

Implementation of the Qardh Agreement on the Financial Technology Lending Platform in the Development of Small and Medium Enterprises (SME) in Indonesia

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Abstract

Financial technology is a new financial innovation that has an important role in the development of the national economy. The convenience offered is the main attraction among the people. Besides that it also has a very high impact on the development of Small and Medium Enterprises (SME). However, the system applied is the same as the conventional financial system, such as the interest system on online loans. Although innovative and helpful, the interest system applied is the same as a loan from a loan shark, where the interest given is very burdensome. So in this study, we discuss the implementation of qardh contracts on the financial technology lending platform, and how it affects the development of SME. This type of research is library research, which is research conducted by collecting data from various literature books, journals, website writings, magazines, laws, fatwas, or from various writings. The approach used in this research is qualitative, where the research procedure uses descriptive data in the form of written words. The researcher will explain the terms and elements that must be met in implementing the qardh contract on the peer to peer lending

platform. The result is, the implementation of qardh contracts on financial technology lending platforms should avoid the various elements namely riba, gharar, maysir, tadlis, dharar, zhulm, and haram. If in practice all these elements are avoided, it will facilitate all actors of SME. Where the perpetrator will not be stuck in huge debt because of interest, and avoid ambiguity and fraud that will be to the detriment of one party. In addition, the existence of the qardh contract based financial technology loan platform will make it easier for SME actors to obtain loans or capital to develop their SME.

Keywords: *Implementation; Qardh; Financial Technology; SME*

Abstrak

Financial technology (fintech) merupakan inovasi keuangan baru yang memiliki peran penting dalam pembangunan perekonomian nasional. Kenyamanan yang ditawarkan menjadi daya tarik tersendiri bagi masyarakat. selain itu juga berdampak sangat tinggi terhadap perkembangan Usaha Kecil Menengah (UKM). Namun sistem yang diterapkan sama dengan sistem keuangan konvensional, seperti sistem bunga pinjaman online. Meski inovatif dan membantu, sistem bunga yang diterapkan sama seperti pinjaman dari rentenir, di mana bunga yang diberikan sangat memberatkan. Maka dalam penelitian ini, kami membahas implementasi akad qardh pada platform fintech lending, dan bagaimana pengaruhnya terhadap perkembangan UKM. Jenis penelitian ini adalah penelitian kepustakaan, yaitu penelitian yang dilakukan dengan mengumpulkan data dari berbagai literatur buku, jurnal, tulisan website, majalah, undang-undang, fatwa, atau dari berbagai tulisan. Pendekatan yang digunakan dalam penelitian ini adalah kualitatif, dimana prosedur penelitian menggunakan data deskriptif berupa kata-kata tertulis. Peneliti akan menjelaskan syarat dan unsur yang harus dipenuhi dalam pelaksanaan akad qardh pada platform peer to peer lending. Hasilnya, pelaksanaan akad qardh pada platform fintech lending harus menghindari berbagai unsur yakni riba, gharar, maysir, tadlis, dharar, zhulm, dan haram. Jika dalam praktiknya semua elemen tersebut dihindari, maka akan memudahkan semua pelaku UKM. Di mana pelaku tidak akan terjerat hutang yang besar karena bunga, serta terhindar dari kerancuan dan penipuan yang akan merugikan salah satu pihak. Selain itu, dengan adanya platform pinjaman fintech berbasis akad qardh akan semakin memudahkan para pelaku UKM untuk mendapatkan pinjaman atau modal untuk mengembangkan UKM-nya.

Kata Kunci: *Implementasi; Qardh; Financial Technology; UKM*

Introduction

The term thought in Islamic economics has existed since the time of the Prophet Muhammad Saw. who became the Messenger of God, where at that time, the Prophet issued several policies

related to social problems namely from legal issues (*fiqh*), politics (*siyasiah*), and trade issues or economic problems (*muamalah*). The emergence of various types of economic problems in the community at that time troubled the Prophet Saw., because this economic problem is one of the pillars of one's faith that needs to be given attention to remain vigilant. Later, the Qur'an and Hadith were made the basis of economic theory by the caliphs after the death of the Prophet Muhammad in managing the economy of a country.

Economic dynamics continues to grow from time to time, from the time of the Prophet Saw., the time of *Khulafaurrasyyidin*, Abu Bakr Ash-Siddiq, Umar bin Khattab, Ustman bin Affan, Ali bin Abi Talib, until now, the era of digitalization, where the development of information technology especially interconnection networking has become a secondary need for society.

Information technology is the result of human work in the form of technology that can be used by the general public for data management including processing, obtaining, storing, manipulating data in various ways to produce quality information that is accurate, reliable, and timely information, used in personal, business or government needs, and is the right information for decision making. At the beginning of the development of information technology, mass media was only understood as a tool of message delivery through the media, with delayed feedback, but for now the communication process in mass media can be done very quickly.¹

The development of information technology and technological intelligence is very influential on the innovation of the financial industry in Indonesia. Various types of financial services industries are emerging. One of the innovations that has been developed is the integration of the financial system with information technology, the innovation is called financial technology. Financial technology is the implementation and use of technology to improve banking and financial services using software, internet, communications, and computer technology.²

¹Muslimin Machmud, "Perkembangan Teknologi Dalam Industri Media," *Jurnal Teknik Industri* 12, no. 1 (2011): 57, <https://doi.org/10.22219/JTIUMM.Vol12.No1.57-64>.

²Muliaman Hadad, "Public Lecture: Financial Technology (FinTech) Di Indonesia"

One of the manifestations of the development of the world of technology is the emergence of financial technology in various types of platforms, which can now be felt and accessed by the general public. The concept of financial technology encompasses financial services based on digital systems that have been developed in Indonesia, such as online digital banking, payment channel systems, peer to peer lending (P2P), or mass financing.³

Based on data from OJK (The Financial Services Authority), the technological development of financial technology has increased by a very significant amount. Based on Financial Services Board data, there are 117 registered companies and 36 licensed companies, while conventional companies are 143 companies and Islamic companies are 10 companies. The data is data as of November 30, 2020.

Based on the law, the beginning of the emergence of conventional or syariah financial technology is protected by the legal umbrella of POJK No. 77/POJK.01/2016 on Peer to Peer Lending/P2P Lending Ownership Loan Services issued since 2016.⁴ However, in line with the development of syariah financial technology, to support the loan process, was issued *Fatwa* DSN-MUI No.117/DSN-MUI/II/2018 related to Information Technology Based Financing Services Based on Syariah Principles. This is done in order for companies that are registered as syariah financial technology to the OJK to be given protection based on *Fatwa* DSN-MUI.

In the process of economic development in Indonesia, financial technology can provide considerable opportunities and potential in developing Small and Medium Enterprises (SME) in Indonesia.⁵ With

(Financial Services Authority FinTech, 2017).

³Ahmad Yudhira, "Analisis Perkembangan Financial Technology (Fintech) Syariah Pada Masa Pandemi Covid-19 Di Indonesia," *Value: Jurnal Ilmiah Akuntansi, Keuangan, Dan Bisnis* 1, no. 2 (2021): 14, <https://doi.org/10.36490/value.v2i1.118>.

⁴Sri Maulida, Ahmadi Hasan, and Masyitah Umar, "Implementasi Akad Pembiayaan Qard Dan Wakalah Bil Ujrah Pada Platform Fintech Lending Syariah Ditinjau Berdasarkan Peraturan Otoritas Jasa Keuangan (OJK) Dan Fatwa DSN-MUI," *Al-Tijary* 5, no. 2 (2020): 177, <https://doi.org/10.21093/at.v5i2.2303>.

⁵Diah Rahayu Ningsih, "Peran Financial Technology (Fintech) Dalam Membantu Perkembangan Wirausaha UMKM," in *Prosiding Seminar Nasional Pendidikan Program Pascasarjana Universitas PGRI Palembang* (Palembang: Universitas PGRI Palembang, 2020), 271, <https://core.ac.uk/download/pdf/322574022.pdf>.

the facilities provided by financial technology in terms of services, it is hoped that it can overcome difficulties in financial and capital aspects in general in order to assist the community in developing SME more effectively, productively, and efficiently. This situation also has differences in terms of services provided by conventional banks in general. Based on the above description, this research will discuss the results of the analysis and study of the implementation of *qardh* contracts on financial technology lending platforms and its opportunities in the development of SME in Indonesia.

Methodology

This type of research is qualitative, descriptive, library research, which is research conducted by collecting data from various literature books, journals, website writings, magazines, laws, *fatwas*, or from various writings.⁶ So that the researcher does not go down the field in conducting research. According this methodology, collecting data used documentation method.⁷ *Fatwa* in this research is *Fatwa* DSN-MUI. DSN-MUI is an institution that carries out the duties of the MUI in establishing fatwas and supervising their implementation in the context of developing Islamic finance, business and economics in Indonesia.⁸ The authors only searched *qardh* contract theory data and financial technology data from various literatures. The approach used in this study is qualitative, where the study procedure uses descriptive data in the form of written words. This research method is conducted to explain and analyze a phenomenon that occurs in society. Methods that formulate basic assumptions and rules of thought. The data obtained is then processed by editing and data organizing methods, then analyzed by the inductive method to get

⁶Devid Frastiawan Amir Sup, Selamet Hartanto, and Rokhmat Muttaqin, "Konsep Terminasi Akad Dalam Hukum Islam," *Ijtihad: Jurnal Hukum Dan Ekonomi Islam* 14, no. 2 (2020): 139, <https://doi.org/10.21111/ijthad.v14i2.4684>.

⁷Devid Frastiawan Amir Sup, "The State's Efforts in Preserving the Environment Through Regulation," *Sustainability: Theory, Practice and Policy* 1, no. 2 (2021): 203.

⁸Devid Frastiawan Amir Sup, *Pengantar Perbankan Syariah Di Indonesia (Sejarah, Perkembangan, Regulasi, Dan Fatwa)* (Ponorogo: UNIDA Gontor Press, 2022), 26.

a description as complete as possible.⁹ The analysis process includes data interpretation, translation, word editing, and arranging them in a logical systematic way, so that the resulting description can become a complete concept building that is easy to understand.^{10 11 12}

Results and Discussion

The term *qardh* is derived from the Arabic word “قرضا-يقرض قرض” which literally means to decide or cut. *Al-qardh* is something given by the owner of the fund to the borrower to be paid later.¹³ Later the word *qardh* was adopted into the word crade in Roman terms, credit in English terms and credit in Indonesian terms. The word *qardh* is found in Al-Quran surah Al-Baqarah verse 245:

مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضْعِفَهُ لَهُ أَضْعَافًا كَثِيرَةً وَاللَّهُ يَقْبِضُ وَيَبْصُطُ وَإِلَيْهِ تُرْجَعُونَ

*“Whoever wants to give a loan to God, a good loan (spending his wealth in the way of God), then God will double the payment to him by multiplying. And Allah restricts and enlarges (the provision) and to Him you will be returned”.*¹⁴

Meanwhile there are several meanings of *qardh* according to *fiqh* scholars, such as Sayyid Sabiq, *al-qardh* is the property given

⁹Devid Frastiawan Amir Sup, “Wakaf Kontemporer Di Indonesia Dalam Perspektif Hukum Dan Fatwa,” *Jurnal Hukum Ekonomi Syariah* 4, no. 2 (2021): 239, <https://doi.org/10.30595/jhes.v4i2.11093>.

¹⁰Devid Frastiawan Amir Sup, “Government Efforts to Prevent Potential Violence Against Women During the Covid-19 Pandemic in Indonesia,” *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021): 105, <https://doi.org/10.18592/sjhp.v21i2.4146>.

¹¹Devid Frastiawan Amir Sup, “Al-Qawa’id Al-Fiqhiyah: Tantangan Ilmiah Kemunculannya Dan Aplikasinya Dalam Bidang Ekonomi Shari’ah,” *An-Nuha: Jurnal Kajian Islam, Pendidikan, Budaya Dan Sosial* 8, no. 2 (2021): 330, <https://doi.org/10.36835/annuha.v8i2.457>.

¹²Devid Frastiawan Amir Sup, “Mengawal Nilai-Nilai Produksi Melalui Amdal: Perspektif Ekonomi Syariah,” in *Isu-Isu Kontemporer Dalam Pendidikan, Ekonomi, Dan Hukum* (Yogyakarta: Trussmedia Grafika, 2021), 320.

¹³Akhmad Farroh Hasan, *Fiqh Muammalah Dari Klasik Hingga Kontemporer* (Malang: UIN Malik Press, 2018), 59.

¹⁴Kemenag, *Mushaf Al-Qur’an Terjemah* (Bandung: Nur Publishing, 2009), 20.

by the debtor (*muqrid*) to the debtor (*muqtarid*) to be returned to him (*muqridh*) as he received, when he is able to pay it. According to the *Mazhab* Hanafi, a *qardh* is a person who gives *mitsil* property (which has a parable) to be later paid or returned.¹⁵ According to the *Mazhab* Maliki, *qardh* is the payment for something of value to be reciprocated with something commensurate with it. According to the *Mazhab* Hanbali, *qardh* is giving property to another person for use then returning it to a successor.¹⁶

So it can be concluded that the *qardh* contract is a loan agreement between the lender/owner of the fund to the borrower of the fund that needs to be returned when the maturity date based on the initial agreement, without expecting a return to help, in other words, the loan money will return to its original state.¹⁷

The pillars of the *qardh* contract: (1) *Muqhtaridh*, people who borrow debt funds from lenders; (2) *Muqridh*, a person or entity that provides a loan or debt to a borrower; (3) *Mauqud 'alaih*, the amount of money or goods lent to the borrower; (4) *Shigat, ijab* and *qabul* made by borrowers and lenders.¹⁸

Financial technology or also called financial technology, according to The National Digital Research Center (NDRC), in Dublin, Ireland, defines financial technology as “*innovation in financial services*” or “*innovation in finance*” which is innovation in the financial sector with a touch of modern technology.¹⁹ In other words, financial technology is a financial innovation based on modern technology by leveraging the development of information technology to create new innovations in the financial services sector, which are faster and easier to use by the general public in need.²⁰ According to the

¹⁵Ahmad Wardi Muslich, *Fiqh Muamalah* (Jakarta: Amzah, 2010), 273.

¹⁶Sri Sudiarti, *Fiqh Muamalah Kontemporer* (Medan: FEBI UIN-SU Press, 2018), 168.

¹⁷Ghufran A. Mas'adi, *Fiqh Muamalah Kontekstual* (Jakarta: PT Raja Grafindo Persada, 2002), 171.

¹⁸Taufik Hidayat, *Buku Pintar Investasi Bank Syariah* (Jakarta: Mediakita, 2011), 47.

¹⁹Dina Dwi Setiani et al., “Fintech Syariah: Manfaat Dan Problematika Penerapan Pada UMKM,” *Jurnal Masharif Al-Syariah: Jurnal Ekonomi & Perbankan Syariah* 5, no. 1 (2020): 78, <https://doi.org/10.30651/jms.v5i1.4718>.

²⁰Kornelius Benuf, Siti Mahmudah, and Ery Agus Priyono, “Perlindungan Hukum Terhadap Keamanan Data Konsumen Financial Technology Di Indonesia,” *Refleksi Hukum: Jurnal Ilmu Hukum* 3, no. 2 (2019): 147, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

Bank Indonesia Regulation Number 19/12/PBI/2017 concerning the Implementation of Financial Technology, financial technology is the use of technology in the financial system that produces new products, services, technologies, and/or business models, and can impact monetary stability, financial system stability, and/or efficiency, smoothness, security, and reliability of payment systems.

One of the forms of financial technology circulating in Indonesia, namely peer to peer lending or commonly abbreviated as P2P, is a service that provides financing and loans on the same platform. Or in another definition a peer to peer (P2P) loan is a financial services scheme that brings together lenders and borrowers online.²¹ Peer to peer lending is a place for transactions whether one wants to borrow a certain amount of funds to develop a business, or if one wants to invest by borrowing some funds and acting as an investor.²²

In the peer to peer lending platform, there are several parties that play a role in carrying out transactions, namely lenders, borrowers, and platform organizers. A lender is a fund lender or a party with a debt. A borrower is a borrower or a person who owes funds to a lender. The platform organizer is the party that provides, manages and operates online loan and lending services.²³

Meanwhile, the mechanism of lending and lending transactions in the peer to peer lending platform is to bring together lenders and borrowers in one platform on the internet, where the platform organizer is only a third party responsible for bringing together 2 platform users, namely lenders and borrowers. The platform operator is also the party responsible for regulating and protecting both parties in the transaction, such as acting as a witness in providing evidence of lending and lending agreements.²⁴

²¹Anisa Fadilah Zustika, "Financial Technology (Fintech) Berbasis Sistem Peer To Peer Lending (P2PL) Dalam Perspektif Hifdzu Mal: Studi Kasus Perusahaan Investree" (UIN Sunan Ampel Surabaya, 2019), 44, http://digilib.uinsby.ac.id/38637/2/Anisa_Fadilah_Zustika_G94216152.pdf.

²²Muhammad Irkham Firdaus et al., "Implementasi Akad Murabahah Terhadap Platform Peer to Peer Lending," *Muamalatuna* 13, no. 1 (2021): 10, <https://doi.org/10.37035/mua.v13i1.4582>.

²³*Ibid.*, 12.

²⁴*Ibid.*

In this era of digitalization, technology has become a useful tool to achieve convenience and efficiency. As this affects the financial sector, which also develops and innovates in financial technology or commonly referred to as financial technology. Financial technology has changed the way things are related to lending money. Previously, business capital loans were generally only made through banks through a series of relatively long, complicated, burdensome and even tiring processes. Financial technology comes by providing convenient services to business capital borrowers simply by using internet technology services that are accessible when a person is in a situation or wherever they are.

Financial technology is not only available in the conventional type, but financial technology also has a sharia type that is based on Islamic sharia principles. The presence of sharia financial technology has its own special role and characteristics in providing services to the community such as the basis applied, the absence of benefits and also there are some agreements in transactions that are commonly heard by the general public, especially those who hold fast to the religion of Islam applied by the platform.

The types of contracts available on sharia compliant financial technology, among others, as stipulated in the Fatwa DSN-MUI No: 177/DSN-MUI/II/2018 on Information TechnologyBased Financing Services Based on Sharia Principles, that financial technology services allowed conditionally in accordance with sharia principles. The provisions of the *fatwa* in accordance with the principles of sharia must use a contract in accordance with the field of financing, such as *al-bai'*, *ijarah*, *mudharabah*, *musyarakah*, *wakalah bi al ujah*, and *akad*.

First, *murabahah* contract is a sale and purchase agreement in which sharia financial technology becomes the buyer of the product for the product desired by the customer. *Second*, the *ijarah wal iqtina* contract, which is a lease contract in which the provider of sharia financial technology becomes the buyer of the goods desired by the customer. *Third*, *musyarakah mutanaqishah* contract is a financing program that originates from financial technology providers and customers. *Fourth*, *qardh* which is a loan agreement that takes place between the investor or lender and the borrower with the condition

that the borrower must return the money in the agreed manner and time.

On the peer to peer loan service platform, you can apply for a *qardh* contract. *Muqhtaridh* (borrowers) apply for a loan through the platform provided and upload all the required data or documents. Data or documents that usually need to be uploaded are in the form of identity card (KTP), financial history and purpose of the loan. This data can then be accessed by the prospective *muqridh* (borrower) through the dashboard provided. If the *muqridh* decides to allocate a loan, the *muqridh* can immediately provide a certain amount of funds after transferring the funds to the *muqhtaridh* according to the agreement of both parties.

However, in lending and borrowing transactions on the peer to peer loan service platform, these various elements should be avoided namely *riba*, *gharar*, *maysir*, *tadlis*, *dharar*, *zhulm*, and *haram*. It can be concluded that the implementation of *qardh* contracts in lending transactions on the peer to peer lending platform must meet the following conditions: (1) Do not take advantage in the form of additional value on the funds returned by the borrower, because this is included in the category of usury; (2) Clarity of intention and purpose of the transaction, there is no element of *gharar*; (3) There is no element of opportunity. So the loan round must be clear without any additions and benefits that are against Islamic law; (4) There is no element of deception (*tadlis*); (5) Transactions on the platform on the peer to peer loan platform cannot be disadvantaged which in turn harms one of the parties; (6) There is the protection of funds belonging to both parties; (7) The funds used are intended for matters that do not violate Islamic law; (8) Transparency between the three parties in the transaction; (9) The loan agreement must be agreed in writing in electronic media; (10) Lending transactions on the peer to peer lending platform must be based on mutual assistance.

If the mechanism of the peer to peer lending platform complies with the elements of sharia, then this innovation can greatly help the actors of SME, with loans without added value that will provide enormous assistance. So that the debt burden to be repaid is not too great. In contrast to the online lending phenomenon that is rampant

now. So much so that many ensnare the borrower, because the interest given is very large, while the borrower is unable to pay his debts.

In addition, the development of sharia based peer to peer lending platform also plays an important role for SME entrepreneurs (Small and Medium Enterprises), where in providing capital loans through sharia peer to peer lending is easier than conventional or offline finance institutions, because financial technology requires only a few complete documents from the borrower. This is in line with the objectives of financial technology as described in the Financial Services Authority Regulations: (1) Encourage the low export capacity of SME; (2) Encourage the equal distribution of the welfare level of the population; (3) Assist in meeting the still very large domestic financing needs; (4) Encourage the distribution of national funding is still uneven in 17 thousand islands; (5) Increase the country's financial inclusion.

In general, SME are productive economic activities owned by individuals or business entities in accordance with the criteria set out in Law Number 20 of 2008 on Micro, Small, and Medium Enterprises in article 3 states that micro, small, and simple enterprises aim to grow and develop enterprises in the context of national economic development based on fair economic democracy.

Small and Medium Enterprises (SME) are also one of the priorities in the economic development agenda in Indonesia, this is evidenced by the survival of the SME sector during the major economic crisis in 1998, compared to other larger sectors that could not even weather the crisis.²⁵

Thus, SME have an important role in building the development of Islamic economy and finance in Indonesia and Islamic financial technology will also be able to help more in addressing the problem of financing so that SME (Small and Medium Enterprises) can grow more advanced.

²⁵Setiani et al., "Fintech Syariah: Manfaat Dan Problematika Penerapan Pada UMKM," 88.

Conclusion

The implementation of *qardh* contracts on financial technology lending platforms should avoid the various elements namely *riba*, *gharar*, *maysir*, *tadlis*, *dharar*, *zhulm*, and *haram*. If in practice all these elements are avoided, it will facilitate all actors of SME. Where the perpetrator will not be stuck in huge debt because of interest, and avoid ambiguity and fraud that will be to the detriment of one party. In addition, the existence of the *qardh* contract based financial technology loan platform will make it easier for SME actors to obtain loans or capital to develop their SME.

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