



IMPLEMENTATION OF MUDHARABAH CONTRACT ON SHARIA BANK FINANCING PRODUCTS IN INDONESIA

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Abstract

This study investigates how Indonesian Islamic Banks implement mudharabah contracts on financing product. This study uses descriptive research, namely research that defines facts, data, and information gathered from published studies such as books and journals to research findings relevant to the research topic. According to this study, the development of Islamic banks in Indonesia has seen positive growth. One of the products offered by Islamic banks is financing products. This financing is accomplished through the use of various contracts, one of which is the mudharabah contract, which employs a profit-sharing system. This profit-sharing system will be devoted to customers who apply for financing from Islamic Banks that are used to run businesses owned by customers. In the process, the bank will carry out several stages and procedures such as verification to determine the provision of such financing to customers. If it has been verified, the Bank will provide funds or capital to the client to be managed. The customer's results or profits will be divided between both the customer and the bank under the terms of mudharabah contract. In the process of implementation, this mudharabah contract is based on Islamic law such as the Qur'an and al-Hadith as well as legislation such as MUI fatwas, PSAK as well as OJK, and Bank Indonesia policies.

Keywords: Mudharabah Contract, Financing Products, Islamic Bank

Abstrak

Studi ini menyelidiki bagaimana Bank Syariah Indonesia mengimplementasikan akad mudharabah pada produk pembiayaan. Penelitian ini menggunakan penelitian deskriptif yaitu penelitian yang mendefinisikan fakta, data, dan informasi yang dikumpulkan dari penelitian yang dipublikasikan seperti buku dan jurnal hingga temuan penelitian yang relevan dengan topik penelitian. Menurut kajian ini, perkembangan bank syariah di Indonesia mengalami pertumbuhan yang positif. Salah satu produk yang ditawarkan oleh bank syariah adalah produk pembiayaan. Pembiayaan ini dilakukan melalui penggunaan berbagai akad, salah satunya akad mudharabah yang menggunakan sistem bagi hasil. Sistem bagi hasil ini akan dikhususkan bagi nasabah yang mengajukan pembiayaan dari Bank Syariah yang digunakan untuk menjalankan usaha milik nasabah. Dalam prosesnya, bank akan melakukan beberapa tahapan dan prosedur seperti verifikasi untuk menentukan pemberian pembiayaan tersebut kepada nasabah. Jika sudah diverifikasi, Bank akan memberikan dana atau modal kepada klien untuk dikelola. Hasil atau keuntungan nasabah akan dibagi antara nasabah dan bank berdasarkan ketentuan akad mudharabah. Dalam proses pelaksanaannya, akad mudharabah ini berpedoman pada hukum Islam seperti Al-Qur'an dan al-Hadits serta peraturan perundang-undangan seperti fatwa MUI, PSAK serta OJK, dan kebijakan Bank Indonesia.

Kata Kunci: Akad Mudharabah, Produk Pembiayaan, Bank Syariah

INTRODUCTION

Banks are defined as financial institutions that have a role as financial intermediaries in the economy of a country. Banks receive funds from the public in the term of deposits and reinvest them in the form of savings, credit, and other products. The aim is to raise people's level of living. Meanwhile, Islamic banks are those that follow Islamic Sharia law. The Islamic bank does not use interest as the basis but uses profit and sharing (PLS) as the basis. Policies regarding product development chosen by Islamic banks also determine the products to be offered to the public. The development of this policy is based on an approach that still pays attention to the principles of Sharia in producing products and services that are made.¹

Mudharabah, along with mushakara, is one of the key products of Islamic banking that scholars generally agree on, and it is regarded as one of the main components underpinning Indonesia's fast rising Islamic economy.² Mudharabah is a type of collaboration between two or more parties in which the capital owner (shahibul mal) entrusts a portion of the capital to the management (mudhorib) in exchange for a profit-sharing arrangement. This document verifies the collaboration with 100% money commitment from shahibul mal and mudharib's experience. Mudharabah in the current Islamic economic system is one of the promising financing schemes.³

Mudharabah is a type of finance product that takes the form of a contract. Mudharabah binds both parties and imposes penalties that must be followed. There are aspects or pillars in the mudharabah finance contract, notably ijab and qobul, indicating that there is a match between the goals and intents of both parties to build a cooperative alliance. It is preferable if the contractual connection has clear limits in its design and substance, as well as its rights and duties, so that it does not hurt one party while providing justice and balance to both.⁴

One form of implementation of the financing of Bank Syariah Indonesia (BSI) products is working capital financing using a Mudharabah contract. BSI conducts financing with this mudharabah contract only to institutions that already have a legal force so they are not individuals. One of the financing products carried out by BSI is the Linkage Program which is devoted to financing productive businesses. This financing is carried out by BSI through a Sharia Financial Institution (LKS) to be transferred to the final financing recipient or end-user. BSI in its

¹ Mukti, Hagi Hutomo. "Development of Indonesian Sharia Banks with Malaysia Comparison Method (Study of History, Products and Legal Assets)." *Lambung Mangkurat Law Journal* 5.1: 75-86, 2020.

² Supriatna, Supriatna, Irpan Helmi, and Nurrohman Nurrohman. "Mudharabah Scheme within the Islamic Banking: Profit Sharing and Associated Problems in IT." *Kodifikasi: Jurnal Penelitian Islam* 14.2: 235-262, 2020.

³ Umam, Fachru Nurul, Annisa Nur Salam, and Achmad Rizal. "Determinants of Mudharabah Term Deposit: A Case of Indonesia Islamic Banks." *Journal of Economics Research and Social Sciences* 5.2: 167-180, 2021.

⁴ Wibisono, Yusuf. "Analysis of Implementation of Mudharabah and Wadiah Contracts." *Assets: Jurnal Ilmiah Ilmu Akuntansi, Keuangan dan Pajak* 5.1: 9-16, 2021.

process and implementation is adjusted to the accounting principles of financing using a mudharabah contract, namely the MUI Fatwa regarding mudharabah financing and distribution of operating results to LKS as well as financial statement guidelines or Statement of Financial Accounting Standards (PSAK).⁵

This mudharabah contract is also carried out by Bank Mandiri Syariah (BMS). The most dominant principle of financing in this BMS is using the mudharabah contract. Funds collected under the principle of this mudharabah contract will be managed by customers who receive financing products that are adjusted to the agreement in sharing profits and profits. In the implementation process, this BMS also applies the principle of mudharabah financing by the MUI Fatwa and PSAK.⁶ Based on this context, the author will propose the term Mudharabah Agreement implementation in Indonesian Sahria Bank Financing Products.

RESEARCH METHOD

This study employs a literature review research design, which is research that investigates and critiques academic-oriented scientific information, concepts, and conclusions. Furthermore, this study will be able to provide theoretical and methodological contributions to a chosen issue. In this study, descriptive analysis was used as the analytical method. Using this study, researchers may define and assess the problems that arise as well as the solutions that are now available. Because of the qualitative techniques, this research is a qualitative descriptive study. The aim is to collect information on facts and issues that have occurred. This study will define how the implementation of mudharabah contracts on financing products is carried out by Bank Syariah Indonesia.

RESULTS AND DISCUSSION

A. The Concept of Financing at Indonesian Islamic Banks

The potential for Islamic banking in Indonesia is increasing. There are 12 islamic banks with 21 Sharia Business Units through 2021. In 2019, the Islamic Finance Country Index (IFCI) ranked Indonesia first in Islamic banking surpassing Malaysia.⁷ With this increase, Indonesian

⁵ Putriani, Tisa Arifi, and Muhammad Fahmul Iltiham. "Implementasi Akad Mudharabah Berdasarkan Psak 105 tentang Akuntansi Mudhrabah dan Fatwa DSN MUI pada Produk Pembiayaan di Bank Syariah Mandiri KCP Lawang." *Malia: Jurnal Ekonomi Islam* 11.1 (2019): 21-38.

⁶ Iltiham, Muhammad Fahmul. "Implementasi Akad Mudharabah Berdasarkan PSAK 105 tentang Akuntansi Mudharabah dan Fatwa DSN MUI pada Produk Pembiayaan." *Jurnal Ekonomi Islam* 11.1: 21-38, 2019.

⁷ Keuangan, Otoritas Jasa. "Seri Standar Produk Perbankan Syariah 5, Standar Produk Mudharabah.", 2019.

Islamic banks are projected to be able to handle inputs and outputs more effectively.⁸ The ability of Islamic banking to transmit cash to the people determines its contribution. Because Islamic banks utilize profit-sharing mechanisms such as mudharabah contracts, this ability is seen to be capable of maximizing communal productivity. In practice, the profit-sharing contract mechanism does not demonstrate a high overall proportion of Islamic banking operations, particularly in mudharabah financing investments.⁹

Islamic banking is banking management by Islamic principles and laws. For example, recognizing forbidden commercial activities, such as interest or usury, speculation and coercion, and exaggeration beyond the norms of Islamic law that do not benefit the economy, such as firms that include aspects of speculation or gambling.¹⁰ On the other hand, in the concept of Islamic banking law procedure, all benefits and risks must be shared, profits must be shared according to the agreement of the stakeholders, transactions must adhere to fundamental economic laws without speculation, and rules must change at inconvenient times. Banking, leasing, capital markets, investment funds, insurance, and other services are all part of Islamic banking. Banking assets and bonds, on other hand, account for nearly all of overall Islamic finance assets.¹¹ Here are the differences between Islamic banks and conventional banks.

Table 1. The difference between Islamic Bank and Conventional Bank

Islamic Bank	Conventional Bank
Creating links with the real sector of the economic system using business-related operations. Because the money is related to actual assets, there are evident advantages for mutual advancement.	The conventional banking system only uses money as a commodity which often causes inflation in Indonesia.
Do not recognize interest but apply the principle of profit and loss.	Do various flower-based activities
The arrangement for the goods exchange & services is a must, while the disbursement of funds is in the Islamic agreement.	Cash disbursement, working capital financing, and no agreement for the exchange of goods & services are made.

⁸ Octrina, Fajra, and Alia Gantina Siti Mariam. "Productivity of Islamic Banking in Indonesia." *Jurnal Perspektif Pembiayaan dan Pembangunan Daerah* 9.1: 19-28, 2021.

⁹ Israhadi, Evita Isretno. "Implementation of Investment Funds Sharing Agreement in Sharia Banking System in Indonesia." *Diponegoro Law Review* 5.1: 77-91, 2021.

¹⁰ Mubarrok, Ujang Syahrul, Zufia Rahmawati, and Dzikrulloh Dzikrulloh. "A Retrospective Review of the International Journal of Islamic Economics and Finance (IJIEF)." *Dinar: Jurnal Ekonomi dan Keuangan Islam* 9.1: 1-15, 2022.

¹¹ Ratnasari, Rida Hesti. "Understanding the Islamic Banking System in Indonesian Modern Economics Practices." *International Journal of Business, Economics & Management* 3.1: 212-218, 2020.

<p>Share profits and losses. If the entrepreneur incurs a loss, the bank may share the loss based on the form of employed.</p> <p>Money is not a commodity even though it is used as a form of trade. As a result, it is not sold or rented for more than its face value.</p>	<p>Although the borrower incurs a loss when borrowing bank funds, interest must be paid. As a result, it is not based on shared risk.</p> <p>Money is profitable as a commodity, not just as a vehicle of trade and value. However, goods that are purchased at low prices are exchanged.</p>
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Source: International Journal of Islamic Economics and Finance (IJIEF).¹²

In the concept of banking in Indonesia, people know various terms including debit and credit at conventional banks and the term financing in Islamic banks. These debts are commonly used by the community as a form of loan given to other parties. Meanwhile, funding is defined in Law Number 10 of 1998 as the giving of money or claim equal to it based on a pre-determined agreement and consent to refund the money or claim within a specific period with a profit-sharing scheme.¹³ Broadly speaking, the difference between conventional bank financing (credit) and Islamic bank financing is shown in table 2 as follows.

Table 2. The Difference between Conventional Bank Financing (Credit) Concept and Islamic Bank Financing Concept

Description	Konventional Credit	Islamic Financing
Legal basis	Invitation Policy	Al-Qur'an, Al-Hadith and Invitation Legislation
Contract or Debts Agreement		Having underlying transactions such as buying and selling, renting, buying and selling and profit-sharing.
Compensation	Interest	Profit sharing, profit margin, rental income, profit margin
Use	According to positive law	In accordance with Islamic law and positive law
Business Target	Get the benefits according to the	Profit and loss are determined by

¹² Ibrahim, Muhammad Yusuf, and Indra Indra. "An Empirical Analysis of Islamic Banking (IBs) Contribution to Indonesia's Inclusive Growth." *International Journal of Islamic Economics and Finance (IJIEF)* 4.SI: 87-120, 2021.

¹³ Malini, Helma. "Islamic Bank Sustainability in Indonesia: Value and Financial Performances Based on Social Responsibility and Green Finance." *Cepalo* 5.2: 93-106, 2021.

interest agreement

profit sharing for the customer's
business

Source: MadaniSyari'ah.¹⁴

B. The implementation of Mudharabah Agreements at Indonesian Islamic Banks

Until the end of 2021, Islamic banking in Indonesia shows positive development data in terms of assets owned, distribution of financing funds, and funds from third parties which continue to experience growth.¹⁵ It is recorded that until September 2021 the amount of funds that have been distributed by Islamic banks to customers to be managed is 413.31 trillion. Of the total funds, 46.22% were channeled using murabahah contracts, 45.69% musyarakah contracts, 2.65% using mudharabah contracts, and the rest using qardh, ijarah, and istihna contracts.¹⁶ One form of the mudharabah contract is the Mudharabah Musytarakah contract, wherein in this contract the customer or business manager also takes part in providing capital, namely in the form of investment cooperation. This is considered necessary because it provides convenience in the process of managing it and will provide greater benefits and influence for all parties.¹⁷

Product innovation in Islamic financial institutions in Indonesia began in 1991, with the formation of Bank Muamalat Indonesia (BMI) as the sole commercial bank operating under the profit-sharing premise. Banks based on profit sharing principles were introduced into positive law by Law Number 7 of 1992 concerning Banking and Government Regulation Number 72 of 1992 concerning Banks Based on Profit Sharing Principles. The Financial Services Authority (OJK) as the administrator and regulator of financial institutions, released many products and activities of Islamic Commercial Banks and Sharia Business Units at Islamic Financial Institutions at the end of 2015 through SEOJK No. 36/SEOJK.03/2015. In the process, the implementation scheme for this Islamic Bank product financing is carried out as shown in Figure 1 as follows.

¹⁴ Anggraeni, Dinda Dewi, Nur Diana, and Harun Alrasyid. "Pengaruh Pengetahuan Nasabah, Religiosity Dan Lingkungan Sosial Terhadap Minat Menabung Menggunakan Bank Syariah (Studi Kasus Mahasiswa Universitas Islam Malang)." *El-Aswaq: Islamic Economics and Finance Journal* 3.1, 2022.

¹⁵ Bank Indonesia, *Laporan Ekonomi Dan Keuangan Syariah 2021 Bangkit Dan Optimis: Sinergi Dan Inovasi Ekonomi Dan Keuangan Syariah Untuk Negeri* (Jakarta: BI Bank Sentral Republik Indonesia, 2021).

¹⁶ Otoritas Jasa Keuangan, *Snapshot Perbankan Syariah September 2021*.

¹⁷ Fadhillah, Nurul, and Achmad Tohirin. "Comparing the Return on Mudharabah Deposit and The Return on Equity: Assessing the Fairness in Indonesian Islamic Banking Industry." *Mutanaqishah: Journal of Islamic Banking* 1.1: 1-20, 2021.

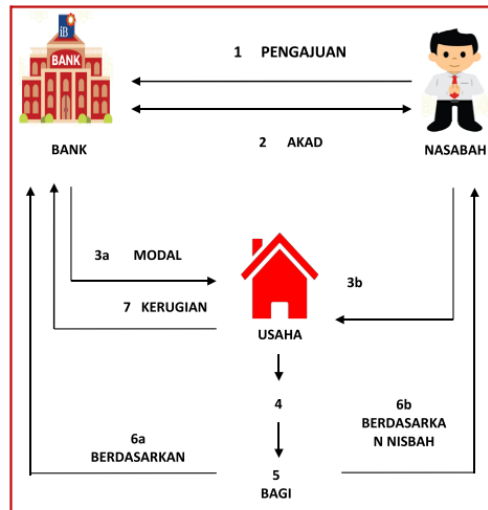


Figure 1. Mudharabah Contract Implementation Scheme in Indonesian Islamic Bank Product Financing

Source: OJK.¹⁸

In Figure 1, it is known that the customer applies to business financing owned by a Sharia Bank. The goal is to get venture capital. Furthermore, the bank and the customer use a mudharabah contract to engage into a commercial finance deal. As the owner of the Islamic Bank capital, it will carry out several stages and procedures such as verification. Meanwhile, on the part of the capital manager, the customer runs his business by utilizing his skills and competencies. When the business is carried out and makes a profit, profit sharing will be carried out by the agreement made. However, if the firm experiences a loss that is not the fault of the consumer, the loss will be paid by the financier or Islamic bank.¹⁹

1. According to Fatwa No. 07/DSN-MUI/IV/2000 of the National Sharia Council for Mudharabah Financing, there are several conditions that must be met to obtain financing, including:
2. This financing is only given to parties who already have a productive business and are distributed by LKS.
3. LKS serves as the owner of the money that will completely fund the business's demands, while the client serves as the business's management.
4. The agreement regulates various matters related to the financing period, how to return funds, and share profits.

¹⁸ Haryanto, Steven, Athor Subroto, and Maria Ulpah. "Disposition effect and herding behavior in the cryptocurrency market." *Journal of Industrial and Business Economics* 47.1: 115-132, 2020.

¹⁹ Lailatullailia, Dian, Arin Setiyowati, and Abdul Wahab. "The Role of Sharia Banks as Nazhir Partners in the Management of CWLS Retail SWR001 Investment Products." *Perisai: Islamic Banking and Finance Journal* 5.1: 95-95, 2021.

5. Customers are allowed to make various efforts to improve their business in accordance with Islamic law while LKS acts as a coach and supervisor.
6. Total financing amounts are indicated explicitly in cash, not receivables.
7. If a loss occurs, LKS will bear the entire loss unless the loss occurs due to the negligence and fault of the customer.
8. In principle, financing using a mudharabah contract does not have a guarantee. However, as an effort so that customers or business managers do not deviate, LKS can ask for a third-party guarantee so that if the customer makes a deviation, the guarantee cannot be disbursed.
9. The DSN fatwa is used as a framework to set entrepreneur requirements, financing methods, and the profit-sharing mechanisms.
10. The customer or business manager has the burden of operating costs. As a funder, LKS has no obligations and violates the agreement so that the business manager is entitled to compensation for the costs incurred.²⁰

The role guarantee in this mudharabah contract is to ensure that previously agreed-upon agreement is followed and to offer guarantees in the case of a contract failure caused by the client. As a result, if the client suffers a genuine loss that is not the result of mistake, carelessness, or violation of contract, the guarantee cannot be seized. Mudharabah contract offer in essence only guarantees customers not to make deviations. The MUI DSN Fatwa No. 07/DSN-MUI/IV/2000 on mudharabah finance is based on this. This is also verified in Bank Indonesia Regulation Number: 7/46/PBI/2005 Article 6, which stipulates that banks can require guarantees of collateral to anticipate risks if the client is unable to complete the obligations stipulated in the maturity contract due to carelessness or fraud. This guarantee can only be paid out if the consumer is found to have broken the contract's terms.²¹

In modern fiqh, an intermediary such as Islamic banking cannot require potential clients to submit collateral since it is not a priority that must be addressed when giving mudharabah product financing monies. Another crucial consideration for the fund's owner is the feasibility and prospects of the business being financed by the investor. However, Islamic banks must still secure consumer cash, making it impossible to provide lending without collateral, because, as an

²⁰ DSN-MUI, *Fatwa Dewan Syari'ah Nasional No. 07/DSN-MUI/IV/2000 Tentang Pembiayaan Mudharabah (Qiradh)*, Himpunan Fatwa DSN MUI (Jakarta: MUI, 2000).

²¹ Fadhilah, Nurul, and Achmad Tohirin. "Comparing the Return on Mudharabah Deposit and The Return on Equity: Assessing the Fairness in Indonesian Islamic Banking Industry." *Mutanaqishah: Journal of Islamic Banking* 1.1: 1-20, 2021.

intermediate entity, banks collect funds from the general public in addition to directing funds.²² As a result, Islamic banks require guarantees to secure public monies entrusted to them. When there is a financing risk, Islamic banks can alleviate it by executing guarantees from mudharabah financing consumers.²³

CONCLUSION

Based on the findings of the study and analysis, it is clear that Indonesia has had periods of excellent and beneficial Islamic banking growth. Financing items are one of the services provided by Islamic banks. This Islamic Bank financing product has a very basic difference compared to the financing provided by Conventional Banks. The system adopted by Islamic banks is a profit-sharing system based on several contracts, one of which is the mudharabah contract. The mudharabah contract in Indonesia itself has a fairly good development, although the amount is very small compared to financing using murabahah and musharabah contracts. Islamic bank financing using this mudharabah contract is based on Islamic law and legislation such as the MUI Fatwa, PSAK, OJK, and Bank Indonesia policies. In its implementation, this mudharabah contract is carried out by the customer to the party to provide funds to run and manage the business owned. If the customer has passed the verification and other stages, the bank will provide capital with a mudharabah contract as an agreement, namely profit sharing for the profits obtained.

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²² Puspita, Mega. "Peningkatan Pembiayaan Mudharabah pada Bank Syariah: Telaah Konseptual." *Prosiding Industrial Research Workshop and National Seminar*. Vol. 12, 2021.

²³ Yuspin, Wardah, Arinta Dewi Putri, and MH SH. *Rekonstruksi Hukum Jaminan pada Akad Mudharabah*. Muhammadiyah University Press, 2020.

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