

Ijarah Application in Shari'ah Mutual Funds

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Abstract

Investment is one way to increase income. The Islamic capital market is one of the instruments for investing that functions as a bridge between investors and entrepreneurs who need capital with the basis and principles of Shari'a. The Islamic Capital Market provides various products including Sharia mutual funds. The mechanism for implementing Shari'a Mutual Funds involves Investment Managers (MI) who represent all investors and Custodian Banks as banks that maintain, maintain, and guarantee the security of investors' money. With so many parties involved in mutual funds, it is possible that the contracts used are various. The purpose of this study is to identify the application of ijarah in sharia mutual funds. This research uses qualitative calculations. Data sourced from the Quran, al-Hadith, opinions of scholars and economists, journals both printed and online materials. The results of this study illustrate that the application of ijarah in Sharia mutual funds is found in the provision of wages/rewards (ujroh) to Custodian Banks for services in investment administration, securities storage and investment funds from Mutual Funds taken from net asset value (NAV) calculated in percentages. However, there are still irregularities, in which wages (ujroh) are calculated in percentage terms. The determination of wages should be calculated by nominal not by percentage, because it includes the form of gharar that is forbidden in sharia.

Keywords: Ijarah, Shari'a Mutual Fund, Investment Manager, Custodian Bank.

Introduction

According to the Central Statistics Agency, one of the indicators of developed countries from an economic perspective is that the country is experiencing positive economic growth (Statistics, 2019). The World Bank (1917) stated that positive economic growth was shown by state income per capita lk reaching \$ 12,056 (BPS, 2022). If assuming 1 dollar equals Rp. 15.000, - then lk Rp.180.840.000,-/year. While the per capita income of the Indonesian population is currently still at the level of \$ 3,876 (lk.58,140,000,-) per year. Thus, Indonesia cannot yet be categorized as a developed country. Therefore, to increase per capita income in Indonesia, serious efforts are needed to improve the financial industry, one of which is increasing the capital market as a safe investment measure to increase income (Sepdiana, 2019).

Nadia explained that the Indonesian economy gets a share of benefits from the capital article because it has brought together debtors and creditors. Capital markets offer a means to invest with stocks, bonds and mutual funds. Investors who buy securities will get returns and dividends. The dividends earned will be deducted for state taxes. The tax withheld will increase the revenue of the State (Nadia Roosmalitas Sari, 2022). In investing, there are three things that must be taken into account, namely; expected return; rate of risk; and funds available to invest. In this case, investor typologies can vary, there are investors who have the

courage and readiness to bear risks (*risk seekers*), there are neutral investors (*risk neutrality*), and there are also investors who do not like risk (*risk averter*) (Dewi, 2022).

The number of mutual fund investors in Indonesia in 2019 was 1.7 million, in 2020 it rose to 3.6 million, until 2022 as of December 28, it rose to 9.59 million (Goddess, 2022). Latest data, until November 21, 2022 – PT. The Indonesian Central Securities Depository (KSEI) noted that investors in the Indonesian capital market had exceeded 10 million investors (KSEI, 2022). Based on KSEI data as of November 3, 2022, the number of capital market investors referring to *Single Investor Identification* (SID) has reached 10,000,628, with a composition of 99.78% of local investors.

This achievement is supported by technological developments that facilitate all community activities, especially in encouraging public interest in investing. So it will continue to grow and require monitoring and evaluation. With the increase in investment awareness, it means that the public can help the capital of companies, both state-owned companies and private companies. In this case, Indonesia, which has a majority Muslim community, has the opportunity to synergize in the implementation of the shari'ah mutual fund system (Pangestu, 2022) (Sari, 2021). However, not all investment instruments in the capital market are in accordance with sharia principles. Therefore, to meet the investment needs of Muslim investors in Indonesia, on July 3, 1997 a sharia capital market was established with its initial product sharia mutual funds from PT. Danareksa Investment Management. After three years, PT. Danareksa Investment Management in collaboration with PT. The Jakarta Stock Exchange released the Jakarta Islamic Index (JII) on July 3, 2006 (Khuron, 2015).

Understanding mutual funds linguistically consists of two words, namely mutual which means *riksa* or maintained, and *dana* means a collection of money. Thus the definition of a Mutual fund means a collection of money that is maintained (Soemitra, 2009). Then according to the Capital Market Law No. 8 of 1995, Mutual funds are a forum used to collect funds from the investor community to be subsequently invested in *Securities Portfolios* by Investment Managers (MI) (Umam, 2013). In Indonesia Mutual funds have been around since 1997 through PT. Danareksa, then within the next semester 24 mutual funds have been born (Rodoni, 2008). Legalized by Bapepam on June 12, 1997, under the name Danareksa Syariah. In mutual funds, there are three important elements, namely the existence of investors as capital owners, entrepreneurs as investment managers, and Investment Managers (MI) who represent all investors entrusted with managing investments. Even added one more element, namely the Custodian Bank as a party that stores, maintains, and secures investment money. Thus, it can be said that mutual funds are a collection of money that is maintained (Soemitra, 2009).

Many studies on Sharia mutual funds have been many, including Aini Masrurah argues that the high needs of life and the inflation rate in Indonesia from year to year are the backgrounds to the importance of carrying out investment activities because *saving* is no longer able to be a solution in improving one's financial capabilities (Masrurah, 2015). Investment is an activity/activity of placing a number of funds in investment instruments with the hope that they will get added value in the future. One interesting investment instrument is mutual funds. Through mutual funds, one can invest with very low capital, as well as diversify, have a small risk, but have competitive returns.

Then Anindya Ardiansari argues that one of the investment alternatives that is growing today is Mutual Funds, the high growth of Mutual Funds is caused by the convenience for investors who do not have much time and expertise to manage their investments, that Mutual

Funds offer their investments in the form of portfolios with a composition of instruments formed by investment managers or MI (Maulana, 2018).

Supported by Method et.al that mutual funds get investors' attention because the level of risk is smaller than other investment instruments, this is because mutual funds are managed by trusted parties in the investment field called professional management (Method, 2020). As a result, he offers to invest freely because the performance **between equity funds and index funds measured** using the *sharpe, treynor and jensen* methods does not have a significant difference in performance, because the return and risk are the same.

Furthermore, Reonika Puspita Sari (2018), in her abstract explained that sharia mutual funds in their investments not only aim to get high returns and not only maximize high welfare for capital owners, but pay more attention to the portfolio owned remains in the aspect of investing in companies that have halal and good products that do not violate sharia rules (Sari R. P., 2018). However, Saiful Muchlis and Rimi Gusliana Mais (2022), stated that sharia stocks have a significant effect on national economic growth, sukuk have a significant effect on national economic growth while sharia mutual funds do not have a positive effect on national economic growth (Muchlis, 2020).

In the research above, it is explained that Islamic mutual funds have the opportunity to become one of the best instruments in investing, but there is a phenomenological gap. So there needs to be research that discusses sharia mutual funds more deeply, especially in terms of the contract used. According to fatwa no.20/DSN-MUI/2001, the contracts used in sharia mutual fund operations are *mudharabah (qard)* and *musharakah*. However, there are so many parties involved in sharia mutual funds that it is possible to make various kinds of contracts occur in the operation of Sharia mutual funds. So in this study, researchers focus on the main issue of how the concept and implementation of *Ijarah* in Islamic mutual funds.

Research Method

This research is descriptive qualitative research. Qualitative research is a procedure that can produce descriptive data in the form of written or oral presentations and their interpretations (Nasution, 1988). Data analysis techniques with this analysis (content analysis) is technique by emphasizing the content of communication, the meaning of communication content, reading symbols, and the use of symbolic interaction content that occurs in communication. Benard Berelson and Gary Stainer (1959) in Sena, et al define content analysis as: "content analysis is a research technique for the objective, systematic, and quantitative description of the manifest content of the communication." (Berelson, 1952)

The theory used is *Grounded theory*, the method used is the Descriptive Analytical method, while the method of drawing conclusions uses the abductive Inference method. The term Abductive Inference is to conclude the collected data that is most likely to be considered true. This research is literature research (Bungin, 2011). Available data sources consist mostly of documented materials (books, newspapers, tapes, manuscripts). Then, complementary information that explains and as a method of approach to the data. Researchers use technical skills to process the materials / data they collect because some of the documentation is very distinctive/specific (Sena Wahyu Purwanza, 2022).

Discussion

Shari'ah Mutual Fund

Shari'ah mutual funds within the DSN-MUI Limits are: "Mutual funds that operate according to the provisions and principles of Islamic Shari'ah, both in the form of agreements between investors as property owners (*shahib al-mal / rabb al-maal*) and investment managers (MI) as representatives of shahib al-Maal and between investment managers as representatives of *shahib al-Maal* and investment users" (MUI, 2001). Mutual fund institutions are issuers (issuers) of share certificate units whose main activity is to invest in securities, reinvest or trade securities on the stock exchange (Darmawi, 2006).

The Islamic capital market began with the publication of Islamic mutual funds on July 3, 1997, and was followed by the publication of the Jakarta Islamic Index (JII) on July 3, 2000 by the Indonesia Stock Exchange in collaboration with PT. Danareksa Investment Management (DMI) in the development of sharia capital market in Indonesia. Fajar (2022) explained that in sharia mutual funds, there is a screening process which is a process of screening securities in accordance with sharia and also a cleansing process, which is the process of removing securities that are not in accordance with Sharia so that the profits generated by these securities are issued and practiced (Noor, 2022).

The characteristics of Sharia Mutual Funds include: (1). The price of the unit of participation of funds (shares) is relatively affordable, which is a minimum of Rp. 100,000, - so that it can be purchased by many people. (2). The investment is diversified, meaning that Islamic mutual funds are a collection of various securities, thus minimizing investment risk if the performance of one of the securities decreases (Khalijah, 2017). (3). Have ease of investing, because investors do not need to do in-depth analysis because it is managed by MI (4). The performance of Shari'ah mutual funds assuming constant variables has a better performance than the performance of conventional mutual funds in almost all criteria. (5) Cost and time efficiency because the cost of investing in Islamic mutual funds is relatively low and investors do not need to monitor because MI has been carried out (6). Investment returns (*returns*) in accordance with the desired period and type of Islamic mutual funds. (7). Liquidity is guaranteed because disbursement of investment funds can be done at any time by selling the participation units owned (8). The legality is guaranteed because Sharia mutual fund products are supervised by OJK and managed by MI who obtained permission from OJK (9). The principles of management are very shari'a because the shari'a of every sharia mutual fund investment is always based on the fatwa of the National Sharia Council (DSN) of the Indonesian Ulama Council (MUI).

Investment in Sharia Mutual Funds can only be made in financial instruments that are in accordance with Islamic sharia. Includes, stock instruments that have gone through a public offering and dividend distribution based on the level of operating profit; placement in deposits at Islamic commercial banks; Long-term debt securities that comply with sharia principles and avoid investing in the following companies (MUI, 2001):

1. Companies that produce or sell something that is haram according to Islam, such as selling pork, liquor, immoral entertainment business, gambling, pornography, and so on.
2. Companies that harm people and are *as harmful* as cigarettes.
3. Companies that have businesses are usury, gambling (*maysir*), and *gharar* (obscurity in doing business).
4. Trade that is not accompanied by delivery of goods.
5. Trading with false supply and demand (*ba'iy al najsy*) Buying and selling contain uncertainty (*gharar*) and *speculative bribery* transactions (*risywah*)

Sharia Capital Market Securities are Sharia Bonds (*Sukuk*); Shares included in the DES (Sharia Securities List), as well as other debt securities in accordance with sharia principles. Meanwhile, Sharia Money Market Instruments are Bank Indonesia Wadiah Certificate (SWBI), *Inter-bank Mudharabah Investment Certificate (SIMA)*, *Mudharabah Mutlaqah Certificate of Deposit (CD Mudharabah Mutlaqah)*, *Mudharabah Muqayyadah Certificate of Deposit (CD Mudharabah Muqayyadah)* (Masruroh, 2015).

The legal basis of Sharia Mutual Funds can be seen in Fatwa DSN-MUI Number: 20 / DSN-MUI / IV / 2001 concerning Sharia Mutual Fund Investment states that it is not allowed to allow unproductive money, the money must continue to roll so that the economy of the Ummah continues to increase. One form of *mu'amalah* in the economic field is mutual funds (MUI, 2001). So far, mutual funds still have many sides that are not in accordance with Islamic law, both in contracts, investment implementation, and in profit sharing. Therefore, MUI feels the need to issue a decree regulating mutual funds in accordance with Islamic Shari'ah. The basis of the postulate is:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

"Allah has legalized the sale and purchase and banned usury". (QS. Al-Baqarah: 275).

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

"O believers! Do not eat one another's property in an unrighteous way, except in consensual trade among yourselves. And do not kill yourself. Truly, Allah is merciful to you". (QS. Annisa [4]:29).

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ

"O believers! Fulfill promises". (QS. Al-Maidah [5]:1).

لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

You are not tyrannical (harmful) and not wronged (harmed). (QS. Al-Baqarah [2]: 279).

لَيْسَ عَلَيْكُمْ جُنَاحٌ أَنْ تَبْتَغُوا فَضْلًا مِمَّنْ رَزَقَكُمْ

"It is not a sin for you to seek the gift of your Lord." (QS. Al-Baqarah [2]: 198).

الصُّلْحُ جَائِزٌ بَيْنَ الْمُسْلِمِينَ إِلَّا صُلْحًا حَرَّمَ خِلَافًا أَوْ أَهْلَ حَرَامٍ

Peace with fellow Muslims is permissible except for peace that justifies something haram or forbids something halal. And Muslims must fulfill the conditions they have agreed upon except those that forbid a lawful or a haram one. (HR. Tirmidhi from Amr ibn 'Auf).

This hadith explains that all kinds of *shulh* (peace) between Muslims are permissible, as long as they do not cause the perpetrators to fall into something forbidden by Allah Almighty.

عَنْ أَبِي سَعِيدٍ سَعْدِ بْنِ مَالِكِ بْنِ سِنَانَ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «لَا ضَرَرَ وَلَا ضِرَارَ» حَدِيثٌ حَسَنٌ. رَوَاهُ ابْنُ مَاجَةَ وَالدَّارَقُطْنِيُّ وَغَيْرُهُمَا مُسْتَدْرَأً، وَرَوَاهُ مَالِكٌ فِي الْمَوْطِئِ مُرْسَلًا عَنْ عَمْرِو بْنِ يَحْيَى عَنْ أَبِيهِ عَنِ النَّبِيِّ ﷺ فَأَسْقَطَ أَبُو سَعِيدٍ، وَلَهُ طَرِيقٌ يَقْوَى بَعْضُهَا بَعْضًا.

From Abu Sa'id Sa'ad bin Malik bin Sinan Al-Khudri (ra), that the Prophet (peace be upon him) said, "It is not permissible to give harm unintentionally or intentionally."

Rules of Uhul Fiqh:

الْأَصْلُ فِي الشُّرُوطِ فِي الْمُعَامَلَاتِ الْحِلُّ وَالْإِبَاحَةُ إِلَّا بِدَلِيلٍ

The original law stipulates that the conditions in *mu'amalah* are lawful and permissible unless there is a proposition (which prohibits it). This is in accordance with the rules of fiqh held by the Hambali school and other jurists, as follows:

الأصل في العقود وما يتصل بها من شروط الإباحة ما لم يمنعها الشرع أو تخالف نصوص الشرع

It means: "The basic principle of the transaction and the conditions relating to it are permissible, as long as they are not prohibited by sharia or contrary to the nash of sharia" (Zuhayli, 1997).

Based on the verses of the Quran, Al-Hadith, and the rules of jurisprudence, DSN-MUI decided that Sharia mutual funds may or are halal to be carried out with the right record in their implementation. The following is the performance scheme of Sharia Mutual Funds:



Figure 1. Islamic Mutual Fund mechanism

Information:

1. Investors, invest their funds in Sharia Mutual Fund Selling Agents (APERD)
2. APERD distributes these funds to Investment Managers (MI) to be managed in securities portfolios
3. The Investment Manager deposits the funds in custodian banks.
4. MI invests investor funds into securities portfolios in capital market instruments, money markets, or in the form of deposits, bonds, stocks, sukuk, and so on.
5. Securities are deposited in custodian banks for recording, transaction self elation, and so on.
6. APERD report to Bapepam.
7. Bapepam oversees the performance of Sharia Mutual Funds.
8. APERD provides remuneration/wages to custodian banks for services provided.

Ijarah

Ijarah is one of the mu'awadhat contracts, which are transactions aimed at obtaining material benefits or benefits (Mubarok, 2017). In addition, ijarah contracts include named contracts (al-uqud al-musamma) in which boundaries are specified in the Qur'an or the sunnah of the prophet's sunnah (Ayub, 2003). Ijarah can be understood in 2 dimensions of life. Ijarah is defined as the process of agreement between the parties, one party is positioned as the provision of goods/services (mu'jir) and the other party is positioned as a user/beneficiary of goods or services (musta'jir). Akad ijarah is synonymous with akad al-ijar, al-isti'jar, al-iktira', and al-ikra (Zuhayli, 1997).

The linguistic meaning of *ijarah* in *Qamus Al-Muhitt* is the buying and selling of benefits (Kamil, 2006), and etymologically it is the reward for deeds (Medina, 2009). While in the book *Maqayis Al-Lughah Ijarah* is affirmed by showing one of its ruku, namely *ujrah* which is a reward for work (al-Za'tari, 2008). *Ijarah* is a transaction of transferring benefits from one party to another accompanied by the payment of predetermined rewards and limited by a certain period of time. Mubarak (2017) argues that there are several scholars who forbid *ijarah* contracts, namely Abu Bakral-Asham, Islma'il Ibn 'Ulayah, Al-Hasan Al-Bishri, Al-Qasyani, Al-Nahrawani, and Ibn Kisan, but Jumhur ulama allows *ijarah* contracts based on the Qur'an and the prophet's hadith, as well as *ijma'* ulama. Which allows *Ijarah* based on the Qur'an in Q.S ath-Thalaq verse 6:

فَإِنْ أَرْضَعْنَ لَكُمْ فَارْزُقْنَهُنَّ أَجُورَهُنَّ

"Then if they breastfeed your children for you, then give them a reward.

Q. S. al-Qashash verses 26-27:

قَالَتْ إِحْدَاهُمَا يَا أَبَتِ اسْتَجِرْهُ إِنَّ خَيْرَ مَنِ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ (26) قَالَ إِنِّي أُرِيدُ أَنْ أُنكِحَكَ إِحْدَى ابْنَتَيَّ هَاتَيْنِ عَلَى أَنْ تَأْجُرَنِي ثَمَانِي حَجَّاجٍ فَإِنْ أَتَمَمْتَ عَشْرًا فَمِنْ عِنْدِكَ وَمَا أُرِيدُ أَنْ أَشُقَّ عَلَيْكَ سَتَجِدُنِي إِِنْ شَاءَ اللَّهُ مِنَ الصَّالِحِينَ (27)

One of the two daughters said, "O my father, make him a worker (for us), indeed the best person you take as a worker (to us) is a strong and trusted man." 26He (Shaykh Madyan) said, "Surely you want to marry Engakau to one of my two daughters, provided that you work for me for eight years and if you complete ten years then it is (a good) from you, and I do not intend to burden you. God willing, you will find me a good person." (Q.S. al-Qashash verses 26-27). The hadith that discusses *ijarah* is as follows:

حَدَّثَنَا الْعَبَّاسُ بْنُ الْوَلِيدِ الْبَيْهَقِيُّ قَالَ: حَدَّثَنَا وَهْبُ بْنُ سَعِيدٍ بن عَطِيَّةَ السَّلَمِيُّ قَالَ: حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ زَيْدٍ بنُ أَسْلَمَ، عَنْ أَبِيهِ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَعْطُوا الْأَجِيرَ أَجْرَهُ، قَبْلَ أَنْ يَجِفَ عَرَقُهُ

"Al-Abbas Ibn Al-Walid Al-Dimasyqi narrated, Wahb Ibn Sa'id Ibn Athiyah Al-Sulami narrated, Abd Al-Rahman Bin Zaid Ibn Aslam narrated from his father, from Abdillah bin Umar (r.a) it was explained that the Prophet s.a.w said: "Give workers wages before the dry sweat" (Hasan, 1998).

Ijarah in its object is divided into 2, namely *ijarah* whose object of beaver benefits/objects called rent (*al-ijarah*) and *ijarah* whose object of service (labor or human expertise) is called wages or labor (*al-kira'*) (Hasan, 1998). In practice, *ijarah* contract can be realized in 3 forms. First: the contract of *ijarah tasygilyyah* where there is an *ijarah* contract of benefit of an item not accompanied by a promise of transfer of title to the leased goods to the tenant. Second: *Ijarah Muntahiya bi at-tamlik* (IMBT) where the *ijarah* contract for the benefits of an item is accompanied by a promise of transferring title to the leased goods to the tenant after the completion or termination of the *ijarah* contract. Third: *Ijarah mausufah fi az-zimmah* is an *ijarah* contract for the benefits of a good or service which at the time of the contract only mentioned its properties and specifications (quantity and quality) (DSN-MUI, 2017).

The general pillars of *ijarah* are 1) two contracting parties (*mu'jir* and *mustajir* or *mu'jir and a'jir*); 2) *al-ma'qud 'alaih* (*mahal al-benefit/* place of occurrence); 3) the benefit of one's goods or services; 4) *ujrah* (reward for services); 5) *Shighat* (statement of offer and acceptance/ *al-ijab wa al-qabul*). Jumhur ulama does not state that the goods rented or the labor that sells their services as the pillars of the *ijarah* contract.

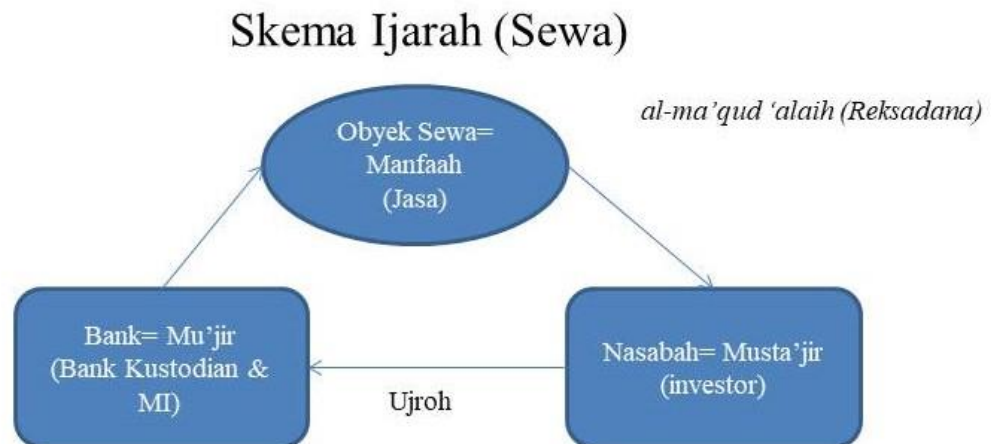


Figure 2. Ijarah contract scheme

Explanations related to terms in ijarah contracts. 1) *Musta'jir* (leasee), i.e. the party who rents the goods. 2) *Mu'jir* (lessee), i.e. the party who rents goods or services. 3) *Manfa'ah* (remuneration received by *musta'jir* for the use of rental goods). 4) *Ujrah* is the reward received by the *mu'jir*. 5) *Akad ijarah* is a statement and offer (*ijab*) and acceptance (*qabul*) by *mu'jir* and *musta'jir*. 5) *Mahal al-manfa'ah* is a rental item (excluding the pillars of ijarah contract, although Ibn Qayyim includes it as a pillar) (Mubarok, 2017).

Ujrah is one of the pillars of ijarah, which is the reward for the benefits received by *musta'jir*. Scholars agree that *ujrah* should be a treasure of value (*mutaqawwah*) and known (*ma'lum*) by the parties. *Ujrah* in the contract of ijarah is kudukan as *tsaman* (price) and the benefits are positioned as *mutzman* so the benefits and *ujrah* must be spared from *gharar* as well; both must be known *musta'jir* and *mu'jir* at the time the ijarah contract is performed. The following is based on the hadith of the prophet, namely (Bakar, 2001):

حدثنا أبو بكر قال: حَدَّثَنَا وَكِيعٌ، عَنْ سَفْيَانَ، عَنْ حَمَّادٍ، عَنْ إِبْرَاهِيمَ، عَنْ أَبِي حَرِيرَةَ، وَأَبِي سَعِيدٍ، قَالَ: مَنْ اسْتَأْجَرَ أَجِيرًا، فَلْيُعْلِمْهُ أَجْرَهُ.

That is: Abu Bakr narrated from the wakif", from Sufyan, from Hammad, from Ibrahim, from Abi Hurairah and Abi Sa'id, r.a., saying "Whoever employs workers, tell his *ujrah*".

In a hadith narrated by Imam Ahmad from Abi Sa'id, he explained as follows (al-Shaukina, 1999):

نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ اسْتِئْجَارِ الْأَجِيرِ حَتَّى يُبَيَّنَ لَهُ أَجْرُهُ.....

"The Prophet (peace and blessings of Allah be upon him) forbade the employment of a person before he had explained (the amount and/or quality) of his *ujrah*".

Ujrah known to the parties is a definite *ujrah*. *Ujrah* that is uncertain in number because it is not determined at the beginning then it should not be. Because *ujrah* that potentially contains *jualah* (*gharar*) is *haram* (Mubarok, 2017).

Ijarah in Sharia Mutual Funds

In mutual funds, there are several parties who contribute to it. First, the Investment Manager (MI) responsible for investment activities includes analysis and selection

of investment types. The Investment Manager (MI) manages the funds he places in various investment instruments and realizes profits or losses and receives dividends that he books in Net Asset Value (NAV). Net Asset Value (NAV) is the market value of all Securities and other securities plus existing cash, minus liabilities payable and divided by the number of shares or units of participation outstanding. Funds managed by Investment Managers are jointly owned by investors (investors) (Bareksa, 2022). Then the custodian bank is the party that provides securities custody services and other services, completes securities transactions, and becomes a representative of the account holder who is its customer.

Mutual fund investors will benefit or get losses derived from the difference in purchase price income between NAV per unit at the beginning of purchase and NAV per unit at the time of resale of the Mutual fund. There are several benefits that can be obtained from investing in Mutual Funds, including diversification and risk spread carried out by Investment Managers (MI) who have large enough funds from several investors, investment costs are quite low because portfolio costs are carried out by Investment Managers, and professional portfolio managers because they have better access to market information. Meanwhile, the losses arising from investing in Mutual Funds are the risk of decreasing NAV, liquidity risk that can occur if holders of participation units in one particular investment manager withdraw large amounts of funds on the same day and time, and market risk which is a situation when the price of investment instruments decreases due to declining market performance.

Ridwansyah (2020) argues that the many rows of behavior in the Islamic capital market accompanied by various instruments show the complexity of economic processes that occur in Islamic capital market operations. So that the contracts used vary, vary and are not impossible to mix. He stated that the contracts that are often used are *musharakah*, *mudarabah*, *al-ijarah*, *salam* and *wakalah* (Ridwansyah, 2020).

In fatwa DSN-MUI no.20 of 2001 the operational mechanism in sharia mutual funds consists of 2 contracts. First, *wakalah agreement between investors and investment managers* and a *mudharabah agreement between investment managers and investment users*. The investor's contract with the investment manager is carried out in a *paper manner*, where the investor gives a mandate to the investment manager to carry out investments for the interests of investors in accordance with the provisions listed in the prospectus (DSN-MUI, 2017). In this case, the contract that takes place in Islamic mutual funds is not only between investment managers and investors but also between custodian banks and investors.

1. The Wakalah application occurs between investors and investment managers, because investment managers represent investors in managing their funds in the capital market.
2. Mudharabah application occurs between investment managers and investment users such as companies or others.
3. The Ijarah application is between the Investor and the Custodian bank, because the custodian bank has provided depository, custody and supervision services as well as calculating NAV per unit of participation in Sharia mutual funds for every day.

Bank custodians are obliged to store, maintain, and supervise and financiers and calculate the net active value (NAV) per unit of participation in Sharia mutual funds for each day. For providing services in the management of investment and storage of collective funds, investment managers and custodian banks are entitled to receive returns in fiqh terms are

ijarah calculated in a certain percentage of the net asset value of Islamic mutual funds. However, there is an oddity, where wages (*ujroh*) are calculated as a percentage. The determination of wages should be calculated with nominal rather than percentage because it is a form of *gharar* that is forbidden in Sharia.

Aplikasi Ijarah dalam Reksadana Syariah

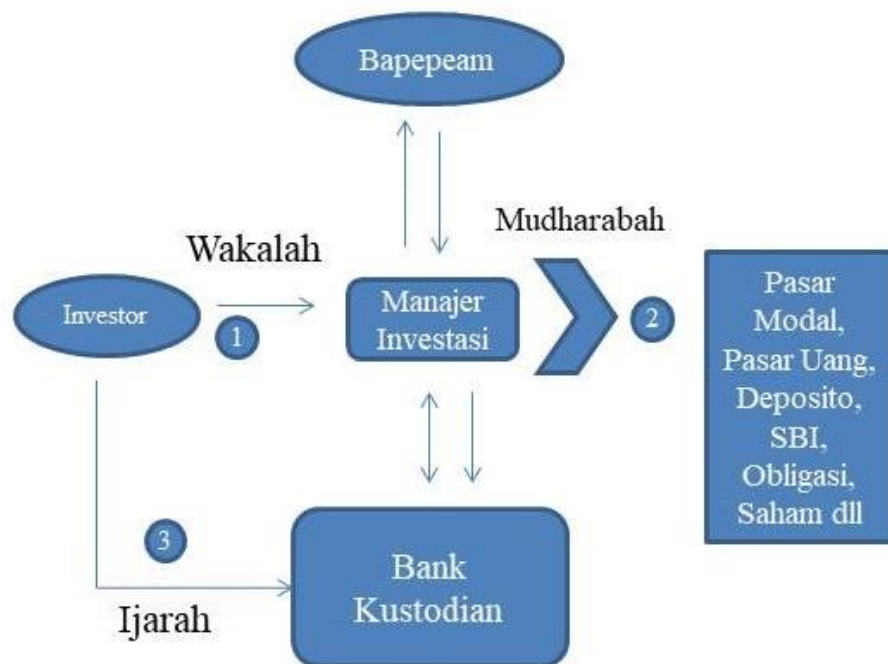


Figure.3 Application of *Ijarah* contract in Islamic Mutual Fund

In line with Tania (2016), he argues that there is an irregularity in *ijarah* application from the distribution of net asset value calculated as a percentage of the rights of investment managers who represent capital owners. Where the determination of wages must be nominal not with percentage, because it is a form of *gharar* that is forbidden in the Shari'a. The *ijarah* agreement was carried out with custodian banks responsible for investment administration, securities storage, and investment funds from Mutual Funds. Where wages received are in percentage form, not nominal form (Tania, 2016).

Conclusion

Shari'ah mutual funds are mutual funds that operate according to the provisions and principles of Islamic Shari'ah, both in the form of agreements between investors as property owners and Investment Managers (MI) as representatives of capital owners and between Investment Managers as representatives of capital owners and investment users. Sharia mutual funds are capital markets supported by investors, entrepreneurs, and managers, namely Investment Managers and Custodian Banks. With all applicable provisions DSN-MUI in decree number 20 / DSN-MUI / IV / 2001, states that the legal position of Sharia mutual funds is *mubah* (may).

The application of *ijarah* in Islamic mutual funds is in the distribution of wages taken from the net asset value (NAV) calculated as a percentage for custodian banks responsible for investment administration, securities storage and investment funds from Mutual Funds. However, there is still an oddity, where wages (*ujroh*) are calculated as a percentage. The determination of wages should be calculated with nominal rather than percentage, because it is a form of *gharar* that is forbidden in Sharia.

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