

# Sharia Credit Card in The View of *Maqashid al-Sharia*

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## Abstract

*Islam is the perfect religious concept, all of life's activities are measured in the purpose of sharia enforcement. Maqashid sharia is a benchmark in determining activity in the determination, whether it is by these objectives or not. Credit card is a form of facility created to facilitate consumers in making transactions. This product is multiplying and changing the paradigm of consumers in making transactions in the digital era. Credit card has many benefits and functions, one of its functions is substituted for cash. Method of this study using literacy, data collection and collection of objects. The finding is that the contemporary scholars agree that in practice sharia credit cards are permissible as long as there are no aspects of gharar, usury, but also contain the maslahah of the users. DSN MUI responded favourably to the credit card with the issuance of the fatwa DSN No. 54/DSN-MUI/X/2006 concerning KKS (Sharia Credit Card).*

**Keywords:** *Maqashid Sharia, Sharia Credit Card*

## Introduction

The scholars have developed and practiced the use of the *maqashid sharia* as the foundation to produce the *fiqh* since the early period of Islam. However, they do not mention the terms *maqashid sharia* before, but let alone the application model of the process of legal determination of a case. The concept of the *maqashid sharia* is the theory of the law (*istinbat*) by making the purpose of establishing the law of

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*sharia* as a reference, which in this case, the central theme is *maslahat*. It has initiated the systematization of the concept of *maqasid sharia* encompassing the theory of the three priorities of necessity (benefit), *daruriyat*, *hajiyyat*, and *tahsiniyyat*.

The concept of *maqasid sharia* developed by jurists like al-Ghazali, Imam Syatibi, al-Fasi and Ibn Ashur, describe a law with more accent on the subject matter (*the maqasid*) of text (*sharia*), which is then synchronized with a case and reality. The field of the science of *fiqh* can be known as meaning and secret of human beings, as long as the problem can be branded by reason (reasonable).

Therefore, the search for the wisdom of the problem is essential in all aspects of human life. In Islam, a discussion of the credit card law still has differences of opinion between the prohibition and the enabling. Despite the controversy over the credit card law, the benefits posed by credit card services are enormous for the community. Therefore, the study aims to discuss the application of the *maqasid sharia* on credit card, *sharia* credit card and its scheme used.

## Definition of Credit Card

Credit card (*bitoqoh al-i'timan*) is a card issued by a bank or a credit card management company that entitles the person who meets the specific requirements whose name is stated on the card to use as a means of credit payments for the acquisition of goods or services, or to withdraw cash within the credit limit as determined by the bank or the credit card management company. In carrying out the repayment of such credit, the cardholder is not obliged to make the payment at once, but given the allowance to pay in instalments with a particular interest rate and an instalment value of percentage of the credit balance that has been used.

The basic concept of credit card is relatively simple and clear, which is a personal identity that is intended to suspend the payment of goods and services transacted.<sup>3</sup> To facilitate the current economic activities, some *sharia* Banks have also issued *sharia* credit cards or *sharia* card, although others still do the study before issuing *sharia* credit cards. This facility was born even though there are still pros and cons because some disagree because it could encourage customers to behave consumerists contrary to Islamic principles. A credit card in

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<sup>3</sup>Dahlan Siamat, *Manajemen Lembaga Keuangan* (Jakarta: LPFEUI, 2005), 639.

Islamic finance known as Islamic card or *sharia* card in the world to less-cash society is essentially one of the instruments in the payment system as a means to facilitate the process of transactions that do not depend payment by carrying a risky cash deposit.

In contemporary jurisprudence, its legal status as an object or a caravan service medium (assurance) that is accompanied by payment bailout (*qard*) and services *ijaroh* for the ease of transaction. The banking company in this case that issued a credit card (a *kafalah* principle proof) as a guarantor (*kafil*) for the credit card users in various transactions.<sup>4</sup> *Sharia* credit cards appear because *sharia* banking wants to keep up with conventional. Because to help increase new economic activities. Credit cards are required for banking, business development. It is necessary for several *sharia* banks or conventional bank *sharia* divisions that are engaged in the commercial banking sector. With *sharia* credit cards, the two divisions have the potential to increase the number of customer financing.

### *Sharia* Credit Card: Pro and Cont

As we have known that credit cards have become a separate lifestyle that manages to change the behaviour of the community. Although it still poses controversy, because it indirectly establishes a consumptive personal. In the middle of controversial, it appears the discourse of the issuance of the *sharia* credit card that if was addressed variously by the parties concerned. *Sharia* banking, for example, some say support, and also vice versa.

Polemics around the park will be issued this *sharia* credit card problems of consumerism. *sharia* credit cards are geared to encourage people to behave in a consumptive orderly. This concern is not excessive because 70% of credit cards are problematic. Even the economic crisis experienced by South Korea a few years ago has strong indications caused by the consumer attitude of society that is very excessive.<sup>5</sup>

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<sup>4</sup>*Fiqh* Ekonomi, Bisnis & Keuangan, Hukum Kartu Kredit dalam Jual Beli. Source: <http://www.fiqhislam.com>

<sup>5</sup>Berita Nasional, *Kartu Kredit Syariah Maslahat atau Mudharat*. Source: Portal Ekonomi Syariah, <http://www.ekonomisyariah.net>

**Table 1: The Positive and Negative of Sharia Credit Card**

Positive	Negative
<ol style="list-style-type: none"> <li>1. <i>Sharia</i> business development.</li> <li>2. Can compete with conventional banks.</li> <li>3. Financing increases.</li> <li>4. Secure transactions in the community and financial protection.</li> </ol>	<ol style="list-style-type: none"> <li>1. Encourages someone to behave in a consumptive.</li> <li>2. 70% problematic credit cards.</li> </ol>

**Source: Author**

Apart from the emerging pro and con, the National *Sharia* Board issued a *fatwa* regarding *Sharia* Credit Cards (KKS). So the basis of the issuance of the *sharia* credit card is Fatwa DSN No. 54/DSN-MUI/X/2006 on *Sharia* Card. One reason in issuing *fatwa* about the *Sharia* Credit Card (KKS) is the reason for the ease of transactions for the community, as well as financial protection when in a state of *dharurat*. Business development, it is necessary for some *sharia* banks or conventional bank *sharia* divisions that are engaged in the commercial banking sector. With *sharia* credit cards, the two divisions have the potential to increase the number of customer financing.

### Legal basis of *Sharia* in Credit Card

In the jurisprudence, it is permissible to do so unless there is any evidence of the *nash* that is against it. The most important thing is the rulings *maliyah* that is done does not cause *haram* and unjust, as described in surah an-Nisa verse 29:<sup>6</sup>

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

“O believers! Do not eat your neighbour>s possessions with a batting way, except with the current business path with the likes of you. Moreover, do not kill yourselves. Indeed, Allah is the most merciful to you.”

<sup>6</sup>Q.S. an-Nisa: 29

The meaning of Allah SWT is to say that all forms of *mu'amalah maliyah* of vanity are to avoid any business that is not shared like *riba*, gambling and fraud. So it is evident in the practice of credit that contains the additional conditions *riba* in it is unlawful. Therefore, there needs to be an alternative *sharia* credit card that can be used for the Muslim community in transacting. However, the credit card is both conventional and *sharia* in it there is a debt that the impact will be accountable in the hereafter, the *sharia* credit card should pay attention to it. Hadith of the Prophet's history of Bukhari from Salamah Ibn al-Akwa':

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ أُتِيَ بِجَنَازَةٍ لِيُصَلِّيَ عَلَيْهَا، فَقَالَ هَلْ عَلَيْهِ مِنْ دَيْنٍ؟ قَالُوا لَا، فَصَلَّى عَلَيْهِ، ثُمَّ أُتِيَ بِجَنَازَةٍ أُخْرَى، فَقَالَ هَلْ عَلَيْهِ مِنْ دَيْنٍ؟ قَالُوا نَعَمْ، قَالَ صَلُّوا عَلَيَّ صَاحِبِكُمْ، قَالَ أَبُو قَتَادَةَ عَلَيَّ دَيْنُهُ يَا رَسُولَ اللَّهِ، فَصَلَّى عَلَيْهِ

"It has been confronted by the Prophet Muhammad's body of a man to be dishd. The Prophet asked, (Does he owe?) Sahabat replied, (No). So, he warned him. Then another body was again, the Prophet asked, (Did he owe?) They replied, (Yes). The prophet said, (Bless your friend) (he is not willing to make him). Then Abu Qatadah said, (I guarantee the debt, yes Rasulullah). So the Prophet also ordained the body."

The contemporary scholar's *ijma* about the practice of *sharia* credit cards allow as long as there is no aspect of *maysir*, *riba*, fraud and *gharar* in it. The Islamic *Fiqh* Jurisprudence Council has several provisions on credit cards at the annual conference held in Riyadh, Saudi Arabia, 25 Jumadil at the end of 1421 Hijri/September 23, 2000 CE. *First*, it is not possible to issue a non-covered credit card (with the funds in advance) and should not be converted to it if the additional interest is added even if the applicant is determined to settle the debts in the time allowed. *Secondly*, it can issue non-cover credit cards (with pre-payment) if no additional *riba* is required on the underlying debt.

Then on 14-19 Muharram/6-11 March, 2004 AD in the 15<sup>th</sup> conference was issued several recent *fatwa* decisions, among others: *Firstly*, it is permissible to issue a covered credit card (with advance payment) and then if it does not include the additional conditions of the *riba* when there is a delay in repayment. *Secondly*, it is permissible to buy gold, silver, or money with a covered credit card (with upfront

funds). *Thirdly*, the credit card holder is forbidden to use for anything that is *mafsadah* sharpened.

The *Fatwa* of the National *Sharia* Board (DSN) - The Indonesian Ulema Council (MUI) is in a number of restrictions, i.e. not causing *riba*, not used for transactions that do not comply with *sharia*, does not encourage excessive expenditure (*israf*), by means of setting a maximum of spending, the primary cardholder must have the financial ability to settle in time, and not to provide facilities contrary to the *sharia*.

In Indonesia, with *fatwa* DSN-MUI there are at least hybrid contracts in *sharia* credit cards, *kafalah*, *qard*, and *ijarah*, unlike Malaysia who use *bai' inah*. Not used *bai' inah* in Indonesia because the majority of scholars have banned the practice of selling its products.

The first contract is *kafalah*. In this case, the card issuer is the guarantor (*kafil*) for the cardholder against the Merchant for all paid obligations (*dayn*) arising from the transaction between the cardholder and the Merchant, and cash withdrawal from other than the bank or the bank ATM card issuer. For the *kafalah*, the card issuer can receive a fee. Nevertheless, Misri did not agree with the use of a *kafalah* principle contract for *sharia* credit cards.<sup>7</sup> The second contract is *qard*. In this case, the card issuer is the lender (*muqridh*) to the cardholder (*muqtaridh*) via cash withdrawal from the bank or the bank ATM card issuer.

### The Concept of *Maqasid Sharia*

*Al-maqasid al-sharia* is an understanding. Understanding *maqasid sharia* can be done in 2 ways, namely in terms of compound words (*murakkab al-idhafi*) and science. From *murakkab al-idhafi* it consists of the words *maqasod* and *sharia*. Etymologically, *al-maqasid* comes from the word *qasada-yaqsidu-maqsidan*, which means a straight path (*thariqul mustaqim*) and justice (*'adl*). As for terminology, *al-maqasid* is the desired goal to achieve justice.

Furthermore, the etymology of *sharia*, which means a bright path (*al-tariqoh*)<sup>8</sup> or comes from the words *sire* and *sharia* which means a place that is used as a means to take water directly so that

<sup>7</sup>Rafiq Yunis al-Misry, "*Bitsaqah al-I'timan Dirasah Syar'iyah 'Amaliyah Mujazah*," *Majalah Majma'*, Jilid 1 (7), 411.

<sup>8</sup>Al-Mu'jam al-Wasith I, 479.

the person who takes, it does not need the help of other tools.<sup>9</sup> As for terminology, *al-maqasad* is the desired goal to achieve justice and *sharia* which comes from the word *syir'ah* and *sharia* which means a place that is used as a means to take water directly so that the person who takes it does not need the help of another tool. From the two meanings, it can be defined the meaning of *maqasid sharia*, namely the goal achieved in implementing something based on *sharia* rules which are imposed on the *mukallaf* for its benefit.

Furthermore, an understanding of the scientific view can be traced from several thoughts of the ulema of *fiqh* proposals such as Imam al-Harmayn, Imam Ghazali, Imam Syatibi and Ibn 'Asyur. Imam al-Harmayn arrived at Imam Ghazali not yet clearly defined the definition of *maqasid sharia* because in his time the study of *maqasid sharia* was included in the discussion of the science of *fiqh* proposal, only during the time of Ibn 'Asyur Assyria provided that definition. Ibn 'Ashur defines *maqasid al'amm li al-shari'ah* as goals (*al-ma'ani*) and *hikmah* (*al-hikam*) desired by Allah (*sya'ri*) in all law (*tasyri'*) or as much as possible, which is not specifically focused on specific *sharia* laws.<sup>10</sup>

This explanation is actually indirectly there is a similarity between the meaning of *maqasid sharia* between Imam Syatibi and Ibn 'Asyur, as stated by Imam Syatibi in his book *Al-Muwafaqat*: "*Shariah deeds are not a goal in themselves, but there are other problems which mean above (sharia), that is, the goals (ma'aniha).*"<sup>11</sup> From here it is answered even though Imam Syatibi does not explain *maqasid sharia* in the form of definitions, but is essentially the same as what is defined by Ibn 'Asyur.

Directly to its general-purpose al-Fasi defines *maqasid al'amm li al-shari'ah al-Islamiyyah* with prosperity, maintains the rules of life and the continuation of better improvements on the face of the earth by improving the conditions in it as charged to him to do justice and justice, and repairs on the face of the earth for the purpose of goodness and management for the benefit of all.<sup>12</sup> Most scholars define it by bringing benefits (*jalb al-mashalih*) and leaving damages (*al-mafasid*).

<sup>9</sup>t.n., *Mu'jam Alfazh al-Qur'an al-Karim*, Juz. 2 (Kairo: Majma' al-Lughah al-'Arabiyyah, t.th.), 13.

<sup>10</sup>Ahmad Raysuni, *Nadhoriyyat al-Maqasid 'inda Imam al-Syatibi* (Beirut: IIIT, 1995), 18.

<sup>11</sup>*Ibid*, 62.

<sup>12</sup>Muhammad Thahir al-Masawi, *Maqasid al-Syariah al-Islamiyyah: al-Syeck Muhammad Thahir Ibn 'Asyur* (Amman: Darul al-Nafais, 2001), 148.

*Maslahat* is likened to benefits, truth and goodness whereas *mafsadah* is likened to danger (danger), crime and error.<sup>13</sup> This is further clarified by Imam Ghazali that *al-maqasid al-khamsah* for humans is to safeguard his religion, himself, his mind, his descendants and property. Everything concerning the safeguard of the five is *maslahat*, while all that pertains to leaving the five is the *mafsadah*.<sup>14</sup> Furthermore, according to experts, the suggestion that *al-maqasid al-asliyyah* is *dharuriyyah*, *hajjiyyah* and *tahsiniyyah*. Furthermore, the goal of *sharia* is to realize the interests or benefits of his servant.<sup>15</sup>

Imam Syatibi in his book *Al-Muwafaqat* divides *maqasid sharia* into three essential parts, namely *maqasid al-'am*, *maqasid al-khassah* and *maqasid al-juz'i*. The general objective of *sharia* is to bring benefits (*jalb al-masalih*) and reject damages (*dar al-mafasid*).<sup>16</sup> Benefits (*masalih*) are used for all aspects of human life as the vicegerent of Allah on this earth. According to Muhammad Abu Zahrah, there are three *sharia* meanings, namely purification of the soul, upholding justice in the Islamic community and giving *maslahah*.<sup>17</sup> In purifying the soul such as worship, *zakat* is containing aspects of town (social solidarity) between the rich and the poor. Furthermore, concerning justice, every human being has the same in business, law and social life. The ultimate goal to be achieved is the benefit of being an essential benefit related to the public interest, not a particular (personal) interest.

Many scholars agree that *maqasid* means *maslahah*. Sometimes the term *maqasid* is also juxtaposed with the understanding of *maslahah*. *Al-maslahah*, according to Imam Ghazali is *maqasid al-khamsah* which consists of maintaining religion, self, mind, lineage and wealth, While the things that eliminate the principles from *maqasid al-khamsah* are *mafsadah*. Al-Aziz bin Abdissalam divided the *maslahat* world into three parts, namely *dharuriyyat*, *hajjiyyat* and *takmiliyyat*. Furthermore, *dharuriyyat* is the first level that must be fulfilled and then continued by *hajjiyyat* and *takmiliyyat* (*tahsiniyyat*) in sequence.<sup>18</sup>

The level of *dharuriyyat* (primary) is the degree to which the various problems will not be realized without the fulfilment

<sup>13</sup>Rafiq Yunus Misri, *Fiqh al-Muamalah al-Maliyah* (Dimaskus: Darul Qalam, 2005), 11.

<sup>14</sup>Al-Ghazali, *Al-Musthafa* (Beirut: Darul al-Shadir, t.th.), 248.

<sup>15</sup>Muhammad al-Zuhayli, *Masalih al-'Ibad, Maqasid al-Shari'ah* (Damascus: Dar al-Maktabi, 1998), 8.

<sup>16</sup>Rafik Yunus al-Mishri, *Fiqh al-Muamalah al-Maliyah...* 11.

<sup>17</sup>Muhammad Abu Zahrah, *Ushul Fiqih*, Terj. Saefullah (Museum Pustaka Firdaus: Jakarta, t.th.), 543.

<sup>18</sup>Rafik Yunus al-Mishri, *Fiqh al-Muamalah al-Maliyah...* 13-14.



of levels which are divided into five essential parts which are interrelated with each other, namely maintaining religion, self, reason, descent and wealth, called *maqasid al-khamsah*. Furthermore, the level of *hajyat* (secondary) is that everything aims to eliminate difficulties, narrowness from *maqasid al-khamsah*. The last is *tahsiniyyat* (complement), which aims to maintain honour and protect *maqasid al-khamsah*. Examples relating to property are prohibited from deceiving or collecting goods. Studying *maqasid sharia* is very significant because it reflects the spirit of the *sharia* and helps the scholars to determine the prohibitions and permits of something based on *ijtihad* and keys. Also, *maqasid sharia* can be used as a tool to narrow disputes over *fiqh* issues, especially those related to financial *fiqh*.

### *The Analysis Maqasid Sharia on the Practice of Sharia Credit Cards*

The law of something is based on the outcome of the perception of something. Our knowledge of credit cards will determine our details in the issue of the transaction of various transactions known in Islamic jurisprudence and explanation of its laws, and fiber sets various alternative alternatives that when the study confirms the fragrance. Credit cards form three related things:

#### A. The Relationship between The Bank That Took It Out with The Cardholder

The Institute of *Fiqh* Assessment sees that credit card product as loans from the issuing bank, or as collateral to carry out various commitments against the other party or to be a guarantor to connect with the other party. The possible combination of guarantees, guarantors, loans is the closest to the theory to review this transaction. Before the usage of credit card is guaranteed, and pledge of loan and guarantor. Nevertheless, once used in a sense the bank has covered the costs incurred to represent the customer, the pledge has become a reality so that it becomes a loan and guarantor in the real sense.

#### B. The Relationship between The Bank and The Card with The Business Party

Many *fiqh* reviews surrounding this connection between the existence of the exchange rate reduction with its existence as collateral, namely that the issuing party has secured the employers

that he will pay the price of goods. With the intermediary of the card, and also the guarantor as an intermediary with wages or as intermediaries. There are even some parties who issue the card in conjunction with buying and selling. So that used as the party that issued the credit card is the real buyer of the goods are then newly returned to the customer for sale. This sale is similar to buying and selling with the fixed profit system to ask for buying goods.

### C. The Relationship between The Cardholder and The Merchant

Credit card transactions are divided into two between the buy and sell positions rented with the card making transaction object. Then the responsibility of the government shall be delegated to the issuing party that has guaranteed to cover the costs withdrawn in the form of purchase or rental. Credit card explanation:

1. Transactions that relate to the rights that issued the card to the holder. This transaction consists of three elements: guarantee, guarantee, loan.
2. Transactions between who issued the card with the party entrepreneur. This transaction consists of two matters, namely guarantees and underwriting.

### Difference between *Sharia* Credit Card and Conventional Credit Card

The difference between *sharia* credit cards and conventional credit cards is that conventional credit cards prioritize an interest (e.g. 2-4% per month) as a form of profit-taking on the repayment of bills. This value is in the form of flowering flowers, so in 1 year only the flower can approach the value of the original transaction.

*Sharia* credit card, claiming a unique scheme based on *sharia* system, *ijaroh*, *kafalah*, and *qard*. In general, the scheme should not be much different from conventional credit cards, but to support three types of *aqad* schemes. *Sharia* credit cards use several supporting rules for not using interest.

Example of application of *sharia* credit card implementation of the customer with a total of Rp 10 million in *sharia* credit card of the customer will be charged monthly fee Rp 250 thousand. So if the customer uses the *sharia* credit card for spending, then the bank will or give cash rebate or cash reward based on the spending pattern and the payout. Thus, in *Sharia* credit card, there is no interest instrument.

In a conventional credit card, the customer will be charged the interest of 3-4% per month on the transaction.

Other differences with conventional credit cards are the treatment of fines for customers who are experiencing delays in overdue card payments or the use of cards that have exceeded the limit. If in a conventional credit card the late penalty can be recognized entirely as a source of bank income, even a substantial source of income, then in the *sharia* credit card if the customer is fined, the fine is not recognized as a bank's income, but must be enforced as a social fund. The bank may only acknowledge it as a billing fee (*ta'widh*) whose value is following rill losses incurred due to bank billing. For example, in billing, the bank contacted the customer by telephone or to come, then the cost of rill due to this billing could be charged to the customer. The techniques in the treatment should also be paid attention to the *sharia* aspect, should not be the same as conventional credit cards.

## Conclusion

The *sharia* credit card is one of the principles that use a combined contract (hybrid contracts), where the *sharia* credit card scheme describes the loan from the bank in other words, using the services provided by the banking (which is the one example of application taken from *ijarah*) and a bank that guarantees the customer to be able to transact with other parties (which is one example of applications taken from a *kafalah* contract).

Another thing that has become a credit card is the 'creditor' element. Whatever the reason, the culture of debt is the comfort of life that is oblations, which eventually ensnare and make its users degenerate due to debt (and interest) whereas one of the economic struggles of *sharia* is to liberate humans from the elements of *riba* in all its manifestations.

Behind that, the fact that *sharia* banking should face the challenges of product diversity and demand for the convenience of banking facilities, requiring *sharia* banks to look for alternatives whether it is by offering a kind of smart card, debit card or by expanding the ATM network through cooperation with other parties (e.g. Cooperation between BMI and BCA).

Although not supposed to be dilemmatic, insisting and competition causes sharia banks to seek innovations in the effort

to create maximum comfort for its customers. One such effort is to Islamic the existing credit card. Malaysia and Bahrain were the first to experiment with this credit card system. In Indonesia, the effort is being cultivated by several *sharia* banks. The effort is well worth it, although prudent attitude should remain in the national *sharia* banking practitioners. Anyway the innovation that is imposed and made in a hurry will only gain the scorn later.

The presence of this Islamic claimed a payment card itself is not a credit card alternative that can just be accepted by all parties. Controversy and debate will continue as the socialization of this '*sharia* credit card' dissemination are in various media. This controversy, according to the analysis of the author, the origin of the connotation of the credit card itself is not Islamic. In addition to the concept of credit that is not appropriate to be part of the *mu'amalah*, but also credit cards have a powerful usury connotation.

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