Financial Statements of NPOs in Malaysia<sup>38</sup>

<b>Regulatory Body</b>	<b>Governing Provisions</b>	<b>Financial Statements Required</b>
Registry of Society (ROS)	1966: Societies Act (Act 335) and Regulations [Section 14(d)] Form 9	Statement of receipts and payments and the balance sheet
Companies Commission of Malaysia	Companies Act 2016 [Malaysian Financial Reporting Standards]	Audited financial statements
Inland Revenue Department (IRD) for tax-exempt status	Income Tax Act 1967 [Section 44(6)]	Audited Financial Statements
Legal Department, Prime Minister's Department	Not available	Audited Financial Statements

Given the absence of a standard for NPOs' financial statements, there is no legal requirement for NPOs in Malaysia to disclose their financial statements to the public, and Functional Expense Reporting<sup>39</sup> is far from applicable to NPOs in Malaysia.<sup>40</sup> Furthermore, not all NGOs are registered with the Registrar of Societies. For example,

38 Saunah Zainon and others, 'Institutional Donors' Expectation of Information from the Non-Profit Organizations (Npos) Reporting: A Pilot Survey' [2011] International NGO Journal 170; Noor Raudhiah Abu Bakar, Teh Suhaila Tajuddin and Norlia Abdul Karim, 'Functional Expense Reporting Practice among Non-Profit Organisations (Npos)' [2019] IPN Journal of Research and Practice in Public Sector Accounting and Management 67.

39 FER refers to functional classifications group expenses according to the purpose for which the costs incurred comprising the program, administration, and fund-raising. FER is also a method of grouping expenses according to the purpose for which the costs are incurred.

40 Bakar, Tajuddin and Karim (n 38).

most advocacy oriented NPOs choose to be registered with the Department of the Registrar of Societies but as a business entity or trust fund. Most NPOs prefer to be registered as a business company, not as an organization, due to the long registration process and/or the possibility of the registration as an organization being rejected by the Registrar of Societies as an NPOs labelled as a threat to the government.<sup>41</sup> This creates confusion about the identity and reporting system that should be adhered to by NPOs, including and largely for the Islamic ones.

While some *Shariah* governance rules or guidelines issued such as Accounting and Auditing Organization for Islamic Finance (AAOIFI) and Islamic Financial Services Board (IFSB) are evident, these guidelines are not applicable to general organizations including Islamic NPOs.<sup>42</sup> Apparently, two issues arise with these regulations or rules: firstly, it is not applicable to Islamic corporations in general; and secondly, it is not binding internationally and cannot be uniformly adopted and applied to all Islamic corporations.

#### *The Shariah Issues Surrounding the Donation-Based Crowdfunding Transactions*

Based on rich data obtained from semi-structured interviews, various challenges and issues were identified, which in turn can be grouped into five themes. These are project or campaign assessments, contracts between parties concerning the platform, surveillance and monitoring and appointment of *Shariah* advisers. Prior to the discussion on these themes which will be discussed in more detail, the operational framework Islamic donation-based crowdfunding platform practice in Malaysia should be explained. Such a description is deemed important when accounting for many perspectives which can be considered to organize the donation crowdfunding model. The legal framework applicable to donation-based crowdfunding is poorly defined and somewhat inadequate, including Islamic ones.<sup>43</sup>

#### *The Framework's Operation of the Donation-Crowdfunding Platform*

Following the data analysis which has been done, this study takes the view that there are two framework of Islamic donation-based crowdfunding that are practiced in Malaysia by considering the parties/participants involve. The frameworks are indicated as Model 1 and Model 2 as demonstrated in Figure 1 and Figure 2 respectively. Basically, five of the Islamic donation-based crowdfunding platform representatives interviewed practice the Model 1, while one platform practice the second one.

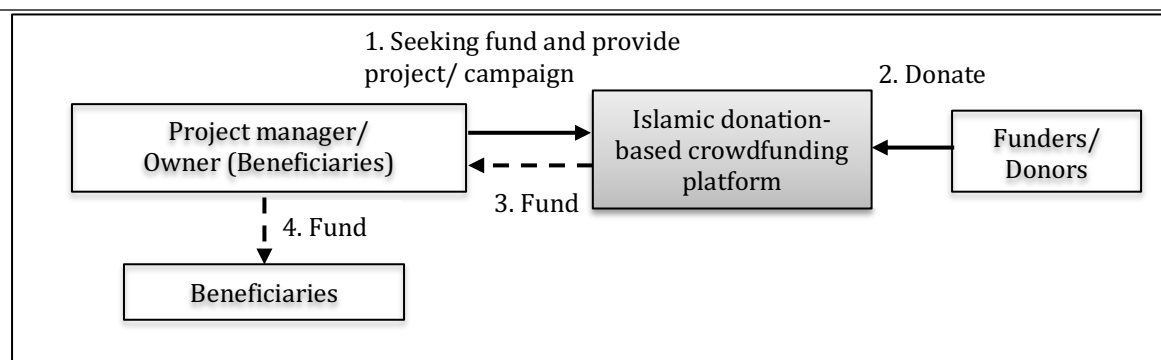
Figure 1: Model 1 For Islamic Donation-Based Crowdfunding Platform Framework and Participants Involve

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41 Meredith L Weiss, 'Malaysian Ngos: History, Legal Framework and Characteristics' in Saliha Hassan and Meredith Weiss (eds), *In Social Movements in Malaysia* (Routledge Publishing 2003).

42 Aishath Muneeza and Rusni Hassan, 'Shari'ah Corporate Governance: The Need for a Special Governance Code' [2014] *Corporate Governance* 120.

43 Cumyn (n 21); Muneeza and Hassan (n 42); Muhammad Siddiq Armia and others, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 113; Muhammad Siddiq Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] *Qudus International Journal of Islamic Studies*.



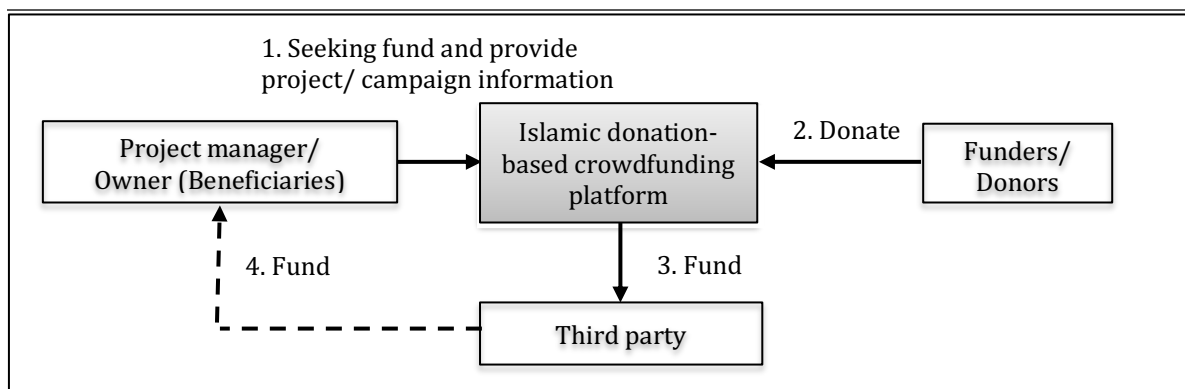
Source: Authors' own

In the first model, the project managers or project owners, sometimes call as founders who seeks fund for charities purposes will submit a campaign (also known as charities projects/ acitivies) to the crowdfunding platform. Project managers could be individuals, groups, organizations, NPOs or non-commercial bodies, and it is very important to note here that they use the platform to create campaigns for their projects or on behalf of certain beneficiaries. Simply said, if the project owners are the owners of the project or campaign, they are the projects' beneficiaries. In many cases the projects managers act as representatives of the beneficiaries. The role of project manager in this framework is considered crucial since it will clarify whether beneficiaries will get funding directly or through intermediaries.

Upon submission of the campaign, Islamic donation-based crowdfunding providers will verify the content of the campaign to ensure it does not violate any law or the conditions that have been established. All crowdfunding sites that are part of this research have specific rules and prohibit projects that are illegal, gambling, or are potentially dangerous to the public. The approved campaign appeal, will then be shared on the 'online pitch campaign' on the website and social media channels so that platform-based crowdfunding occurs within a pre-defined timeframe. Funders then fund the campaign through various payment methods such as credit cards, direct debit, PayPal and digital wallet with such payments made directly to the crowdfunding platforms. Once the targeted amount of money is reached, the system will update the status of the projects and keep track of the funds until they are ready to be distributed to the project owners if they are the beneficiary. Otherwise, the platform will transfer the fund collected to the project managers, then the fund will be distributed to the beneficiaries.

In the Model 2, the framework and participants involve practices that are similar to the first one, except it is the parties that will receive the donation. For the Model 1, distributions of fundss will be remitted to the founders regardless of the campaign created for their projects or on behalf of beneficiaries. While for the second model, the donated funds will be distributed to the identified beneficiaries or their representatives, called as third party. They are largely institutions such as hospital, universities, or others instutions which were identified earlier during campaign verification.

Figure 2: Model 2 for Islamic Donation-Based Crowdfunding Platfom Framework and Participants Involve



Source: Authors' own

For example, if the project or campaign involve medical treatment, the third party will be either a hospital or a clinic where the project owners/beneficiaries get their treatment. The Islamic donation-based crowdfunding platform will transfer donors funds directly to the hospital, upon payment receipt as evidences. Other examples include the effort to assist university students in paying their tuition. Once the platform successfully raise the fund, the platform will transfer the fund directly to the university or college where the student is studying. In this way, they believe transparency, integrity, honesty and trust are respected, and the donated money is used for the purpose as intended.

#### Project or Campaign Assessment

The Islamic religion emphasizes the principle of *halal* (permitted activity) emanating from *Shariah* law, which governs all activities in the lives of Muslims. In a nutshell, it refers to how businesses and individuals raise capital in keeping with *Shariah*. As outlined in the *Shariah* Standards of AAOIFI, at least five main pillars can be recognized as an exercise in overseeing the religious validity (*Shariah* compliance) of any financial activity. First is *riba* (usury) in all its forms and this all-encompassing concept states that charging interest on money loaned is unlawful. Second is the prohibition of *gharar* (uncertainty), encompassing the full disclosure of information and removal of any asymmetrical information in a contract. Third is prohibition of gambling or any monetary gain that comes too easily as this is deemed unlawful and condemned strongly. Fourth is illegal appropriation of peoples' wealth, etc., relating to prohibitions on certain goods and behaviors that are regarded as harmful to people or in other words, prohibitions of *haram* or sinful activities. Fifth, is the encouragement of risk and return sharing, as a "profit" rather than "interest" and this is closer to its sense of ethics and fairness.<sup>44</sup> As a minimal requirement, regardless of any type of Islamic financial products, investments or Islamic finance are categorized as *Shariah*-compliant if they conform with these tenets.<sup>45</sup>

44 AAOIFI, *Governance Standard* (Accounting and Auditing Organization for Islamic Financial Institutions 2015).

45 Yusof, Bahlous and Kassim (n 16); Muhammad Siddiq Armia and others, 'INTRODUCTION' (2024) 9 PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH i <<https://petita.ar-raniry.ac.id/index.php/petita/article/view/309>>; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita: Jurnal Kajian Ilmu Hukum dan Syariah 69; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita: Jurnal Kajian Ilmu Hukum dan Syariah i.

To find out if the Islamic donation-based crowdfunding platforms can be considered *Shariah*-oriented although they are not explicitly mentioned as such, this study found that each Islamic donation-based crowdfunding platform interviewed has set rules and regulations for the campaign. Basically, they will avoid as much as possible the forbidden substances or activities such as gambling, alcohol, pork and any other items that are prohibited in Islam. All of the platform interviewees specified that their main duties are to ensure that the business idea presented or pitched to them must be screened or through due diligence process before promoting them to the crowd or public. However, regarding the extent to which the Islamic donation-based crowdfunding platform's operations comply with *Shariah*, this term is loosely used as they did not mention compliance with *Shariah* on its own website. The only sign of compliance with *Shariah* was the list of activities and actions in which fund-seeking managers should not participate and although the platform calls for and encourages compliance with Islamic principles, there is no evidence of adherence to *Shariah*. In addition, none of the websites examined provided complete information on its modus operandi, acceptance conditions, and procedures to ensure compliance with *Shariah*.

While the donation-based model is based on contribution contracts, which may not lead to *Shariah* issues, the donation is only for the benefit of organizations and institutions that perform *halal* activities, and the application of the principle of priority in it is extremely beneficial. Islamic-based crowdfunding should be used to ensure for human survival and bring benefits to society at large,<sup>46</sup> which should cover the three aspects of *daruriyat* (the essentials of life), *hajiyyat* (the necessities that are considered complements or improvements), and *tahsiniyat* (needs that provide people with social status or recognition). *Daruriyat* is connected with five goals that are so important in and of themselves that people cannot live without them, and losing them poses a threat to the survival of regular order. The goals are preserving religion, human life, *nasab* (family lineage), materials, and mind. These must be safeguarded in order for someone to live a normal life. Considering human survival, it is may not appropriate to direct donations to leisure activities, while Muslim people require food, drink, shelter, and employment. Therefore, according to the general framework, it is permissible under *Shariah* law but it still needs to be regulated by *Shariah* principles.

#### Contract Between Parties

The difference between Islamic and conventional crowdfunding services lies in the contract.<sup>47</sup> Islam promotes the principles of risk-sharing, individuals' rights and duties, property rights, and sanctity of business contracts. As such, the contract and its proper usage are deemed important as Islam promotes the concepts of justice and the

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46 Lutfi and Ismail (n 21).

47 Wulandari and others, 'Can Islamic Crowdfunding Support Indonesian Islamic Economic Masterplan?' [2021] *Sebelas Maret Business* 57; Zulfakar Ramlee Saad, 'Prosecuting Shariah Offences in Malaysia: Evidentiary Issues' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Ab Latiff (n 25); Hafas Furqani and others, 'Considering Debt In The Perspective Of Maqasid Al-Shariah: Masalah Versus Mafsadah' (2024) 9 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Ending Solehudin and Hisam Ahyani, 'Legal Compliance On Sharia Economics In Halal Tourism Regulations' (2024) 9 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Dyah Ochtorina Susanti, Aan Efendi and Auliya Safira Putri, 'The Urgency Of Sharia-Crowdfunding As An Alternative Funding In Development Of Nusantara's Capital City' (2024) 9 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Peni Nugraheni, Syed Musa Alhabshi and Romzie Rosman, 'A Framework To Improve The Implementation Of Business Ethics In Islamic Business Organisations' (2024) 9 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*.

preservation of rights of all participants in any business transaction.<sup>48</sup> Therefore, for a product to be truly labeled as *Shariah*-compliant the underlying contract and tools used in its structuring must be valid in form and essence. As well, the usage and implementation of the finalized product or good/service must also be in line with *Shariah* rules and principles.<sup>49</sup>

In examining the type of contract used to obtain public funding from donors, only two out of six Islamic donation-based crowdfunding platform used *Shariah* contract to safeguard each party in the framework. One of Islamic donation-based crowdfunding platform interviewees uses the *wakalah* (contract of agency) contract. This kind of contract is used as they consider the function of the platform as an intermediary between founders and donors. Another Islamic donation-based crowdfunding platform interviewee claimed that their role is more geared being the guardian of the trust and looking after the funds donated by the public. In particular for the certain campaign which involves project management such as construction of tahfiz center, the *mudharabah* (profit-sharing which one party brings capital and the other personal effort) contract is entered into. The other four Islamic donation-based crowdfunding platform platforms revealed that their understanding is limited to the basic concepts of operation of donation crowdfunding and the relationship of the relevant parties such as founders or project managers, donors and platform operators. However, they are all not sure what type of contract should be applied nor are not aware which suitable *Shariah* contract should be used.

Since *Shariah* donation-crowdfunding is not fully regulated, without a proper *Shariah* contract in the donation crowdfunding framework practices the issue of trust and risk-sharing has become a major concern. To what extent the rights of each party are protected depends on the degree of information asymmetry between fundraiser and investor. The motivation to fund a project is usually related to value congruence between the fundraiser and funders especially when the fundraiser is honest and genuine about the project. This creates a calculus trust as knowledge of the project is acquired in depth. Reputation is also built from trust whenever projects are accomplished and funder received positive experience. This is in line with the Islamic spirit of fulfilling promises which is a virtue that is prescribed in the Qur'an: "O you who have believed, fulfill [all] contracts..." (Al-Maidah, 5:1).<sup>50</sup>

All parties should enter the business transaction voluntarily, and as such elements of force are discouraged. It is important to fulfil contracts as promised to avoid any risks related to the transactions. Rights and legal recourse of campaign donors and beneficiaries must be adhered to. In the event that the funds are improperly managed by the platform or fund administrators, or if there are surplus funds, what legal recourse is available to donors and prospective beneficiaries is an important issue to ponder. Therefore, proposing possible contracts that are reflected in the relationship between the involved parties, and the responsibility of each of them, are essential as breach of contract may result in court cases and damages being sort.

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48 Iqbal, Zamir and Abbas Mirakhor, *An Introduction to Islamic Finance* (John Wiley & Sons (Asia) Pte Ltd 2011).

49 Abozaid and Abdulazeem, 'The Methodology of Product Development Needed for Islamic Banks Upholding Social Responsibility', *International Conference on Business Ethics and Corporate Social Responsibility: Ideals and Realities* (2012).

50 Shifa Mohd Nor and Noor Azuan Hashim, 'Trust Motivates Funders to Participate in Shari'ah Crowdfunding' [2020] *Malaysian Journal of Society and Space* 228.

### Pricing

Running a crowdfunding marketplace involves several operating expenses, thus require platform to charge some form of commission. Most platforms responded that the payment processing fees are charges incurred by financial institutions to process transactions and these fees constitute some of the largest operating costs. Basically, all the donation crowdfunding platforms interviewees accept online donations on their website through payment methods such as credit cards, direct debit, PayPal and digital wallet. In addition to processing fees, platform maintenance and development costs can range from hiring staff to maintaining servers and updating websites and/or software. Expenses are necessary to ensure that the platform remains stable, viable and accessible to all users at all times. Marketing expenses also vary depending on the platform's marketing strategy, goals and budget. In most cases they use social media to promote the platform.

In covering the operating expenses, two Islamic donation-based crowdfunding platform interviewees revealed that they charge 5% for each campaign to donors, while one platform charges 5.5%. Two Islamic donation-based crowdfunding platforms charge management fees to the manager (of the platform) 5% and 6%, respectively, and one platforms charge RM2.00 + 5% management fees. These answers reveal that are no guidelines in determining the price that should be charged by the platform as management fees. The inconsistencies raise two issues. First, what is the reasonable rate to be used to charge for each campaign. How do the equilibrium payoffs be achieved for all parties in the donation-based crowdfunding business model? Second, depending on the structure used by the Islamic donation-based crowdfunding platform, some of them pass the cost to the beneficiaries, while others incur the costs to the funder. Therefore, transparency and integrity issues arise regarding who should actually bear for the costs involved since since Islamic finance puts a strong emphasis on trust and the principle of financing profit and loss sharing philosophy.

### Monitoring and Surveillance of the Donation-Crowdfunding Platform Operations and Appointment of *Shariah* Advisers

Earlier, it was stated that at the minimum level, investments in Islamic finance or Islamic transactions should be categorized as *Shariah*-compliant if they conform with five main pillars, in particular the prohibitions of *riba*, *gharar*, *maisir*, *haram* or other sinful activities so that proper risk and return sharing are promoted.<sup>51</sup> Owing to this requirement, the *Shariah* supervisory board plays the role of gatekeeper to safeguard the legitimacy and compliance of Islamic finance operations and products.

In the context of Islamic financial institutions, all banking and financial business operators in Malaysia are obligated to establish their respective *Shariah* Committees ('SC') to advise them in their affairs and operations<sup>52</sup>. Similar provisions spelt out under Guidelines on Regulation of Markets under Section 34 of the Capital Markets and Services Act 2007 for Equity Crowdfunding, stating that the *Shariah* adviser certifies that its business and operations are managed in accordance with *Shariah* principles. Their role is not limited to advising on *Shariah* matters and approving Islamic financial transactions and/or products, but also involves monitoring aspects. With *Shariah*

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51 AAOIFI (n 44).

52 Islamic banking and financial businesses in Malaysia are governed by the Islamic Financial Services Act 2013 (Act 759) (IFSA) and the Central Bank of Malaysia Act 2009 (Act 701) (CBMA).



governance in place, this will ensure the validity and legitimacy of the overall functions and products/services of Islamic finance complying with *Shariah*.

Unlike the Islamic financial institutions, the absence of guidelines or frameworks to control and monitor Islamic donation-based crowdfunding, this study found that two Islamic donation-based crowdfunding platforms, took the initiative to appoint *Shariah* advisers to ensure all operational matters of crowdfunding platform comply with *Shariah* principles. In the meantime, if there is any ambiguity or uncertainty relating to *Shariah* issues, the appointed *Shariah* advisers will consult certain Islamic institutions such as Majlis Ulama ISMA (MUIS) to provide any recommendations for a decision. However, four of the Islamic donation-based crowdfunding platforms specify that they do not appoint officially any *Shariah* adviser for surveillance of the donation-based crowdfunding platform operations. Pertaining to *Shariah* issues, their concerns are limited to the campaign and ensure this is not against Islamic law.

Without *Shariah* advisers to serve as gatekeepers, albeit for the charitable projects that funders donate to without expectation of being paid, the question of compliance to *Shariah* is bound to arise. The assessment of a campaign is not only limited to the nature of charities *per se*, but also the contract used by all parties and need to be evaluated as well in order to observe whether the terms and conditions are indeed adhering to *Shariah*. Notwithstanding the *Shariah* advisers have been appointed by the platform, the absence of *Shariah* governance as a reference for the Islamic donation-based crowdfunding platform, resulted in them hardly reaching a consensus on any issue. Even if the campaign is acknowledged as *Shariah*-compliant and successful, there will be a new question whether the *Shariah* adviser still has the power to continue to ensure *Shariah* compliance of the campaign, or seek confirmation from time to time. If the projects or campaigns failed to run successfully, no *Shariah* reference can be made by the platform.

Therefore, specific *Shariah* parameters to monitor and coordinate *Shariah* compliance of that platform operation are essential. Consequently, it becomes incumbent for Islamic donation crowdfunding to have established governance structures to provide confidence that the organizations' activities are fully compatible with the values and customs of the society in which they serve and, in so doing, provide legitimacy and confidence to customers and the wide range of stakeholders.

### **Conclusion**

Crowdfunding is a nascent industry that is growing quickly parallel with the technological advances currently occurring, and moving away from the traditional methods of getting charity funds. As platform donation-based crowdfunding is gaining momentum, unfortunately there is no proper legal framework available, in particular for Islamic societies. Such circumstantial demand is evident for *Shariah*-compliant donation-based crowdfunding framework to ensure that its operations are properly supervised and the parties involved are well-protected and function according to the demands of *Shariah* compliance.

Drawing on the Islamic conceptual framework and qualitative studies, this research has come to the conclusion that the Malaysia regulatory framework and the current business model of Islamic donation-based crowdfunding concern needs to be considered for developing the framework. As for legal concerns surrounding community-based crowdfunding, one of the biggest is the jurisdictional issue between federal and state governments when crowdfunding seeks to operate based on *Shariah*

principles. In the meantime, while governing provisions exist for financial statements, each of them has its own legal requirements.

Concerning Islamic donation-based crowdfunding as it currently operates, this study identified that even if the campaigns in many cases as operated by the platform are permissible under *Shariah* law, they still need to be regulated by *Shariah* principles so that the wider society benefits. Further, unclear *Shariah* contracts raise the issues of rights of all parties which need to be protected since information asymmetry between fundraiser and donor will compromise a charitable project. Next, the inconsistencies over management fees and transparency issues arise. On the issue of monitoring and surveillance of the donation-crowdfunding platform operations, *Shariah* parameters serve to monitor and coordinate compliance so the platform operations requirement the appointment of *Shariah* advisers if uncertainty is evident. Even if the *Shariah* adviser is appointed in advising about *Shariah* matters for certain platforms, their role should expand beyond campaign assessment.

With this information, it is suggested that future research explore Islamic crowdfunding further and in greater depth since the resources of these particular issues are limited whereas its potential is significant. While this research is limited to six platforms of donation-based crowdfunding, sufficient information on business model of Islamic donation-based crowdfunding platforms obtained from people in the industry can act as points of reference for future analyses. Each element of all *Shariah* issues can be discussed in greater detail in devising an effective *Shariah* framework for donation-crowdfunding projects.

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