

Foreign Exchange

(An Analysis of the Indonesian Ulema Council The National Sharia Council Fatwa and the Perspective of Lhokseumawe Ulema Consultative Council Members)

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ABSTRAK

Valuta Asing adalah pertukaran dua jenis barang berharga atau jual beli uang dengan uang atau jual beli antar barang sejenis secara tunai, jual beli atau penukaran mata uang suatu negara dengan mata uang negara lain, misalnya rupiah dengan dollar dan lain sebagainya. Rumusnya adalah 1) Apa prinsip-prinsip ideal dalam transaksi valuta asing dan relevansi fatwa DSN. 2) Bagaimana ketentuan devisa menurut pandangan anggota MPU Kota Lhokseumawe. Penelitian ini termasuk penelitian lapangan yang bersifat deskriptif dan menggunakan data kualitatif. Hasil penelitian mengenai transaksi jual beli mata uang pada prinsipnya diperbolehkan dengan ketentuan sebagai berikut: a. Bukan untuk spekulasi. B. Ada kebutuhan transaksi atau untuk berjaga-jaga. C. Jika transaksi dilakukan dalam mata uang yang sama, maka nilainya harus sama dan sama

Keywords: *The National Sharia Council Fatwa, Transaksi Valuta Asing, Anggota MPU.*

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dengan uang tunai. D. jika jenisnya berbeda, maka harus dilakukan dengan kurs (kurs) yang berlaku pada saat transaksi dilakukan dan secara tunai. Kedua, ketentuan devisa menurut pandangan anggota MPU Kota Lhokseumawe yaitu akad Al-Sharf diperbolehkan dengan ketentuan sebagai berikut: pertama, tidak untuk spekulasi, kedua, untuk keperluan transaksi atau untuk berjaga-jaga, ketiga, jika transaksi dilakukan dengan mata uang yang sama maka nilainya harus sama dan tunai sebelum kedua belah pihak berpisah dan tidak ada syarat khiyar, keempat, jika berbeda jenis maka harus dilakukan dengan kurs yang berlaku. pada saat transaksi dilakukan secara tunai.

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ABSTRACT

Foreign exchange is the exchange of two types of valuable goods or buying and selling money for money or buying and selling between similar goods in cash, buying and selling or exchanging one country's currency for another country's currency, for example rupiah for dollars and so on. The formulation is 1) What are the ideal principles for foreign exchange transactions and the relevance of The National Sharia Council fatwas. 2) What are the foreign exchange provisions from the perspective of Lhokseumawe Ulema Consultative Council members. This research includes field research which is descriptive and uses qualitative data. The results of research on currency buying and selling transactions are in principle permitted with the following conditions: a. Not for speculation. b. There is a transaction need or just in case. c. If the transaction is carried out in the same currency, the value must be the same and the same as cash. d. if it is of a different type, it must be done at the

Keywords: *Foreign Exchange Transactions, The National Sharia Council Fatwa, Ulema Consultative Council.*

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exchange rate (exchange rate) in effect at the time the transaction is made and in cash. Second, foreign exchange provisions from the perspective of Lhokseumawe Ulema Consultative Council members, namely the Al-Sharf contract, are permitted with the following conditions: first, not for speculation, second, there is a need for a transaction or just in case, third, if the transaction is carried out in a similar currency then the value must be the same and in cash before both parties separate and there are no khiyar conditions, fourth, if it is of different types then it must be done at the exchange rate in effect at the time the transaction is made in cash.

INTRODUCTION

Foreign Exchange, or what is often called forex (foreign exchange), is a global market where currencies from various countries are traded. Forex is a popular investment instrument and has an important role in the global economy. However, due to its complex and speculative nature, the debate about the halal or haram of foreign exchange in Islam has become a major concern in the context of sharia finance. The National Sharia Council is the authorized institution in Indonesia to issue sharia financial fatwas. One of the issues that has been raised by The National Sharia Council is regarding foreign exchange law in Islam. The National Sharia Council has issued several fatwas related to foreign exchange, which provide guidance to Muslims on whether foreign exchange can be used as a legal investment instrument in Islam or not.

Meanwhile, the Lhokseumawe Ulema Consultative Council is a clerical institution that has the authority to provide religious views and guidance at the local level, including in financial and investment matters. The opinions and

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views of the Lhokseumawe Ulema Consultative Council regarding foreign exchange are also very important because they will influence the approach of Muslims in the city towards foreign exchange investment. In this research, an analysis of The National Sharia Council fatwas related to foreign exchange will be carried out. In addition, interviews will be conducted and gathering views from Lhokseumawe Ulema Consultative Council members to understand their perspectives regarding foreign exchange in the context of Islamic sharia. This approach will provide a comprehensive picture of how foreign exchange is viewed in Islam, both from the national level (through the The National Sharia Council fatwa) and the local level (through the views of the Lhokseumawe Ulema Consultative Council).

The aim of this research is to provide a better understanding of foreign exchange law in Islam, particularly in the Indonesian context, and how the views of these two authoritative sources can assist Muslims in making financial decisions in accordance with sharia principles. The methodology that will be used in this research involves a literature study on The National Sharia Council fatwas related to foreign exchange, as well as interviews with members of the Lhokseumawe Ulema Consultative Council. The data obtained will be analyzed qualitatively to look for similarities or differences in their views on forex. It is hoped that this research can provide clearer guidance on the use of foreign exchange as an investment instrument in Islam, as well as explain how local views in Lhokseumawe City can contribute to this understanding. In addition, this research can also help strengthen Muslims' awareness of the importance of understanding sharia aspects in their financial decisions, so that they can make decisions that are in accordance with their religious values.

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Understanding Foreign Exchange

Currency or what is usually called foreign currency, is currency that is issued as legal tender in other countries. Foreign currency will have a value if the currency can be exchanged for other currencies without restrictions. In Islam, foreign exchange can be compared to the exchange between gold and silver (al-sharf). Literally al-sharf means addition, exchange, avoidance, theft or buying and selling transactions.¹ As for sharia financial references, bai'al-sharf is defined as buying and selling, or exchanging foreign currency for another currency, such as between rupiah and dollars, dollars and yen and so on.² The al-Munjid fi al-Lughah dictionary states that al-sharf means selling money for other money. Al-Sharf which literally means addition, exchange. Sharf is buying and selling currency with currencies, both similar and dissimilar.³

Al-Sharf is a currency sale and purchase agreement with another currency. Foreign currency or al-sharf is loosely defined as currency issued and used as legal tender in another country.⁴ Buying and selling is an agreement to exchange objects or goods that have value voluntarily between two parties, where one person gives the objects and the other party receives them in accordance with the agreement or conditions that have been determined. Ash-sharf linguistically has several meanings, namely excess or addition. As for terminology, sharf is the exchange of two types of valuable goods or buying

¹ Abdul Wahab, "Sharia Bank Involvement in Foreign Exchange (Forex) Trading Applications", *Sharia Banking Journal*, Vol. 1, No. 1, Mei 2016, p.32

² Mardani, *Sharia Economic Fiqh*, (Jakarta: Kencana, 2016), p. 318.

³ Wahbah Zuhaili, *Al-Fiqhu Asy-Syafi'i Al-Muyassar: Imam Shafi'i Fiqh, Translation Muhammad Afifi*, (Jakarta: Almahira, 2015), p. 15

⁴ Darsono, *Sharia Banking in Indonesia Institutions and Policies and Future Challenges*, (Jakarta: PT Raja Grafindo Persada, 2017), p. 238

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and selling money for money or also called foreign exchange, or buying and selling between similar goods in cash, or buying and selling exchange between one country's currency and another country's currency.⁵ Technically, bay' al - sharf is the sale of money to obtain money, such as selling gold to obtain gold or silver to obtain silver.⁶

Fiqh scholars define sharf as buying and selling currency with currencies of the same kind or with currencies that are not the same. In classical jurisprudence literature, this discussion is found in the form of buying and selling dinars for dinars, dirhams for dirhams, or dinars for dirhams. One dinar, according to Syauqi Isma'il Syahatah, an Egyptian fiqh expert, is worth 4.51 grams of gold. According to the majority of scholars, 1 dinar is 12 dirhams and according to the Hanafi school of scholars, it is 10 dirhams. The difference in dinar prices occurred due to currency fluctuations in their respective eras. Nowadays, many forms of buying and selling currency are carried out by foreign exchange banks or money changers, for example buying and selling rupiah with dollars or other foreign currencies.⁷

Legal Basis for Buying and Selling Foreign Exchange

Buying and selling is a contract that is permitted based on the Qur'an, sunnah and ijma "ulama". Buying and selling as mutual assistance between humans has a very strong foundation in Islam.⁸ As explained in the introduction, after several types of currency have been created, paper currency

⁵ Mardani, *Sharia Economic Fiqh*, (Jakarta: Kencana, 2016), p. 318

⁶ Yulizar Djameluddin, etc. *Islamic Financial System*, (Jakarta: PT. Raja Grafindo Persada, 2015), p. 260

⁷ Sutan Remy Sjahdeini, *Sharia Banking Products and Their Legal Aspects*, (Jakarta: Kencana Prenadamedia group, 2017), p. 279

⁸ Ahmad Wardi Muslich, *Fiqh Muamalat*, (Jakarta: Amzah, 2016), p. 176

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must replace the function of gold and silver, where gold and silver were previously used as a medium of exchange. In this way, paper currency becomes the only unit of account and an intermediary means of exchange. Paper currency becomes a price value just like gold and silver. Therefore, the law of exchanging paper currency in Islamic law is termed the word al-sharf as is the case with gold and silver.

In the Al-Quran there is no explanation regarding buying and selling sharf itself, but only explains the legal basis for buying and selling in general which is contained in Surah Al-Baqarah verse 275 and Surah Jatsiyah verse 13, namely:

Meaning: People who eat (take) usury cannot stand but stand like a person possessed by the devil because of (the pressure of) insanity. Their situation is like that, because they say (opinion), Indeed buying and selling is the same as usury, even though Allah has permitted buying and selling and forbidden usury. those who have received a prohibition from their Lord, then continue to stop (from taking usury), then for them what they have taken before (before the prohibition came); and its affairs are (up to) Allah. the person who returns (takes usury), then that person is the inmate of hell; they will abide therein. (Qs. Al-Baqarah: 275)

Meaning: And He has subjected to you everything in the heavens and everything on earth, (as a mercy) from Him. Indeed, in that there really are signs (of Allah's power) for a people who think. (Qs. Al-Jatsiyah: 13).

Based on these verses, Ali Anwar concluded that the objectives of Islamic economics are as follows:

- 1) Realizing a prosperous people's economy by producing goods and services of sufficient quality and quantity, in order to meet physical and spiritual

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needs and foster worldly and spiritual prosperity in a harmonious and balanced manner.

- 2) Realizing a just and equitable economic life.
- 3) Creating an economic life that guarantees independence, both in choosing the types of goods and services and distribution systems.
- 4) Creating an economic life that does not cause mafsadah.
- 5) Realizing an independent economic life.⁹

Then in the hadith of Rasulullah S.A.W which was narrated from Abu Bakrah radhiyallahu 'anhu, he said: Rasulullah shalallahu 'alaihi wasallam has prohibited the exchange of silver for silver, gold for gold, unless the amount is the same. The Prophet told us to buy silver (paid) with gold according to our wishes and buy gold (paid) with silver according to our wishes. A man asked the Prophet: "Continue to be submitted and accepted?" Abu Bakrah said: "that is what I heard. (Mutaffaqun 'Alaih).

Harmony and Terms of Sale and Purchase Sharf

Correct (sahih) buying and selling is defined as buying and selling that fulfills the terms and conditions of the contract. A good sale and purchase (al-bay al-shahih) is a sale and purchase that has been agreed upon by the ulama, that there is no conflict in the contract.¹⁰ There are several pillars of the sharf contract that must be fulfilled in the transaction:

- 1) The contract actor, namely the ba'i (seller) is the party who has currency to sell and the musytari (buyer) is the party who needs and will buy the currency.

⁹ Abdul Aziz M. Azzam, *Fiqh Muamalat*, (Jakarta : AMZAH, 2017), h. 27

¹⁰ Ika Yunia Fauzia and Abdul Kadir Riyadi, *Basic Principles of Islamic Economics from Maqashid Al-Syari'ah Perspective*, (Jakarta: Kencana, 2015), p. 246.

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- 2) The object of the contract, namely sharf (currency) and si'rus sharf (exchange value).
- 3) Shighah, namely consent and qabul.

Meanwhile, the terms of the sharf contract are:

The legal conditions for buying and selling currency (al-Sharf) are generally the same as buying and selling, but there are certain conditions that are met in currency buying and selling transactions, namely:

- a. Seller and buyer (aqidain) What is meant by aqidain is that the person entering into the contract (transaction) here can act as seller and buyer. The requirements that must be fulfilled in the transaction (contract) are: 1) Reasonable or not memory loss, 2) Own will, 3) Mumayyiz.¹¹
- b. Money/treasures and goods (mu'qud a'laih) are goods that are used as objects of buying and selling, objects that are used as objects of buying and selling must meet the following conditions: 1) The goods are pure (the goods are not unclean), 2) Can the benefits can be taken, 3) Belongs to the person making the contract, 4) Can be handed over, 5). It can be seen, 6) The item being contracted is in hand.¹²
- c. Consent and Qabul (sighot/aqad) Ijab and qabul mean a bond of words between the seller and the buyer. For example, "I bought your item at that price," said the buyer. The seller's words are called ijab and the buyer's words are called qabul.

¹¹ Ascarya, *Sharia Bank Agreements and Products*, (Jakarta: Rajawali Pers, 2016), p. 45.

¹² *Ibid.*

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The conditions that must be met in currency buying and selling transactions (al-Sharf) are:

- a. The exchange must be carried out in cash, meaning that each party must receive/hand over each currency at the same time.
- b. Conditional sales must be avoided, for example A agrees to buy goods from B today with the condition that B must buy them again at a certain date in the future.
- c. It is not permissible to sell goods that have not been paid for or in other words it is not permissible to buy and sell without ownership rights (bai' al-Fudhuli).¹³

Of the many conditions for buying and selling currency, both in terms of the person carrying out the contract (aqidain), as well as the goods that are the object of the contract, must be fulfilled for the buying and selling transaction to be valid according to the provisions outlined by Islamic law. Likewise, vice versa, it will be considered a fraudulent transaction if the terms and conditions of the sale and purchase are not met.

Thus, in short it can be said that a sharf contract must meet the following requirements: 1). Must be cash, 2). The handover must be carried out in the contract assembly, 3). When exchanging the same currency it must be in the same amount/quantity.¹⁴

Types of foreign exchange transactions

Types of foreign exchange transactions, namely:

¹³ Shaykh Ahmad Ad-Da'ur, *Usury and Haram Bank Interest*, (Bogor: Al Azar Press, 2015), p. 206

¹⁴ Khotibul Umam, *Sharia Banking Basics and Dynamics of Development in Indonesia*, (Jakarta: Rha Gravindo Persada, 2017), p. 56.

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- 1) Spot Transactions, namely transactions for the purchase and sale of foreign currency (foreign currency) for delivery at that time (over the counter) or settlement within a period of two days at the latest. Two days is considered an unavoidable completion process.
- 2) Forward transactions, namely foreign currency purchase and sale transactions whose value is determined at the present time and applied for a future period, between 2 x 24 hours to one year. The law is haram, because the price agreed upon (muwa'dah) and the delivery will be made at a later date. However, the price at the time of delivery is not necessarily the same as the agreed value unless it is done in the form of a forward agreement for unavoidable needs (lil hajah).
- 3) Swap transaction, namely a contract to purchase or sell foreign currency at a spot price combined with a purchase between sales of foreign currency at the same forward price. The law is haram, because it contains elements of maisir (speculation).
- 4) Option transactions, namely contracts to obtain the right to buy or the right to sell which does not have to be carried out on a number of foreign currency units at a certain price and time period or end date. The law is haram, because it contains elements of maisir (speculation).¹⁵

Trends in Foreign Exchange Purchases

The increasingly advanced human civilization, as well as rapid progress in the fields of economics, science and technology, are forcing scholars, scholars and those interested in Islamic studies to study more closely various economic concepts. Along with the rapid progress of technology and

¹⁵ National Sharia Council Fatwa Number 28/DSN-MUI/III/2002

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globalization, it is possible that trade and investment between countries will become inevitable. Trade between countries creates positive and negative values for a country, both in terms of investment and transactions. Investment is very, very important for a country, both domestically and abroad. Trading and investment are involved in transactions, because of the sophistication of technology a transaction can be carried out without having any contact with anyone at all, or without any bargaining.¹⁶

National and International Trade, International trade does not escape a transaction, in carrying out these transactions international trade is either in the form of imports or exports,¹⁷ to carry out international transactions the presence of foreign exchange becomes very significant. Exchanges between one currency and another, especially exchanges with US dollars, may occur at any time. Thus, international trade in this era of globalization also has implications for buying and selling (exchanging) currencies.¹⁸

Due to advances in technology, people have begun to realize the importance of investing, are aware of the importance of developing the assets they own, to obtain greater or higher profits from investing, to obtain greater profits, investors and intermediaries play price games that can leads to speculation and manipulation. Foreign exchange trading in Indonesia is regulated based on the Republic of Indonesia Law Number 32 of 1997 concerning commodity futures trading. Foreign exchange trading is managed

¹⁶ Nasrun Haroen, *Shares Trading on the Stock Exchange*. (Kalimah Foundation, 2020), p. 3

¹⁷ Muhammad Iqbal, Chaliddin, *Akad Murabahah dalam Islam*, Jurnal Al-Hiwalah: Journal Syariah Economic Law 1 (2), <https://doi.org/10.47766/alhiwalah.v1i2.896>.

¹⁸ Yadi Janwari, *Islamic Financial Institutions Jurisprudence*, (Bandung: PT. Remaja Rosdakarya Offset, 2015), p. 49

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by the Jakarta Futures Exchange (BBJ). In carrying out trading, investors do not transact directly with BBJ, but must go through a broker/dealer company, which is closely monitored by BBJ to ensure that no fraud or deception occurs by these companies.¹⁹

Foreign currency buying and selling transactions consist of: cash transactions (spot), forward transactions, swap transactions. The form of foreign exchange transactions as above is a result of the possibility of exchange rate fluctuations so that in order to avoid the risk of loss, parties who frequently deal with foreign exchange develop forms of transactions.²⁰ Foreign exchange trading in the Muamalat economy is called Al-Sharf. Al-Sharf means buying and selling currency with currencies, both similar and dissimilar, such as buying and selling gold with gold, silver with silver, or gold with silver.²¹

METHODE

This research includes field research which is descriptive and uses qualitative data. This type of research aims to describe the state of objects and events.²² This research emphasizes the immediacy of data and is based on the concept that experience is the best way to understand social behavior. This is because researchers collect data by going directly into the field to obtain

¹⁹ Lawrence Hational Hutabarat, *Risk Management Analysis and Investment Strategy in Forex Online Trading and Its Influence on Value Added Investors at PT. Monex Investindo Futures*, (Faculty of Economics and Postgraduate- University 17 August 1945 Surabaya, DIE : 2017), p .43

²⁰ Muhamad Djumhana, *Banking Law in Indonesia*, (Jakarta : Pt. Citra Adya Bakti, 2018), p .386

²¹ Wahbah al-Zuhayli, *Al-fiqih Al-Islami Wa Adillatuhu*, (Damaskus : Dar al Fikr.,2016), h. 636

²² Dadang Kahmad, *Religion Research Methodology: A Comparative Perspective on Religion*, (Bandung: Pustaka Setia, 2000), p. 90.

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certain data which is carried out at the Lhokseumawe Ulama Consultative Council. The research object is the The National Sharia Council Fatwa on Foreign Exchange Transactions in the Perspective of Lhokseumawe Ulama Consultative Council Members who know more by conducting free interviews and also conducting field observations in order to demonstrate scientific knowledge in writing this thesis, besides that it is also based on library research by reading books. books related to the problems discussed in this thesis.

Using a normative approach is an approach carried out through literature study in searching for theoretical source data that is useful for solving problems. This approach is known as the library approach or what is usually called literature study or documentation study, namely by studying books, statutory regulations and other documentation related to this research. The empirical approach is an approach that is taken to conduct research directly to collect all information related to this research, either by interviews with related parties, or by careful observation of the research object.

RESULT AND DISCUSSION (RESEARCH RESULTS AND DISCUSSION) Ideal Principles for Foreign Exchange Transactions and the Leveny of The National Sharia Council Fatwas

Buying and selling is an agreement to exchange objects or goods that have value voluntarily between two parties, where one person gives the objects and the other party receives them in accordance with the agreement or conditions that have been determined. Ash-sharf linguistically has several meanings, namely excess or addition. As for terminology, sharf is the exchange of two types of valuable goods or buying and selling money for money or buying and selling between similar goods in cash, buying and selling or

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exchanging one country's currency for another country's currency, for example rupiah for dollars and so on.²³

Foreign exchange is the exchange of two types of valuable goods or buying and selling money for money or buying and selling between similar goods in cash, buying and selling or exchanging one country's currency for another country's currency, for example rupiah for dollars and so on.²⁴

History of the formation of The National Sharia Council. The development of the sharia economy in Indonesia is very fast, especially banking, insurance and capital markets. If in the 1990s the number of sharia banking service offices was still a dozen, then in the 2000s, the number of sharia financial institution service offices exceeded six hundred spread throughout Indonesia. Sharia banking assets at that time had not yet reached IDR 1 trillion, so currently the assets are more than IDR 22 trillion. In 1994 there were only two Sharia Insurance Institutions, namely Family Takaful Insurance and General Takaful, now there are 34 Sharia Insurance institutions (AASI Data 2006). Likewise, Sharia Bonds are growing rapidly, keeping pace with Sharia Insurance and Banking.

Sharia economic practitioners, society and the government (regulators) need sharia fatwas from the ulama institution Indonesian Ulema Council regarding practices and products in these sharia financial institutions. The rapid development of sharia financial institutions must be balanced with valid and accurate sharia law fatwas, so that all their products have a strong sharia basis.

²³ Mardani, *Sharia Economic Fiqh*, (Jakarta: Kencana, 2015), p. 318.

²⁴ Ibid.

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For this reason, the National Sharia Council was born in 1999 as part of the Indonesian Ulema Council.

The position of Fatwa, Fatwa in the classical definition is optional "ikhtiyariah" (a choice that is not legally binding, although morally binding for mustafti (the party requesting the fatwa), while for non-mustafti it is "i'lamiyyah" or informative which is more than just discourse They are open to taking the same fatwa or asking another mufti/expert for a fatwa.²⁵

Fatwa is an institution in Islamic law, to provide answers and solutions to problems faced by the people. In fact, Muslims in general use fatwas as a reference in their attitudes and behavior. Because the position of fatwas among the general public, is like arguments among Mujtahids (Al-fatwa fi Haqqil Amikal Adillah fi Haqqil Mujtahid). This means the position of a fatwa for ordinary people, like a proposition for a Mujtahid. The presence of these fatwas is an organic aspect of the Islamic economic building that is being organized/developed, as well as a measuring tool for the progress of sharia economics in Indonesia. Functionally, fatwa has tabyin and tawjih functions.

Tabyin means explaining the law which is a practical regulation for financial institutions, especially what sharia economic practitioners ask The National Sharia Council and taujih, namely providing guidance (as well as enlightening the wider community about sharia economic norms). Sharia economic fatwas in Indonesia are issued through a collective, connected and institutional fatwa process and formula called ijthahah jama'iy (collective ijthahah of ulama), not ijthahah fardi (individual), the validity of jama'iy and fardi is

²⁵ Aries Mufti and Muhammad Syakir Sula, *Concept of the Sharia Economic System*. p. 221

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clearly very different. Jama'iy's ijihad has approached ijma'. If only Indonesia existed in this world, the agreement of Indonesian experts and ulama would surely be called ijma'.²⁶

Fatwa formulation also adheres to the principle of *maslahah* or *asalahiyah* (whichever is beneficial or more beneficial to be used as an option for the fatwa). The concept of *maslahah* in *muamalah* is the most important principle. In *ushul fiqh*, the rule "where there is *maslahah*, there is Allah's sharia" is popular. Its benefits are not only recognized in *tanziriyah* (theoretical calculations) but also in *tajribiyah* (empirical experience in the field). Therefore, to test the *salahiyah* (validity) of a fatwa, *muraja'ah maidaniyah* (matching in the field) must be held after sufficient time has passed in economic implementation.

In worship, the legal rule that applies is that all things are prohibited unless there are provisions based on the Koran and Hadith. Meanwhile, in *muamalah* matters, everything is permitted unless there is an argument that prohibits it. This means that when a new transaction appears and has not been previously known, the transaction can be accepted, unless there are implications from the Qur'an and Hadith that prohibit it. Compliance with sharia principles is carried out by fulfilling the basic needs of Islamic law, including:

- a. The principle of justice and balance ('*adl wa tawazun*)
- b. Benefit (*maslahah*)
- c. Universalism (naturalism)

²⁶ Ibid.

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In principle, currency buying and selling transactions are permitted with the following conditions:

1. Not for speculation (chance).
2. There is a need for transactions or just in case (savings).
3. If transactions are made in similar currencies, the value must be the same and in cash (at-taqabudh)
4. If it is of a different type, it must be done at the exchange rate (exchange rate) in effect at the time of the transaction and in cash.

In principle, currency buying and selling transactions may be carried out on the following conditions:

1. Not for speculation (chance).
2. There is a need for transactions or just in case (savings).
3. If transactions are made in similar currencies, the value must be the same and in cash (at-taqabudh).
4. If there are different types, this must be done at the exchange rate (exchange rate) in effect at the time of the transaction. .²⁷

Basically, all forms of mu'amalah are permissible if the terms and conditions of the muamalah agreement are justified by the Shari'a, there is no mawa'ni' (barrier to permissibility) in the transaction. The prohibition of mu'amalah occurs when there is an illat prohibited by Sharia that is being hit, including: due to usury, gambling (maisir), speculative action, gharar (fraud), ghabn (hiding defects), and harming other parties (dlarar). That is why, in questioning all the laws of a muamalah buying and selling, some of these illat must be used as a means to examine whether the contract is valid or not.

²⁷ Ibid.

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Buying and selling is a contract that is permitted based on the Al-Qur'an, Sunnah and the consensus of "ulama". Buying and selling as mutual assistance between humans has a very strong foundation in Islam. Buying and selling paper currency in Islamic law is termed the word al-sharf as is gold and silver. The practice of al-sharf only occurs in buying and selling transactions. As Allah SWT has said in Surah Al-Baqarah verse 275: Meaning: ...Indeed buying and selling is the same as usury, even though Allah has permitted buying and selling and forbidden usury. those who have received a prohibition from their Lord, then continue to stop (from taking usury), then for them what they have taken before (before the prohibition came); and its affairs are (up to) Allah. the person who returns (takes usury), then that person is the inmate of hell; they will abide therein eternally. (Qs. Al-Baqarah: 275)

This verse prohibits commerce or transactions in muamalah that are carried out in vanity. This verse indicates that Allah SWT forbids Muslims from consuming other people's property in vain. Vanity in this context has a very broad meaning, including carrying out economic transactions that are contrary to sharia', such as carrying out riba-based transactions (unreasonable additions), transactions that are maisir (gambling), or transactions that contain elements of gharar (existence). uncertainty, risk in transactions, unclear) and other things that can be equated with that.²⁸

In principle, buying and selling practices like al-Sharf are permitted in Islam. In sharia principles, the practice of buying and selling foreign exchange can be analogous and categorized with the exchange between gold and silver or

²⁸ Dimyauddin Djuwaini, *Introduction to Muamalah Fiqh*, (Yogyakarta: Pustaka Belajar, 2016) p. 70

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known in fiqh terminology as al-Sharf which is agreed by the ulama regarding its validity. From the several hadiths above, it can be explained that the practice of as-al-Sharf is actually permissible if it is carried out on the basis of mutual agreement between both parties and in cash, and there is no addition between items of the same type (gold with gold or silver with silver), because of excess between two similar goods is *riba al-fadl* which is clearly prohibited by Islam. However, if the type is different, such as gold and silver or current currency, for example Rupiah with Dollars or vice versa, then it can be exchanged according to the market rate, provided it must be cash/spot.

The criteria for 'cash' or 'cash' in buying and selling are returned to the prevailing market norms even though it takes several hours for settlement due to the technical process of the transaction. The price of the exchange can be determined based on an agreement between the seller and buyer or the market price (market rate). The cash criteria in the practice of al-Sharf as in the hadith above is to avoid usury *nasi'ah*.

According to al-Qardhawi, the principle condition for buying and selling currency is that it must be in cash. Thus, what about currency buying and selling transactions that are carried out on a secure basis, whether in spot or forward transactions? If analyzed carefully in spot and forward transactions there is an element of usury, namely: the element of interest, interest is believed to definitely contain an element of usury. The foreign exchange market is a market that trades one country's currency against another country's currency (currency pairs) which involves the main money markets in the world 24 hours non-stop. Forex market movements rotate starting from the New Zealand and Australian markets which take place at 05.00-14.00 WIB,

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continuing to the Asian markets, namely Japan, Singapore and Hong Kong which take place at 07.00-16.00 WIB, to the United States market which takes place at 20.30-10.30 WIB.²⁹

In principle, currency buying and selling transactions (sharf) may be carried out with the following conditions:³⁰

- 1) Not for speculation (chance).
- 2) In transactions carried out in similar currencies, the value must be the same and in cash (at-taqabudh).
- 3) For transactions involving different currencies, they must be carried out at the exchange rate (exchange rate) in effect at the time the transaction is made and in cash.

The exchange principles must fulfill several things, as follows:³¹

- a) There is no element of usury.
- b) Same value.
- c) The same size according to sharia standards.
- d) Al-Taqabul (both in cash) at the contract mosque.
- e) Letting each other go (Al-Taradi).

Nowadays, money is not only used as a medium of exchange and a unit of price but also as a place to invest. The Islamic principles in muamalah that investment actors must pay attention to are:

²⁹ Darsono, *Pasar Valuta Asing*, (Jakarta:Rajawali Pers, 2017) , h. 120

³⁰ Sharia Finance Fatwa Association: *National Sharia Council*, (Jakarta: Erlangga, 2019), p. 16

³¹ Ahmad Hasan, *Mata Uang Islami*, (Jakarta: PT Raja Grafindo Persada, 2015), h. 162-163.

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- 1) Do not seek sustenance from things that are haram, both in terms of the substance and the method of obtaining it, and do not use it for things that are haram;
- 2) Not to oppress or be wronged;
- 3) Justice in the distribution of prosperity;
- 4) Transactions are carried out based on pleasure;
- 5) There are no elements of usury, maysir (gambling/speculation) and gharar (vagueness or vagueness).³²

Sources of law or fiqh recognized by Islamic jurists consist of sources of absolute truth and sources that allow recodification to follow current developments. The first sources are the Koran, Sunnah, Ijma (agreement of scholars in deciding a problem) and Qiyas (an analogy of a problem regarding laws contained in the Koran or Sunnah). The second source of fiqh is sources where differences of opinion or differences in practice are still possible. These sources are Istihsan (consideration of legal interests), Maslahah Murshalah (consideration of public interests), Istishab (continuing laws that were in effect before the emergence of new laws), and 'Urf (allowing traditions that do not conflict with sharia).³³

Foreign currency buying and selling transactions are needed in a number of activities to fulfill various needs between currencies of the same type and between currencies of different types. The ash-sharf agreement is as

³² Indah Yuliana, *Investasi Produk Keuangan Syariah* (Malang: UIN Maliki Press, 2016), h. 17.

³³ Pusat Pengkajian dan Pengembangan Ekonomi Islam (P3EI), *Ekonomi Islam*, (Jakarta : PT RajaGrafindo Persada, 2015), h. 34.

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explained in the National Sharia Council fatwa Number.28/DSN-MUI/III/2002.³⁴

National Sharia Council after, Decide:

DECIDE:

Establish: FATWA CONCERNING CURRENCY BUYING AND BUYING

First: General Provisions Currency buying and selling transactions are in principle permitted with the following conditions:

- a. Not for speculation (chance)
- b. There is a need for transactions or just in case (savings)
- c. If transactions are made in similar currencies, the value must be the same and in cash (attaqabudh).
- d. If it is of a different type, it must be done at the exchange rate (exchange rate) in effect at the time the transaction is made and in cash.

Second: Types of Foreign Exchange Transactions

- a. Spot transactions, namely purchase and sale transactions of foreign currency (forex) for delivery at that time (over the counter) or settlement within a period of two days at the latest. The law is permissible, because it is considered cash, while the two day period is considered an unavoidable settlement process and is an international transaction.
- b. Forward Transactions, namely foreign exchange purchase and sale transactions whose value is determined now and applied for the future, between 2 x 24 hours to one year. The law is haram, because the price used is the agreed price (muwa'adah) and the delivery is made at a later date,

³⁴ Darsono, *Perbankan Syariah di Indonesia Kelembagaan dan Kebijakan serta Tantangan ke Depan*, (Jakarta: PT Raja Grafindo Persada, 2017), h. 238.

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even though the price at the time of delivery is not necessarily the same as the agreed value, unless it is done in the form of a forward agreement for unavoidable needs. (Lil Hajah).

- c. Swap transaction, namely a contract to purchase or sell foreign currency at a spot price combined with a purchase between sales of the same foreign currency at a forward price. The law is haram, because it contains elements of maisir (speculation).
- d. Option transaction, namely a contract to obtain the right to buy or the right to sell which does not have to be carried out on a number of foreign currency units at a certain price and time period or end date. The law is haram, because it contains elements of maisir (speculation).

Third: This fatwa is valid from the date it is stipulated with the provision that if in the future it turns out there is an error.³⁵

So it is concluded that the general provisions of the The National Sharia Council- Indonesian Ulema Council fatwa no. 28/MUI/III/2002 concerning Currency Buying and Selling, as follows:

- a. Not for speculation (chance)
- b. There is a need for transactions or just in case (savings)
- c. If transactions are made in similar currencies, the value must be the same and in cash (attaqabudh).
- d. If it is of a different type, it must be done at the exchange rate (exchange rate) in effect at the time the transaction is made and in cash.

³⁵ DSN-MUI No. 28/MUI/III/2002 tentang Jual Beli Mata Uang

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Meanwhile, the legal provisions regarding the types of foreign exchange transactions in the foreign exchange market are explained in the fatwa as follows: First, Spot Transactions, namely purchase and sale transactions of foreign currency (forex) for delivery at the time (over the counter) or settlement at the latest later than two days. The law is permissible, because it is considered cash, while the two day period is considered an unavoidable settlement process and is an international transaction.

Foreign Exchange Provisions from the Perspective of Lhokseumawe Ulema Consultative Council Members

Foreign exchange is the exchange of two types of valuable goods or buying and selling money for money or buying and selling between similar goods in cash, buying and selling or exchanging one country's currency for another country's currency, for example rupiah for dollars and so on.³⁶ This sharf transaction is permissible, because the Prophet SAW permitted the buying and selling of ribawi commodities with each other when they are of the same type and there are similar sizes or different types even if there is a dissimilarity in size provided that they are handed over from hand to hand (cash). The wisdom of enforcing currency buying and selling is to make it easier for Muslims to exchange one currency for another according to their needs.³⁷ Al-Sharf is buying and selling currencies. Originally currency was gold and silver. Usually gold money is called dinars and silver money is called dirhams.³⁸ Based on interviews with several scholars, namely:

³⁶ Ibid.

³⁷ Abu Bakar Jabir Al-Jaza'iry, *Minhajul Muslim terj. Musthofa ' Aini dkk*, (Malang: PT. Megatama Sofwa Pressindo, 2016), h. 567-568.

³⁸ Veithzal Rivai dan Arvian Arifin, *Islamic Banking*, (Jakarta: Bumi Aksara, 2017), h.396.

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An interview with Tgk Zulkifli Ibrahim as Deputy Chair II of the Lhokseumawe Ulema Consultative Council, stated that:

"It is not legal to buy and sell dollars with rupiah or anything else because dollars are world shares, they are in the form of prices, not objects, and the same goes for rupiah. Rupiah also includes prices, buying and selling objects, for example paddy is exchanged for rice, fish is exchanged for rice. This includes barter buying and selling, barter buying and selling is permitted in Islam, but in front of both parties. There is no buying and selling in Islamic economics at price, therefore the scholars forbid it and do not allow it. There are certain reasons because the price of money is unstable, there are changes all the time, because the price cannot be controlled. As a result, price changes are uncertain so it is feared that it will harm one party, therefore buying and selling foreign currency is not permitted. And there is no way for foreign exchange to be included in the sharia economy."

Likewise, an interview with Mr. Marzuki, a member of the Lhokseumawe Ulema Consultative Council, stated that:

"The Al-Sharf contract is stipulated with the following conditions: first, not for speculation (gain), second, there is a need for transactions or just in case (savings), third, if the transaction is carried out in similar currencies then the value must be the same and in cash before both parties (seller and buyer) separate and there are no misunderstandings of conditions, especially, if they are of different types then it must be done at the exchange rate in effect at the time the transaction is made in cash. The activities that can be categorized as currency buying and selling transactions include: purchasing currency with a similar currency, such as exchanging new dinar banknotes for old dinar banknotes. Exchange of foreign money such as exchanging dollars and Egyptian pounds, purchasing goods with certain money and purchasing that currency, with foreign currency such as buying a plane with dollars, as well as exchanging dollars for Iraqi dinars in a deal, selling goods with currency, for example Australian dollars, sale of promissory notes (letter of agreement for payment of a certain amount of money) in

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a certain currency, sale of shares in a certain company in a certain currency”.

Mr. Marzuki as Member of the Lhokseumawe Ulema Consultative Council also added:

“In practice, there are various kinds of buying and selling foreign currency, especially buying and selling foreign currency. However, not all existing forms are permitted according to Islam. The forms of buying and selling currency are as follows: first, spot transactions, namely transactions of buying and selling foreign currency (forex) for delivery at that time or at the latest for completion within a period of two days. "The law is permissible, because it is considered cash while the two day period is considered an unavoidable settlement process and is an international transaction."

According to Tgk Drs. Asnawi Abdullah, MA as Lhokseumawe Ulema Consultative Council North Aceh stated that:

"Buying and selling foreign currency is part of buying and selling foreign currency, including buying and selling ribawi, therefore buying and selling with different types such as the United States Dollar (USD), Japanese Yen (JPY), German Deutch Mark (DEM), British Pound Sterling (GBP) and others, exchange of foreign currency with the condition that it must be paid in full (Cash), must not be delayed, Transactions of value must be the same amount, Buying and selling foreign currency is permitted, as long as the terms of sale and purchase are maintained, if not maintained "There are times when it becomes difficult in the exchange process and without cash it will become haram, because every minute, second and hour the currency changes or changes in price."

According to Mr. Andi Mardika, MA as The National Sharia Council Kab. North Aceh, stated that

"Foreign currency buying and selling includes ribawi buying and selling, foreign currency exchange with handover, if it is in the same

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currency, the amount must be the same and cannot be postponed, each party to the transaction may not postpone the delivery of goods for a certain period because the goods must be accepted and fall as the property of each buyer before they separate, trading in foreign currency that is not done in cash is not permitted. Furthermore, he said that it was not legal to buy and sell money using a suspension system, in fact it had to be done in cash at the place of transaction. It's just that the criteria for cash for something are based on their own measurements."

Interview with Tgk Husaini Mahmud, stated that:

"Foreign Currency Sale and Purchase transactions are permitted in Islam, if carried out on the basis of mutual consent between both parties and in cash, and there is no addition between items of the same type (gold with gold or silver with silver), due to the excess between two items of the same type. this is usury. There are several pillars of a sharf contract that must be fulfilled in a transaction: 1) The contract actor, namely the ba'i (seller) is the party who has the currency to sell and the musytari (buyer) is the party who needs and will buy the currency. 2) The object of the contract, namely sharf (currency) and si'rus sharf (exchange value). 3) Shighah, namely consent and qabul. Meanwhile, the terms of the sharf contract are: 1) Currency (like or not). If it is similar, it must be exchanged for the same amount. If it is not similar, the exchange is carried out according to the exchange rate. 2) Delivery time (spot). The banking service product that uses the sharf contract is a money exchange facility."

Interview with Tgk. Zainuddin transaction stated that:

"Buying and selling foreign currency is permitted in Islam, so there are several restrictions that need to be taken into account when carrying out foreign currency buying and selling transactions, including: the exchange must be carried out in a private manner, the motive for the exchange is to support commercial transactions, namely trade transactions in goods and services between nation, not in the context of speculation, conditional buying and selling must be avoided, futures transactions must be carried out with parties who are believed to be able to provide the foreign currency being exchanged, it is not permissible to

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sell goods that have not been controlled, or in other words it is not permissible to buy and sell without ownership rights (bai' ainiyah), conditions for buying and selling currencies (Al-Sharf): Handover, if it is in the same currency, the amount must be the same, there must be no khiyar conditions and it cannot be postponed, each party to the transaction must not postpone delivery of goods for a certain period of time because the goods must be received and fall as the property of each buyer before they part ways."

Interview with Tgk. H. M. Yusuf Ilyas, stated that:

"Foreign currency transactions are legally permissible, the type of transaction permitted in Islam is the Spot Transaction type, namely the purchase and sale of foreign currency for delivery at that time or settlement no later than two days. Al-Sharf Terms (Buying and Selling Currency Money), namely: 1) Handover before Iftirak (separation), meaning that the exchange transaction is carried out before both parties separate. This applies to exchanging currencies of the same or different types. Therefore, both parties must carry out the handover before they separate and must not delay payment for either of them. If these conditions are not fulfilled then the law is invalid; 2) Exchange of money whose value is not equal is haram, this condition applies to the exchange of money of one or the same type. Cash payments are not legally valid if there is a delay in payment, whether the delay is from one party or from other parties. 3) Does not contain khiyar conditions, if there are khiyar conditions in the aqad Al - Sharf, whether the conditions are from one or both parties , then according to the majority of ulama' the law is invalid. 5) The motive for exchange is to support commercial transactions, namely trade transactions in goods and services between nations, not for the purpose of speculation. 6) The goods must be controlled or have ownership. It is not permitted to sell goods that have not been controlled or to buy and sell without ownership rights (bai al-fudhuli)."

Based on the interview above, it can be concluded that: the Al-Sharf contract is regulated with the following conditions: first, not for speculation

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(chance), second, there is a need for transactions or just in case (savings), third, if the transaction is carried out For currencies of the same type, the value must be the same and in cash before the two parties (seller and buyer) separate and there are no misunderstandings of conditions, especially if they are of different types then it must be done at the exchange rate in effect at the time the transaction is carried out in cash. Activities that can be categorized as transactions in currency buying and selling transactions are purchasing currency in a similar currency, exchanging foreign currency, selling goods in a currency and selling shares in a particular company in a particular currency. The type of transaction permitted in Islam is the Spot Transaction type. Spot is a transaction of buying and selling foreign currency (forex) for delivery at that time or no later than settlement within a period of two days. The law is permissible, because it is considered cash while the two day period is considered an unavoidable settlement process and is an international transaction.

CONCLUSION

Based on the research results and discussions described previously, the researchers drew conclusions, namely:

1. The ideal principle regarding foreign exchange transactions and the levy of the The National Sharia Council fatwa is that currency buying and selling transactions are in principle permissible provided that a) Not for speculation (chance). b). There is a need for transactions or just in case (savings), c) If transactions are made in similar currencies, then the value must be the same and in the same type of cash (al-taqabudh), d). If it is of a

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different type, it must be done at the exchange rate (exchange rate) in effect at the time the transaction is made and in cash.

2. Foreign exchange provisions from the perspective of Lhokseumawe Ulama Consultative Council members, namely the Al-Sharf contract, are regulated with the following conditions: first, not for speculation (luck), second, there is a need for transactions or just in case (savings), thirdly, if the transaction is carried out in similar currencies then the value must be the same and in cash before both parties (seller and buyer) separate and there are no misunderstanding of terms, especially, if they are of different types then it must be carried out at the exchange rate in effect at the time the transaction is carried out. cash. Activities that can be categorized as transactions in currency buying and selling transactions are purchasing currency in a similar currency, exchanging foreign currency, selling goods in a currency and selling shares in a particular company in a particular currency. The type of transaction permitted in Islam is the Spot Transaction type. Spot is a transaction of buying and selling foreign currency (forex) for delivery at that time or no later than settlement within a period of two days. The law is permissible, because it is considered cash while the two day period is considered an unavoidable settlement process and is an international transaction.

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