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Issues in the Application of E-Wallet in Malaysia: A Juristic Analytical Study

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Abstract

The rapid growth of the financial industry in line with technological development leads to the emergence of e-wallet. E-wallet is an instrument of payment of goods or services electronically without the need to use cash. The use of e-wallet although still in its initial stages in Malaysia, is still subject to Shariah analysis. This study would like to analyze several Shariah issues in e-wallet, which aimed to measure the Shariah compliance, as well as to come out with some suggestions to improve its implementation. Among the research findings are the use of e-wallet is subject to origin of ruling in commercial transactions which is permissible, thus the Shariah analysis of it focuses on the circumstances that would make it forbidden, and the possible contracts between all contractors which include the user, the bank and non-bank issuer, and the third party have been discussed in the study with taking into consideration of conditions, and implications. Two methods will be used in this research, firstly the inductive method in collecting data, and the second is the analytical method in analyzing the data.

Keywords: E-wallet; Shariah; Issues; Contracts; Malaysia

1. Introduction

Islam is a religion that embraces all aspects of human life. One of the most important aspects of life is humanity's bonding through means of ownership and property. Having regard to this importance, it is considered that the protection of wealth is one of Maqāṣid al-Sharī'ah, the great purposes which Allah intends behind His rules.

The use of e-wallet's expansion within the Malaysia Smart City Framework 2018 (Ministry of Housing and Local Government, 2018, 189) is one of the communications action plans to achieve this aim. This would lead to a new normality in society, where everyone replaces the conventional way of transaction with e-wallet. At the same time, Malaysia is the international hub of Islamic finance and banking, so in line with this, the implementation of e-wallet should be compliant with Shariah.

In light of this, this research examines Shariah compliance in the implementation of e-wallet as it involves contracts that need to be viewed in terms of conditions and consequences. In addition, its implementation that is quite different from Islamic banking and financial products and services, in terms of mode, content, revenue, benefits and risks, requires its own study to clarify the ambiguity surrounding the issue of Shariah compliance in this e-wallet.

2. Research Questions, Objectives and Significances

This research tries to answer numerous questions, which are: What is e-wallet, and its processes and types? What does e-wallet include Shariah issues? To what degree is e-wallet compliant with Shariah? What are shariah issues affecting the implementation of e-wallet in Malaysia?

Upon answering these questions, this research aims to defining the meaning of e-wallet and describing its processes and types. It also aims to scrutinize Shariah issues and in Malaysia's implementation of the e-wallet. In addition, it studies Shariah compliance in implementing e-wallet, and proposes some suggestions and guidelines for its improvement.

The above questions and aims of this research show its significance and importance, as it ties a current financial technology (Fintech) issue to Shariah concerns and rulings. Furthermore, the research revisits the practice of e-wallet in Malaysia to fully comply with Shariah, and in wider range it ensures the application of financial matters to be in line with Shariah. Consequently, this research proposes a guideline for the application of e-wallet to be observed by the issuers and the users as well. And finally, this research cultivates and spreads awareness about the importance of Shariah regulation among Muslims and others in financial products and services.

3. Literature Review

Earlier studies have explored the issue of e-wallet, among them an article by Nor Asiah Yaakub and others entitled "Analysis of E-Payment Applications: A Case Study of One of the Zakat Institutions in Malaysia" (2016) which focused on the use of e-payment in paying zakat. While listing the online payment tools, the authors mentioned e-wallet as a payment option for online transactions. Among the findings of this research, the e-payment system is becoming more popular in Malaysia, even though the amount of Zakat collected, and the percentage of increment remains low compared to offline payment.

This issue also is discussed by a research paper written by Chern Yong Xian and others entitled "Moving Into Cashless Society: Factors Affecting Adoption of E-Wallet" (2018). The study examined the factors that affect the adoption of e-wallet among undergraduates' students in Universiti Tunku Abdul Rahman, Kampar. It concluded that the independent variables of convenience, social influence and speed have significance relationship towards adoption of e-wallet, and conversely, security has no significant effect on the acceptance of e-wallet.

Another study by Lee Zhi Wei and Daniel Khaw Peng Tsu entitled "Transforming Mobile Phones Into E-Wallets in Malaysia" (2018). This article provided a broad overview of the Bank Negara Malaysia (BNM)'s progress in accelerating Malaysia's migration to e-payments, with a focus on key developments relating to mobile payments and its potential to transform Malaysia's payments landscape. The authors mentioned that to spur greater adoption of mobile payments, the Bank introduced the Interoperable Credit Transfer Framework (ICTF) that establishes a shared payment infrastructure that connects bank and non-bank accounts while managing the resultant risks.

Regarding the Shariah issues in the adoption of e-wallet, there is an article entitled "Some Shariah Considerations Concerning E-Wallet" (2019) written by Muhammad Hisyam bin Mohamad which pointed out some Shariah issues concerning the use of e-wallet. Among them, the users of e-wallet have no knowledge where the issuers place the deposit and as to whether the money is used for Shariah or non-Shariah compliant purposes. In addition, the practice of e-wallet involves various transactions and contracts between parties, which may include ribā (usury), gharar (uncertainty) and maysir (gambling).

Similar to this, Adlin Zulkefli and others deliberated the Shariah issues in e-wallet in their article entitled "Application of E-Wallet: A Preliminary Analysis from the Shariah Perspective" (2019). This article analyzed the concepts used in the e-wallet from a Shariah perspective (Takyīf Fiqhī) and highlighted issues that are related to its application. It emphasized on the deposited money in the e-wallet, whether it should be considered as Qarḍ (loan) or Wadī'ah (deposit). This reflects consequences of each contract so that it may not lead to prohibited actions such as ribā (usury).

Azrul Azlan Iskandar Mirza in his article entitled "E-Wallet Patuh Syariah?" (2019) also investigated the Shariah issues in e-wallet. Basically, and after general considerations, the author agreed on the permissibility of e-wallet, but the Shariah issues rise in other circumstances. For instance, top up bonus promotion that may lead to ribā (usury), and lucky draw promotion that may involve maysir (gambling). The author admitted that there are issues in e-wallet including its technical process and modes of promotions that need to be scrutinized in order to make it compliant to Shariah.

After going through these and other studies, it is clear that e-wallet's adoption includes Shariah issues that need study and analysis. One of the major concerns is the technical process of implementing e-wallet between the parties, or specifically the type of contracts and transactions associated with it. Moreover, the other concerns that affect Shariah compliance in the application of e-wallet are the intentions or purposes of its use, and the effects or consequences of its practice.

4. Overview and Structure of E-Wallet

Before looking at the issue of e-wallet from the Shariah point of view and identifying its problems and issues, we need to have an overview of the e-wallet itself.

4.1 Meaning

From the discussion by earlier researchers, we can infer that e-wallet is the same as traditional wallet since it serves the second function. Yet the former differs from the latter in its modern and interactive mode of use, as everything is done by it electronically. This dissimilarity affects many issues, including their forms, structures, procedures, conditions, parties involved, and implications, among both. The table below shows the fundamental variances between e-wallet and traditional wallet:

Table 16. Variances between Conventional Wallet and E-Wallet

Variations	Conventional Wallet	E-Wallet
Existence	Actual and real	Digital and virtual
Mode of Adoption	Face to face	Face to face and distantly
Involving Party	Two parties (contractors) usually	More than two parties (contractors & issuer)
Medium	Purse or wallet	Device such as mobile phone
Operating	No need to Internet	Internet and communication coverage
Content	Actual money, bank cards, etc.	E-Money, Deposited amount of money

4.2 Composition

E-wallet is digitally based, thus needs digital supplements, and serves digital functions. E-Wallet demands e-money to conduct e-payment and to carry out e-business in its adoption structure.

4.2.1 E-Money

According to Mohd Noor Omar and others (2012), e-money refers to a digital equivalent of cash, stored on an electronic device or remotely at a server managed by banks or authorised party. Zalina Muhamed Zahudi and Radin Ariff Taquiddin Radin Amir (2016) defined e-money as the digital representation of fiat money and is considered as money.

With a bit description, Muhammad Ridwan Firdaus (2018) illustrated e-money as money used in transactions through electronic internet networks and digital price storage systems, which contains stored-value or prepaid value deposited in a chip or a server-based electronic medium. Meanwhile, the definition of e-money by Bank Negara Malaysia (BNM) is referring to its function which is a payment instrument that contains monetary value that is paid in advance by the user to the e-money issuer¹⁸.

In conclusion, e-money is similar to real money, but the difference between them is that the former is in digital and virtual form. The reason is that this type of money is deposited or added to the e-wallet, which is also in digital and virtual form. Thus, e-money represents real money in its value and currency, and can be used for all transactions that are valid and accepted by using actual money, such as purchasing goods, paying rents and bills, booking tickets, etc.

4.2.2 E-Payment

The second thing in the adoption structure of e-wallet is e-payment, which portrays the real purpose of using e-wallet. E-payment according to Sonny Zulhuda (2012) is a subset of an electronic commerce transaction that includes electronic payment for buying and selling goods or services whether or not they are offered through the Internet. In another definition by Nor Asiah Yaakub and others (2016), e-payment can be basically explained as transferring money from the payer to the payee by an electronic medium.

In referring to e-wallet, e-payment could be described as mobile payment, and according to Tomi Dahlberg and others (2008) mobile payment is payment for goods, services and bills with a mobile device such as mobile phone, smart-phone or personal digital assistant. In agreement with these definitions, e-payment in general or mobile payment in specific to e-wallet can be considered as financial transactions done electronically and virtually between parties without face-to-face interaction. This virtual transaction requires a digital exchange medium, or an account unit, or a value store called an e-money, and this virtual money needs a digital vessel, or a platform called an e-wallet.

¹⁸ https://www.bnm.gov.my/microsite/ps/gl_016_3.pdf

4.2.3 E-Business

E-business or e-commerce according to Hanudin Amin (2008) can be defined as the practice of performing and coordinating critical business processes through the use of computer and other technologies. Besides that, Che Mohd Zulkifli Che Omar and Anas T. (2014) defined e-commerce as possible transaction between a business organization and external parties, such as customers, suppliers and distributors, and translates all business activities that have previously been carried out manually into electronic business activities involving the use of the Internet, computer and information technology and communications as appropriate.

Abhay Upadhayaya (2012) while referring to mobile commerce defined it as a process of buying and selling of goods or services through wireless technology. From the above, we can conclude that e-business or e-commerce is a wide marketplace for a number of financial transactions and activities using modern Internet-based communications technology. This shows how e-business works, which is in digital way and form, that requires all transactions to be performed in digital way by using digital money in digital platform.

Concisely, the adoption of the e-wallet inter-connects with the three components discussed earlier. The chart below illustrates e-wallet, e-money, e-payment, and e-business interrelations:



Figure 1: The inter-relation of E-Wallet, E-Money, E-Payment and E-Business.

5. Advantages and Disadvantages of E-Wallet

Following the practice of e-wallet, there are several consequences (ma'ālāt) for the parties in terms of advantages and disadvantages. They are as follows:

5.1 Advantages and Disadvantages to Users

Some of the good things people use e-wallet include (Subramaniam, 2020; Firdaus, 2018; Abu Bakar, 2020; Upadhayaya, 2012; Milo, 2019):

- i. Convenience: one-click functionality authorizes transactions by entering only the pin, no need to carry too much cash while purchasing items, and it is safer, cashless, efficient transaction and available 24x7x356.
- ii. Privacy: share only virtual address and no other info.
- iii. Getting rewards: such as free items, free purchasing, discounts, cash backs, promotions, and backed by a money-back guarantee system.
- iv. Managing budget: in spending money because the limit set in the e-wallet and ease of transaction tracking to monitor expenses.
- v. Paying services: such as food delivery service, transportation, utility bill, online shopping, etc.

Some of the disadvantages to people when using e-wallet include (Subramaniam, 2020; Firdaus, 2018; Upadhayaya, 2012; Zulkefli, 2019):

- i. Technical problems: such as system malfunction, system outages and system shutdown.
- ii. Limited availability: in some of the stores and diversity of e-wallet which means different retailers accept different e-wallet.
- iii. Security risk problems: such as when the phone is stolen or hacked.
- iv. Spending money recklessly: because the money does not feel real to the user as it is intangible.

5.2 Advantages and Disadvantages to Issuers

Among the benefits to issuers from using e-wallet are as follows:

- i. Increasing the number of users to become depositors of money in banks.
- ii. Increasing cash flow in bank user accounts, either by buyer or seller.
- iii. Reducing the expense of cash management while at the same time charging fees on e-wallet issuers and consumers on this service.

Among the drawbacks of using e-wallet to issuers are:

- i. Increasing debt burden on credit when consumers do not pay.
- ii. Losing money through hacking into the e-money system.
- iii. Bearing the costs of improving the system to make users more secure.

5.3 Advantages and Disadvantages to Merchants

The merchants experience the advantages of using e-wallet. Among them:

- i. Boosting the number of sales of goods and services, as the users feel more comfortable and convenient.
- ii. Wide and open market for trading and selling goods and services.
- iii. Convenience in cashless management.

In contrast, some of disadvantages of using e-wallet to the merchants are:

- i. Dependent on technological equipment and Internet access, as sales and purchase activities may not be carried out when the system is down.
- ii. Other expenses such as buying equipment and setting the system to be in line with the use of e-wallet, and operational fees and maintenance charges.
- iii. Lacking cash money, and other sectors such goods manufacturers, suppliers and producers are still use cash money.

5.4 Advantages and Disadvantages to Others:

The development of Fintech generally affects a vast array of human life. As far as e-wallet is concerned, it has a positive influence on people as they move towards a new norm in modern society, especially in their financial transaction activities. This leads to rapid economic and financial sector growth, creating new opportunities for professions, research, and innovation.

Contrary to this, the major negative impact of the use of e-wallet on society is that the technology is replacing human beings. This affects some people when they lose their jobs because the technology has taken over their work and duties.

6. Issues in E-Wallet

Upon scrutinizing the implementation of e-wallet in Malaysia, there are several issues that need to be highlighted and therefore studied from the Fiqhi point of view. They are as follows:

6.1 Issues Related to the Types of E-Wallet

Referring to the e-wallet types, there are two issues that need to be investigated as e-wallet can operate using a credit card and e-wallet's issuer is not the issuer of e-money. These are two issues that could disrupt Shariah compliance in the adoption of e-wallet as discussed below:

- i. Operating e-wallet with credit card: Using a credit card when adding e-money to e-wallet could have a Shariah implication, as this action involves a loan (*qard*) issue that is strictly concerned to Islam. The situation is when someone uses his credit card to add an amount of e-money to his e-wallet, he will be in debt with the credit card issuer (bank) until he pays the amount¹⁹. This case is subject to the legal maxim "*every loan entailing benefit is usury*" which means any kind of benefits based on this loan should be prohibited as it is considered usury (*ribā*). Regarding the creditor that subject to this ruling, there are two conditions, firstly the lender is the issuer of e-wallet as it provides e-money and e-wallet as well, and secondly the creditor is the issuer of e-money as it provides e-money only.
 - a) Someone has a bank credit card, and this bank offers an e-wallet service, which links his credit card account to this wallet. Upon adding the amount to his wallet, he uses his credit card. In this case, the lender is the issuer of e-wallet, which is the bank itself, and therefore the bank is not allowed to have any kind of benefit from the debtor in the use of this service.
 - b) Someone has a bank credit card, but he uses non-bank e-wallet, which links to his credit card. In this case, the lender is the bank only, not the e-wallet's issuer, and therefore the bank is subject to the usury's ruling. Regarding the issuer of e-wallet, it is not considered the creditor as it does not lend the money to the user, thus it is not bound by the usury's ruling.
- ii. The issuer of e-wallet does not issue e-money: The concerning point in this issue is when the e-wallet is issued by non-bank issuer, the e-money is deposited in third-party account.²⁰ The deposited money in this third-party account might be operating either in Shariah compliance account or non-Shariah compliance account. This raises questions among Muslim users who are concerned with their money in which place is deposited and how it is being managed, as the issuer does not clarify this matter (Mohamad, 2019).

¹⁹ *Hukum Menggunakan E-Wallet Di Malaysia*. Retrieved from: <https://www.jomsimpan.com/2020/01/17/hukum-menggunakan-e-wallet-di-malaysia/>

²⁰ *E-Wallet Halal Atau Haram*. Retrieved from: <https://loanstreet.com.my/ms/pusat-pembelajaran/ewallet-halal-atau-haram>

- a) If the e-money is deposited in Shariah compliance account in any Islamic Financial Institutions (IFIs), this will not create any issues in Shariah compliance, because the IFIs have to follow the rules and regulations of Shariah.
- b) If the e-money is deposited in non-Shariah compliance banks, this would have Shariah issue as it may involve in impermissible financial activities. The relation between the third-party account and the user of e-wallet can be in different forms depending on the contracts between the user and the issuer.

6.2 Issues Related to the Rewards in E-Wallet

There are several issues should be concerned in analyzing the Shariah point of view on the rewards in the use of e-wallet. They are as follows:

- a) **Conferrer and Recipient:** the conferrer or recipient of rewards might be the user or the issuer, the details are as follows:
 - i. The user gets rewards from the issuer of e-wallet: this is one of the purposes of using e-wallet among the users, instead of using actual money in exercising commercial transactions. The issuers of e-wallet offer rewards and gifts to attract people joining their service as they are competing with each other. In this case, the user is the recipient of rewards (*al-mawhūb lahu*), while the issuer is the conferrer of rewards (*al-wāhib*). In actual meaning, the rewards come from the merchants which offer their goods and services in the e-wallet.
 - ii. The issuer gets rewards from the user of e-wallet: this does not actually occur in the implementation of e-wallet, but it must be considered as well as it results juristic implications and issues in some contracts. In this case, the issuer is the recipient of rewards (*al-mawhūb lahu*), while the user is the conferrer of rewards (*al-wāhib*).
- b) **Types of the reward:** there are two forms of rewards:
 - i. Monetary reward: rewards of using e-wallet to the users can be in the form of monetary reward such as cashback, discount, and point. These kinds of rewards are considered as monetary rewards because they do the function of money as value (*thaman*) in exchange of countervalue
 - ii. Non-monetary reward: it refers to rewards relate to benefits earned by the user in the form of services such as free shipping of product, having privilege to be the first buyer, and participating in lucky draw for certain prizes.

6.3 Issues Related to the Implementation of E-Wallet

The crucial issues surrounding e-wallet application in Malaysia can be summarised as follows:

- i. **Structural operation:** As mentioned earlier, that e-wallet works in its structure by using e-money for doing e-payment in the e-business. This complicates the Shariah compliance as e-money can be used for impermissible, and likewise e-payment and e-business may involve in Shariah non-compliant activities. But this does not affect the status of e-money as it is neutral (Shariah Advisory Council, Bank Negara Malaysia, 2020), thus the e-wallet also is neutral, and if it is used for some non-compliant transactions by some users, it is still eligible to be Shariah compliant. Therefore, it is necessary for e-money issuers to have an organized Shariah advisory committee to monitor, advice and supervise the issuer on these matters.
- ii. **Bank and non-bank issuer:** The issuer of e-wallet can be either bank or non-bank, as the former manages e-wallet and e-money together, while the latter handles e-wallet only. The disparity between these two must be taken into consideration since the non-bank issuer needs another party to keep the funds of users' e-money. The consequence is that another party which is hidden to the user involves in the e-wallet's adoption. The solution is every non-bank issuer of e-wallet should notify its users the third party that manages their e-money in the e-wallet, so that they are in the know about the Shariah compliance status of the third party.
- iii. **Use of credit card:** Among critical issues deliberated earlier is the use of credit card by the user in reloading e-money in the e-wallet. There are in sum three conditions where the user is considered the debtor, firstly the issuer of credit card is the issuer of e-money and e-wallet, secondly the issuer of e-money and e-wallet is not the issuer of credit card, and thirdly there are three separated issuers for each item. The creditor in this loan contract (*qard*) is the issuer of credit card, and the Shariah issue raises in the first condition only when the user uses credit card to add e-money and the bank deducted the fees of subscription from the amount. It means the amount added into the e-wallet is less than the amount of loan, thus this leads to *ribā al-dayn*. Hence, when the use of e-wallet is done in this condition, the fees should not be deducted from the debt but to be charged on the user's account as a separated amount, and the amount in the e-wallet which is by credit card will not be lessened.
- iv. **Placing the funds:** Regardless of the types of issuers, the funds of e-money that are collected from the users must be kept in a trust account that complies with Shariah (Shariah Advisory Council, Bank Negara Malaysia,

2020). The bank issuer of e-wallet must place the fund in a Shariah trust account separately from other accounts and funds. While the non-bank issuer must keep the fund in a trust account of any financial institutions that comply with Shariah, and it should also be notified to the users.

- v. **Granting rewards:** Taking into consideration the earlier explanation of juristic adaptation on rewards in the use of e-wallet, the Shariah issue raises when the rewards come from the debtor in *qard* contract. In the case of issuer which utilises user's e-money for the purpose of investment, it is construed as *qard* by SAC (2020), and the rewards granted by the issuer to the user are not considered as *ribā*. The justifications comprise of three arguments, firstly the *qard* contract is supplementary contract based on the practice (*'urf*), secondly no inter-conditionality between the fund and the rewards, and thirdly the rewards neither intended nor targeted by the user (Shariah Advisory Council, Bank Negara Malaysia, 2020). In the authors' humble opinion, the rewards in fact do not come from the issuer as it only provides the platform of payment. The merchants themselves grant rewards and gifts to the users if they do the payment using e-wallet as it benefits both parties. In cases where the issuer gives rewards, this can be considered as profit sharing from the investment without prior agreement or promise between the issuer and the user.

7. Conclusion

The analysis in this research leads to the following findings:

- i. The e-wallet is similar in its core function to the conventional wallet, which is to keep money, while the former differs from the latter in its forms, structure, processes, conditions and consequences.
- ii. The use of e-wallet is subject to origin of ruling in commercial transactions which is permissible, thus the Shariah analysis of it focuses on the circumstances that would make it forbidden.
- iii. Shariah issues that might happen in the granting rewards in e-wallet are usury, gambling, and uncertainty.
- iv. The crucial issues surrounding e-wallet application in Malaysia are structural operation, bank and non-bank issuer, use of credit card, placing the fund, and granting rewards.

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