

The Legal Status of Non-Fungible Token in Islamic Financial System

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ABSTRACT

The rapid expansion of decentralised finance (DeFi) has elevated digital assets, particularly Non-Fungible Tokens (NFTs), to a prominent position within contemporary financial markets. NFTs are blockchain-based digital tokens enabled by smart contracts that facilitate verifiable ownership and authentication in decentralised environments. Despite growing international efforts to regulate NFT markets, clear legal frameworks especially those addressing Shariah-compliant NFTs remain underdeveloped. In Malaysia, the Islamic Financial Services Act 2013 (IFSA) and the Securities Commission Malaysia's Digital Assets Guidelines provide only limited guidance on the classification, ownership, and enforceability of NFT-based financial products. This article examines the development of NFTs, analyses the existing Malaysian legal framework, and evaluates the readiness of Malaysia's regulatory architecture to accommodate Shariah-compliant NFTs. Adopting a doctrinal methodology supported by case analysis, the study explores the applicability of current laws to NFT transactions and undertakes a comparative assessment of regulatory developments in the United Arab Emirates. The absence of explicit regulatory provisions raises significant Shariah compliance concerns, particularly in relation to *gharar* (uncertainty), *riba* (usury), and the recognition of *māl* (legitimate ownership), which may impede Malaysia's aspiration to emerge as an Islamic DeFi hub. This study finds that Malaysia's existing legal framework lacks specific Shariah compliance mechanisms for the legal recognition and governance of NFTs. Accordingly, targeted regulatory reforms are necessary to address the legal and Shariah complexities associated with NFTs and to facilitate responsible digital innovation within Malaysia's Islamic DeFi ecosystem.

Keywords: Non-Fungible Token – Decentralized Finance – Shariah Compliant – Digital Assets – Legal Framework

INTRODUCTION

As the world welcomes a modern digital finance frontier, the metaverse has offered opportunities for asset ownership beyond physical touch. Within the metaverse, the introduction of a Decentralized Finance (DeFi) has paved way for a borderless financing system without the need for traditional banks or brokers. DeFi utilizes emerging blockchain technology assets such as cryptocurrencies and Non-fungible Tokens (NFTs) which are highly sought after due to its promising lucrative returns. This unprecedented and modern type of asset ownership has open floodgates of opportunities as well as legal issues.

NFTs represent a unique digital ownership supported by smart contracts whereby the unique nature promises an exclusivity to the buyers. However, a study has found that one of the main challenges in adopting NFTs is the underdeveloped legal framework with regards to the ownership and copyright protection in Malaysia (Zainab et al, 2024). The development of NFT assets in the trading of art has been vague with minimal supervision from any centralized supervisory body. NFT art or crypto art flourished globally for instance, the sale of Beeple's 2021 NFT artwork named *Everydays: The First 5000 Days* for an astonishing \$69 million USD through the prestigious and historic art auction house Christie's (Christie's, n.d).

Likewise, the developing ecosystem of Islamic DeFi is transforming the blockchain technology market through the implementation of transparent and ethical principles in line with the objectives of Shariah (maqasid al-Shariah). The concept of eliminating interest-based transactions and transparent transactions has made Islamic DeFi appealing for both Muslim and non-Muslim investors (Mazza, 2025). The users of Islamic DeFi metaverse is then able to navigate with more trust and ease in the promise of a transparent digital asset. Malaysia is currently

intensifying efforts to lead in Islamic fintech and digital infrastructure with RM100 million pumped into Islamic finance innovation under the Halal Industry Master Plan (Malay Mail).

As Islamic DeFi is based on blockchain technology, NFT assets have found its footing within various shariah compliant marketplace. For example, Funoon and Bazaar.art has promoted shariah compliant NFT marketplace for digital arts. NFTs can be simply defined as digital certificate or authentication in the form of a token transforming analogue or digitally produced works, products, images, goods, or files into assets that can be registered and sold (Aytas and Karaviran, 2025). Digital authentication has ultimately given digital property owners such as digital artists a solution to digital replication. NFTs being intangible and often speculative would raise fundamental questions about their permissibility and functionality in structuring Islamic financial product.

Malaysians are very much interested to venture into the metaverse transaction particularly Malaysian artists who have found an independent avenue to marketize their artworks without the need of a middleman such as curators. Recently, local graffiti artist Katun sold his digital art through an NFT marketplace for an impressive RM 1.6 million (Chan M, 2021). However, as Malaysia is predominantly a Muslim majority country, the status of NFT marketplaces as well as shariah compliant NFTs have been questioned due to its legal validity.

Therefore, the aim of this study is to examine the legal and shariah recognition of NFT transactions. This study will firstly investigate the current legal framework that regulates NFT transactions in Malaysia as well as examining shariah compliant regulations and will make comparative insights with the legal framework in United Arab Emirates. Lastly, this paper will propose valuable recommendations for Malaysia to adopt in enhancing the legal and shariah framework of NFT transactions in Malaysia.

The Concept Of Non-Fungible Token

Fundamentally, the metaverse is a decentralized, immersive online environment where users can interact socially and do business in a creative virtual setting that is distinct from the real world (Ritterbusch GD & Teichmann, 2023, Asma et.al, 2025). Within the metaverse, users can conduct virtual transactions through financial products such as cryptocurrencies and asset tokenization ie NFTs. Therefore, the inner workings and process of NFTs must be comprehended to better understand the basic process in acquiring NFT assets in a marketplace.

Non-fungible tokens (NFTs) are blockchain-based digital representations of unique assets that confer verifiable ownership and transferability through smart contracts. For legal analysis purposes, their significance lies not in the underlying technology itself, but in the legal consequences arising from claims of ownership, transfer of rights, and enforceability of embedded contractual terms.

Within Malaysia's marketplaces, a study found that the Malaysian NFT art market was still in its infancy with growing demands but showing very low ownership rates (Amirza et al., 2023). Currently, prominent Malaysian NFT Marketplace, such Pentas.io TRART, Punks.my and NFTapir have also been dormant with minimal updates to the latest NFTs offered. The lack of available resources on Malaysia's current digital arts and NFT trend has hindered the understanding of the overall health of the Malaysian NFT marketplace. The following figure is a representation of the whole NFT process with regards to digital arts (Figure 1).

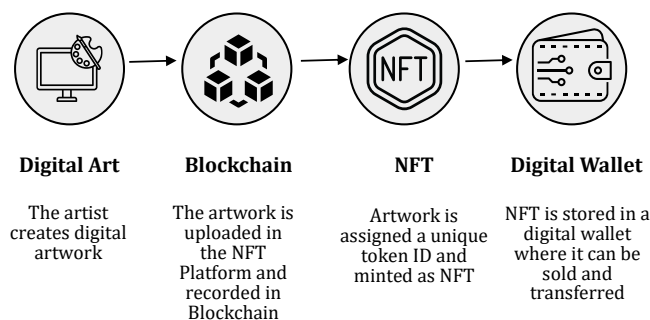


Figure 1. The brief process of NFT

Unlike cryptocurrencies which are fungible in nature and can be exchanged, NFTs are distinguishable assets as they are created from a unique registration which cannot be replaced with something else (Murray, 2023). There are two main components of an NFT; firstly, the token ID, a number produced at the time of token creation and secondly, the contract address which is a blockchain address that can be read using a blockchain scanner from anywhere in the world (Guadamuz, 2021). These two components would be the main aspect of what makes an NFT unique.

Before NFTs, owning a digital file carried a lesser meaning since copies could easily be made and shared whereas NFTs are verifiable on the blockchain and have impacted digital ownership (Murray, 2023). To an extent, the blockchain functions as a contemporary solution to traditional seal-stamping to record ownership while ensuring authenticity (Chen & Friedmann, 2023). Although the technicalities of NFTs have been discussed in many scholarly discussions, it is imperative in this paper to comprehend the legal complexities arising from the technological features of an NFTs.

The utilization of blockchain technology and NFTs creates scarcity and unique ownership of digital assets to overcome the replication of digital works in large quantities that could devalue the market of the digital art (Calvo, 2024). By making digital assets unique and non-fungible, NFTs unveiled a new concept of ‘digital scarcity’ (De Sousa, 2022). The concept of digital scarcity offered by NFT would theoretically resolve issues of unauthorized copying and fabrication.

NFT would convey as though the token purchase is one of a kind which is a characteristic vital to the markets such as the arts where uniqueness is a demanding factor. However, scholars have also cautioned that the impression of digital scarcity advertised by NFTs may be deceptive due to the probable links to the digital content of the artwork within its smart contract (Guadamuz, (2021); De Sousa, (2022); Jia & Yao (2023)). NFTs generally would not prohibit access to copy the underlying artwork and the artwork itself would still be available to everyone.

In terms of NFTs ownership, the degree of the exchange is determined via the smart contract as it may include the determination of royalties and even the link to the underlying work itself such as the artwork (Guadamuz, 2021). Typically, the rights that may be conferred by NFTs smart contract are limited and can vary, so it is essential for purchasers to carefully review the terms of the sale to understand what rights are included (Murray, 2023). NFTs itself is not eligible for copyright protection as it is merely data on a blockchain and only with the combination of ownership of the cryptographic token and the work or digital copies can it be copyright (Tan, 2024).

Hence, NFTs face persistent legal challenges such as Intellectual Property issues and the absence of dedicated legislative framework to recognize NFTs. Also, the utilization of smart contracts would also challenge traditional contract laws. This paper acknowledges these legal issues with NFTs that have been discussed by various scholars and will now shift to a shariah-compliant analysis of NFTs by evaluating permissibility under relevant religious scriptures.

The Shariah Status of NFTs

The Shariah assessment of Non-Fungible Tokens (NFTs) presents distinctive challenges due to their intangible nature, speculative market behaviour, and reliance on smart contracts. As NFTs are a contemporary financial innovation, they are not addressed explicitly in the Qur’an or Sunnah. Their permissibility must therefore be evaluated through established principles of *uṣūl al-fiqh*, particularly by reference to the prohibition of *riba* (usury), *gharar* (excessive uncertainty), and *maysir* (gambling), as well as the recognition of *māl* (legitimate wealth).

At the outset, NFTs must be assessed as potential subject matter of lawful transactions. From a Shariah perspective, an NFT may qualify as *al-māl al-mutaqawwim* where it represents a lawful and valuable interest that can be beneficially owned and transferred. Where the underlying asset or content associated with an NFT is impermissible—such as unlawful digital content or activities, the NFT would fall within *al-māl ghayr al-*

mutaqawwim and be prohibited. (Ahmad, 2024). In cases where NFTs authenticate unique digital assets, particularly in creative industries, they may be categorised as *māl qīmī*, reflecting their non-substitutable nature.

Initially, NFTs must eliminate the three basic prohibited elements which are *Riba*, *Gharar*, and *Maysir*. The first element that must not exist in an NFT transaction is an interest-based mechanism or *Riba* (usury). Imbedded within the NFT transactions are risks of royalty mechanisms that would resemble *Riba*. For instance, there are fears that NFT platforms can be used for money laundering through the buying and selling of NFTs at inflated prices linking to NFTs to *riba* if unlawful gains are made (Zamri et al., 2025). Therefore, shariah-compliant NFT marketplaces must ensure the royalties are within market norms with lumpsum payments rather than debt-claims. The following Quran verse prohibits usury in Islam:

The Cow (2:276)

يَمْحَقُ اللَّهُ الرِّبَا وَيُزِيلُ الصَّدَقَاتِ ۚ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ

Allāh destroys interest and gives increase for charities. And Allāh does not like every sinning disbeliever. (Saheeh International)

In addition, NFTs represent speculative assets if they are dependent on trends and reputation, especially in relation to the underlying artwork or gaming items. Hence, buyers must ensure that there is no uncertainty or *gharar* in the NFT that could lead to gambling or *maysir*. The following Quran verse explicitly prohibits gambling:

The Table Spread (5:90)

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَمُ رَجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ۙ

O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allāh], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful. (Saheeh International)

A key Shariah concern arising from NFT transactions is the presence of *gharar*. Excessive uncertainty may arise where the scope of ownership rights, intellectual property entitlements, resale conditions, or royalty mechanisms are unclear or misleading. While the concept of digital scarcity underpins NFT valuation, such scarcity must not be illusory or misrepresented. Transactions premised on ambiguous rights or exaggerated claims of exclusivity may undermine contractual certainty and contravene Shariah principles governing fairness and transparency.

Smart contracts play a central role in NFT transactions and raise important questions regarding contractual validity under Islamic law. Contemporary scholarship generally accepts the permissibility of smart contracts, provided that the essential elements of *ijāb* and *qabūl*, contractual certainty, and lawful subject matter are satisfied. (Ahmad et al (2024); Babah (2024)). In this respect, smart contracts may serve as a technologically advanced mechanism for implementing Islamic contractual principles, rather than undermining them. However, the coded nature of such contracts necessitates heightened scrutiny to ensure that contractual terms comply with Shariah requirements and do not embed impermissible conditions.

Another critical consideration concerns the medium of exchange used in NFT transactions. Where NFTs are purchased using volatile cryptocurrencies, issues arise in relation to *thamaniyyah* (monetary value). (Boudkhil, 2025). The instability and speculative nature of certain cryptocurrencies may undermine their function as a stable medium of exchange under Islamic law. To mitigate this concern, Shariah-compliant NFT transactions may require the use of fiat currencies or asset-backed stablecoins that better fulfil the characteristics of lawful money.

In summary, NFTs are not inherently impermissible under Shariah. Their permissibility is contingent upon the nature of the underlying asset, the structure of the transaction, the avoidance of prohibited elements, and the presence of effective Shariah governance. While foundational Islamic legal principles provide a framework for assessment, the evolving nature of NFT markets necessitates adaptive regulatory and Shariah oversight

mechanisms. This underscores the importance of institutional guidance and legal clarity, particularly in jurisdictions seeking to integrate NFTs within Islamic financial systems.

Table 1 : Shariah Issues and NFT Implication

Issue	Shariah Concern	NFT Implication
Ownership (<i>māl</i>)	Valid subject matter	Depends on underlying asset
Smart contracts	Ijab & qabul	Permissible if transparent
Speculation	Gharar / maysir	High-risk NFTs problematic
Payment method	Thamaniyyah	Crypto volatility concerns

A Practical Shariah Compliance Framework for NFTs

To enhance regulatory clarity and practical applicability, this article proposes a concise Shariah compliance framework for NFT transactions. The framework is structured around four cumulative requirements that must be satisfied to ensure Shariah permissibility.

First, Shariah-compliant subject matter (*māl*) requires that the NFT represents a legitimate and valuable interest recognised under Islamic law. NFTs linked to prohibited content or unlawful activities fall under *al-māl ghayr al-mutaqawwim* and are impermissible. Where NFTs function as authentication of unique digital assets, they may qualify as *māl qīmī*, provided the underlying asset itself is halal.

Second, transactional certainty and transparency must be ensured to avoid *gharar*. This requires clear disclosure of ownership rights, intellectual property limitations, royalty structures, and transfer conditions embedded within the smart contract. Ambiguity regarding rights conveyed by the NFT or misleading claims of exclusivity may invalidate the transaction under Islamic principles.

Third, prohibition of *riba* and *maysir* must be strictly observed. NFT transactions must not incorporate interest-based returns, debt-linked speculation, or gambling-like mechanisms. Excessive speculative pricing driven purely by hype, wash trading, or artificial scarcity raises Shariah concerns and undermines ethical market conduct.

Fourth, Shariah governance and oversight mechanisms are essential. Platforms offering Shariah-compliant NFTs should be subject to Shariah screening, continuous compliance audits, and clear governance structures. In the Malaysian context, such oversight would ideally involve alignment with resolutions issued by the Shariah Advisory Councils of Bank Negara Malaysia and the Securities Commission.

This framework serves as a functional reference for regulators, policymakers, and industry participants seeking to structure NFT ecosystems consistent with Islamic legal and ethical norms.

The Legal Status of NFTs In Malaysia

Malaysia currently lacks a dedicated statutory framework governing Non-Fungible Tokens (NFTs), resulting in regulatory fragmentation and legal uncertainty. NFTs are not expressly recognised as a distinct category of property, securities, or digital assets under Malaysian law. Instead, their regulation is inferred indirectly through existing legislation governing digital assets, securities, payment systems, and general contract and property law.

At present, the principal regulatory reference point is the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019, issued pursuant to the Capital Markets and Services Act 2007. Under this framework, certain digital tokens may be classified as securities where they exhibit investment characteristics. The Securities Commission Malaysia (SC) is empowered to regulate such tokens,

including compliance with disclosure, governance, and reporting requirements under the Guidelines on Digital Assets. However, the majority of NFTs particularly those associated with digital art, collectibles, and non-investment use cases fall outside this regulatory perimeter. As a result, private NFT transactions conducted through global marketplaces remain largely unregulated.

This regulatory gap is significant, as it leaves NFT creators, purchasers, and platforms without clear legal protection or compliance obligations. Issues such as ownership disputes, intellectual property infringement, platform liability, and consumer protection are therefore governed only by general legal principles, which may be ill-suited to address the technological and contractual complexity of NFT transactions.

In the context of NFT as digital assets in financial institutions, according to the Bank Negara Malaysia Policy Document on Payment Systems (2018), regulatory expectations for payment system operators include ensuring safety, reliability, and transparency in payment instruments and infrastructure. The policy, however, did not explicitly touch on digital assets nor NFTs. There have been notable efforts from Bank Negara's such as the recent Discussion Paper on Asset Tokenization which serves as guidance to construct future regulatory framework with regards to digital assets (Bank Negara Malaysia, 2025).

Another area of law that must be considered by NFT platforms and creators with regards to NFTs transaction is the compliance with Malaysia's Personal Data Protection Act 2010 (PDPA), especially regarding the handling of user data. Lastly, the Income Tax Act 1967 should also be observed in NFT transactions as Malaysian investors who are gaining income from cryptocurrencies are to declare such income under section 12 of the Act (Lembaga Hasil Dalam Negeri Malaysia, nd). Though these acts have not explicitly regulated NFTs or any clear digital asset definition within the frameworks.

Furthermore, NFTs have yet to find its way through judicial oversight in Malaysia. This paper was able to reference the case of *Robert Ong Thien Cheng v Luno Pte Ltd & Anor* (High Court of Malaya, Shah Alam, Appeal No 12BNCVC-91-10/2018), whereby the High Court ruled despite being intangible digital assets, Bitcoins qualify as "things" under Section 73 of the Contracts Act 1950. This case had inherently subject cryptocurrencies to legal claims such as restitution for mistaken transfers. This decision may not have directly decided on NFTs but has significance in establishing digital assets such as cryptocurrencies are recognized as property under Malaysian law as well as on how traditional contract and property laws can govern emerging blockchain technologies.

Overall, Malaysia's current legal approach to NFTs is limited in scope and institutionally segmented. While existing laws offer partial coverage, they do not adequately address the distinctive characteristics of NFTs, particularly in relation to ownership recognition, smart contract enforceability, intellectual property rights, and cross-border enforcement. This fragmented regulatory landscape poses challenges not only for market participants but also for policymakers seeking to position Malaysia as a competitive and credible hub for digital and Islamic finance innovation.

Developing Shariah Compliant Regulations on NFTs

Malaysia has a unique Islamic finance regulatory framework where it is divided by two distinctive Shariah Advisory Councils (SACs) which would be Bank Negara and Securities Commission. Firstly, the Bank Negara Malaysia (BNM) SAC established under section 51 of the Central Bank of Malaysia Act 2009 which reads as follows:

(1) The Bank may establish a Shariah Advisory Council on Islamic Finance which shall be the authority for the ascertainment of Islamic law for the purposes of Islamic financial business.

The BNM's SAC operates as a higher authority as it regulates Islamic financial institutions in Malaysia and is empowered with issuing standards on products. Financial institutions are required to comply with any rulings by the SAC as it considered shariah compliance as provided by section 28 of the Islamic Financial Services Act 2013 as follows:

For the purposes of this Act, a compliance with any ruling of the Shariah Advisory Council in respect of any aim and operation, business, affair or activity shall be deemed to be a compliance with Shariah in respect of that aims and operations, business, affair or activity.

Secondly, the SC's SAC which was established through the powers given by Securities Commission Board under section 18 of the Securities Commission Act 1993 to form a committee. BNM's SAC has not passed any resolution with regards to digital assets from a shariah perspective. However, a joint statement was released in 2018 to provide clarity on the approach of regulatory body of digital assets in Malaysia whereby SC will regulate issuances of digital assets via initial coin offerings (ICO) and the trading of digital assets (Bank Negara Malaysia & Securities Commission Malaysia, 2018). BNM's SAC did pass a resolution on electronic money (e-money) whereby it is a permissible payment instrument under Shariah, provided that the e-money must be structured based on appropriate Shariah contracts to preserve the rights and obligations of the contracting parties.

Significantly, within the SC SAC's 2020 resolutions, it has provided that digital assets from shariah perspective categorizing digital token as *mal* under the category of *urudh* (commodities) (Securities Commission Malaysia, 2020). However, the aspects that must be fulfilled in the digital token are; the purpose the digital token is utilized, and the entitled rights and benefits of the token must be shariah compliant. Likewise, if it is a mixture between shariah and non-shariah compliant, it falls under existing SAC resolutions. This resolution nevertheless does not extend to digital tokens outside the jurisdiction. The resolution concludes that investment and trading of Digital Assets that fulfil the above requirements and which are traded on Digital Asset Exchange (DAX) registered with SC are permissible. Although there are no specific mentions on NFTs in either of the resolutions, the general definition of digital assets would include NFT as a digital token. This resolution would then limit to digital token within the confines of SC purview and does not extend to the global NFT marketplaces.

Essentially, Malaysia does not have a dedicated legislative framework to govern shariah compliant NFTs nor NFTs itself. However, regulations are currently emerging from various sectors such as the Islamic finance governance, securities law as well as shariah resolutions. This broader digital asset regime creates the need for an alignment of NFT structures to ensure it meets Malaysia's Islamic finance objectives. These frameworks however do not offer a definitive protection for legal issues arising from NFT such as intellectual property issues and shariah violations.

The Legal Recognition of NFTs In The United Arab Emirates (UAE)

In contrast to Malaysia's incremental and fragmented regulatory approach, the United Arab Emirates (UAE) has adopted a more comprehensive legislative strategy towards digital assets, particularly within the Dubai International Financial Centre (DIFC). The enactment of the DIFC Digital Assets Law provides explicit statutory recognition of digital assets, including assets functionally equivalent to Non-Fungible Tokens (NFTs), thereby addressing legal uncertainty surrounding ownership, control, and enforceability.

The DIFC Digital Assets Law No.4, 2020, Article 9 characterises digital assets as a distinct form of intangible property, separate from traditional concepts of choses in possession and choses in action. This statutory recognition is significant, as it resolves a foundational legal question concerning the proprietary status of NFTs. By recognising digital assets as property, the law enables the application of proprietary remedies, including transfer, custody, and protection against unauthorised interference, an area where Malaysian law remains underdeveloped.

A notable feature of the DIFC framework is its express recognition of smart contracts, referred to as "coded contracts." Schedule 2, of the law, acknowledges agreements that exist entirely in coded form, without requiring a parallel natural language version. This provision enhances legal certainty by affirming the enforceability of blockchain-based contractual arrangements and provides courts with a clear statutory basis to adjudicate disputes arising from NFT transactions. Such clarity is particularly relevant in NFT marketplaces where ownership transfers, royalty payments, and resale conditions are governed exclusively by smart contracts.

The DIFC framework also addresses the issue of control and custody of digital assets. Article 10 of the law clarify that a person exercises control over a digital asset where they have the exclusive ability to derive benefits

from, and prevent others from interfering with, the asset. This approach offers legal certainty in determining ownership and entitlement, particularly in disputes involving hacked wallets, unauthorized transfers, or custodial failures, the scenarios frequently encountered in NFT ecosystems.

Despite its legislative sophistication, the UAE's regulatory framework is primarily commercially oriented and does not incorporate explicit Shariah compliance mechanisms for NFTs. While the UAE is home to Islamic finance institutions, the DIFC Digital Assets Law adopts a secular, market-driven regulatory model. (Selim, 2023). Consequently, issues relating to *riba*, *gharar*, *maysir*, and the Shariah classification of digital assets are not addressed within the statutory framework, leaving Shariah assessment largely to private actors or institutional discretion.

DIFC Courts enforce NFT ownership disputes under this framework, providing judicial certainty absent in Malaysia's SC-regulated digital tokens. However, the extent of shariah compliant NFTs are not regulated in the UAE and there has been varying views on NFTs through a shariah perspective. Currently, Arab countries not only have varied regulations governing NFTs with obvious discrepancies with developed legal framework for digital assets such as the US NFT market.

In sum, the UAE has achieved a high degree of legal certainty through statutory recognition of digital assets and smart contracts, offering a robust enforcement environment for NFT transactions. However, the absence of integrated Shariah governance mechanisms limits the framework's suitability for jurisdictions seeking to position NFTs within an Islamic financial system. This contrast provides a valuable comparative lens for evaluating Malaysia's regulatory trajectory and highlights the potential for a hybrid model combining legal certainty with Shariah oversight.

Comparative Insights Between Malaysia and The UAE

A comparative analysis of Malaysia and the United Arab Emirates (UAE) reveals contrasting regulatory priorities in the legal treatment of Non-Fungible Tokens (NFTs). While both jurisdictions recognise the economic potential of digital assets, their regulatory approaches diverge significantly in terms of legal certainty, institutional structure, and integration of Shariah governance.

Malaysia's approach to NFTs is characterised by reliance on existing financial and securities regulations, supplemented by Shariah advisory resolutions. Digital assets are addressed indirectly through securities law and Islamic finance governance frameworks, resulting in partial coverage that applies primarily to investment-oriented tokens regulated by the Securities Commission Malaysia. Consequently, a substantial segment of the NFT ecosystem, art-based, gaming, and collectible NFTs falls outside formal regulatory oversight. This creates uncertainty regarding ownership recognition, smart contract enforceability, intellectual property protection, and consumer remedies.

By contrast, the UAE through the Dubai International Financial Centre has prioritised legal certainty by enacting comprehensive legislation governing digital assets. The DIFC Digital Assets Law provides explicit statutory recognition of digital assets as intangible property, affirms the enforceability of coded contracts, and clarifies rules on control, custody, and transfer. These features offer a coherent legal infrastructure capable of supporting judicial enforcement and dispute resolution in NFT-related matters. However, this legislative clarity is not accompanied by an equivalent Shariah governance framework, as the law adopts a commercially neutral and secular regulatory model.

The comparison thus exposes a complementary regulatory gap between the two jurisdictions. Malaysia possesses a comparatively strong Shariah advisory architecture, with authoritative Shariah Advisory Councils capable of issuing binding resolutions on Islamic finance matters. Nevertheless, the absence of a dedicated statutory framework for NFTs limits the practical enforceability of Shariah compliance in digital asset transactions. Conversely, the UAE provides robust legal infrastructure for NFTs but leaves Shariah assessment largely unregulated and decentralised.

This divergence highlights an opportunity for regulatory cross-fertilisation. Malaysia may draw from the UAE's statutory recognition of digital assets, particularly in relation to property rights, smart contracts, and custodial protections, while integrating mandatory Shariah screening and governance mechanisms. Such a hybrid regulatory model would align legal enforceability with Islamic ethical requirements, enhancing consumer confidence and regulatory coherence.

Overall, the comparative analysis demonstrates that neither jurisdiction currently offers a fully integrated framework for Shariah-compliant NFTs. However, Malaysia's institutional capacity in Islamic finance governance positions it favourably to develop a comprehensive NFT regime that balances technological innovation, legal certainty, and Shariah compliance. This positioning supports Malaysia's broader ambition to serve as a leading hub for Islamic digital finance within the evolving DeFi and metaverse landscape.

RECOMMENDATIONS

Ensuring regulatory coherence and Shariah integrity in the governance of NFTs within Malaysia's Islamic financial ecosystem requires targeted legal and institutional reforms. These reforms should prioritise legal clarity, Shariah governance, and proportionate regulation.

First, Malaysia should introduce statutory recognition of NFTs as intangible property within a dedicated digital asset framework or through targeted legislative amendments. Such recognition should clarify ownership, transfer, custody, and available remedies, while expressly affirming the legal validity of smart contracts. This would reduce reliance on inferential application of contract and property law and provide courts with a clearer basis for adjudicating NFT-related disputes.

Second, formal Shariah governance for NFTs should be institutionalised. The Shariah Advisory Councils of Bank Negara Malaysia and the Securities Commission Malaysia should jointly issue NFT-specific guidance defining permissible structures, prohibited practices, and acceptable payment mechanisms. Clear Shariah benchmarks would enhance consistency, minimise interpretive fragmentation, and strengthen market confidence in Shariah-compliant NFT offerings.

Third, regulatory oversight should adopt a functional and risk-based approach. Rather than confining supervision to investment-oriented digital tokens, baseline regulatory obligations such as disclosure of intellectual property rights, transparency of smart contract terms, and platform accountability should extend to NFT marketplaces operating in or targeting Malaysia. This approach balances innovation with consumer protection without imposing disproportionate compliance burdens.

Fourth, market education and capacity-building initiatives should be prioritised. Targeted programmes for creators, developers, investors, and platform operators should focus on legal rights, Shariah compliance risks, and ethical market conduct. Enhanced literacy would mitigate speculative excesses, reduce fraud, and promote sustainable participation in NFT markets.

Finally, Malaysia should address the cross-border nature of NFT transactions through regulatory cooperation and jurisdictional coordination. Given the decentralised and transnational structure of NFT marketplaces, effective enforcement and protection of Shariah-compliant standards necessitate engagement with foreign regulators and the development of conflict-of-laws solutions.

CONCLUSION

NFTs have the potential to advance digital property ownership by providing verifiable authentication within decentralised digital environments, while simultaneously creating new avenues for value generation. The emergence of Islamic NFT marketplaces demonstrates that innovation in digital assets can evolve in a manner consistent with religious and ethical principles. However, realising this potential requires robust Shariah governance mechanisms capable of ensuring permissible transactional structures, clarity of purpose, and the avoidance of prohibited elements such as *gharar* (uncertainty), *riba* (usury), and gambling-like speculation.

This study contributes to the existing body of knowledge by advancing an integrated legal–Shariah analytical model for NFTs, an area that remains underexplored within Islamic financial law. Unlike prior studies that approach NFTs from either a purely technological or juristic standpoint, this article systematically aligns Shariah principles with positive legal frameworks through comparative analysis. The proposed compliance framework and jurisdictional mapping provide both conceptual clarity and practical guidance, thereby enhancing the paper’s relevance to regulators, policymakers, and Islamic fintech practitioners navigating the evolving digital asset landscape.

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