

TÜRKİYE VE BAE'DEKİ KİTLE FONLAMA PLATFORMLARINA YÖNELİK YASAL DÜZENLEMELERİN KARŞILAŞTIRILMASI

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ÖZ

Küçük ve orta ölçekli işletmeler (KOBİ) milli hasılaya, istihdama ve teknolojik gelişmelere katkıları açısından ekonomiler için oldukça önemli bir konumdadır. Söz konusu katkılarına rağmen KOBİ'lerin finansmana erişim meselesi henüz çözüme kavuşturulamamıştır. KOBİ'lerin tam anlamıyla karşılanamayan finansman ihtiyacı ve teknolojik imkanların gelişmesi finansal teknolojiler bağlamında yeni çözümleri beraberinde getirmiştir. Bunlar arasından son on yılda ciddi büyüme kaydeden kitlesel fonlama sektörü ön plana çıkmaktadır. Bu çalışmada kitlesel fonlama platformlarına yönelik 2019 yılında yürürlüğe giren Türkiye'deki yasal düzenlemeler ile bu hususta Orta Doğu ve Kuzey Afrika'da en fazla referans alınan Birleşik Arap Emirlikleri'ndeki (BAE) düzenlemeler kitlesel fonlama platformlarının kapsamı, Şer'i uyumu, girişimci ve yatırımcı olmak için gereken şartlar ve ikincil piyasalar açısından karşılaştırmalı olarak analiz edilmektedir. Karşılaştırmanın neticesinde elde edilen bulgular, BAE'deki yasal çerçevenin Türkiye'dekine kıyasla daha esnek ve daha az sınırlandırıcı olduğuna işaret etmektedir. Her ne kadar iki ülkedeki düzenlemeler girişimciler ve yatırımcılar için benzer koşullar barındırsa da Türkiye'deki düzenleyiciler her bir koşul için belirli sınırlar tayin ederken BAE'deki düzenleyiciler sadece koşulları tanımlamakla yetinerek limitlerin ve diğer detayların belirlenmesi hususunda platformlara sorumluluk yüklemektedir. İkinci yaklaşımın, BAE'de daha rekabetçi bir kitlesel fonlama piyasasına imkân tanıdığı söylenebilir.

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COMPARISON BETWEEN CURRENT LEGISLATIVE FRAMEWORKS FOR CROWDFUNDING PLATFORMS IN TURKEY AND UAE

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ABSTRACT

Small and medium enterprises (SMEs) are crucial for economies in terms of their contributions to gross national product, employment, and innovation. Besides their contribution, the issue of financial inclusion of SMEs has not been solved yet. The unsatisfied needs of SMEs for financing and the improvements in the technological facilities lead to new financial solutions within the scope of financial technologies. Among them, crowdfunding comes into prominence with its enormous growth in the last decade. In this study, the current regulatory framework for the crowdfunding platforms in Turkey launched in 2019 has been analyzed comparatively with the regulation in the United Arab Emirates (UAE), the most benchmarked jurisdiction in the Middle East and North Africa, in terms of the scope of the crowdfunding platforms, Shari'ah-compliance, the conditions for the entrepreneurs and the investors, and secondary markets. Based on the comparison, the findings imply that the legislative framework of the UAE is more flexible and less restrictive compared to that of Turkey. Although both regulations consist of the same type of conditions for the entrepreneurs and the investors, regulators in Turkey specify each condition with specific limits, while the regulators in UAE only define the types of conditions and charge the platforms with setting the limits and other details. It can be said that the second approach leads to a more competitive crowdfunding market in the UAE.

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INTRODUCTION

Small and medium enterprises (SMEs) are crucial for economies in terms of their contributions to gross national product, employment, and innovation. The importance of SMEs reflects on the statistics representing the mentioned indicators, especially in emerging countries. Even for the Organization for Economic Co-operation and Development (OECD) member countries, SMEs constitute 99% of the businesses and 65% of the total employment (OECD, 2019). Besides their contribution to economies, the issue of financial inclusion of SMEs has not been solved yet. According to the International Finance Corporation (IFC) estimation, 40% of SMEs, including micro-enterprises, are not able to satisfy their financing needs (*World Bank SME Finance*, 2020). The potential effects of an increase in the financial inclusion of SMEs have been calculated as a 1 percent increase in the annual economic growth and 16 million new jobs by 2025 in the Middle East, North Africa, Afghanistan, and Pakistan (MENAP), and the Caucasus and Central Asia (CCA) (Blancher et al., 2019).

The data and the estimations above show the inability of conventional financial institutions to meet the need of SMEs for financing. However, the unsatisfied need and the improvement in the technological facilities lead to new financial solutions within the scope of financial technology (fintech). Fintech companies provide financial services such as digital banking, P2P lending, crowdfunding, insure-tech, investment, market aggregation, etc., through digital platforms (Batunanggar, 2019).

Among these services, crowdfunding platforms directly assist SMEs in reaching the funds they need. It is an open call for providing financial needs based on different forms to support enterprises for particular goals through the Internet (Belleflamme et al., 2013). The emergence of crowdfunding in an organized way corresponds to the 2008 financial crisis (infoDev & World Bank, 2013). The starting point of the crowdfunding industry coincides with the primary motivation behind the fintech initiative because of the fact that most SMEs face difficulties in finding funds from conventional financial institutions, especially after the crisis.

When the performance of the crowdfunding industry over the last decade is considered, its significance and potential will be recognized. The total transaction value in the crowdfunding industry increased from US\$ 2.7 billion to US\$ 305 billion between 2012 and 2018 (Massolution, 2015; P2PMarketData, 2020). According to these figures, the transaction value in the crowdfunding industry experienced enormous growth within eight years. The number of campaigns in 2019 was 171.8 thousand all over the world, and the

average funding per campaign was realized as US\$ 5,942 in the same year (Statista, 2020a).

The distinctive features of a crowdfunding, such as the ability to transfer money directly to the real sector and inclusion of ethical and social perception to the financing process, along with other advantages, make it a potentially convenient tool for Islamic finance (Saiti et al., 2019). In addition, the shares of Islamic finance based on profit and loss sharing (PLS), which is *mudarabah* and *musharakah*, are 1.7% and 4.2% in the total credit facilities of Islamic finance institutions, respectively, and this phenomenon has been criticized by some of the scholars (Nor & Ismail, 2019). Since there is almost a consistency between Islamic finance principles and the different forms of crowdfunding, and the principle of PLS is present in equity-based crowdfunding, Islamic finance can utilize crowdfunding as a new tool to improve Shari'ah-compliant finance, mainly based on PLS (Taha & Macias, 2014).

Besides the potential of crowdfunding and the possibility of its application in Islamic finance suggested by the facts provided in the previous paragraphs, there are some regulatory issues regarding Shari'ah-compliance of the contracts and investment areas, transparency, conditions that need to be satisfied by the entrepreneurs, and the investors, fraud and misleading projects, lack of liquidity and the secondary market, and so on (Ata, 2018; Saiti et al., 2019). These issues imply that a balanced regulatory framework is necessary for the crowdfunding industry to realize its potential and possible positive effects on economies.

Throughout the study, the current legislation in Turkey regarding the crowdfunding industry will be analyzed comparatively with that in United Arab Emirates (UAE) in terms of the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets. The reason for preferring UAE is that it has the most benchmarked jurisdiction in the Middle East and North Africa (World Bank & Cambridge Centre for Alternative Finance, 2019). Since the studies in the literature on the crowdfunding industry of Turkey generally involve remarks and examination of the initial regulation in 2017 rather than the secondary regulation in 2019, the study is expected to contribute to the current literature considering the latest regulations in Turkey. Another contribution of the study is the underlying comparative approach with the regulations in UAE.

The methodology adopted throughout the study is mainly based on the literature review for getting reliable secondary data from reports and other studies and considering the remarks and examination on the legislative framework of Turkey and UAE. Regarding the comparison between the legislative frameworks, the regulations titled *Paya Dayah Kitle Fonlaması Tebliği*

(Communique on Equity-Based Crowdfunding) and the Dubai Financial Services Authority (DFSA) Rulebook Conduct of Business Module have been selected as the main law texts of Turkey and UAE, respectively (The DFSA Rulebook Conduct of Business Module, 2020; Paya Dayalı Kitle Fonlaması Tebliği, 2019). The details about the legislations of the countries have been explained in the fifth section. Finally, instead of creating a separate section for the literature review, the findings of the literature are attributed in the related sections.

The outline of the study is as follows. After the introduction, the history, definition, and forms of crowdfunding will be described in the second section. The third section will consist of the applications of and the legislations for crowdfunding platforms in the world. Then, the current situation of the Islamic crowdfunding industry in the world and the crowdfunding legislations of the selected Muslim-majority countries will be summarized in the fourth section. The content of the fifth section will be the comparison between the legislations in Turkey and UAE in terms of the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs, and the investors, and secondary markets. The sixth and final section of the study will include the concluding remarks.

DEFINITION, HISTORY, AND FORMS OF CROWDFUNDING

This section will present the definition of crowdfunding and the main actors involving the crowdfunding processes. Also, it includes a brief history of crowdfunding in the world. Finally, different forms of crowdfunding and their share in the total crowdfunding volume will be provided, and the patterns in the figures will be interpreted.

Similar to every concept, there are various definitions for crowdfunding as well. However, all of the definitions have two common components: the idea or initiative of the entrepreneur and collecting funds from the crowd through the Internet (Ata, 2018). One of the most comprehensive definitions of crowdfunding belongs to Belleflamme et al. (2013). According to them, crowdfunding is an open call for providing financial needs for particular aims through the Internet, based on different forms such as donation, exchange for the good produced, or reward (Belleflamme et al., 2013). The shortcoming of the definition is that it does not include all forms of crowdfunding.

As seen in the definition above and the common components of the other definitions stated by Ata (2018), three main actors are necessary to bring crowdfunding into being. The first one is the entrepreneur who calls for the fund to realize his/her specific objectives regarding his/her initiative. The

entrepreneur does not have to establish a start-up company, he/she may already have an operating firm, but it is required to have well-designed projects that will be realized by the collected funds. The second actor in crowdfunding is the crowd who supply the fund based on different forms of agreements/contracts with the entrepreneurs. These forms of crowdfunding will be described and elaborated on in the following paragraphs. The last actor is the crowdfunding platform which is crucial for establishing a connection between the entrepreneurs and the crowd. It operates as an intermediary and charges a fee from each entrepreneur who published his/her project on the platform.

The emergence of crowdfunding in an organized way corresponds to the 2008 financial crisis (infoDev & World Bank, 2013). However, it is possible to find examples of crowdfunding starting from the end of the 1990s. One of the earlier examples is that Marillion, a British rock band, opened a call on the Internet to finance its concert tour in the United States of America (USA) and collected US\$ 60,000 in 1997 (Hemer, 2011). Although many film and technology projects have been funded by crowdfunding between 1999 and 2002, the first crowdfunding platform established in the modern sense was a website called ArtistShare which has come into operation in 2003 in the USA according to consideration of the researchers in the field (Anbar, 2020; Doğan & Vural, 2019). It is worthy to note that there existed many examples for crowdfunding throughout history, such as calling citizens to finance the cost of the military expedition when the concept of crowdfunding is extended beyond the platforms on the Internet.

There are different forms of crowdfunding, and each of them constitutes a different relationship between the entrepreneurs and the crowd. The forms of crowdfunding are classified into two main categories: non-financial and financial crowdfunding. The former includes donation- and reward-based crowdfunding, and the latter consists of debt- and equity-based crowdfunding (Massolution, 2015). The main four forms of crowdfunding, the return provided by each of them, and their complexity level are summarized in Table 1 below.

It is evident that complexity in financial crowdfunding is higher than that in non-financial crowdfunding. Therefore, financial crowdfunding necessitates more profound legislative regulations in order to minimize disputes among the actors. Another issue in terms of Islamic crowdfunding is that the presence of interest in debt-based crowdfunding. There are some suggested models to eliminate the interest in this form of crowdfunding through Murabahah (Saiti et al., 2019).

Table 1. *The Forms of Crowdfunding*

Category	Form	Types of Returns	Complexity
Non-financial	Donation-based	None	1
	Reward-based	The asset produced	2
Financial	Debt-based	Interest	3
	Equity-based	Share of ownership/future earnings	4

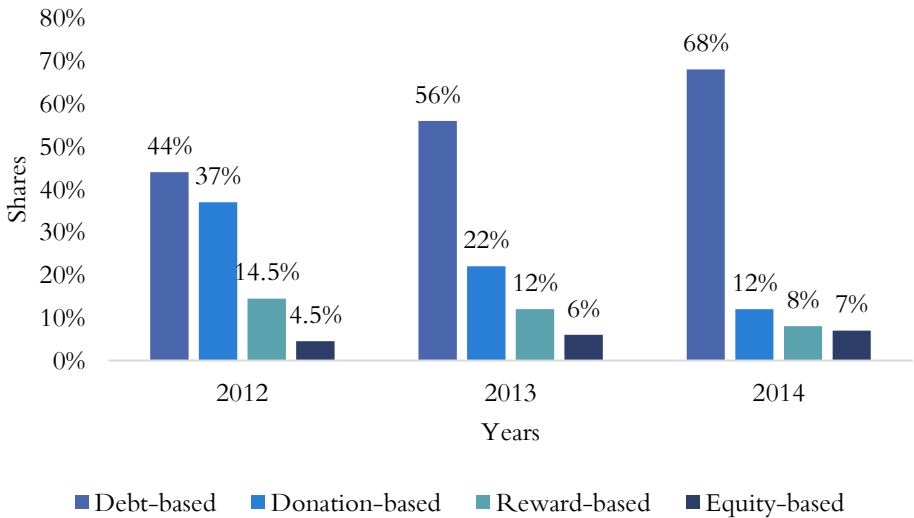
Source: (Hemer, 2011; Massolution, 2015)

Note : *Regarding the complexity of the crowdfunding forms, 1 represents the lowest complexity while 4 stands for the highest complexity.*

The last point of the second section of the study is the share of each form of crowdfunding in the total crowdfunding volume globally. Figure 1 presents the change in the shares of different forms of crowdfunding between 2012 and 2014. The new forms of crowdfunding called royalty and hybrid, which occurs in 2013, are not included in the Figure because of their minor share in the total crowdfunding volume. Thus, the summations of the shares in 2013 and 2014 do not reach 100%. As seen in Figure 1, debt-based crowdfunding continues to become a dominant form in the crowdfunding industry. Although the shares of non-financial forms of crowdfunding decreased between 2012 and 2014, it is observed that the share of equity-based crowdfunding slightly increased from 4.5% to 7% during the same period.

The lack of publicly available data between 2015 and 2020 prevents us from following further changes in the shares. However, data for 2018, which is available but prepared based on a different methodology, shows that the share of debt-based crowdfunding reached 97.9% (P2PMarketData, 2020). Keeping in mind the methodological differences between the two data sources, it can be noted that debt-based crowdfunding keeps going to be more dominant among the other forms of crowdfunding. Also, the evolution of the crowdfunding industry decreases the possibility of the complementary role of Islamic crowdfunding as a tool based on PLS. However, this phenomenon needs to be investigated more profoundly, considering the effect of legal frameworks for crowdfunding platforms.

Figure 1. The Shares of Different Crowdfunding Forms in the Total Crowdfunding Volume between 2012 and 2014



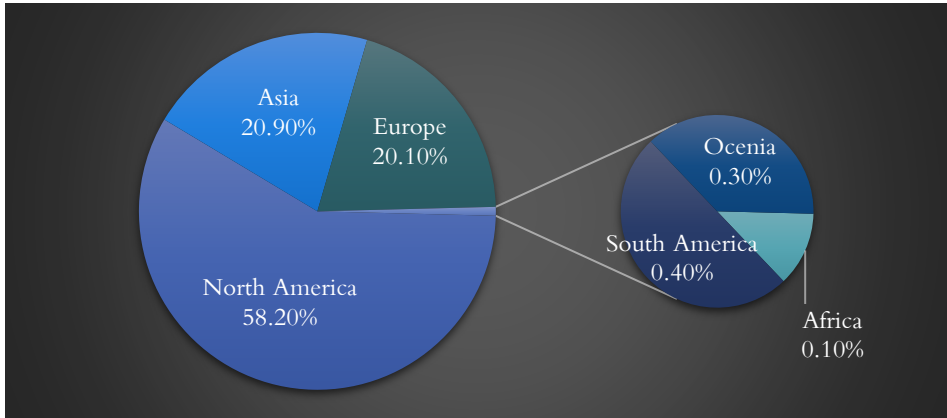
Source: (Massolution, 2015)

CROWDFUNDING IN THE WORLD: APPLICATION AND LEGISLATION

In this section, the current situation of the crowdfunding industry in the different regions and countries will be summarized based on the publicly available data. Another focus of the section is the legislative regulations for crowdfunding. Instead of going into detail, the general picture of the developments in the legislation will be presented.

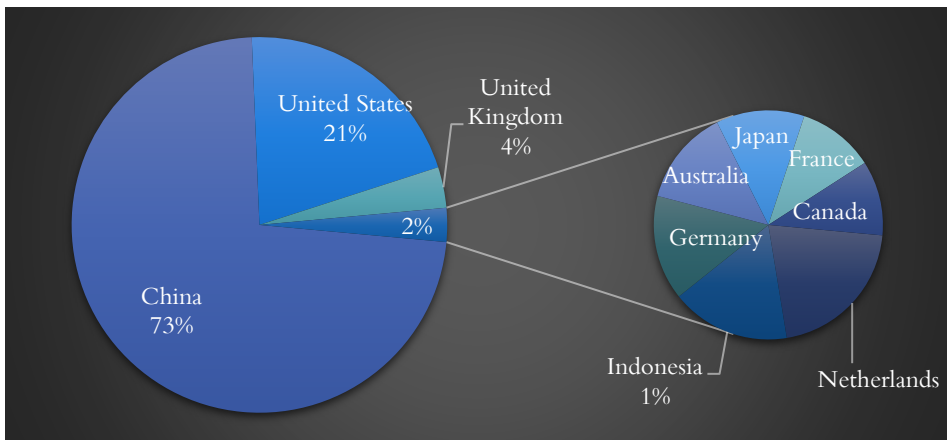
The crowdfunding industry has grown highly in the last decade. However, the contribution of each region or country to the development of the crowdfunding industry is not at the same level. Figure 2 shows the global crowdfunding volume by region in 2014. North America was the leading region of the industry in terms of crowdfunding volume in 2014. However, this picture has changed in the last four years after the improvements in the Chinese crowdfunding volume. Although we do not have aggregated data by region for the current years, the data of crowdfunding volume provided for the selected countries in 2018 shows China's position in the crowdfunding industry. In Figure 3, the share of selected countries in their total crowdfunding volume has been calculated in order to give an idea about the relative crowdfunding volume of the selected countries compared to that of China. If we assume that the total crowdfunding volume in the world is equal to the sum of those of countries, China will represent 73% of the market.

Figure 2. Shares of the Regions in the Total Crowdfunding Volume in 2014



Source: (Massolution, 2015)

Figure 3. Shares of the Selected Countries in Their Total Crowdfunding Volume in 2018



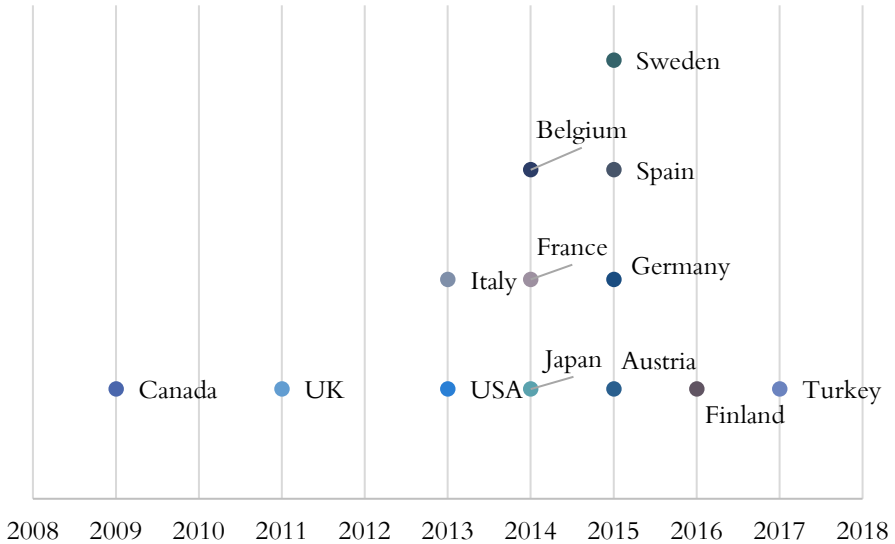
Source: (Statista, 2020b)

Note : *The total crowdfunding volume used to calculate the countries' share is the summation of the crowdfunding volumes of the listed countries.*

The second issue that will be discussed in the third section is the timing of legislative regulations for crowdfunding platforms in different countries around the world. A regulatory framework is an essential tool to eliminate the concerns regarding integrity, sustainability, and consumer protections in the crowdfunding industry (World Bank & Cambridge Centre for Alternative Finance, 2019). Because of the fact that regulations generally come after applications, the establishment of the first regulations regarding crowdfunding

started with more than ten years delay compared to the first applications. Figure 4 provides a timeline of initial regulations in the selected countries, especially the European Union members.

Figure 4. *The Timeline of the Initial Regulations for the Crowdfunding Industry in the Selected Countries*



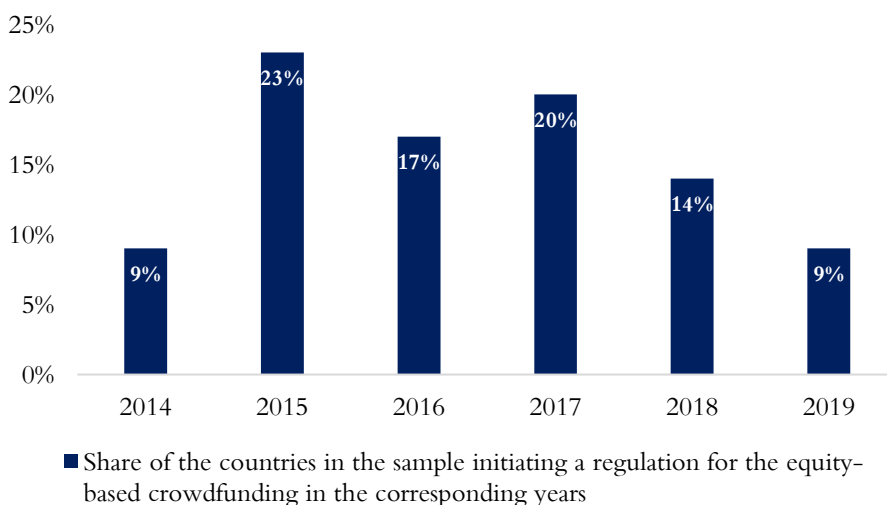
Sources: (Ata, 2018; CrowdfundingHub, 2016; Gajda, 2017)

As seen in the timeline above, the first regulations for crowdfunding industries mainly appeared between 2013 and 2015. According to available information in the literature and the reports, the first step has been taken by Canada. United Kingdom (UK) is seen in the second place, and then, the USA and Italy have approved crowdfunding regulations. It is important to note here that the scope and content of regulations may differ from country to country. Although some countries regulated all forms of crowdfunding, including equity-based crowdfunding, others have not addressed the complicated forms of crowdfunding in the first regulations and extended the scope of the regulations in the following years.

The timing of the regulations for the most complicated form of crowdfunding supports the idea given in the previous paragraph. As summarized in Figure 5, the regulations for equity-based crowdfunding generally appear between 2015 and 2017. 60% of the sample have approved regulations for equity-based crowdfunding between those years. Even if the number of the selected

countries for the samples of Figures 4 and 5 is different, it is possible to draw the following conclusion. The regulations addressed equity-based crowdfunding one or two years later compared to other forms of crowdfunding.

Figure 5. *The Timeline of the Regulations for the Equity-Based Crowdfunding Industry*



Source: (World Bank & Cambridge Centre for Alternative Finance, 2019)

Note : *The sample used in the cited source consists of 111 jurisdictions*

ISLAMIC CROWDFUNDING IN THE WORLD: APPLICATION AND LEGISLATION

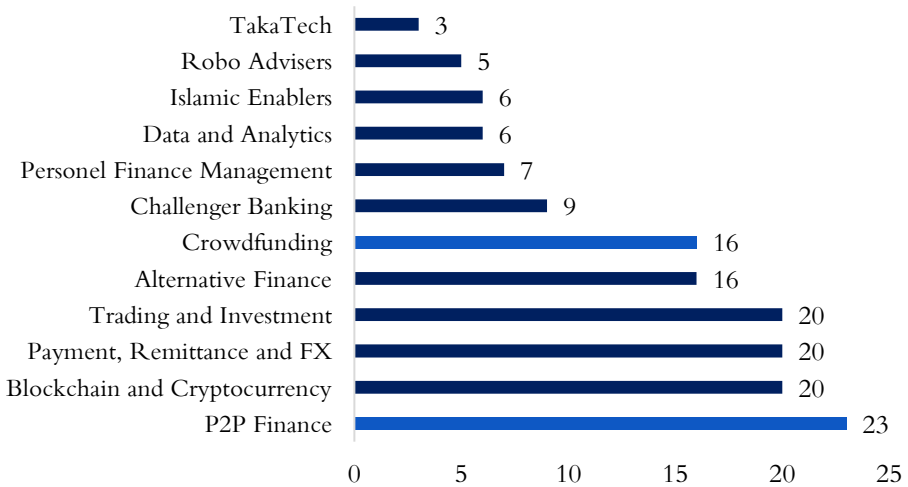
In this section, the current situation of the Islamic crowdfunding industry in the world will be examined in terms of its application and legislation. Throughout the section, the overall picture of the Islamic fintech market will be presented first. Then, the position of the crowdfunding platforms in the Islamic fintech industry will be determined based on available information. The last thing covered in the section is the current legislative framework for the crowdfunding industry in Muslim-majority countries.

Fintech companies provide financial services such as digital banking, P2P lending, crowdfunding, insure-tech, investment, market aggregation, etc., through digital platforms (Batunanggar, 2019). However, to be able to consider a fintech company as Islamic, it should offer Shari’ah-compliant financial services. As briefly summarized by Taha and Macias (2014), Islamic crowdfunding must invest in Shari’ah-compliant products, share the risk

among contracting parties, and perform without interest rate. These are the general principles, and one may present further important points considering the details of the crowdfunding process.

IFN Fintech provides up-to-date information regarding the companies that operate in the Islamic fintech sector. According to the latest landscape of the Islamic fintech industry published by the IFN Fintech, there are 151 active Islamic fintech companies worldwide (IFN Fintech, 2020). They classify the Islamic fintech companies into 12 categories based on the services provided by them, such as crowdfunding, P2P finance, alternative finance, challenger bank, and so on. The number of Islamic fintech companies in each category of the classification is given in Figure 6 below.

Figure 6. The Number of Islamic Fintech Companies in Each Category of the Classification of IFN Fintech



Source: (IFN Fintech, 2020)

As seen in Figure 6, there are 16 crowdfunding companies which constitute 10.6% of the total number of Islamic fintech companies in 2020. However, the explanations for the P2P Finance category show that they correspond to debt-based crowdfunding, which is one of the forms of crowdfunding defined before. Also, the companies listed in the category of P2P Finance, such as Ethis, Kapital Boost, and Nusa Kapital describe themselves as crowdfunding platforms in their websites (Ethis, 2020; Kapital Boost, 2020; Nusa Kapital, 2020). Therefore, the total number of Islamic crowdfunding companies becomes 39

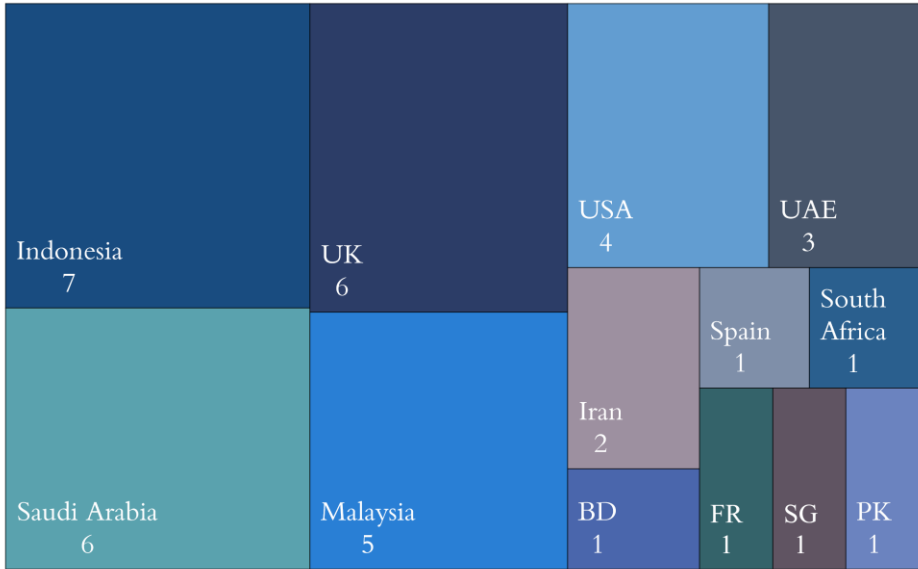
and represents 25.9% of the Islamic fintech companies when the P2P Finance category is considered debt-based crowdfunding.

The high share of the Islamic crowdfunding companies in the total Islamic fintech companies is also supported by other findings in the literature regarding the potential of the Islamic crowdfunding industry. For instance, crowdfunding / P2P is listed in the first place among the Islamic fintech companies that are expected to grow in 2020 (Elipses, 2019). In addition, World Bank estimates that the crowdfunding market value in developing countries will reach US\$ 96 billion by 2025, although it is a prediction far below the current trend (infoDev & World Bank, 2013; Saiti et al., 2019). Since most Muslim-majority countries who are applicants to establish Islamic crowdfunding platforms are considered developing countries, the estimation of the World Bank shows the potential of Islamic crowdfunding by implication.

The next issue that will be discussed in this section is the regional distribution of the Islamic crowdfunding companies listed in the Crowdfunding and P2P Finance categories of the IFN Fintech. According to the latest available data on the number of Islamic fintech companies classified by countries, Indonesia is the leading actor with a share of 33.3% in the total number of Islamic fintech companies. USA, UK, and UAE follow Indonesia with shares of 12.9%, 11.8%, and 10.7%, respectively. Malaysia has 7.5% of Islamic fintech companies (IFN Fintech, 2020). Figure 6 illustrates the shares of the mentioned countries in the total number of Islamic crowdfunding companies.

The lack of aggregated data on the volume of Islamic crowdfunding in the world calculated using the same methodology prevents us from comparing the countries in terms of their share in the total volume of Islamic crowdfunding. The last issue that can be mentioned here before passing on to the crowdfunding legislation in Muslim-majority countries is the share of the Islamic crowdfunding platforms in the whole crowdfunding industry in the world. As mentioned in the third section and illustrated in Figure 3, Indonesia appears to be the only Muslim-majority country among the first five countries with the highest share in the total crowdfunding volume of the selected countries in 2018. Since Indonesia, with the highest number of Islamic crowdfunding companies, as shown in Figure 7, has only a 1% share in the total crowdfunding volume of selected countries, it can be concluded that the share of the total volume of Islamic crowdfunding platforms in the total crowdfunding volume in the world is minor.

Figure 7. The Distribution of Islamic Crowdfunding Companies by Country as of December 2020



Source: (IFN Fintech, 2020)

Note : The abbreviations BD, FR, SG, and PK represent Bangladesh, France, Singapore, and Pakistan, respectively.

In order to have a general view about the introduction of legislation for the crowdfunding platforms in Muslim-majority countries, the dates and the scopes of the regulations in the selected Muslim-majority countries are identified as follows. As far as I am concerned, the first regulation was introduced by Malaysia for equity-based crowdfunding in 2015. In the following year, in 2016, Malaysia extended its crowdfunding regulation to include P2P financing, which corresponds to debt-based crowdfunding (World Bank & Cambridge Centre for Alternative Finance, 2019). One of the other pioneering countries in terms of the regulatory framework for the crowdfunding industry among the Muslim-majority countries is UAE. In 2017, Dubai International Financial Centre (DIFC), one of the financial free zones of UAE had launched legislation for the debt- and equity-based crowdfunding platforms (STA Law Firm, 2019). The regulation in Indonesia, which focuses on equity-based crowdfunding, has gone into operation in 2018 (Batunanggar, 2019). Although crowdfunding has been included in the legislation by the changes in the Capital Market Law of Turkey in 2017, the secondary regulation on equity-based crowdfunding has been launch in 2019 (Anbar, 2020).

When the dates of the initial regulations for the crowdfunding industry are compared with that of other countries, as demonstrated in Figures 4 and 5, it is seen that the selected Muslim-majority countries follow the general trend in legislation with negligible delays. Even if having regulation is better than a market without regulation, what matters is the content of the regulation that facilitates the growth of the market on a sound basis. Therefore, in the next section, the current legislative framework of Turkey for equity-based crowdfunding platforms will be detailly investigated in comparison to that of UAE with regards to the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets.

THE EQUITY-BASED CROWDFUNDING REGULATION OF TURKEY IN COMPARISON TO THAT OF UAE

In the literature, the positive effect of crowdfunding regulation on the development of the crowdfunding industry has been emphasized, although the relative contribution of the regulation among the other determinants of the development of the industry differs. In a research on the factors that affect the success of a crowdfunding platform in Malaysia, it is found that crowdfunding regulations have a significant positive effect, but the magnitude of its impact comes after other determinants such as social awareness, entrepreneurship culture, technological readiness (Wahjono et al., 2019). In another study conducted by surveying 3,000 crowdfunding platforms globally, the findings show that the rule of law represented by corruption controls and quality of regulation significantly explains the crowdfunding volume of the countries in the sample (Rau, 2018).

The findings regarding the significant effect of the crowdfunding regulation necessitate further research of the content of the regulations because it may lead to either development or setback of the crowdfunding industry. Therefore, in this section, the current legislation in Turkey regarding the crowdfunding industry will be analyzed comparatively with that of UAE in terms of the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets. The reason for conducting a comparative analysis is the fact that the most common element of the regulatory change process is investigating the regulatory frameworks of other jurisdictions in the world (World Bank & Cambridge Centre for Alternative Finance, 2019). The rationale behind the selection of UAE to compare the legislation in Turkey with it is that UAE has been considered the most benchmarked jurisdiction in

the Middle East and North Africa (World Bank & Cambridge Centre for Alternative Finance, 2019).

Before examining the legislation in terms of the mentioned aspects, the current situation of the crowdfunding industry in Turkey and the UAE will be summarized. The first crowdfunding platform in Turkey, called Projemefon, was established in 2010 (Anbar, 2020). Although other platforms were operating for a certain period of time but then closed for various reasons between 2010 and 2020, the active platforms, their establishment year, and the form of crowdfunding they use are listed below, mainly based on a study that consists of more up-to-date information compare to other studies in the literature (Yüksel Akbaş, 2019). However, the platform called FonlaBeni is removed from the list because it is confirmed that it is not an active platform based on a web search. In addition, there are relatively new equity-based crowdfunding platforms in Turkey. One of them is actively operating but the other two platforms are in process of establishment. These new platforms were added to the list as well. So, as summarized in Table 2, the crowdfunding industry of Turkey currently consists of 7 active platforms plus 2 platforms in process of establishment. Among 9 platforms, 6 of them are providing reward and/or donation-based crowdfunding facilities and 3 of them are operating based on equity crowdfunding.

Table 2. *Crowdfunding Companies in Turkey*

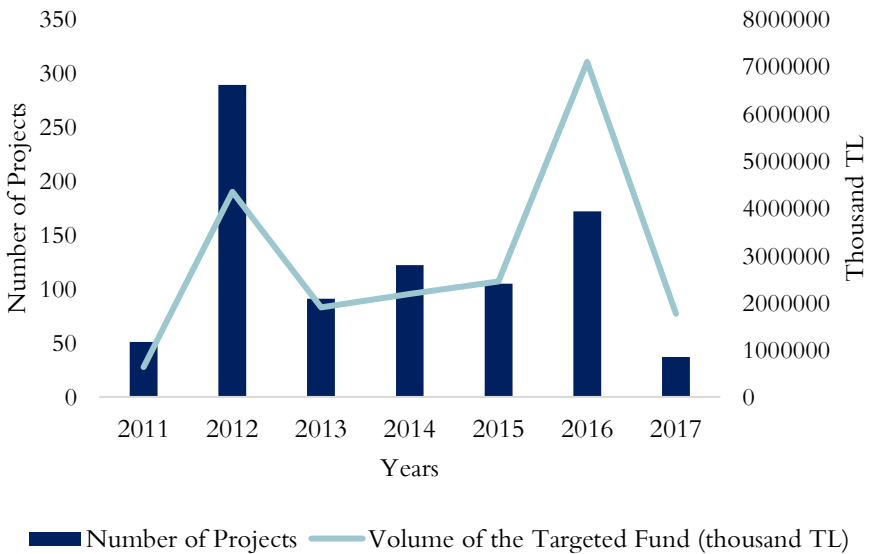
Name of Platform	Establishment Year	Form of Crowdfunding
CrowdFon	2010	Reward & Donation-based
FonGoGo	2013	Reward & Donation-based
Buluşum	2016	Donation-based
ArıKovam	2016	Reward-based
FonBulucu	2017	Reward-based
Ideanest	2017	Donation-based
StartupFon	2018	Equity-based
FonGoGo Pro	in process	Equity-based
FonBulucu Invest	in process	Equity-based

Source: (Demiray & Burnaz, 2019; Muradoğlu, 2020; Yüksel Akbaş, 2019)

Note : *Projemefon has passed into other hand in 2013 and started to operate with a new name called CrowdFon (Anbar, 2020; Demiray & Burnaz, 2019).*

To understand the performance of the crowdfunding industry of Turkey, the available data in the literature will be used. Doğan and Vural (2019) share the number of projects applied to crowdfunding platforms and the total volume of the targeted fund by the projects yearly between 2011 and 2017. Figure 8 illustrates the changes in the number of projects and the annual volume of the targeted fund in the mentioned period. According to Figure 8, the total number of projects between 2011 and 2017 was 867, and the total volume of the targeted fund was around 20 billion Turkish Lira (TL) in the same period. Although the data for the volume of targeted funds in 2018 and 2019 could not be found, the total number of the projects has exceeded 900 in 2018 and has reached 1117 as of 2019 (Demiray & Burnaz, 2019; Yüksel Akbaş, 2019). In addition, the high volume of targeted funds might be misleading because of the fact that only 25% of projects published in the platforms has collected the fund they targeted. This means that the number of successful projects is 303, and they collected only 8.9 million TL in total from 23,759 different investors (Yüksel Akbaş, 2019).

Figure 8. *The Number of Projects and the Volume of the Targeted Fund in the Crowdfunding Industry of Turkey between 2011 and 2017*



Source: (Doğan & Vural, 2019)

When we consider the crowdfunding industry of the UAE, it is observed that there exist five crowdfunding platforms operating in the UAE. These are Eureeca, Smart Crowd, Pi-slice, Beehive, and Humming Crowd Realty

(Amuna, 2019; Amuna & Aburahma, 2019; Central Bank of United Arab Emirates, 2020; Tom, 2020). Each form of crowdfunding is provided by at least one of the platforms mentioned. The establishment years of each platform could not be identified. However, there were only two crowdfunding platforms in 2014 (Amuna et al., 2017). Beehive, established in 2014, is currently one of the leading fintech companies located in the MENA region (Amuna & Aburahma, 2019).

Since there is no publicly available data produced with the same methodology, the figures found in the literature are presented chronologically. The crowdfunding volume in 2014 was realized as US\$ 1.7 million (Amuna et al., 2017). In 2016, the crowdfunding volume was US\$ 13.5 million, which consists of US\$ 3.61 million from equity-based crowdfunding, US\$ 8.6 million from debt-based crowdfunding, and US\$ 1.29 million from reward-based crowdfunding (Ziegler et al., 2018). The crowdfunding volume of Eureeca was US\$ 5 million, and that of Beehive was US\$ 43 million in 2018 (Amuna & Aburahma, 2019). Although the average success rate of the projects published in crowdfunding platforms of UAE could not be calculated because of the lack of available data, it is stated that the success rate of the projects in Eureeca is over 67% (Tom, 2020).

The general overviews of the crowdfunding industries in Turkey and the UAE do not allow us to compare the performance of the two countries in detail because there are not enough standard parameters for the same time intervals. However, it is evident that there exist approximately the same number of active platforms (7 in Turkey, 5 in UAE). Regarding the establishment date of the platforms, both countries had only two crowdfunding platforms in 2014. The form of crowdfunding is more diversified in the UAE compare to that of Turkey. The primary reason is that debt-based crowdfunding is not allowed in Turkey, as will be explained in the following parts. Finally, the total crowdfunding volume of the UAE is much higher than that of Turkey.

The main issue discussed in the remaining parts of this study is the legislative frameworks for crowdfunding platforms in Turkey and the UAE. Even if the first crowdfunding platform in Turkey was established in 2010, only donation- and reward-based crowdfunding had been available on the platforms until the amendment to the Capital Market Law of Turkey in 2017 (Doğan & Vural, 2019). With the amendment, crowdfunding platforms have been included in the corporations of the capital market (Canbaz & Çonkar, 2018). Also, the Capital Markets Board of Turkey (SPK) has been authorized to prepare the secondary regulations for crowdfunding platforms (Kurt Cihangir, 2018). Based on this authorization, SPK launched Communiqué on Equity-Based

Crowdfunding in 2019 (Anbar, 2020). As the title of Communiqué indicates, it only covers and regulates equity-based crowdfunding. Donation- and reward-based crowdfunding are not subject to this Communiqué, and they continue to be regulated by prevailing laws in Turkey as before (Anbar, 2020). Finally, debt-based crowdfunding and real estate crowdfunding are considered illegal in Communiqué.

In UAE, four institutions regulate financial services or activities (Central Bank of United Arab Emirates, 2020). These are the Central Bank of the UAE, The Securities and Commodities Authority (SCA), Financial Services Regulatory Authority (FSRA) in Abu Dhabi Global Market (ADGM), and Dubai Financial Services Authority (DFSA) in Dubai International Financial Center (DIFC). Since 2016, DFSA has been regulating crowdfunding platforms through interim arrangements (Central Bank of United Arab Emirates, 2020). For the first time in the Gulf Cooperation Council (GCC), DFSA launched regulation for the debt- and equity-based crowdfunding platforms in 2017 (Dubai Financial Services Authority, 2017). Another regulation for debt-based crowdfunding in UAE is prepared by the Central Bank of UAE (CBUAE) on the 28th of October 2020 (IMC, 2020). It is important to note that the previous regulation by DFSA is for DIFC, one of the financial free zones of UAE, and the second regulation by the CBUAE is for the mainland of the country. The last thing which is worthy to emphasize here is that both regulations do not include donation- and reward-based crowdfunding, similar to the case in Turkey. However, debt-based crowdfunding is allowed and regulated by both DFSA and CBUAE, and DFSA permits real estate crowdfunding in contrast to the prohibition of debt-based crowdfunding in Turkey.

The studies in the literature on the crowdfunding industry of Turkey mainly involve remarks and examination regarding the amendment to the Capital Market Law of Turkey in 2017 (Bayraktar, 2019; Canbaz & Çonkar, 2018; Demiray & Burnaz, 2019; Doğan & Vural, 2019; Kurt Cihangir, 2018; Yüksel Akbaş, 2019). Among these studies, Kurt Cihangir (2018) discusses the results of a forum on the future regulatory framework for crowdfunding platforms in Turkey. Demiray and Burnaz (2019) summarize the content of the draft Communiqué on Equity-Based Crowdfunding prepared by SPK. Only one study written after the launching of the final version of Communiqué could be found during the literature review, and it includes a summary of new regulations (Anbar, 2020). The literature overview shows the necessity of new research on the current regulation for crowdfunding platforms in Turkey. Therefore, the study is expected to contribute to the literature with a detailed

analysis of the latest regulation and the underlying comparative approach adopted in the study.

The following sub-sections consist of the comparison of the legislation in Turkey and UAE for equity-based crowdfunding platforms. Communique on Equity-Based Crowdfunding by SPK and regulation of DFSA in UAE will be the primary law texts while comparing the regulations (The DFSA Rulebook Conduct of Business Module, 2020; Paya Dayalı Kitle Fonlaması Tebliği, 2019). The numbers of related articles (art) and paragraphs (para) will be written in parentheses when it is necessary.

The Scope of Crowdfunding Platforms

Crowdfunding platforms in Turkey are not allowed to provide debt-based crowdfunding and real estate crowdfunding (Art 12, Para 1). On the other hand, crowdfunding platforms in the UAE can use different forms of crowdfunding, such as debt-based, equity-based, and real estate crowdfunding. (Art 11.4, 11.5, and 11.6).

The other issue related to the scope of the crowdfunding platforms is about the other forms of crowdfunding such as donation- and reward-based. According to the regulation of DFSA, crowdfunding platforms are not permissible to provide both regulated and unregulated crowdfunding (donation- or reward-based) services under the same legal entity (Art 11.3.4). If they want to have a donation- or reward-based crowdfunding facility, they have to use a separate legal entity. Although there is no explicit restriction in SPK regulations regarding the same issue, the crowdfunding platforms, which have been operating as donation- or reward-based platforms and decided to offer equity-based crowdfunding, started to use slightly different names and websites for the platforms they opened for equity-based crowdfunding. For instance, FonGoGo and FonBulucu have created new platforms for equity-based crowdfunding with new names as FonGoGo Pro and FonBulucu Invest, respectively, as shown in Table 2 above.

Shari'ah-Compliance of The Contracts and Investment Areas

According to the distribution of Islamic crowdfunding companies by country as of December 2020, illustrated in Figure 7 above, there are three Islamic crowdfunding companies in UAE, although there is no company from Turkey in the list prepared by IFN Fintech. However, it is not possible to make an inference from this finding regarding the countries' legislations. It is because of the fact that IFN Fintech selects the companies based on whether they have a

Fatwa certifying the Shari'ah compliance of their products (IFN Fintech, 2020). Therefore, the contents of the regulations need to be examined to check the absence or presence of Shari'ah compliance requirements stated by regulators.

When the two legislations are considered, there is no clear requirement to ensure the Shari'ah compliance of the contracts and investment areas. According to the regulation of DFSA, the business applying to the crowdfunding platform to collect fund have to be lawful in the place it operates (Art 11.3.6, Para 2). Therefore, if the mainland or financial free zones of UAE has some other regulations that only permit Shari'ah-compliant areas to invest, then the regulation of DFSA indirectly requires the Shari'ah compliance of the investment areas of the entrepreneurs in the platforms.

Similar to the case in the regulation of DFSA, there is no clear indication of Shari'ah compliance of the contracts and investment areas in SPK regulation. However, some articles can be considered in conformity with the principles of Islamic finance. For instance, the crowdfunding platforms shall not give loans in exchange for a pledge or consideration, whether it is called interest or otherwise (Art 12, Para 1), although this article might be considered an implication of prohibition of debt-based crowdfunding. The last thing worth mentioning here is that the participation (Islamic) banks in Turkey are eligible to establish crowdfunding platforms (Art 5, Para 4). This right can be used by participation (Islamic) banks to launch out Islamic Crowdfunding platforms.

Entrepreneurs and Firms

When the main conditions that need to be satisfied by the entrepreneurs who want to publish their project on the crowdfunding platforms are considered, the regulation of DFSA requires that only a body corporate can submit their project to the platforms (Art 11.3.5). On the other hand, the regulation of SPK permits individual entrepreneurs to apply and submit their projects to crowdfunding platforms, but they also need to establish a firm as a condition for the transfer of the collected funds to them (Art 17, Para 7).

According to SPK regulation, the upper limit of funds that a firm or entrepreneur can collect through crowdfunding platforms in a year is determined and published by SPK annually (Art 16, Para 7). Also, if the volume of a targeted fund by a firm or entrepreneur exceeds 1 million TL, at least 10% of the collected funds must be paid by professional investors (Art 16, Para 8). A firm or entrepreneur is eligible to publish two projects at most in a year (Art 16, Para 7). The duration of the campaign life, which corresponds to

the number of days in which the project published will be kept open for receiving funds from investors, is limited to 60 days (Art 17, Para 2). Finally, a firm or entrepreneur cannot open another campaign during the current campaign life of the previously published project (Art 17, Para 1).

Similar conditions are defined in the regulation of DFSA but without specifying the limits. The only thing stated through the regulations is the types of conditions that shall be determined and announced by crowdfunding platforms. For instance, the campaign life of projects is expressed as a type of the conditions, but the number of days depends on the decision of the platforms (Art 11.2.2). The minimum and maximum values of the volume of the targeted fund by firms, along with the many other issues, are also determined by the platforms (Art 11.3.3).

Investors

Both regulations in Turkey and UAE have a distinction between professional/accredited investors and non-professional/unaccredited investors. Bearing in mind that the definitions and conditions of professional/accredited investors might be slightly different in the two countries, it can be assumed that the distinction refers to similar meanings to some degree.

SPK regulation requires that a non-professional/unaccredited investor is eligible to invest 20 thousand TL at most in a calendar year (Art 15, Para 1). However, a non-professional/unaccredited investor can invest 10% of his/her net yearly income provided that it does not exceed 100 thousand TL (Art 15, Para 1). According to the regulation of DFSA, the limit in question is US\$ 50 thousand (Art 11.5.3).

An investor has a right to withdraw his/her money within 48 hours after ordering to pay the specified volume of funds based on SPK regulation (Art 17, Para 4). However, the regulation of DFSA assigns power to crowdfunding platforms for deciding until an investor may withdraw his/her commitment (Art 11.3.3, Para 1).

The Secondary Market

One of the most criticized aspects of crowdfunding platforms, especially equity-based ones, is the absence of a secondary market to sell the shares you bought through platforms to another investor (Demiray & Burnaz, 2019; Kurt Cihangir, 2018; Saiti et al., 2019). Therefore, it is crucial to look at how the regulations of the two countries deal with this issue.

In SPK regulations, the crowdfunding platforms are not eligible to mediate between the investor who wants to buy his shares and another investor looking for new shares (Art 12, Para 6). The only thing that the platforms can do is establishing a communication channel between parties who want to contact each other.

According to the regulation of DFSA, crowdfunding platforms can provide a facility that helps the investors to transfer their shares to each other (Art 11.3.16). However, some conditions for this facility are listed in the regulation. The most important condition is the necessity that both parties coming together through this facility have to be those who invest in the platforms previously (Art 11.3.16). As indicated in the guidance of the related article, the purpose of the facility is not to create a market for trading the shares. It is only an exit strategy for investors. Finally, the crowdfunding platform is eligible to demand a fee for the facility it provides to bear its costs rather than generate additional income sources.

CONCLUSION

Throughout the study, the history, definition, and forms of crowdfunding have been described to introduce the background information about the central theme of the study, which is crowdfunding. After this introductory part, the current situation of the crowdfunding industry in terms of application and legislation has been analyzed for both Muslim-majority and other countries based on the publicly available secondary data in the reports, articles, and other online platforms. During the analysis, the place of Islamic crowdfunding platforms in the sector has been tried to be determined. Finally, the crowdfunding legislations in Turkey and UAE have been compared with each other regarding the scope of the crowdfunding platforms, Shari'ah-compliance of the contracts and investment areas, the conditions for the entrepreneurs and the investors, and secondary markets.

According to the findings of the first parts of the study, it can be stated that the crowdfunding industry continues to grow with substantial acceleration in the world. Although similar patterns in the Islamic crowdfunding industry exist, the share of Islamic crowdfunding platforms in the total crowdfunding volume is relatively small. As a response to the development of the crowdfunding industry, most countries, including Muslim-majority countries, have been regulating crowdfunding platforms. When the timing of the regulations of the countries is considered, there are some countries that are leading actors such as Canada, the USA, UK, UAE, Malaysia, and Italy in terms of the regulatory

framework in their region. However, other countries follow leaders with negligible delays.

The fifth section of the study on the comparison between crowdfunding legislation of Turkey and UAE constitutes the focus of the research. Before expounding on the concluding remarks of this part, it is necessary to mention the limitations of inferences. First of all, there exist different regulations in the mainland and the two financial free zones of the UAE, but only the regulation launched by Dubai Financial Services Authority (DFSA) in Dubai International Financial Center (DIFC), which is one of the economic free zones of the UAE has been considered as a basis of the comparison with the legislation of Turkey. Secondly, the lack of standard parameters about the crowdfunding platforms in both countries and the fact that crowdfunding platforms operating in UAE may be subject to legislation other than that of DFSA prevent us from making inferences regarding the effect of the countries' regulatory frameworks on the performance of the platforms.

Keeping in mind the limitations mentioned above, the following results and inferences can be listed. The crowdfunding regulation of the UAE has been launched before that of Turkey. The platforms in the UAE are eligible to provide donation-, reward-, debt-, and equity-based crowdfunding along with real estate crowdfunding. However, debt-based crowdfunding and real estate crowdfunding are not permitted according to the crowdfunding regulation of Turkey. Therefore, there are more diversified forms of crowdfunding in the UAE compared to Turkey. Neither Turkey nor UAE has Shari'ah compliancy requirements directly in their regulations. Nevertheless, some of the articles in their regulations, such as the prohibition of debt-based crowdfunding in exchange for an interest in Turkey and the obligations of the businesses to be lawful in the place they are operated in UAE, can be considered as rulings that may lead to construct Shari'ah based crowdfunding environment.

Although both regulations consist of the same type of conditions for the entrepreneurs and the investors in the crowdfunding platforms, their approaches are different. The approach adopted by regulators in Turkey is specifying every kind of condition with specific limits. However, in UAE regulation, the regulators define the types of conditions that shall be determined and announced by the crowdfunding platforms. The limitations and other details are specified by each platform in the UAE and shared with their members. In other words, platforms in the UAE have more room for flexibility and differentiation regarding conditions for entrepreneurs and investors.

The issue of the secondary market seems to be unsolved in both regulations. In Turkey, the only thing that the platforms can do is to establish a communication channel between parties who want to contact each other to sell their shares. In UAE, the crowdfunding platforms can provide a facility that helps investors to transfer their shares to each other, provided that the conditions are satisfied. Also, they can demand a fee for the facility provided to bear the cost of the facility. However, the regulators in UAE stress that the purpose of the facility is not creating a market for trading the shares.

Based on the comparison between crowdfunding legislation of Turkey and UAE in terms of different aspects, it can be concluded that the legislative framework of UAE is more flexible and less restrictive compared to that of Turkey. There is more room for differentiating the conditions imposed by the platforms. This approach may allow for a more competitive crowdfunding market in UAE. By considering the limitations stated, the approach adopted by UAE seems to contribute to the relatively high crowdfunding volume in the UAE compared to that of Turkey. However, there is an obvious need to improve standard parameters in the same time interval and the empirical studies on this issue.

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AUTHORS' PERCENTAGE-BASED CONTRIBUTION

The contributions of each author to the study by percentages are as follows:

The percentage-based contributions of the 1st author and 2nd author are %50, respectively.

1st Author: Literature review, research design, writing.

2nd Author: Research design, writing.

DECLARATION OF CONFLICTING INTERESTS

There is no financial or individual relationship with a person or an institution in the context of the study. Also, conflicting interests do not exist.

ETHICAL APPROVAL OF THE STUDY

All rules within the scope of "Instruction on Research and Publication Ethics for the Higher Education Institutions" were observed throughout the study. No actions mentioned in the Instruction's second chapter titled "Actions Against to Scientific Research and Publication Ethics" were taken in the study.