

The Nature of Musyarakah Financing and Its Implementation in Islamic Banking: A Study in the South Sulawesi Region

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ABSTRACT

The purpose of this research is to analyze the nature of musharaka financing in Islamic banking. This type of research is empirical normative. The results of the study show that the essence of Musyarakah Financing in Islamic banking in South Sulawesi is to implement divine values, humanitarian principles, principles of justice, principles of balance and rules/norms that regulate musharaka contracts in the world of Islamic banking for welfare and happiness in the world and the hereafter and obtain mercy, grace and pleasure from Allah SWT. The effectiveness of Musyarakah Financing in Islamic Banking in South Sulawesi is still lacking, there is the stigmatization of Islamic banking which is considered the same as conventional banks in terms of distributing Musyarakah Mutanaqisah (MMQ) financing.

Keywords: Financing; Banking; Sharia

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I. Introduction

The Islamic banking system is not limited by its market to customers who have religious emotional ties (Muslim communities). Sharia banking services can be enjoyed by anyone regardless of their religion, as long as they are willing to follow the way of doing business that is permitted by sharia. Society needs financial institutions that are strong, transparent, fair and committed to helping improve the economy and customers' businesses. Musyarakah contract is one of the permissible contracts according to sharia based on the arguments in the Qur'an and Sunnah.

The partnership between the bank and the customer to jointly provide capital by buying shares to finance investment is defined as a joint venture or musharaka. Another important instrument used by Islamic banking to provide financing other than mudharabah is musharaka or equity participation. Another term used for musharaka is shirkah. Or shirk. Islamic financial institutions translate it as "participation financing" to better underline one aspect of musharaka which will be explained below. In the opinion of the author, Musyarakah can be translated into Indonesian with "partnership" or "partnership" or "perkongsi". In musharaka two or more partners contribute to providing capital to finance an investment. In this case, the bank that provides musyarakah facilities to its customers participates in a new project or in an established company by buying equity shares from the company.

Profits from musharaka are also regulated, as is the case with mudharabah, by the PLS profit and loss sharing principle or as the term used by Law no. 10 of 1998 is the principle of profit sharing. Profits are divided according to a pre-determined proportion. Both parties bear the risk of financial loss. In contrast to the provisions in mudharabah which do not allow banks in the position of shahib al-mal to interfere in the management of the company, in musyarakah banks have the right to be represented by the directors of the company concerned and have voting rights.

In musharaka, the bank is a business partner. Thus, in its position as a business partner, the bank has the same rights as fellow business partners in the musharaka agreement, including participating in managing the business being financed. In addition, in supporting its operations in the context of implementing and regulating the Musyarakah Agreement, the National Sharia Council Fatwa was issued No: 08/DSN/MUI/IV/2000 concerning Musyarakah Financing and also Bank Indonesia Regulation Number 22/16/PBI/2020 concerning the Third Amendment to Bank Indonesia Regulation Number 19/4/PBI/2017 concerning Sharia Short-Term Liquidity Financing for Sharia Commercial Banks which is the national legal umbrella.

Research Methods This

type of research is a combination of empirical normative research. Empirical normative research is legal research that combines normative legal research and social/empirical legal research. The research location "The Nature of Musyarakah Financing in Sharia Banks (study in South Sulawesi)" was conducted at Bank Muamalat Indonesia, Bank BPD Sulselbar Syariah, and OCBC NISP Sharia Regional Office in South Sulawesi.

Discussion

Nature of Musyarakah Financing in Sharia Banking

1. Divine

Value The divine value in the concept of sharia economics is also referred to as divine economy (divinity) which means that humans were created by Allah SWT. to fulfil His commandments, namely worship, and in seeking the necessities of life, humans are only based on rules. (Sharia) with the main goal of gaining the pleasure of Allah. As the highest value, the divine value provides demands and guidance for every human being in doing business, because the concept of sharia economics is based on several main or primary rules based on the Qur'an and As-Sunnah in the field of economics or property.

The divine value which is also called the concept of monotheism, according to Muhammad, Islamic economic activities and Islamic banks cover three domains of life, namely: first, economic and business activities place of worship. In the realm of economic activity and business, it is a medium of worship (worship) of an individual to his God. Second, economic and business activities are seen as a place of wealth. In this perspective, economic and business activities are part of the noble task of humans in distributing economic resources as well as creating and maintaining the continuity of human welfare. Third, economic and business activities are a place of welfare, namely a means to combat socio-economic inequality in society and a weapon to cut off one's ego which tends to focus on self-interest. Ontologically, monotheism in the perspective of Islamic bank management is understood as faith (belief) in the oneness of God. Tawhid describes the relationship between man and God. Belief in the oneness of God alone is not sufficient for the element of monotheism, because monotheism requires commitment and consistency. Humans in realizing their self-serving before God through real good deeds both for themselves and others to achieve the pleasure of God. Tawhid which is an axiom of Islamic economic ethics in that perspective is an implementable theoretical concept. Statements and acknowledgements of the oneness of God are described practically, in the realm of economics and business. Divine values as transcendent values are written directly and subconsciously by every human being, that human activity is part of worship, and worship is the essence of the creation of man to earth, before he was sent down to earth, he first initiated himself to acknowledge the existence of God's sovereignty. Islamic economics is characterized by divinity (Ilahirabbani), because it is based on several rules, principles and principles of divinity derived from Islamic sharia sources. and concepts and values. Divine values which are reflected in honesty, thoroughness, and wara' (ascetics) are the main keys in the Islamic economy. The principle of monotheism leads people in economic activities to believe that the property that is in the palm belongs to Allah, which among other things is maintained by the owner so that it is given (in part) to those who need it. (Surat an-Nur (24) verse 33).

وَلَيْسَتَعَفَىالَّذِينَ لَا يَجِدُونَ نِكَاحًا حَتَّى يُعْزِبَهُمُاللَّهُ مِنْ فَضْلِهِالَّذِينَبَيَّعُوانَاكَتَبَ مِمَّا مَلَكَتْأَيْمَانُكُمْفَكَاتِبُوهُمْأَوْعَلِّمُوهُمْحِرًاأَوْأَنْتَاهُمْ مِنْ مَالِاللَّهِالَّذِيءَاتَيْنَاكُمْ وَلَا تَكْرَهُوا فْتَيْنَكُمْ عَلَى الْبِغَاءِإِنآرَدْتُمْحَصْنَالتَّبَعُوا عَرَضَ الْحَيَاةِالدُّنْيَا وَمَنْ يُكْرِهِنَّ فَإِنَّاللَّهَمُبْعِدِإِكْرَهُنَّ عَفْوَ رَجِيمٍ ۝۳۳

The translation:

33. "And those who are unable to marry should keep their chastity (self) so that Allah enables them with His bounty. And the slaves that you have who want a covenant, make a covenant with them, if you know there is any good in them, and give them a share of the treasure God has given you. And do not force your female slaves to commit prostitution, while they desire chastity, because you seek worldly gain. And whoever compels them, then indeed Allah is Forgiving, Most Merciful (to them) after they were forced."

The divine value based on the discussion is the grundnorm for sharia economic activities. Islam as al-din (the religion) covers all aspects of human life, including state and legal aspects. The Qur'an does not recognize the doctrine of the separation between religious life and social life. Therefore, the notion of secularism that wants to separate religious life and social life is not recognized in Islamic teachings. The divine value in Islamic economics shows the concept of Islamic economics. that economic activity is inseparable from the basis and guidelines specified in Islamic Law. Especially according to the Qur'an and As-Sunnah, economic processes and activities are not only oriented to worldly aspects but also to divine aspects. Divine values, for example, will continue to bring them closer. Islamic Banks and their customers (macro, small, medium enterprises) that business activities remain within the rules based on Islamic Law Sources. When examined from the side of banking companies, the principles used in carrying out Islamic banking activities are not merely making profits or capturing market opportunities that are inclined towards sharia. But more than that, the initial intention was to implement sharia values in the banking world. Meanwhile, from the customer side, the

musharaka contract in sharia banking is aimed at transacting in the form of mutual assistance based on sharia principles, and not merely seeking profit, then the divine value is implemented in the sharia banking industry. The principle of justice is part of the divine value in the implementation of contracts. The above contract means that the customer (micro and medium enterprises) is not burdened with business risk because the risk is shared with Islamic banks. It is different in conventional banking when there is bad credit, the customer's collateral will be auctioned to return the bank's funds. The implementation of values in Islamic banking, namely the divine value, also appears in the financing contract which begins with the sentence "Bismillahirrahmanirrahim". While the court's decision begins with the sentence "For the sake of Justice Based on God Almighty". This value lays the basis of economic behaviour in controlling divine values as the basis of the value that all human activities in the world will be held accountable at the end of the day. Thus, this principle is intended to build a sense of human cognitive awareness that all human activities are always under God's control and therefore there is no room for him to commit fraud in carrying out economic activities. The three main points of Islamic economic philosophy above gave birth to the basic values of the Islamic economic system.^[1]

This divine value that results in the belief in the unity of the world and the hereafter leads an entrepreneur to not only pursue material gains but more importantly, eternal and eternal profits that are blessed by Allah SWT. Divine values lead a Muslim entrepreneur to avoid all forms of exploitation of fellow human beings. It is understandable why Islam not only prohibits the practice of usury, and theft but also disguised fraud, even to the point of prohibiting offering goods when consumers receive the same offer from others.^[2]

2. Principles of Humanity Humanity

in the Islamic economic system is both a target and a means. The main goal and goal of Islam is to realize a "good life" for humans with all its elements and pillars. Islamic economics also aims to enable humans to fulfil the life needs that are prescribed. Humans need to live a Rabbani lifestyle and at the same time humane, so that they can carry out their obligations to God, to themselves, to their families and to humans in general. Human values are gathered in Islamic economics in several values that Islam shows in it. al-Qur'an and as-Sunnah. For example, inheritance, as an example of these values are the values of independence and glory, sincerity, justice, brotherhood, mutual love and mutual help among human beings.^[3] Islamic economics teaches humans to cooperate and help each other. In Islam, helping each other is the duty of every Muslim. The concept of mutual assistance should not only be carried out in a narrow scope. To keep this help-mencolong always in the corridor of goodness and piety, a system that is truly by sharia is needed. Helping is a must because whatever is done requires help from others. There is no human being on this earth who does not need help from others. An entrepreneur who builds a factory, for example, needs factory employees. The factory that is established will not run if there is no help from others. So in this life, helping is a must, so that the Messenger of Allah (saw) ordered humans not only to those who were wronged. but also helps the oppressor so that the oppressor will no longer do wrong.

لَ الْمُؤْمِنِينَ أَدَمُ أَلْحَمِيمِ أَصْلُهُمْ لَ الْجَسَدِ الْوَاحِدِ، ا اشْتَكَى اَعَى لَهْ ائِرُ الْجَسَدِ الْخَمَى السَّمَرُ

Translation: The

parable of the believers in (strengthening) love and affection between them is like the members of one (body) feel sick, then all other members feel feverish and can't sleep (HR. Muslim)

The concept of helping (taawun), in the face of uncertainty is one of the very basic principles of Islamic economics which is considered to be able to support aspects of justice. Justice is a fundamental aspect of the Islamic economy. Determination of a business result up front in business activity is considered as something that can incriminate one of the trying parties, thus violating the aspect of justice. Musyarakah is a means of helping fellow human beings. The existence of a concept like this means that fellow customers have implemented mutual help, even though they do not meet each other face to face. Musyarakah financing is not a loan that is given with interest. Musyarakah financing is a form of a joint venture between the customer and the Bank in running a business where the bank and the customer both have initial capital in the business, including a profit margin above the cost of acquisition which is mutually agreed upon according to the total portion of capital.

As a form of business cooperation and not a form of loan, musyarakah financing must meet all the requirements needed for a joint venture. Musyarakah can be used as a form of financing, usually applied to project financing where the customer and the bank both provide funds to finance the project and after the project is completed the customer returns the funds together with the agreed profit sharing for the bank. in the case except when the customer requires funds for other purposes. For example, if the customer wants money to increase his business capital, the bank can enter into a form of business cooperation by financing the provision of shophouses or real production goods to the customer in the form of (financing) musyarakah. Because musharaka requires real business cooperation from a commodity and does not only extend loans, Please help this being one of the values contained in Islamic economics is required to be able to help his brother out of the problems he faces. Helping people who still enjoy usury towards an Islamic or sharia system is also categorized

as part of the value of mutual assistance. Moreover, it can help people get out of the valley of poverty. Islam teaches the concept of al-musawat (equality) among human beings. All natural resources, flora and fauna are subject to any human being as a source of economic benefits. Here, the concept of human equality in the management and utilization of resources is clear. The concept of human equality (equity equality), shows that Islam rejects the classification of humans based on class.

This doctrine implies that between humans there is a sense of brotherhood in economic activities, mutual assistance and cooperation in the economy, namely syirkah, qiradh and mudharabah (profit and loss sharing). This is what is being applied in microeconomic activities in Islamic financial institutions today, such as sharia banks, sharia insurance, sharia bonds, sharia capital markets, Baitul Maal wat Tamwil (BMT). In the macroeconomic context, this profit-sharing practice is applied in foreign loans, and government monetary instruments so that the usury system is completely abolished in all economic activities, both micro and macro. The egalitarian attitude built into Islamic economic activity is different from the individualistic capitalist economic system. The capitalist economic system is built based on a concept that only provides benefits to the owners of capital, be it an interesting system, or a profit-making process that justifies all means. The consequence of the principle of ukhuwah is the necessity of business cooperation. Cooperation is the idealism of economic interaction. However, in practice, cooperation is only limited to the concepts and discourses of Islamic economic thinkers or in the world of Plato's ideas which are not yet present in actual practice. Business people often use the idiom of cooperation, but what is applied in the field is competitive.

3. The Principle of Justice

Justice is the spirit of Islamic banking which is formulated with the principle of sharing profits and losses. Currently, the principle of sharing profits and losses is a beautiful word in Islamic economic circles. Many people voice the principle of justice in the economy by applying the principle of sharing profits and losses, but at the implementation stage in Islamic banking, it turns out that until now its application has not achieved justice, even as upholding a wet thread. In principle, there are differences in the pattern of relationships between the Bank and its customers. If the credit system places banks as creditors and credit customers as debtors (borrowers), then in sharia banking, the bank functions as the owner of funds/capital/shahibulmaal and the financing customer as business manager/mudharib. on financing based on the principle of cooperation/partnership.

Furthermore, such a relationship pattern between the bank and the financing customer has an equal position and acts as a business partner. Regarding the principle of justice in the musharaka contract in Islamic banks, it will not be separated from the so-called legal principle. Legal principles function as a foundation that provides direction, goals and fundamental assessments, containing ethical values and demands. In this regard, in a chain of principles, norms and legal objectives serve as guidelines and measures or criteria for human behaviour.^[4] Through legal principles, legal norms change their nature to become part of an ethical order that is by societal values. An understanding of the existence of a legal norm (why a legal norm is promulgated) can be traced from its "ratio legis". Although legal principles are not legal norms, there are no legal norms that can be understood without knowing the legal principles contained in them. Justice is the ultimate goal of a system, which is closely related to the function of the legal system as a means to distribute and maintain an allocation of values in society, which is implanted with a view of truth, which generally refers to justice. Sometimes positive law fully guarantees a sense of justice, and conversely, a sense of justice often does not have legal certainty, so the compromise is how to make the existing positive law always a reflection of that sense of justice.

Based on the results of a short interview by the researcher with one of the experts in the field of Islamic Economic Law in South Sulawesi, Prof. Arfin Hamid explained that fairness and honesty are the keys to the success of a sharia contract, especially mudharabah and musharaka as an indicator of the assessment of the progress of sharia banking in a direction that is by the sharia concept. The researcher states that the determination of the margin of the Musyarakah contract must reconstruct the principle of justice. This is based on the principles of justice (1) between the interests of customers and Islamic banks, (2) between the enforcement of Islamic economic symbols and the company's operational capabilities (including profit-seeking interests), (3) and the ability of Islamic Banking to describe the company's significant market with the determination proportional margins (not too small and not too big).

Implementing the principle of sharing unfair profits and losses in. Financing contradicts the ideals of sharia banking law, namely Law Number 21 of 2008 which requires a fair bank because its presence in Indonesia carries out the mandate of the 1945 Constitution of the Republic of Indonesia to carry out the task of economic equality in the context of the welfare of the Indonesian population that is fair and maslahah based on the principle of - sharia principles. There are three principles of Islamic economic philosophy. First, everything in this universe belongs to Allah SWT. Humans are only caliphs who hold a mandate from Allah SWT to use His property. so that everything must submit to Allah the Creator and owner. (Surah: Al-Najm: 31). Second, to be able to carry out their duties as the caliph of Allah, humans are obliged to help and help each other in

carrying out economic activities that aim to worship Allah. Third, believe in the Day of Judgment which is an important principle in the Islamic economic system. With this belief, human behaviour can be controlled. Because humans are aware that all their actions will be held accountable later by Allah SWT.^[5] Under these three main philosophies, there are several principles in sharia economics, as follows;

1. The basic principles of ownership, according to the Islamic economic system:
 - a. Ownership is not absolute control over economic resources, but every person or entity is required to have the ability to utilize these economic resources.
 - b. The length of human ownership of an object is limited to the length of time humans live in the world.
 - c. Resources relating to the public interest, such as water, oil, natural gas, and other basic needs must become public property.
2. A balance that is manifested in simplicity, frugality and avoiding wasteful attitudes. (OS. Al-Furqan: 67).
3. Justice in economic life such as distribution, production, consumption and so on.

Justice is also manifested in allocating certain economic activities for people who are unable to enter the market through zakat, infaq, and grants. The three principles above, in the next stage, become the core in various applications of shari'ah economics. Islamic banks for example. In this bank, a fair system was developed called profit sharing (profit sharing). If the capitalist system uses interest instruments as a built-in conventional bank, Islamic banks shift it to a profit-sharing system. A profit-sharing system is an explicit form of anti-usury which has been opposed by sharia banks from the start. Because, Islam strictly forbids its people to give, take or eat usury.^[6] In conventional bank interest, the owner of the capital is the person who benefits greatly because it is in the interest of the bank. whatever the conditions he will still earn interest without effort and sweat.

4. Principle of Balance

Various concepts of buying and selling transactions have been formulated in Islamic economics. One of the transactions that can be carried out by Muslims is musharaka. Musyarakah transaction is a business cooperation contract between mudharib and shahibulmaal in which each invests their capital and the profit (margin) is agreed upon. Cooperation transactions or business partnerships are carried out based on the concept of musyarakah. The concept of musharaka has the aim of creating a balance of benefits for various parties. Balance is a basic value whose influence can be seen in various aspects of the Muslim economy, such as simplicity, mutual benefit and agreeing on mutual agreements.

The concept of this balance is not only the scales of the goodness of business results directed to the world and the hereafter but also relates to individual interests or freedoms with the public interest that must be maintained and a balance between rights and obligations. sharia, the actualization of which is the balance of individual ownership and public ownership. Sharia transactions uphold the value of togetherness and fairness in obtaining benefits (sharing economics) so that one person should not benefit at the expense of others. the implementation of justice in business activities, one of which is in the form of rules/rules of muamalah which prohibits the element of interest in all forms and types.^[7]

The principle of balance in a contract or agreement can be interpreted as equality in law or equality, in contract law using the term balance. This is an implementation of the principle of good faith, the principle of transactions based on honesty in determining something, including in terms of determining the "profit sharing margin" because later it will result in determining the portion of the capital amount of each party in determining the margin there are differences in instalments between 2 (two) years with instalments with a period of more than 2 (two) years (what happens is that the instalment payments are greater than they should be). The principle of balance (tawazun) leads to the prevention of all forms of monopoly and the concentration of economic power in one hand or one group.

5. Musyarakah Contract

Syirkah or Musyarakah comes from the root words in Arabic, syirkatan (masdar/basic word) and syarika (fi'ilmadhi/verb) which means partner/ally/partnership/union. Linguistically, syirkah means al-ikhtilath (merging or mixing).^[8] In general, syirkah is divided into two, namely: 1) syirkahamlak (ownership), and 2) syirkahuqud (contract). Syirkahamlak consists of amlakikhtiari (optional) and amlakijbari (automatic/absolute) while syirkahuqud consists of syirkahamwal (assets/assets), syirkahabdan (skills) and syirkahwujuh (reputation/good will). Apart from the type, syirkah is also divided based on the share of capital participation, namely in the form of syirkahinan if the capital portion of the partnering parties is not the same, while if each partnering party includes an equal share of capital it is called syirkahmufawadhah.

Musyarakah financing is financing in the form of a cooperation agreement between the BUS/UUS/BPRS and the customer in the form of capital pooling by each party to carry out certain businesses or projects and/or efforts to own certain assets to obtain several benefits provided that the profits (profit) and loss

(loss) will be shared. Profits are divided based on the agreement or share of capital while losses are borne only for the share of each capital.

The following is an explanation regarding the types of syirkah as explained by Sayyid Sabiq in the book of Fiqh Al Sunnah:^[9]

a. AmlakSyirkah: Amlak

Syirkah is a syirkah that occurs not because of a contract, but occurs because of a certain effort (ikhtiari) or occurs naturally/automatically (jbani). Therefore, syirkahamlak is further divided into two types, namely:

1) syirkahamlakikhtiari

examples of grant contracts, wills, and purchases. So, in the amlakikhtiarisyirkah there is no wakalah contract and territorial contract (control) from one syarik to another, and

2) syirkahamlakijbari

is syirkah between two or more syariks that occurs due to natural events automatically such as death.

This amlaksyirkah is called ijbari (forced/absolute) because there is no effort from the syarik to realize the events or factors that cause joint ownership. For example, the death of a father is a factor that causes the division of property among the heirs.

b. SyirkahUqud:

SyirkahUqud is two or more parties who agree to combine assets to carry out business/business activities, and the results are divided between the parties in the form of profit or loss. In the book of Fiqh, syirkahuqud is classified into four types: 1) syirkahamwalinan, 2) syirkahamwalmufawadhah, 3) syirkahabdan, and 4) syirkahwujuh. Even Hanafiah scholars divide syirkahuqud into six types, namely: 1) Syirkahamwalmufawadhah, namely business capital partnerships from syariks with the same amount of capital, 2) Syirkahamwalinan, namely business capital partnerships from syariks with different amounts of capital, 3) SyirkahAbdanmufawadhah, namely partnership skills from syarik as business capital with the same skill quality, 4) Syirkahabdaninan, namely partnership skills from syarik as business capital with different skill qualities, 5) Syirkahwujuhmufawadhah partnership business credibility or good name / reputation (good will) from the syarik as business capital with the same credibility quality, and 6) Syirkahwujuhinan partnership, namely business credibility or good name/reputation (good will) of the syarik as venture capital with different credibility qualities. The conditions for syirkahuqud^[10] are first, qabliyah al wakalah, namely that in syirkahuqud there is a wakalah contract because syirkahuqud aims to do business (mu'awadhat) which is impossible unless there is a power of attorney from each syarik party. Second, the profit obtained in syirkahuqud must be determined by the ratio for each syarik. Third, the profit share for each syarik should not be stated in a certain definite amount (such as one hundred million or one billion), but stated in a ratio such as 60:40, or 55:45.

In financing activities using Musyarakah and MusyarakahMutanaqishah Products, Islamic banking must ensure that the implementation of financing is by Sharia compliance as stipulated in various Islamic legal provisions including the DSN fatwa^[11]

1 Musyarakah Contract Provisions

Is one type of contract implemented by Islamic banking? Musyarakah is implemented through a profit and loss sharing mechanism between the parties (partners/syarik) through both profit and revenue sharing methods.^[12] The portion of financing under Musyarakah contracts currently only contributes 22% of the total financing of Indonesian Sharia Banking while Murabahah is around 60%. The concept of profit loss sharing in the Musyarakah contract is a special feature as a differentiator between Islamic banking activities and conventional banking. Joint responsibility for the profits and losses experienced between the bank and the customer is a special criterion that can attract more customers if the Bank can manage risk properly. Musyarakah contracts can be applied and developed in various forms of financing products, both productive and consumptive for working capital, investment and consumption.^[13] Musyarakah and MusyarakahMutanaqishah Sharia Banking Product Standards.^[14]

1. An agreement with a Musyarakah contract must fulfil the following pillars:

1. The party to the contract; The Bank and the Customer where both are the owners of capital (Shahibul Maal) while the Customer is not only the owner of capital but also the executor (Musyarik);

2. Capital; each party includes capital to buy an asset or carry out a particular business/project;

3. contract object; the object of the contract can be in the form of assets, projects or businesses that will generate profits for the parties;

4. IjabQabul; statement of offer (jab) and acceptance (qabul) stated by the parties concerned to show their respective wills in agreeing (akad).

5. Profit Sharing Ratio; the distribution of the profit portion to be obtained by the parties in the form of a percentage, not a fixed amount of money.

2. The binding of the Musyarakah Financing Agreement between the BUS/UUS/BPRS and the Customer must be stated in writing which can be done privately or under notarial legalization.

3. In the Musyarakah Financing Agreement between the BUS/UUS/BPRS and the Customer it must be clearly stated that the cooperation between the owners of capital is carried out to make a profit.

4. In the Musyarakah Financing Agreement, the Customer and the BUS/UUS/BPRS both provide capital and it must be stated clearly the comparison between the capital of the BUS/UUS/BPRS and the customer's capital.

5. Musyarakah financing provided by the BUS/UUS/BPRS and the Customer is to finance certain businesses/projects/assets, both existing and new, which will be managed by the customer according to the terms agreed upon by the BUS/UUS/BPRS.

6. Musyarakah financing provided by BUS/UUS/BPRS can be in the form of capital cooperation either in a fixed amount (uninstalled capital) or a decreasing amount (capital in instalments).

7. In Musyarakah Financing a fixed amount, the share of the capital of each partner is determined according to the contract and the amount is fixed until the end of the contract period, where at the end of the contract period the BUS/UUS/BPRS promises to sell all of its capital at once to the Customer and the Customer promises to buy the entire capital of the BUS/UUS/ the BPRS.

8. In Musyarakah Financing the amount decreases, and the capital portion of the BUS/UUS/BPRS will be sold in stages (in instalments) to the Customer (or another party) so that the capital portion of the BUS/UUS/BPRS will decrease from time to time and at the end of the contract period, the BUS/UUS /BPRS no longer owns capital (became owner) in the business/project/assets.

9. Return on capital and profit sharing rights of BUS/UUS/BPRS are calculated and agreed upon based on the agreement made by the related parties.

10. The profit-sharing ratio does not always have to be the same every month during the financing period, even though the contribution of fixed capital or also the contribution of capital decreases, as long as this is agreed upon from the beginning and is written in the making of the contract. This depends on the cash flow calculation for the project/business to be financed.

11. If during the project activity or business activities of Musyarakah Financing there is a change in the capital contribution, causing a change in the profit sharing ratio, an addendum (change) must be made to the previous agreement agreed and signed by the parties concerned.

2. Provisions of Related Parties:

1. The parties to the Musyarakah contract are the permitted parties which are included in the individuals and/or companies/business entities;

2. The parties to the Musyarakah contract must have the legal capacity to execute the contract;

3. Musyarakah contracts must be accompanied by offers (ijab) and acceptance (qabul) from both parties;

4. One or both parties are allowed to carry out the contract through a valid intermediary, as evidenced by a representative statement signed by the party concerned;

5. The parties must be bound by the provisions that have been agreed by both parties in the contract in which none of these provisions violates the compliance of sharia principles in it.

3. Standards of Musyarakah Agreements

In the Sharia Standards book compiled by OJK, the general provisions of standard Musyarakah agreements are as follows:

1. The composition of a Musyarakah financing agreement drawn up by BUS/UUS/BPRS must consist of 4 (four) parts, namely: Title, Comparison, Content, and Closing;

2. The contents of the Musyarakah financing agreement must be based on the agreement of the parties by the principle of consensualism in the standard contract agreement. The agreement of the parties is a manifestation of the pleasure (arradhiyyah) which is stated in the form of consent and acceptance (sighatakad) at the time of binding the agreement;

3. In the process of reaching an agreement in agreement, the BUS/UUS/BPRS explains the contents of the agreement to be signed and provides an opportunity for Prospective Customers to understand and provide opinions regarding all standard clauses of the Musyarakah financing agreement made by the BUS/UUS/BPRS;

4. Covenant Law by Articles 27 and 28 of the KHES is divided into 3 categories, namely: 1. A valid (valid) contract, namely a contract that fulfils the pillars and conditions; 2. Fashion (voidable) contract, namely a contract that fulfils the pillars and conditions but other things damage the contract because of considerations of benefit; 3. A void (void) contract is a contract that lacks conditions and pillars;

5. The Musyarakah financing agreement or contract must meet the legal pillars and conditions as stipulated in Article 22 of the KHES and 1320 of the Civil Code;

6. The contract agreement that has fulfilled the pillars and legal requirements is referred to as a valid or authentic contract;

7. A valid or authentic contract agreement will give rise to rights and obligations for each party and all legal consequences that arise are binding on both parties;

8. The pillars and legal requirements of a Musyarakah contract include the subject of the contract (aqid), project or business (masyru), capital (ra'sul mal), agreement (sighatulakad), and profit sharing ratio (nishbaturibhin);
9. The conditions for implementing the Musyarakah agreement or contract consist of subjective conditions and objective conditions. Subjective requirements are related to the skills of legal subjects and objective conditions, namely related to objects that are agreed upon must be amwal (halal);
10. Legal subject skills are related to the ability to assume responsibility;
11. The incompetence of legal subjects is divided into two, namely muwalla for natural persons and taflis for legal persons or business entities. This legal incompetence will result in the contract agreement being fashid (damaged) and/or void (void);
12. Natural persons who are considered capable are those who have reached the minimum age of 18 (eighteen) years or have been married as mentioned in Article 1 paragraph 6 of the KHES;
13. An incompetent legal person or legal entity (syirkah), namely in the case of being declared bankrupt based on a court decision that has obtained permanent legal force as stated in Article 2 of the KHES;
14. The objective requirements are related to lawful causes (amwal), namely the object of the contract must be free from maghrib elements (maysir, gharar, and usury);
15. An agreement or Musyarakah contract may not contain elements of ghalat (mistake), ikrah (coercion), taghrir (deception), and composition (disguise);
16. Ghalath or mistake does not result in the cancellation of a contract unless the mistake occurs regarding the nature of the subject matter of the agreement as stated in Article 30 of the KHES;
17. Ikrah or coercion states that coercion encourages someone to do something not based on their free choice as stated in Article 31 of the KHES;
18. Coercion (ikrah) can cause the contract to be cancelled if the forced party will immediately carry out what he has threatened because his mental condition feels depressed as stated in Article 32 of the KHES;
19. Taghrirat or deception is the formation of a contract through deceit under the pretext of the benefit, but in fact, to fulfil its interests it is stated in article 33 of the KHES;
20. An agreement or contract formation through taghirat (fraud) can be the reason for the cancellation of a contract;
21. Gubhn or disguised as a condition that is not balanced between achievement and reward for achievement in a contract as stated in Article 35 of the KHES;
22. Musyarakah agreements or contracts based on Article 21 KHES must meet the following principles:
 - a. Voluntary or ikhtiyar (every contract is made based on the will of the parties and not because of compulsion);
 - b. Keep promises or mandates (every contract must be carried out by the parties);
 - c. Prudence or ikhtiyati (every contract is carried out with careful consideration);
 - d. Unchanged (every contract has a clear purpose and avoids speculation);
 - e. Mutual benefit (every contract is made to fulfil the interests of the parties to avoid manipulation);
 - f. Equality or taswiyah (the parties carrying out the contract have an equal position, and have balanced rights and obligations);
 - g. Transparency (the contract is carried out with the accountability of the parties openly);
 - h. Ability (the contract is carried out according to the ability of the parties);
 - i. Ease or taisir (a contract makes it easy for each party to carry it out);
 - j. good faith (a contract is implemented to enforce the benefit);
 - k. The reason is lawful (the contract is not against the law).

II. Conclusion

The essence of Musyarakah Financing in Islamic banking in South Sulawesi is to implement divine values, humanitarian principles, principles of justice, principles of balance and rules/norms that regulate musharaka contracts in the world of Islamic banking for welfare and happiness in the world and the hereafter and obtain grace, grace and pleasure from Allah SWT. Meanwhile, from the customer's perspective, the musharaka contract in sharia banking is aimed at transacting in the form of mutual assistance based on sharia principles, and not solely for profit. Then the value of monotheism is implemented, it will also realize the economic benefit of the people in the Musyarakah contract at Islamic Banks in South Sulawesi.

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