

THE 274TH SHARIAH ADVISORY COUNCIL OF THE SECURITIES COMMISSION MALAYSIA MEETING (16 NOVEMBER 2023)


BURNING OF DIGITAL CURRENCY BACKED BY TECHNOLOGY WITHOUT ANY UNDERLYING FROM THE SHARIAH PERSPECTIVE

INTRODUCTION

Burning of digital currency backed by technology without any underlying (DCWAU) is different from the general understanding of burning. In the context of burning of DCWAU, it means permanently removing a number of DCWAU by transferring them to a burn address, i.e. a digital wallet from which they cannot ever be retrieved.¹

The process of burning DCWAU is made known upfront through disclosure in the whitepaper or it is agreed upon by the community of a particular DCWAU. One of the main purposes of burning is to control the quantity of DCWAU in circulation as part of a strategy to stabilise its value.

¹ <https://www.coindesk.com/learn/what-does-it-mean-to-burn-crypto/>



In this regard, the issue under deliberation by the Shariah Advisory Council (SAC) of the Securities Commission Malaysia (SC) was on the permissibility of burning DCWAU from the Shariah perspective via the following mechanisms:

- 1) Burning of transaction fees paid in the form of DCWAU²; and
- 2) Burning of DCWAU in order to get the right to validate transactions on the blockchain commonly known as “Proof of Burning”³.

RESOLUTION

The SAC resolved in its 274th meeting held on 16 November 2023 that burning of DCWAU based on the following mechanisms is permissible from the Shariah perspective subject to full disclosure in the whitepaper or mutual agreement by the DCWAU community:

- 1) Burning of transaction fees paid in the form of DCWAU; and
- 2) Burning of DCWAU in order to get the right to validate transactions on the blockchain commonly known as “Proof of Burning”.

This is due to the fact that both mechanisms do not involve any elements prohibited by the Shariah and such mechanisms may be considered as a form of fees payment to obtain certain rights or services.

² <https://news.fuse.io/what-is-fee-burning-in-crypto/#:~:text=With%20the%20implementation%20of%20the,them%20to%20an%20inactive%20address>

³ <https://www.linkedin.com/advice/1/what-benefits-challenges-implementing-proof-burn-public>

SHARIAH JUSTIFICATION

(1) Burning of DCWAU may be considered as a form of fees payment to obtain certain rights or services

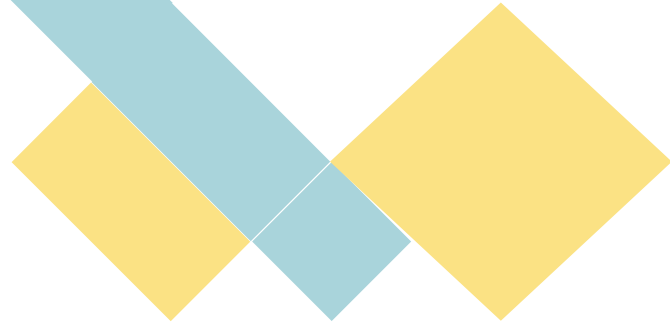
In the context of Proof of Burning, the burning of DCWAU is akin to a fee payment to obtain the right to validate the transactions. As for burning of transaction fees paid in the form of DCWAU, the fees paid by the network users may be considered as fees for the service of validating the completion of transactions.

(2) Burning of DCWAU is made known upfront

The process of burning DCWAU is made known upfront either through disclosure in the whitepaper or mutual agreement by the community. Hence, burning of DCWAU does not inflict any harm to the holders of DCWAU and its community. This is in line with the following sunnah of Prophet Muhammad (peace be upon him):

عَنْ عَمْرِو بْنِ عَوْفٍ الْمُرَزِيِّ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ "الصُّلْحُ جَائِزٌ بَيْنَ الْمُسْلِمِينَ إِلَّا صُلْحًا حَرَّمَ حَلَالًا أَوْ أَحَلَّ حَرَامًا وَالْمُسْلِمُونَ عَلَى شُرُوطِهِمْ إِلَّا شَرْطًا حَرَّمَ حَلَالًا أَوْ أَحَلَّ حَرَامًا"

Meaning: *'Amru bin 'Awf al-Muzani narrated that Prophet Muhammad (peace be upon him) said "Reconciliation is allowed among the Muslims, except for reconciliation that makes the lawful unlawful, or the unlawful lawful. And the Muslims will be held to their conditions, except the conditions that make the lawful unlawful, or the unlawful lawful."* (Hadith No. 1352, Jami` al-Tirmidhi)



(3) The issue of *idha`ah al-mal* (waste of property) does not arise in burning of DCWAU

Idha`ah al-mal has been defined as the act of preventing property from being rightfully utilised or spent.⁴ Moreover, this concept can be extended to encompass reducing the productivity of assets and misusing wealth in ways contrary to Shariah, including engaging in prohibited activities.⁵

From the Shariah perspective, *idha`ah al-mal* is not permissible based on the following evidences:

(i) Quran

وَأَاتِ ذَا الْقُرْبَىٰ حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ وَلَا تَبْذُرْ نَبْذِيرًا (٢٦) إِنَّ
الْمُبْذِرِينَ كَانُوا إِخْوَانَ الشَّيَاطِينِ ۗ وَكَانَ الشَّيْطَانُ لِرَبِّهِ كَفُورًا (٢٧)

Meaning: *And give the relative his right, and [also] the poor and the traveler, and do not spend wastefully. Indeed, the wasteful are brothers of the devils, and ever has Satan been to his Lord ungrateful.* (Surah Al-Isra: 26-27)

⁴ Ibn Rushd, *al-Bayan wa at-Tahsil*, Dar al-Gharb al-Islami, Vol. 18, p. 307-308.

⁵ Qadhi Abu Bakr Muhammad Ibn Abdullah Ibn `Arabi, *al-Masalik fi Syarhi Muwatta' Imam Malik*, Vol. 17, p. 587.



(ii) Sunnah of Prophet Muhammad (peace be upon him)

عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ "إِنَّ اللَّهَ يَرْضَى لَكُمْ ثَلَاثًا وَيَكْرَهُ لَكُمْ ثَلَاثًا فَيَرْضَى لَكُمْ أَنْ تَعْبُدُوهُ وَلَا تُشْرِكُوا بِهِ شَيْئًا وَأَنْ تَعْتَصِمُوا بِحَبْلِ اللَّهِ جَمِيعًا وَلَا تَفَرَّقُوا وَيَكْرَهُ لَكُمْ قِيلَ وَقَالَ وَكَثْرَةَ السُّؤَالِ وَإِضَاعَةَ الْمَالِ"

Meaning: *Abu Hurairah reported that Prophet Muhammad (peace be upon him) said "Verily Allah likes three things for you and He disapproves three things for you. He is pleased with you that you worship Him and associate nor anything with Him, that you hold fast the rope of Allah, and be not scattered; and He disapproves for you irrelevant talk, persistent questioning and the wasting of wealth."*
(Hadith No. 4260, Sahih Muslim)

However, the burning of DCWAU is not a waste of property because it does not adversely affect the utility of DCWAU. Such burning is intended to control the amount of DCWAU in circulation which is an acceptable benefit from the Shariah perspective. This is expected to stabilise the value of DCWAU, hence benefiting the holders of DCWAU.

DCWAU is an asset class with characteristics that are unique and different from other types of assets. Hence, burning of DCWAU cannot be analogised to the burning of other types of assets.