

The Smart Agent in Shariah and law: Between classical agency and digital execution

The rise of AI has introduced a new phenomenon in financial dealings: the ‘Smart Agent’. This refers to an automated program or algorithm capable of perceiving its environment, analyzing data and executing tasks including smart contracts, within pre-set parameters. Unlike traditional electronic tools, the Smart Agent demonstrates adaptive learning and can operate with a degree of autonomy that raises significant legal and Shariah questions. Is the Smart Agent to be treated as an independent contracting party, or is it merely a technological instrument that reflects the will of its human owner? DR AHMAD ASAD analyzes.



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Islamic jurisprudence provides clear guidelines through the classical framework of agency (Wakalah), which depends on the capacity and will of the contracting parties. At the same time, modern Shariah governance has addressed new realities through standards such as AAOIFI’s Shariah Standard No. 23 on Agency and the Act of an Uncommissioned Agent (Fuduli) and Standard No. 38 on Online Financial Dealings.

In parallel, contemporary academic research, such as Sartawi’s study on the Smart Agent and the legal personality of robots, highlights the limitations of granting legal status to artificial systems. When these perspectives are integrated, a coherent framework emerges for understanding the Smart Agent in light of Shariah law.

The Smart Agent: Tool rather than independent actor

In classical Islamic law, agency requires two essential pillars: legal capacity (Ahliyyah) and will (Iradah). These are absent in artificial programs. Thus, from a Shariah perspective, the Smart Agent cannot be considered a true agent in the strict sense, but rather a tool or mechanism for executing the will of its owner.

When the Smart Agent operates within the boundaries of its programming, its actions are valid and attributed directly to the principal. However, if it exceeds those instructions, its operations are suspended until ratified by the owner – similar to the classical rule of Fuduli.

Sartawi’s analysis reinforces this conclusion. He notes that robots and AI systems, despite appearing autonomous,



do not possess independent legal personality. Their actions must ultimately be traced back to the individuals who programmed or deployed them. In this sense, the Smart Agent resembles a pen or digital platform: it facilitates execution but does not originate contractual will.

Shariah Standard No. 23: Agency and the Fuduli

AAOIFI’s Shariah Standard No. 23 provides an essential analogy for Smart Agents. It defines the principles of agency and explains the consequences of unauthorized actions. When an agent acts outside the scope of authorization, the act is considered Fuduli – suspended until the principal either ratifies or rejects it. If ratified, the act is validated retroactively; if rejected, it is nullified. This principle applies directly to Smart Agents:

- When the agent acts within programmed authorization, its actions are binding.
- When it exceeds authorization, its actions are suspended until ratified by the principal.

The standard also addresses paid agency. Remuneration must be known and specific, whether a fixed amount, a defined share of income or tied to a benchmark. Uncertainty in remuneration is prohibited, and in the absence of stipulation, the prevailing market rate applies. This directly parallels the subscription or transaction-based models used for Smart Agents today.

Moreover, Standard No. 23 notes that paid agency becomes binding and cannot be arbitrarily revoked where third-party rights are involved or where halting the agent’s work mid-process would cause harm. This rule resonates with blockchain transactions initiated by Smart Agents, which, once recorded, cannot easily be reversed.

Shariah Standard No. 38: Online financial dealings

AAOIFI’s Shariah Standard No. 38 provides additional guidance relevant to Smart Agents, as most of their operations occur in digital environments. The standard permits online commercial activities provided they comply with

general Shariah principles and avoid prohibited elements such as Riba, Gharar and impermissible commodities.

It recognizes the validity of online contracts where offer and acceptance are expressed electronically such as through clicking icons, digital signatures or email exchanges. It also emphasizes the necessity of verifying the identity of contracting parties, ensuring data protection, and safeguarding transparency. For Smart Agents, this means that the surrounding infrastructure – identity verification, secure platforms and clear consent mechanisms – must be in place to ensure that their automated actions meet Shariah requirements.

Integration of standards and contemporary analysis

When read together, Standards No. 23 and 38 provide both theoretical and practical guidance for dealing with Smart Agents. Standard 23 ensures that unauthorized acts of the agent are treated as Fuduli and subject to the principal's ratification, while Standard 38 clarifies the mechanics of contract formation in online settings. Sartawi's

research complements these insights by underlining that Smart Agents lack legal personality and cannot serve as independent actors.

The integration of these three sources leads to a consistent conclusion: the Smart Agent is a sophisticated technological executor of human intent. It has no standing of its own but can be harnessed to perform valid, Shariah compliant contracts when programmed and supervised correctly.

Practical guidelines

Based on this combined analysis, several practical guidelines can be proposed for the deployment of Smart Agents in Islamic finance:

1. Define clear programming boundaries to ensure the agent operates only within permissible parameters.
2. Treat unauthorized actions as Fuduli, subject to ratification or rejection by the principal.
3. Structure remuneration transparently, in accordance with Standard 23, avoiding ambiguity.
4. Ensure compliance with Shariah rules, keeping operations free

from Riba, Gharar and prohibited transactions.

5. Verify identities and protect data, following Standard 38, to ensure contractual integrity.
6. Attribute all actions to the human owner, never treating the Smart Agent as an independent legal person.

Conclusion

The debate on the Smart Agent reflects the broader encounter between technological innovation and Shariah governance. While AI-based agents introduce new possibilities, their actions must remain firmly anchored to human intent. By applying the rules of agency and Fuduli from Standard No. 23, the operational safeguards of Standard No. 38 and the analytical clarity of Sartawi's study, Islamic finance can integrate Smart Agents responsibly.

Ultimately, the Smart Agent is not an independent contracting party but a trustee tool – a sophisticated mechanism for executing human will within a framework that safeguards transparency, justice and Shariah compliance. (2)



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