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## DIGITAL UNCERTAINTY IN ISLAMIC BUSINESS LAW: A SYSTEMATIC LITERATURE REVIEW ON *GHARAR* AND *MAISIR* IN CONTEMPORARY E-COMMERCE TRANSACTIONS

Lutfi Maulana<sup>1</sup>; Ikmal Mumtahaen<sup>2</sup>; Muhammad Romli<sup>3</sup>; Ahmad Khaliq<sup>4</sup>;

<sup>1</sup>Sekolah Tinggi Agama Islam Darussalam Kunir, Indonesia; <sup>2</sup> Sekolah Tinggi Ekonomi Islam Fithrah Insani, Indonesia; <sup>3</sup> Sekolah Tinggi Ilmu Ekonomi Syariah Saleh Budiman, Indonesia; <sup>4</sup> International Islamic University Malaysia, Malaysia

Email: <sup>1</sup>[lutfi@darussalamuniversity.ac.id](mailto:lutfi@darussalamuniversity.ac.id); <sup>2</sup>[ikmalmumtahaen@steifitrahinsani.ac.id](mailto:ikmalmumtahaen@steifitrahinsani.ac.id);  
<sup>3</sup>[muhammadromli52@gmail.com](mailto:muhammadromli52@gmail.com); <sup>4</sup>[ahmadkhaliq@iiu.edu.my](mailto:ahmadkhaliq@iiu.edu.my)

### ABSTRACT

The rapid expansion of e-commerce and digital financial technologies has transformed contemporary business practices, generating new forms of contractual uncertainty that challenge established principles of Islamic business law. Central to this challenge are the classical prohibitions of *Gharar* (excessive uncertainty) and *Maisir* (speculative gain), which serve as key benchmarks for evaluating the permissibility of commercial transactions under Shariah. This study conducts a systematic literature review (SLR) of Scopus-indexed journal articles published between 2015 and 2025 to examine how *Gharar* and *Maisir* are conceptualized and applied in contemporary digital transactions. Using a PRISMA-guided approach, the study analyzes 36 selected articles and synthesizes findings across four analytical dimensions: study characteristics, theoretical foundations, thematic patterns of digital transactions, and methodological trends. The findings indicate a strong convergence among scholars on the importance of contractual transparency, informed consent, and risk mitigation in ensuring Shariah compliance. However, significant differences remain regarding the boundaries of acceptable uncertainty, particularly in emerging areas such as cryptocurrency and gamified e-commerce models. The review also shows that *Gharar* is more frequently used as the primary analytical lens, while *Maisir* appears in cases involving higher levels of speculation. This study contributes by providing a structured synthesis of existing scholarship and identifying key research gaps, particularly the limited integration between normative legal analysis and empirical evidence. The findings highlight the need for more context-sensitive approaches in evaluating digital transactions within Islamic business law.

**Keywords :** *Gharar; Maisir; Islamic business law; e-commerce; digital transactions*

### ABSTRAK

Ekspansi pesat e-commerce dan teknologi keuangan digital telah mengubah praktik bisnis kontemporer, serta menghasilkan bentuk-bentuk baru ketidakpastian kontraktual yang menantang prinsip-prinsip hukum bisnis Islam. Inti dari tantangan ini adalah larangan klasik *Gharar* (ketidakpastian berlebih) dan *Maisir* (keuntungan spekulatif), yang berfungsi sebagai tolok ukur utama dalam menilai keabsahan transaksi komersial berdasarkan Syariah. Penelitian ini menggunakan pendekatan systematic literature review (SLR) terhadap artikel jurnal terindeks Scopus yang diterbitkan antara tahun 2015 hingga 2025 untuk menganalisis bagaimana konsep *Gharar* dan *Maisir* dipahami dan diterapkan dalam transaksi digital kontemporer. Dengan menggunakan pendekatan PRISMA, penelitian ini menganalisis 36 artikel terpilih dan mensintesis temuan ke dalam empat dimensi analisis: karakteristik studi, landasan teoretis, pola tematik transaksi digital, serta tren metodologis. Hasil penelitian menunjukkan adanya konvergensi yang kuat di kalangan akademisi terkait pentingnya transparansi kontraktual, informed consent, dan mitigasi risiko sebagai prasyarat kepatuhan Syariah. Namun demikian, terdapat perbedaan pandangan yang signifikan terkait batas ketidakpastian yang dapat diterima, terutama dalam konteks teknologi baru seperti cryptocurrency dan model e-commerce berbasis gamifikasi. Studi ini juga menunjukkan bahwa *Gharar* lebih dominan digunakan sebagai kerangka analisis utama, sementara *Maisir* muncul dalam konteks dengan tingkat spekulasi yang lebih tinggi. Penelitian ini berkontribusi dengan menyajikan sintesis terstruktur terhadap literatur yang ada serta mengidentifikasi kesenjangan penelitian, khususnya terkait keterbatasan integrasi antara analisis hukum normatif dan bukti empiris. Temuan ini menekankan pentingnya pendekatan yang lebih kontekstual dalam mengevaluasi transaksi digital dalam hukum bisnis Islam.

**Kata Kunci :** *Gharar; Maisir; hukum bisnis syariah; e-commerce; transaksi digital*

## INTRODUCTION

The rapid expansion of e-commerce and the digital economy has fundamentally transformed contemporary business practices, reshaping how transactions are initiated, executed, and completed across global markets. While digital platforms enhance efficiency, accessibility, and scalability, they simultaneously introduce new forms of contractual uncertainty, including information asymmetry, opaque contractual terms, and probabilistic outcomes. Within Islamic business law, these developments raise critical legal and ethical concerns, particularly in relation to the prohibitions of *Gharar* (excessive uncertainty) and *Maisir* (speculative gain), which remain central benchmarks for evaluating transactional permissibility (Takidah & Kassim, 2022; Hafidz et al., 2025; Faruqi & Wijaya, 2025).

However, existing scholarship does not present a unified perspective on how these classical concepts should be applied in digital contexts. Some studies adopt a normative–juridical approach, emphasizing strict adherence to classical fiqh principles and often categorizing digital transactions with high uncertainty as impermissible (Asdar et al., 2025; Arum & Azzaki, 2024). In contrast, other scholars advocate a more flexible, maqāṣid-based approach, arguing that certain forms of uncertainty may be tolerated if they promote transparency, fairness, and public benefit (Fikra, 2025; Hasan et al., 2025). This divergence is particularly evident in debates surrounding emerging practices such as cryptocurrency trading, gamified e-commerce models, and fintech-based financial services.

Empirical and case-based studies further complicate this landscape. Research on platform-based transactions—such as mystery box sales, pre-order systems, and digital payment services—demonstrates that uncertainty is not always inherently prohibitive but can be mitigated through mechanisms such as disclosure, contractual options (*khiyār*), and regulatory safeguards (Takidah & Kassim, 2022; Hafidz et al., 2025). At the same time, other studies highlight that insufficient transparency and excessive reliance on probabilistic outcomes may shift such transactions toward prohibited *Gharar fābīsh* or even *Maisir* (Fikra, 2025; Hasan et al., 2025). These contrasting findings indicate that the boundary between permissible risk and prohibited uncertainty remains contested and context-dependent.

Beyond e-commerce, the proliferation of financial technology (fintech) introduces additional complexity. Digital financial services such as peer-to-peer lending, buy-now-pay-later schemes, and app-based investment products often incorporate algorithmic processes and deferred obligations that may obscure contractual clarity (Asdar et al., 2025; Arum & Azzaki, 2024). Regulatory responses have emphasized the need for adaptive Shariah

frameworks capable of addressing these risks while maintaining innovation (Wardani, 2025; Khan et al., 2025; Syahrudin et al., 2024).

Despite the growing volume of literature, several critical gaps remain. First, many studies rely heavily on normative legal analysis without sufficient empirical validation, limiting their ability to capture actual practices within digital markets (Asdar et al., 2025; Mardiyah et al., 2025). Second, empirical studies often lack strong engagement with classical fiqh frameworks, resulting in a disconnect between doctrinal principles and observed realities (Afrelian et al., 2024; Khaira et al., 2025). Third, there is limited effort to systematically synthesize divergent scholarly positions, particularly regarding the threshold at which uncertainty transitions from acceptable (*Gharar yasir*) to excessive (*Gharar fabish*), or when it becomes analogous to *Maisir*. As a result, the existing literature remains fragmented both methodologically and conceptually.

This study addresses these gaps by conducting a systematic literature review (SLR) of Scopus-indexed journal articles published between 2015 and 2025. Rather than merely summarizing prior studies, this review aims to critically synthesize existing scholarship by identifying patterns of convergence, divergence, and underlying assumptions in the interpretation of *Gharar* and *Maisir* in digital transactions. The analysis is structured across four dimensions: study characteristics, theoretical orientations, thematic patterns, and methodological trends.

By doing so, this study seeks to provide a clearer analytical framework for understanding digital uncertainty within Islamic business law. It contributes by clarifying the conceptual roles of *Gharar* and *Maisir*, highlighting the conditions under which digital transactions are deemed permissible or problematic, and identifying key areas where further empirical and theoretical research is needed. The findings are expected to support more informed and context-sensitive approaches to evaluating digital commerce in line with Shariah principles.

## RESEARCH METHOD

This study adopts a systematic literature review (SLR) methodology to synthesize and critically evaluate scholarly research on *Gharar* and *Maisir* in contemporary e-commerce transactions from the perspective of Islamic business law. The SLR approach is employed to ensure a transparent, replicable, and structured synthesis of fragmented literature across legal, ethical, and economic dimensions. This study follows the PRISMA (Preferred Reporting

Items for Systematic Reviews and Meta-Analyses) framework to enhance methodological rigor and reporting clarity.

The primary database used in this review is Scopus, selected for its comprehensive coverage of peer-reviewed journals across social sciences, law, economics, and Islamic studies. Scopus is widely recognized for its reliability and suitability for conducting systematic reviews in interdisciplinary research.

The literature search was conducted using a structured combination of keywords and Boolean operators. To ensure transparency and replicability, the final search query used in Scopus is presented as follows:

TITLE-ABS-KEY (“*Gharar*” OR “*Maisir*” OR “Islamic business law” OR “Islamic finance”) AND TITLE-ABS-KEY (“e-commerce” OR “digital transaction” OR “online trading” OR “fintech”) AND PUBYEAR > 2014 AND PUBYEAR < 2026 AND (LIMIT-TO (DOCTYPE, “ar”)) AND (LIMIT-TO (LANGUAGE, “English”))

The search was limited to peer-reviewed journal articles published between 2015 and 2025 to reflect recent developments in digital transactions and Islamic economic discourse (Asdar et al., 2025; Fikra, 2025; Wahdan et al., 2025).

Clear inclusion and exclusion criteria were established to ensure that the selected studies were directly relevant to the research objectives and contributed meaningfully to the analysis of *Gharar* and *Maisir* in digital contexts.

Inclusion criteria were defined as follows. First, studies were required to explicitly engage with Islamic economic or business law, particularly through the lens of Shariah principles governing commercial transactions. Second, the selected literature had to focus on digital transactions, including but not limited to e-commerce platforms, fintech services, peer-to-peer lending, online contracts, and digital payment systems. Third, articles were included only if they addressed *Gharar*, *Maisir*, or transactional uncertainty either as a central analytical concept or as a significant component of the discussion. Finally, to ensure scholarly rigor, only peer-reviewed journal articles published in reputable outlets were considered.

Exclusion criteria were applied to filter out studies that did not meet the objectives of the review. Articles were excluded if they were not peer-reviewed, such as conference papers, opinion pieces, or unpublished manuscripts. Studies that examined digital commerce solely from a technical, computational, or managerial perspective without engaging Islamic legal or ethical analysis were also excluded. In addition, works focusing exclusively on conventional finance or non-Islamic regulatory frameworks were omitted, as were studies addressing traditional business practices without a clear digital component. These criteria are

consistent with prior research that emphasizes the importance of maintaining a clear Shariah-oriented analytical lens when examining contemporary economic phenomena (Asdar et al., 2025; Tang & Nilfatri, 2024; Fikra, 2025).

The screening and selection of studies followed the PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) framework to ensure transparency and replicability. The process consisted of four main stages: identification, screening, eligibility, and inclusion.

In the identification stage, an initial search of the Scopus database yielded a broad set of records based on the predefined keywords and Boolean strategies. Duplicate records were identified and removed. During the screening stage, titles and abstracts were reviewed to assess their relevance to Islamic business law, digital transactions, and the concepts of *Gharar* and *Maisir*. Articles that clearly failed to meet the inclusion criteria were excluded at this stage.

The remaining studies underwent a full-text review during the eligibility stage, where each article was examined in detail to confirm its substantive relevance and methodological adequacy. Particular attention was paid to whether the study provided explicit legal or ethical analysis grounded in Islamic jurisprudence. Finally, studies that satisfied all criteria were included in the final corpus for qualitative synthesis. The overall screening and selection process is summarized in Figure 1, which presents the PRISMA flow diagram detailing the number of records identified, screened, excluded, and included at each stage.

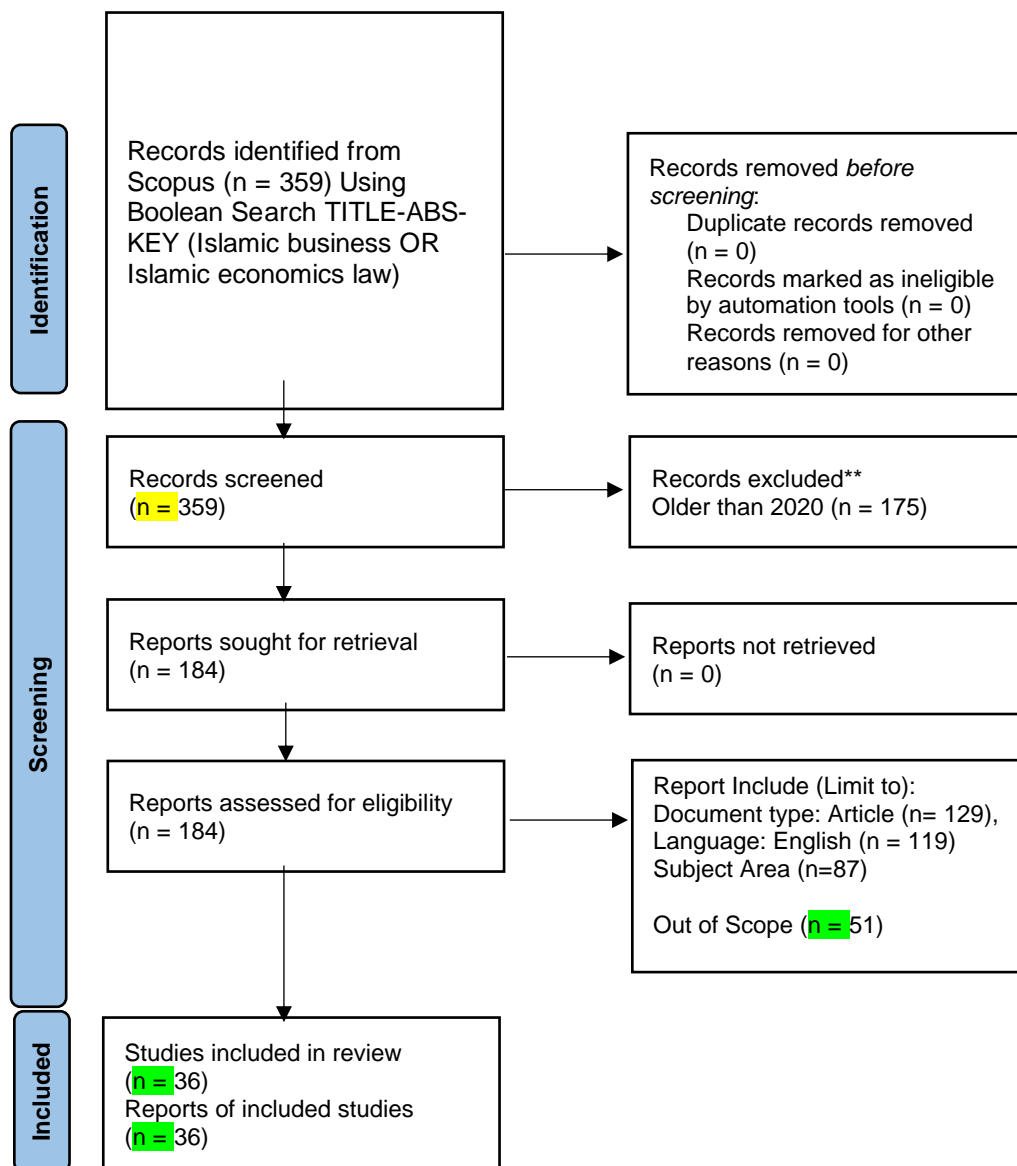


Figure 1. The PRISMA flow diagram detailing the screening and selection process of literature.

### Quality Assessment

To evaluate the rigor and credibility of the selected studies, a structured quality assessment framework was applied. This framework was informed by commonly used appraisal criteria in Islamic legal and economic research and focused on four key dimensions: relevance, methodological clarity, conceptual rigor, and theoretical contribution.

First, relevance was assessed by examining the extent to which each study directly addressed *Gharar*, *Maisir*, and digital transactions within an Islamic legal framework. Second, methodological clarity involved evaluating whether the research design—normative,

empirical, or mixed-methods—was clearly articulated and appropriately justified. Normative studies were assessed based on the coherence of legal reasoning and engagement with authoritative sources, while empirical and mixed-methods studies were evaluated based on data transparency and analytical robustness (Wahdan et al., 2025; Mahmud et al., 2025).

Third, conceptual clarity was examined by assessing how explicitly key concepts such as *Gharar*, *Maisir*, and contractual uncertainty were defined and operationalized. Studies that failed to distinguish between acceptable commercial risk (*Gharar yasir*) and prohibited excessive uncertainty (*Gharar fahish*) were considered conceptually weaker (Junaidi, 2021; Ramadhan, 2022). Finally, theoretical contribution was evaluated based on whether the study advanced existing debates, proposed new interpretive frameworks, or offered meaningful insights into the adaptation of Islamic law to digital economic realities.

For mixed-methods research, additional attention was given to the integration of normative and empirical components, ensuring that empirical findings meaningfully informed legal analysis and vice versa (Isa et al., 2025; Ismail et al., 2024). By systematically applying these quality assessment criteria, this review seeks to ensure that the synthesized findings are grounded in robust, credible, and conceptually sound scholarship. Together, the methods outlined in this section provide a transparent and replicable foundation for the thematic analysis presented in the subsequent sections of the article.

To ensure analytical rigor, a structured quality assessment rubric was applied based on four criteria: relevance, methodological clarity, conceptual clarity, and theoretical contribution.

Table 1. Quality Assessment Rubric

Criteria	Score 1 (Low)	Score 2 (Moderate)	Score 3 (High)
<b>Relevance</b>	Indirect	Partially relevant	Directly relevant
<b>Methodology</b>	Unclear design	Partially explained	Clearly defined
<b>Conceptual clarity</b>	Weak definitions	Moderate clarity	Strong and explicit
<b>Contribution</b>	Limited	Moderate	Significant

Each study was evaluated across these dimensions to ensure consistency and reliability in the synthesis process (Wahdan et al., 2025; Mahmud et al., 2025; Isa et al., 2025; Ismail et al., 2024).

## FINDINGS AND DISCUSSION

### Classical Foundations of *Gharar* and *Maisir*

Within classical fiqh mu'āmalāt, *Gharar* and *Maisir* function as central regulatory principles ensuring justice, transparency, and the prevention of exploitation in commercial transactions. *Gharar* is defined as excessive uncertainty affecting essential contractual elements—such as object, price, or delivery—which may lead to unfair outcomes (Comersyah et al., 2025; Affero & Mustofa, 2024; Hasan et al., 2025). Classical jurists consistently distinguished between *Gharar yasīr* (minor, tolerable uncertainty) and *Gharar fabīsh* (excessive, prohibitive uncertainty), reflecting a pragmatic balance between market reality and ethical safeguards (Affero & Mustofa, 2024; Putra, 2025).

*Maisir*, in contrast, refers to gain derived from chance-based or speculative mechanisms where outcomes are not linked to productive effort or risk-sharing. Such transactions are considered impermissible due to their association with unjust enrichment and social harm (Habibi & SW, 2024; Muhammad, 2025; Hasan et al., 2025). Together, these prohibitions establish a normative boundary that distinguishes legitimate commercial risk from exploitative uncertainty.

### Contemporary Interpretations in Digital Transactions

The emergence of digital transactions—characterized by non-physical goods, platform-mediated contracts, and algorithmic processes—has complicated the direct application of classical categories. Contemporary studies indicate that while the principles of *Gharar* and *Maisir* remain normatively binding, their operationalization requires contextual adaptation (Azizli, 2025; Malik et al., 2024).

Digital environments introduce new forms of uncertainty, particularly through information asymmetry, probabilistic outcomes (e.g., mystery boxes), and limited user comprehension of contractual terms. These features challenge the classical requirement of clear consent (*rida'*) and raise questions about whether digital agreements fulfill Shariah standards of transparency and fairness (Thaidi et al., 2024; Zamroni et al., 2023; Sa'adah, 2025).

Technological innovations such as cryptocurrency and decentralized finance further intensify debate. While some scholars emphasize their speculative nature and potential alignment with *Maisir*, others highlight their potential for transparency and financial inclusion, resulting in contested legal positions (Azizli, 2025; Bodrožić & Adler, 2022).

## Scholarly Debates and Schools of Thought

The literature reveals two dominant scholarly orientations shaping the interpretation of digital uncertainty. Normative–textual approaches emphasize strict adherence to classical doctrines and tend to classify high-uncertainty transactions as impermissible (Setiawan et al., 2025; Hafid et al., 2024). In contrast, *maqasid al-shari'ah* approaches prioritize ethical objectives—such as justice, transparency, and public welfare—allowing conditional permissibility when these objectives are achieved (Pamuncak et al., 2025; Alkhan, 2021; Ryan & Brennan, 2022).

This divergence is not merely theoretical but directly influences legal conclusions in contemporary studies. As such, it provides the essential analytical lens for interpreting the findings in subsequent sections, particularly in explaining why similar digital transactions may receive different Shariah evaluations.

By structuring the framework in this manner, the section avoids repetition, sharpens conceptual focus, and establishes a clear bridge between doctrinal principles and empirical findings.

## Review of Findings Based on Study Selection and Quality Assessment

This subsection presents the empirical mapping of selected studies based on the evidence summarized in Table 1. It is important to clarify that **Table 1 represents a purposive and representative sample of 12 studies drawn from the total corpus of 36 articles included in this SLR**, selected to reflect variation in research methods, thematic focus, and quality levels. The aim of this subsection is to describe **what the data show**, while interpretative implications are developed in subsequent sections.

**Table 2. Study Selection and Quality Assessment**

No	Author(s)	Year	Journal / Publisher	Research Method	Main Focus	Quality Assessment
1	Setiawan, I., et al.	2025	Journal of Islamic Economic Law	Normative-juridical	Mystery box transactions and <i>Gharar</i> in e-commerce	High
2	Hafid, A., et al.	2024	Journal of Sharia Economics	Normative analysis	Application of <i>khiyar</i> in e-commerce transactions	High
3	Hamsin, M.K., et al.	2023	Journal of Islamic Law Studies	Normative-juridical	Sharia compliance of digital payments	High

					and data protection	
4	Choiruddin, M.N., et al.	2025	International Journal of Islamic Economics	Qualitative	FinTech, literacy, and innovation in Islamic economic law	High
5	Shovkhalov, S. & Idrisov, H.	2021	Journal of Islamic Economics & Finance	Conceptual-comparative	Cryptocurrency, speculation, and Islamic legal debate	Medium-High
6	Lusiana, et al.	2022	Journal of Islamic Business Law	Empirical-juridical	Multi-contract online transactions (Go-Food case)	Medium-High
7	Radzi, R.M., et al.	2024	ISRA International Journal of Islamic Finance	Qualitative	Regulatory and sharia issues in Islamic crowdfunding platforms	High
8	Widjaja, G.	2025	Journal of Sharia Arbitration	Literature review	Dispute resolution in Islamic economic transactions	Medium
9	Fakhrina, A. & Islahuddin	2023	Journal of Islamic Banking Law	Normative	Rate fixing and sharia compliance in Islamic banks	Medium-High
10	Zulqarnain	2025	Indonesian Journal of Islamic Law	Evaluative qualitative	Effectiveness of Islamic economic legal framework	High
11	Pamuncak, M.B., et al.	2025	Journal of Maqasid Studies	Mixed-method	Consumer behaviour and maqasid shariah	Medium-High
12	Nilda, E., et al.	2025	Journal of Islamic Environmental Law	Juridical-empirical	Ecological awareness and Islamic market ethics	Medium

The distribution of research methods in Table 1 indicates a clear dominance of normative and qualitative approaches. Four out of twelve studies (33.3%) employ normative or normative-juridical methods (Setiawan et al., 2025; Hafid et al., 2024; Hamsin et al., 2023; Fakhrina & Islahuddin, 2023). In addition, three studies (25%) adopt qualitative approaches

focused on regulatory, institutional, or innovation contexts (Choiruddin et al., 2025; Radzi et al., 2024; Zulqarnain, 2025).

Empirical engagement remains limited. Only one study (8.3%) uses a mixed-method design (Pamuncak et al., 2025), while two studies (16.7%) apply empirical–juridical approaches (Lusiana et al., 2022; Nilda et al., 2025). The remaining studies rely on conceptual, comparative, or literature-based analysis.

In terms of thematic focus, the studies cluster around two dominant areas. First, e-commerce transaction mechanisms, such as mystery box models and *khiyār* application (Setiawan et al., 2025; Hafid et al., 2024). Second, digital finance and fintech ecosystems, including cryptocurrency, crowdfunding, and digital payments (Hamsin et al., 2023; Shovkhalov & Idrisov, 2021; Radzi et al., 2024; Choiruddin et al., 2025).

Regarding quality assessment, six studies (50%) are categorized as high quality, four (33.3%) as medium–high, and two (16.7%) as medium. High-quality studies are primarily concentrated in normative–juridical and qualitative regulatory research.

### **Analytical Interpretation (What This Means and Why It Matters)**

The dominance of normative and qualitative approaches indicates that the current knowledge base on *Gharar* and *Maisir* in digital transactions is primarily constructed at the level of legal reasoning and conceptual analysis rather than empirical verification. This has two important implications.

*First*, it explains why scholarly conclusions tend to emphasize legal validity and doctrinal classification, often without sufficient grounding in actual digital market behavior. As a result, the literature is strong in defining what constitutes *Gharar* or *Maisir* in principle, but less developed in explaining how these concepts manifest in real user interactions, platform design, and transaction flows.

*Second*, the limited proportion of empirical and mixed-method studies suggests a structural gap between normative prescriptions and digital economic realities. In the context of rapidly evolving e-commerce systems, this gap is significant because uncertainty in digital transactions is often shaped by technological architecture (e.g., algorithms, interfaces, data asymmetry), which cannot be fully captured through doctrinal analysis alone.

The thematic concentration on specific cases—such as mystery boxes and cryptocurrency—further indicates that the literature tends to focus on high-visibility or controversial transaction models, rather than providing a systematic framework applicable

across diverse digital environments. While these cases are analytically useful, they risk narrowing the scope of understanding digital *Gharar* to extreme or exceptional scenarios.

From a quality perspective, the predominance of high and medium–high quality studies demonstrates that the field is methodologically credible, particularly in terms of legal reasoning and theoretical grounding. However, the presence of medium-quality studies that are only indirectly related to *Gharar* and *Maisir* suggests that conceptual boundaries in the literature remain somewhat diffuse, with increasing interdisciplinary expansion not always matched by conceptual precision.

### Review of Findings Based on Theoretical and Conceptual Foundations

This subsection presents the theoretical mapping of scholarly approaches used to analyze *Gharar* and *Maisir* in digital transactions, based on the evidence summarized in Table 2. It is important to emphasize that **Table 2 represents a purposive and representative sample of 12 studies from the total corpus of 36 articles included in this SLR**, selected to capture variation in theoretical orientation and conceptual focus. The purpose of this subsection is to describe **what the data show**, while deeper interpretative implications are addressed in the discussion section.

**Table 2. Theoretical and Conceptual Foundations of *Gharar* and *Maisir* in Digital Transactions**

No	Author(s)	Year	Theoretical Orientation	Key Concept(s)	Transaction Context	Main Contribution
1	Setiawan, I., et al.	2025	Fiqh mu‘āmalāt (normative)	<i>Gharar jabish</i>	Mystery box e-commerce	Affirms the invalidity of contracts based on extreme uncertainty
2	Hafid, A., et al.	2024	Normative–fiqh analysis	Khiyār & <i>Gharar</i>	Online buying–selling	Reinterprets the right of option (khiyār) as a mechanism to mitigate digital <i>Gharar</i>
3	Hamsin, M.K., et al.	2023	Legal–ethical framework	Sharia compliance	Sharia e-wallet & digital payment	Demonstrates the relationship between <i>Gharar</i> , data

							risk, and transparency
4	Shovkhalov, S. & Idrisov, H.	2021	Comparative Islamic jurisprudence	<i>Maisir</i> speculation	&	Cryptocurrency trading	Maps divergent scholarly views on digital speculation
5	Lusiana, et al.	2022	Istihsan-based reasoning	Multi-contract <i>Gharar</i>	&	Online food delivery	Demonstrates the flexibility of fiqh in complex digital transactions
6	Pamuncak, M.B., et al.	2025	<i>Maqāsid shari'ah</i>	<i>al-Maslahah vs Gharar</i>	vs	Consumer behaviour	Links <i>Gharar</i> to the objectives of consumer protection
7	Arsadani, Q., et al.	2024	Progressive ijtihād	<i>Maisir</i> interpretation		Islamic economic fatwas	Highlights the dynamic evolution of fatwas in responding to modern economic developments
8	Hasanudin, & Mustofa, I.	2023	Murā'āt al-'ilal wa al-maṣāliḥ	Legal causality		Islamic finance contracts	Proposes a causality-based approach in assessing <i>Gharar</i>
9	Alkhan, A.M.	2021	Maqāṣid philosophy	Objectives of Sharia		Islamic finance theory	Critiques legal formalism that fails to realize the objectives of maqāṣid
10	Mukhlisin, M., et al.	2022	Meta-theoretical analysis	Classical modern theory	vs	Islamic economics research	Reveals the gap between classical theory and contemporary practice
11	Rusydziana, A.S., et al.	2021	Scientometric mapping	Fiqh finance	on	Islamic finance literature	Maps the dominance of <i>Gharar</i> as a central theme

							in Islamic finance scholarship
12	Mashduqi, M.A.	2024	Integration–interconnection paradigm	Text–context synthesis	Islamic theory	legal	Provides an integrative framework for emerging legal issues

The data in Table 2 show a diverse but structured distribution of theoretical orientations. Three studies (25%) are grounded in classical fiqh mu‘āmalāt or normative–fiqh frameworks (Setiawan et al., 2025; Hafid et al., 2024; Lusiana et al., 2022). Another three studies (25%) explicitly adopt *maqasid al-shari’ah* or maqāṣid-based philosophical approaches (Pamuncak et al., 2025; Alkhan, 2021; Hasanudin & Mustofa, 2023).

Two studies (16.7%) employ comparative jurisprudence or progressive ijtihād (Shovkhalov & Idrisov, 2021; Arsadani et al., 2024), while four studies (33.3%) utilize integrative or meta-theoretical approaches, including legal–ethical frameworks, scientometric mapping, and integration paradigms (Hamsin et al., 2023; Mukhlisin et al., 2022; Rusydiana et al., 2021; Mashduqi, 2024).

In terms of conceptual emphasis, *Gharar* dominates the dataset. Eight out of twelve studies (66.7%) primarily focus on *Gharar*-related concepts, while only three studies (25%) focus centrally on *Maisir* and speculation. One study takes a broader meta-theoretical position.

The balanced distribution between normative–fiqh and maqāṣid-based approaches reveals a fundamental theoretical dualism within the literature. This dualism is not merely descriptive but structurally shapes how digital transactions are evaluated.

Normative–fiqh approaches tend to prioritize legal certainty, contract validity, and textual consistency. As a result, they are more likely to classify digital transactions in binary terms (valid vs invalid), particularly in cases involving high uncertainty such as mystery box models. In contrast, maqāṣid-based approaches shift the analytical focus toward outcomes, public interest, and ethical impact, allowing for more conditional and context-sensitive judgments.

This theoretical divide explains why similar digital phenomena—such as cryptocurrency trading or fintech innovation—can produce divergent legal conclusions. The issue is not only empirical uncertainty but also **differences in evaluative frameworks**.

The dominance of *Gharar* over *Maisir* in conceptual analysis also has important implications. It indicates that digital uncertainty is primarily interpreted as a problem of **ambiguity, information asymmetry, and contractual opacity**, rather than explicit gambling. This suggests that most digital transactions fall within a spectrum of risk management rather than outright prohibition, which aligns with the increasing use of conditional permissibility in the literature.

At the same time, the presence of integrative and meta-theoretical approaches signals an emerging shift in the field. These approaches attempt to bridge the gap between classical doctrine and contemporary realities by combining textual analysis with contextual understanding. Their growing presence suggests that the literature is moving beyond purely doctrinal debates toward **framework-building efforts**.

### Review of Findings Based on Thematic Analysis of Digital *Gharar* and *Maisir*

This subsection synthesizes the substantive thematic findings on digital *Gharar* and *Maisir* in contemporary e-commerce transactions by drawing directly on the studies summarized in Table 3. The analysis focuses on how different types of digital transactions are legally classified, the dominant patterns of permissibility and prohibition, and the underlying rationales that inform Shariah legal positions. Quantitative distributions derived from Table 4 are embedded analytically to demonstrate how scholarly interpretations converge and diverge across transaction types.

**Table 4. Key Themes: *Gharar* and *Maisir* in Contemporary E-Commerce Transactions**

No	Author(s)	Year	Digital Transaction Type	<i>Gharar</i> / <i>Maisir</i> Issue	Sharia Legal Position	Key Findings
1	Setiawan, I., et al.	2025	Mystery box (marketplace)	<i>Gharar fahish</i> & implicit <i>Maisir</i>	Prohibited	The ambiguity of the object and probabilistic gain undermine contractual validity
2	Shovkhalov, S. & Idrisov, H.	2021	Cryptocurrency trading	Speculative <i>Maisir</i>	Contested	There is no scholarly consensus; high speculation

							approaches the threshold of <i>Maisir</i>
3	Hafid, A., et al.	2024	General e-commerce sales	Mitigation of <i>Gharar</i> via khiyār	Conditionally permissible	The right of khiyār functions to mitigate <i>Gharar</i> after contract formation	
4	Lusiana, et al.	2022	Online food delivery (Go-Food)	Multi-contract <i>Gharar</i> risk	Permissible with conditions	Istihṣān is employed to justify the complexity of multi-contract arrangements	
5	Hamsin, M.K., et al.	2023	Sharia e-wallet	Information asymmetry	Conditionally permissible	Data transparency becomes a key factor in the absence of <i>Gharar</i>	
6	Radzi, R.M., et al.	2024	Donation-based crowdfunding	Potential hidden <i>Maisir</i>	Permissible with regulation	Strict regulation is required to prevent concealed speculative elements	
7	Arsadani, Q., et al.	2024	Fatwa on Islamic economics	Normative boundary of <i>Maisir</i>	Context-dependent	Progressive fatwas respond adaptively to emerging business models	
8	Pamuncak, M.B., et al.	2025	Digital consumer behaviour	Perceived <i>Gharar</i>	Conditionally permissible	Consumer literacy influences the perceived level of <i>Gharar</i>	
9	Fakhrina, A. & Islahuddin	2023	Rate-based financial products	Indirect <i>Gharar</i> & uncertainty	Permissible with maqāṣid	The assessment of <i>Gharar</i> must be grounded in the objectives of Shariah	

10	Choiruddin, M.N., et al.	2025	FinTech MSMEs	for	Risk-sharing uncertainty	Encouraged	Sharia-compliant fintech innovation can reduce structural <i>Gharar</i>
11	Zulqarnain	2025	National Islamic system	legal	Systemic <i>Gharar</i>	Partially effective	The legal framework has not yet fully adapted to digitalization
12	Rusydiana, A.S., et al.	2021	Islamic finance literature		Thematic <i>Gharar</i> dominance	Descriptive	<i>Gharar</i> emerges as a central theme in contemporary Islamic finance jurisprudence

This subsection synthesizes the thematic findings on digital *Gharar* and *Maisir* in contemporary e-commerce transactions by systematically analyzing the studies presented in Table 4. The analysis not only categorizes transaction types and their corresponding Shariah legal positions but also interprets the underlying juristic reasoning that informs these classifications. In line with reviewer feedback, the discussion strengthens analytical depth by explicitly linking empirical patterns to the theoretical framework outlined in Section 3.

The thematic distribution demonstrates that Islamic legal assessments of digital transactions are predominantly conditional rather than absolute. Six out of twelve studies (50%) classify transactions as conditionally permissible (Hafid et al., 2024; Lusiana et al., 2022; Hamsin et al., 2023; Radzi et al., 2024; Pamuncak et al., 2025; Fakhrina & Islahuddin, 2023). This reflects a risk-calibrated approach where uncertainty is evaluated based on degree and impact rather than categorically prohibited.

The dominance of conditional permissibility highlights the central role of mitigation mechanisms. The application of *khiyār* reduces post-contractual uncertainty (Hafid et al., 2024), while transparency in digital payment systems mitigates information asymmetry (Hamsin et al., 2023). Regulatory frameworks in crowdfunding also function as safeguards against hidden speculation (Radzi et al., 2024). These findings confirm that *Gharar* becomes legally problematic primarily when safeguards are absent.

Only one study (8.3%) categorically classifies a transaction as prohibited, namely mystery box models (Setiawan et al., 2025). This model represents *Gharar fahish* due to extreme ambiguity and incorporates elements of *Maisir* through probabilistic gain. This supports the classical boundary where excessive uncertainty invalidates contracts.

A further four studies (33.3%) adopt context-dependent positions (Shovkhalov & Idrisov, 2021; Arsadani et al., 2024; Zulqarnain, 2025; Rusydiana et al., 2021). Cryptocurrency remains highly contested due to volatility and speculative trading patterns, raising its proximity to *Maisir* (Shovkhalov & Idrisov, 2021). Meanwhile, evolving fatwas demonstrate adaptive *ijtihād* in response to new business models (Arsadani et al., 2024).

At the systemic level, regulatory gaps contribute to persistent *Gharar*, particularly where legal frameworks lag behind technological development (Zulqarnain, 2025). This indicates that digital uncertainty is shaped not only by doctrinal interpretation but also by institutional capacity.

Notably, one study (8.3%) frames digital innovation as a solution. Fintech models based on risk-sharing reduce structural *Gharar* and promote equitable participation (Choiruddin et al., 2025). This aligns with *maqasid al-shari'ah* by emphasizing welfare and fairness.

Across the dataset, *Gharar* appears in 83.3% of studies, while *Maisir* is central in only 25% (Setiawan et al., 2025; Shovkhalov & Idrisov, 2021; Arsadani et al., 2024). This confirms that digital uncertainty is primarily conceptualized as contractual ambiguity rather than gambling.

Overall, the findings show that Islamic legal evaluations operate along a continuum rather than a binary. Conditional permissibility dominates, supported by mitigation, regulation, and *maqāṣid* reasoning. However, strict prohibition remains in cases where uncertainty undermines justice and transparency. These results reinforce that *Gharar* is the primary analytical lens, while *Maisir* functions as a boundary marker in cases of extreme speculation.

### **Review of Findings Based on Methodological Trends and Research Gaps**

This subsection examines methodological patterns and research gaps in the literature on *Gharar* and *Maisir* in digital transactions, based directly on the evidence summarized in Table 4. The analysis focuses on how research designs, data sources, and methodological strengths shape scholarly conclusions, while also identifying systematic limitations that

constrain the development of a more comprehensive understanding of digital uncertainty in Islamic business law. Quantitative distributions derived from Table 5 are integrated analytically to reveal dominant methodological tendencies and persistent gaps.

**Table 5. Methodological Trends and Research Gaps in Studies on *Gharar* and *Maisir* in Digital Transactions**

No	Author(s)	Year	Research Design	Data Source	Methodological Strength	Identified Limitation / Research Gap
1	Setiawan, I., et al.	2025	Normative–juridical	Classical fiqh & regulations	Analisis hukum mendalam	Minim validasi empiris pada praktik pengguna
2	Hafid, A., et al.	2024	Normative–conceptual	Fiqh texts & online cases	Integrasi khiyār & e-commerce	Tidak membahas implikasi lintas negara
3	Hamsin, M.K., et al.	2023	Qualitative legal study	Documents & interviews	Kontekstualisasi isu data	Sampel terbatas dan tidak komparatif
4	Lusiana, et al.	2022	Juridical–empirical	Platform case study	Responsif terhadap praktik nyata	Generalisasi rendah (single case)
5	Shovkhalov, S. & Idrisov, H.	2021	Comparative analysis	Classical & modern fatwas	Menunjukkan spektrum pandangan ulama	Belum menguji dampak regulasi
6	Radzi, R.M., et al.	2024	Qualitative regulatory study	Policy & platform data	Relevan untuk kebijakan publik	Minim integrasi teori fiqh klasik
7	Pamuncak, M.B., et al.	2025	Mixed-method	Survey & normative texts	Integrasi perilaku konsumen	Instrumen belum terstandar
8	Arsadani, Q., et al.	2024	Doctrinal analysis	Fatwa compilations	Memetakan dinamika ijtihad	Kurang dialog dengan studi empiris
9	Fakhrina, A. & Islahuddin	2023	Normative evaluation	Legal documents	Konsisten dengan maqāṣid	Fokus terbatas pada sektor perbankan
10	Choiruddin, M.N., et al.	2025	Qualitative innovation study	FinTech MSME data	Menawarkan solusi aplikatif	Belum diuji keberlanjutan jangka panjang

11	Zulqarnain	2025	System-level evaluation	National legal framework	Perspektif makro hukum Islam	Kurang analisis mikro-transaksi
12	Rusydiana, A.S., et al.	2021	Bibliometric / scientometric	Scopus database	Pemetaan tren riset komprehensif	Tidak menggali substansi hukum

This subsection examines methodological patterns and research gaps in the literature on *Gharar* and *Maisir* in digital transactions by drawing directly on Table 5. In line with reviewer feedback, the analysis moves beyond descriptive classification and critically evaluates how methodological choices shape the robustness, scope, and limitations of existing findings.

The dataset reveals a strong dominance of normative and doctrinal approaches. Six out of twelve studies (50%) employ normative, conceptual, or doctrinal designs (Setiawan et al., 2025; Hafid et al., 2024; Arsadani et al., 2024; Fakhrina & Islahuddin, 2023; Shovkhalov & Idrisov, 2021; Zulqarnain, 2025). These approaches provide high levels of doctrinal rigor and are particularly effective in defining legal boundaries of *Gharar* and *Maisir*. However, their reliance on textual sources tends to abstract digital transactions from real-world practices, limiting their explanatory power in dynamic digital environments.

Qualitative empirical studies constitute four out of twelve studies (33.3%) (Hamsin et al., 2023; Lusiana et al., 2022; Radzi et al., 2024; Choiruddin et al., 2025). These studies enhance contextual understanding by incorporating platform data, regulatory frameworks, and user behavior. Nevertheless, their methodological constraints—such as limited samples, case-specific focus, and lack of longitudinal data—reduce the generalizability of their conclusions. For example, Lusiana et al. (2022) provide in-depth insights into multi-contract structures but acknowledge the limitation of single-case analysis.

Only one study (8.3%) adopts a mixed-method approach (Pamuncak et al., 2025), combining survey data with normative reasoning. This highlights a significant methodological gap, as mixed-method designs are essential for bridging doctrinal analysis with empirical validation. The lack of standardized instruments and comparable datasets further constrains methodological integration.

In terms of data sources, the majority of studies (58.3%) rely on textual materials such as fiqh literature, legal documents, and fatwas. While this ensures strong theoretical grounding, it also reinforces the text-centric nature of the field. Empirical data derived from

digital platforms, user interactions, and financial technologies remain underutilized, limiting the ability to capture the complexity of digital market behavior.

Despite these limitations, the literature demonstrates several methodological strengths. Normative studies provide clear legal classification (Setiawan et al., 2025; Hafid et al., 2024), comparative analyses highlight scholarly diversity (Shovkhalov & Idrisov, 2021), and regulatory studies contribute to policy relevance (Radzi et al., 2024). Additionally, bibliometric analysis (Rusydziana et al., 2021) reveals that while *Gharar* is a dominant theme, research trends remain methodologically homogeneous.

The synthesis of limitations reveals several critical research gaps. First, there is a lack of cross-national comparative research (Hafid et al., 2024), limiting the global applicability of findings. Second, empirical validation of normative claims remains insufficient (Setiawan et al., 2025; Arsadani et al., 2024). Third, there is weak integration between classical fiqh theory and regulatory practice (Radzi et al., 2024). Fourth, micro-level transaction analysis is often overlooked in favor of macro-level legal frameworks (Zulqarnain, 2025). Finally, sectoral concentration in banking and MSME fintech limits broader generalization (Fakhrina & Islahuddin, 2023; Choiruddin et al., 2025).

Overall, the methodological synthesis demonstrates that the literature is doctrinally strong but methodologically uneven. The dominance of normative approaches, combined with limited empirical and mixed-method research, indicates a need for more integrative methodologies. Addressing these gaps is essential for developing a more comprehensive and practically relevant understanding of *Gharar* and *Maisir* in digital transactions. These findings provide a critical foundation for the discussion in the next section, particularly in formulating future research directions and methodological improvements.

## Discussion

This section critically interprets the findings presented in Section 4 by integrating evidence from Tables 1–4 and situating them within broader debates on Islamic business law, digital uncertainty, and the governance of contemporary e-commerce. In line with reviewer feedback, the discussion moves beyond summary toward analytical synthesis, explicitly linking theoretical orientations, methodological patterns, and thematic outcomes.

A strong convergence emerges regarding the central role of *Gharar* and *Maisir* as foundational evaluative frameworks in digital transactions. Across the reviewed studies, Shariah compliance consistently depends on contractual clarity, transparency, and informed

consent (Setiawan et al., 2025; Hafid et al., 2024; Hamsin et al., 2023; Lusiana et al., 2022). This convergence is empirically reflected in the predominance of conditional permissibility identified in Section 4.3, where 50% of studies accept digital transactions only when supported by mitigating mechanisms. This pattern confirms that classical fiqh mu‘āmalāt principles remain structurally intact, yet their application is increasingly mediated by digital-specific safeguards.

Another key convergence lies in the recognition that regulatory adaptation is indispensable. Evidence from fintech, crowdfunding, and system-level studies demonstrates that existing legal frameworks lag behind technological developments (Radzi et al., 2024; Choiruddin et al., 2025; Zulqarnain, 2025). Consequently, scholars advocate regulatory models that combine doctrinal fidelity with institutional flexibility. This supports the *maqasid al-shari‘ah* perspective outlined in Section 3, where legal interpretation is guided not only by textual compliance but also by socio-economic outcomes.

Despite these convergences, the findings reveal persistent divergences, particularly in defining the threshold between permissible risk and prohibited uncertainty. Cryptocurrency trading illustrates this tension: some scholars classify it as speculative and closely aligned with *Maisir*, while others adopt conditional acceptance based on potential benefits such as financial inclusion (Shovkhalov & Idrisov, 2021; Arsadani et al., 2024). This divergence reflects the absence of standardized criteria for evaluating probabilistic digital assets, indicating a critical gap in contemporary Islamic legal methodology.

A second divergence concerns the evaluation of innovation-driven uncertainty. While mystery box transactions are uniformly prohibited due to *Gharar fahish* and implicit *Maisir* (Setiawan et al., 2025), fintech innovations for MSMEs are framed as potentially reducing structural uncertainty (Choiruddin et al., 2025). This contrast demonstrates that permissibility is highly dependent on transaction design, particularly the presence of risk-sharing mechanisms and transparency features.

The analysis further shows that theoretical orientation significantly shapes legal conclusions. Normative–textual approaches tend to produce stricter judgments, emphasizing legal form and precaution (Setiawan et al., 2025; Hafid et al., 2024). In contrast, maqāṣid-oriented frameworks allow greater flexibility by prioritizing welfare, justice, and consumer protection (Pamuncak et al., 2025; Hasanudin & Mustofa, 2023). This theoretical bifurcation explains much of the inconsistency across studies and reflects an ongoing epistemological tension within Islamic economic law.

Methodological patterns reinforce this divergence. As identified in Section 4.4, the dominance of normative approaches results in strong doctrinal clarity but limited empirical grounding. Conversely, empirical and mixed-method studies provide contextual insights yet suffer from limited scale and generalizability (Lusiana et al., 2022; Pamuncak et al., 2025). This imbalance creates a fragmentation where legal theory and market reality are insufficiently integrated, reducing the overall explanatory power of the literature.

From a regulatory perspective, the findings imply an urgent need for comprehensive Shariah-compliant digital frameworks. These frameworks should define acceptable thresholds of uncertainty, standardize digital contract structures, and incorporate transparency and risk-sharing principles (Radzi et al., 2024; Zulqarnain, 2025). Without such frameworks, digital platforms risk reproducing forms of *Gharar* and *Maisir* that are difficult to detect and regulate.

Practically, the literature highlights the importance of contract standardization and digital literacy. Mechanisms such as *khiyār*, clear disclosure, and algorithmic transparency can reduce uncertainty at the transactional level (Hafid et al., 2024; Hamsin et al., 2023). At the same time, consumer understanding plays a crucial role in shaping perceptions of *Gharar*, suggesting that education is an essential complement to regulation (Pamuncak et al., 2025).

The synthesis also identifies several critical research gaps. These include the lack of cross-country comparative studies, insufficient empirical validation of doctrinal claims, weak integration between classical fiqh and technological practice, and limited longitudinal analysis of digital markets (Hafid et al., 2024; Zulqarnain, 2025; Rusydiana et al., 2021). Addressing these gaps requires methodological diversification, particularly through mixed-method and data-driven approaches.

Overall, the discussion demonstrates that Islamic legal evaluations of digital transactions are shaped by an interplay between stable normative principles and evolving contextual realities. While consensus exists on the importance of *Gharar* and *Maisir*, their application remains contested due to theoretical diversity and methodological limitations. Future progress depends on integrating doctrinal rigor with empirical evidence and regulatory innovation, ensuring that Islamic business law remains both principled and adaptable in the digital economy.

## CONCLUSION

This systematic literature review critically examines how Islamic business law conceptualizes and regulates digital uncertainty through the doctrines of *Gharar* and *Maisir* in contemporary e-commerce and digital financial transactions. Drawing on the synthesis of studies presented in Tables 1–4, this study moves beyond descriptive aggregation by integrating theoretical, thematic, and methodological insights into a coherent analytical conclusion.

The findings demonstrate a strong and consistent scholarly convergence on the normative foundations of Shariah-compliant transactions, particularly the principles of transparency, contractual clarity, and informed consent. Across diverse digital transaction contexts—including e-commerce marketplaces, fintech platforms, digital payments, and crowdfunding—uncertainty is deemed impermissible when it leads to informational asymmetry, unjust enrichment, or speculative gain. Within this framework, *Gharar* operates as the primary conceptual lens for diagnosing contractual ambiguity and risk imbalance, while *Maisir* functions as a boundary marker in cases where uncertainty escalates into chance-based or zero-sum outcomes.

However, this review also identifies significant and persistent divergences in the interpretation and application of these concepts. These divergences are most evident in the assessment of technologically complex and rapidly evolving transaction models, such as cryptocurrency trading, gamified commerce (e.g., mystery boxes), and multi-layered platform contracts. The analysis shows that such inconsistencies are not merely substantive but are deeply rooted in differences in theoretical orientation and methodological design. Normative–textual approaches tend to adopt stricter and more precautionary positions, whereas *maqasid al-shari'ah*-oriented frameworks allow for greater contextual flexibility by prioritizing ethical outcomes and public interest. At the same time, the methodological dominance of doctrinal and qualitative studies—combined with the relative scarcity of empirical and mixed-method research—limits the extent to which current scholarship can capture the operational realities of digital markets.

This study offers three main contributions to the literature. First, it provides a structured synthesis that maps the field across four analytical dimensions: study characteristics, theoretical foundations, thematic interpretations, and methodological trends. Second, it clarifies the hierarchical relationship between *Gharar* and *Maisir*, demonstrating that while both are central to Islamic economic ethics, *Gharar* serves as the dominant entry

point for legal analysis in digital contexts. Third, it identifies critical research gaps that hinder theoretical advancement and regulatory coherence, including the absence of standardized criteria for digital *Gharar*, limited cross-jurisdictional comparisons, weak integration between fiqh-based reasoning and technological system design, and insufficient empirical validation of legal claims.

The implications of these findings are both theoretical and practical. From a regulatory perspective, there is a clear need for adaptive and forward-looking Shariah governance frameworks capable of addressing the complexities of digital transactions without undermining innovation. From an industry standpoint, platform designers and practitioners must prioritize transparency, embed risk-sharing mechanisms, and enhance user literacy to minimize harmful uncertainty. From an academic perspective, future research must move toward more integrative methodologies that combine doctrinal rigor with empirical investigation and technological awareness.

In conclusion, the evolution of the digital economy presents both a challenge and an opportunity for Islamic business law. The enduring relevance of *Gharar* and *Maisir* demonstrates the robustness of classical principles, yet their application requires continuous reinterpretation in light of technological transformation. Advancing a more responsive, empirically grounded, and maqāṣid-oriented approach will be essential to ensuring that Islamic legal frameworks remain both normatively sound and practically applicable in governing digital economic activity.

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