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The Concept of Sharia Compliance on Islamic Bank Murabaha Financing in the *Maqashid Sharia* Approach: A Theoretical Study

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Abstract

Murabaha financing is the financing with the highest value in Indonesia which can be seen from the Islamic Banking Snapshot issued by OJK, which shows that the murabaha financing using covers 46,22% of all distributed financing until September 2021. This research aims to give the theoretical background for sharia compliance murabaha bank financing, which gives an understanding of how Islamic banks can be sharia compliance in financing using the murabaha contract. This research is descriptive qualitative research in the form of literature research using theoretical or conceptual study methodology. The result shows the sharia compliance of murabaha financing is based on four approaches, namely the 'aqd approach, maqashid sharia approach, the documentation approach, and the accounting and financial reporting approach. The 'aqd approach states that the murabaha transaction should be bonafide among independent parties (supplier, buyer, and financier) and not involve a guaranteed profit. As for the maqasid sharia approach, besides ensuring maqasid sharia in wealth (its circulation, its clarity, its preservation, its stability, and justice in it), the murabaha should ensure public interest as well as to contribute to the removal of hardship. In the documentation approach, the form and the materials of the contract documented for murabaha should comply with the principle and requirements of the contract according to Islamic law and has to be overseen by the Sharia Supervisory Board in drafting. And for the accounting and financial reporting approach, the information disclosure should contain

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the value of assets when executing the murabaha, clarifications that murabaha receivables are measured on the cost, the profits of murabaha were completed when contracting, the deferred profit is not deducted from the murabaha receivable, there is no clear treatment for early repayment if it occurs, and there is no clear handling of cases of customer insolvency or delay in payment if any.

Keywords: *Sharia Compliance; Murabaha; Islamic Banking; Maqashid Sharia*

Abstrak

Pembiayaan murabahah merupakan pembiayaan dengan nilai tertinggi di Indonesia yang dapat dilihat dari Snapshot Perbankan Syariah yang diterbitkan oleh OJK, yang menunjukkan bahwa pembiayaan murabahah mencakup 46,22% dari seluruh pembiayaan yang didistribusikan hingga September 2021. Penelitian ini bertujuan untuk memberikan landasan teoritis kepatuhan kepada syariah untuk pembiayaan murabahah di perbankan syariah, yang memberikan pemahaman tentang bagaimana bank syariah dapat mematuhi syariah dalam menyalurkan pembiayaan menggunakan akad murabahah. Penelitian ini merupakan penelitian kualitatif deskriptif dalam bentuk penelitian kepustakaan menggunakan metodologi kajian teoritis atau konseptual. Hasil penelitian menunjukkan kepatuhan syariah pembiayaan murabahah didasarkan pada empat pendekatan, yaitu pendekatan akad, pendekatan maqashid syariah, pendekatan dokumentasi, dan pendekatan akuntansi dan laporan keuangan. Pendekatan akad menyatakan bahwa transaksi murabahah harus bonafide di antara pihak independen (pemasok, pembeli, dan pemberi pembiayaan) dan tidak melibatkan keuntungan terjamin. Adapun pendekatan maqashid syariah, selain memastikan maqashid syariah dalam harta (peredarannya, kejelasannya, pelestariannya, stabilitasnya, dan keadilan di dalamnya), murabahah harus memastikan kepentingan umum serta berkontribusi pada penghapusan kesulitan. Dalam pendekatan dokumentasi, bentuk dan isi kontrak yang didokumentasikan untuk murabahah harus sesuai dengan prinsip dan persyaratan kontrak menurut hukum Islam dan harus diawasi oleh Dewan Pengawas Syariah dalam penyusunannya. Dan untuk pendekatan akuntansi dan pelaporan keuangan, keterbukaan informasi harus berisi nilai aset saat melaksanakan murabahah, klarifikasi bahwa piutang murabahah diukur menurut biaya, keuntungan murabahah ditetapkan saat kontrak, laba tangguhan tidak dikurangkan dari piutang murabahah, tidak ada perlakuan yang jelas untuk pelunasan awal jika terjadi, dan tidak ada penanganan yang jelas atas kasus kepailitan pelanggan atau keterlambatan pembayaran jika ada.

Kata Kunci: *Kepatuhan Syariah; Murabahah; Bank Syariah; Maqashid Syariah*

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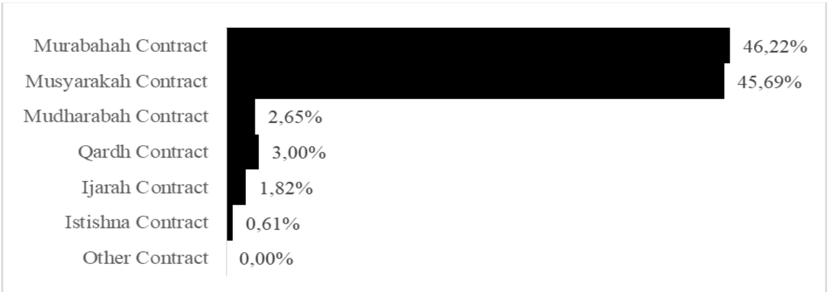
Introduction

Indonesia as a country with a majority Muslim population, makes it a very potential market for Islamic banking products, offered by Islamic commercial banks, Islamic financing banks, and Islamic business units. This relates to the obligation of a Muslim to meet his needs, both consumption and production, by using products that are following sharia principles, which the main thing in terms of banking products is to use products that are free of interest or usury.[1]

However, the standard of sharia compliance is not enough just to be usury-free, because sharia compliance can only be achieved if these products are carried out and implemented following the guidance of sharia as prescribed in the Al-Qur'an and Sunnah. So that these products are following the *maqashid sharia*, and provide benefits that are permitted by sharia.[2]

The murabaha financing is the financing with the highest value in Indonesia, according to the Islamic Banking Snapshot issued by OJK, which showed the distributed financing data with a total of IDR 413,31 trillion, as follows:

Figure 1: Percentage of Distributed Financing Until September 2021



Source: OJK (Financial Services Authority), Indonesia

[1] Iksan and Wardah Yuspin, "Comparative Analysis of Malaysian Islamic Bank Agreements with Indonesia," *Journal of Transcendental Law* 4, no. 1 (2022): 42, https://doi.org/10.23917/jtl.v4i1.18798.

[2] Kazi Md. Tarique et al., "Constructing a Maqasid (Objective) Based Performance Measurement Index for Islamic Banks," *International Journal of the Analytic Hierarchy Process* 12, no. 2 (2020): 331, https://doi.org/10.13033/ijahp.v12i2.770.

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This is partly due to the ease of implementation for banks to get usury-free profits because the basis of its contract is buying and selling, not capital loans. Although the form is buying in installments or non-cash buying, murabaha financing inevitably generates debt for customers to bank.[3] In this case, the debt paid by the customer as a buyer is the debt of the price of buying goods from the bank as the seller. As for easiness of implementation of murabaha financing, it is because murabaha is a short-term and easy investment mechanism, that can ensure Islamic bank's profits similar to those of conventional banks, remove *gharar*, and not allow the bank to interfere in the management of the customer's business, because of it's creditors-debtors relationship.[4]

Miah and Suzuki stated that many Islamic banks are affected by what they named murabaha syndrome, as they relied much on murabaha financing that was debt-like financing, which they considered not truly a sharia-based product but it is sharia compliance and Islamic.[5] Suzuki and Miah argued that the Islamic banks used two kinds of benchmarks in endorsing less sharia compliance Islamic products, namely the sharia compliance benchmark and the *raf' al-haraj* benchmark, in which the logic of procedural and instrumental rationality of this Islamic finance must be assimilated to the *maqashid sharia*, to conform, in intention and action, to the truth prescribed in Al-Qur'an.[6]

The non-sharia compliance problem in murabaha, according to Mapeyo, et.al., occurred from customers and suppliers to avoid the commodity and collect cash money in murabaha financing, as well as occurred from the banking institutions themselves by adding wakala contract to the murabaha that affects transfer of ownership from the

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[3]Shalih bin 'Uthman bin 'Abd Al-'Aziz Al-Halil, *Tawthiq Al-Dayn Fi Al-Fiqh Al-Islami* (Riyadh: Jami'at Al-Imam Muhammad bin Sa'ud Al-Islamiyyah, 2001), 28.

[4]Anita Rahmawaty, "Ekonomi Syari'ah: Tinjauan Kritis Produk Murabahah Dalam Perbankan Syari'ah Di Indonesia," *La Riba* 1, no. 2 (2007): 190, https://doi.org/10.20885/lariba.vol1.iss2.art3.

[5]Mohammad Dulal Miah and Yasushi Suzuki, "Murabaha Syndrome of Islamic Banks: A Paradox or Product of the System?," *Journal of Islamic Accounting and Business Research* 11, no. 7 (2020): 1366, https://doi.org/10.1108/JIABR-05-2018-0067.

[6]Yasushi Suzuki and Mohammad Dulal Miah, "Shari'ah-Compliant Benchmark and Shari'ah-Based Raf' Al-Haraj Benchmark on Prohibition of Riba," *International Journal of Islamic and Middle Eastern Finance and Management* 14, no. 1 (2021): 154, https://doi.org/10.1108/IMEFM-11-2019-0490.

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supplier to the banking institution to conclude a murabaha transaction.[7]

Mustafa affirmed the reason why Islamic banks concentrated on financing in murabaha mode was that they were heavily relying on collaterals, in case of customer's default, they liquidated or sold assets related to murabaha contract thus reduced the impact of credit risk on the financial performance, as the results found a significant positive relationship between the non-performing financing and provision finance by murabaha mode.[8] Because according to Andriyani, the non-performing financing in murabaha will decrease the banks performance and thus decrease the value of the *maqashid sharia*.[9]

Taufik, Muhammad, and Nugraheni stated that although murabaha complies with sharia and drives profitability, to improve the performance of its *maqashid sharia*, Islamic banks need to evaluate its financing contracts,[10] as it was stated by Al-Nahari, et. al. that any Islamic finance product must have parameters to verify the *maqashid sharia*, control them and connect them with related indicants,[11] as Qoyum previously stated that the *maqashid sharia* framework is intended to solve the problem of pseudo-Islamic finance products which are just mimicking their conventional counterparts.[12]

From the view of product development according to the *maqashid*

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[7]Ramadhani Salim Mapeyo et al., "Shari'ah Compliance Issues in the Practices of Murabahah Financing Products Offered by Banking Institution in Tanzania," *International Research Journal of Shariah, Muamalat, and Islam* 4, no. 10 (2022): 33, https://doi.org/10.35631/IRJSMI.410003.

[8]Omer Allagabo Omer Mustafa, "Why Do Islamic Banks Concentrating Finance in Murabaha Mode? Performance and Risk Analysis (Sudan: 1997-2018)," *International Business Research* 13, no. 7 (2020): 211, https://doi.org/10.5539/ibr.v13n7p208.

[9]Melisa Andriyani, "Pengaruh Murabahah, CAR, Dan DPK Terhadap Maqasid Syariah Dengan NPF Sebagai Moderating," *Jurnal Ekobis: Ekonomi Bisnis & Manajemen* 11, no. 2 (2021): 227, https://doi.org/10.37932/j.e.v11i2.382.

[10]Muhammad Taufik, Rifqi Muhammad, and Peni Nugraheni, "Determinants and Consequences of Maqashid Sharia Performance: Evidence from Islamic Banks in Indonesia and Malaysia," *Journal of Islamic Accounting and Business Research* 21, no. 2 (2023): 36, https://doi.org/10.1108/JIABR-07-2021-0205.

[11]Ameen Ahmed Abdullah Qasem Al-Nahari et al., "Common Conceptual Flaws in Realizing Maqasid Al-Shari'ah Vis-a-Vis Islamic Finance," *ISRA International Journal of Islamic Finance* 14, no. 2 (2022): 193, https://doi.org/10.1108/IJIF-12-2020-0259.

[12]Abdul Qoyum, "Maqasid Ash-Shari'ah Framework and the Development of Islamic Finance Products: The Case of Indonesia," *Tazkia Islamic Finance and Business Review* 12, no. 2 (2018): 172, https://doi.org/10.30993/tifbr.v12i2.150.

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sharia, Diallo and Gundogdu argued that the widespread implementation of murabaha-based new products for financing services, should be the subject of a wider question of *maqashid sharia*, e.g. is it to enable financial institutions, whether Islamic or non-Islamic, to prey in the name of sharia compliance or financial intermediation?[13] Thus, according to Ghozali, et. al., the murabaha contract has drawn a great deal of criticism due to the lack of compliance with sharia principles in its application, and its similarity to conventional bank loans.[14]

This research aims to give the theoretical background for sharia compliance for murabaha financing in Islamic banking, which gives an understanding of how Islamic banks can be sharia compliance in financing using the murabaha contract, or in other words, how Islamic banks use murabaha contract that fulfills the contract's conditions that meet sharia principles and objectives. For there are many critics towards the use of sharia-based product,[15] that did not satisfy the *maqashid sharia* nor the purpose of the product.[16]

Methodology

This research is descriptive qualitative research in the form of literature research using theoretical or conceptual study methodology. Descriptive studies are communicated through the data, whereas theoretical studies are communicated through concepts illustrated by data, with the purpose to give an understanding or explanation of features of social life beyond the settings studied,[17] namely sharia

[13]Amadou Thierno Diallo and Ahmet Suayb Gundogdu, eds., "Islamic Financial Product Development in the Context of Education and Health," in *Sustainable Development and Infrastructure: An Islamic Finance Perspective* (Cham: Springer International Publishing, 2021), 132.

[14]Mohammad Ghozali et al., "The Implementation of Sharia Compliance in the Murabaha Contract," in *Proceedings of the 2nd Social and Humaniora Research Symposium (SoRes 2019)* (Paris: Atlantis Press, 2020), 482, https://doi.org/10.2991/assehr.k.200225.103.

[15]Qoyum, "Maqasid Ash-Shari'ah Framework and the Development of Islamic Finance Products: The Case of Indonesia," 175.

[16]Al-Nahari et al., "Common Conceptual Flaws in Realizing Maqasid Al-Shari'ah Vis-a-Vis Islamic Finance," 196.

[17]Steven J. Taylor, Robert Bogdan, and Marjorie L. DeVault, *Introduction to Qualitative Research Methods*, 4th ed. (Hoboken: John Wiley & Sons, Inc., 2016), 162.

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compliance murabaha bank financing. As for literature research, it is done by collecting relevant information for the study and developing an extremely systematic literature review,[18] to build a theory of sharia compliance murabaha bank financing.

This research uses descriptive and document analysis methods, based on textual data analysis. Description in qualitative research forms the foundation of data analysis and provides rich contextual detail in it. The description in this research is used throughout data analysis and used concurrently with other analytic tasks in the study.[19] Document analysis is a systematic procedure for reviewing and evaluating documents that entail finding, selecting, appraising, and synthesizing data contained within them. The approaches to document analysis methodology used in this research are content analytic and context analytic of documents as both actors and commentaries.[20]

Results and Discussion

Sharia Compliance Standards in Financial Transactions

The first research which it proposed the theory of sharia compliance in the transactions of financial institutions is the research carried out by Shahul Hamid bin Mohamed Ibrahim, et. al. who researched and proposed criteria for determining the Islamicity of Islamic banks, which they called the Islamicity Disclosure Indexes, which include three indicators, sharia compliance, corporate

[18]John D. Hillebrand and Bruce L. Berg, *Qualitative Research Methods for the Social Sciences*, 4th ed. (Needham Heights: Allyn & Bacon, 2001), 16.

[19]Monique Hennink, Inge Hutter, and Ajay Bailey, *Qualitative Research Methods*, 2nd ed. (London: SAGE Publications, Ltd., 2020), 542.

[20]Benjamin Kutsyuruba, "Document Analysis," in *Varieties of Qualitative Research Methods* (Cham: Springer Nature Switzerland AG, 2023), 142.

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governance, and social responsibility.[21] [22] [23] The sharia compliance area of financial and financing products covers the structure of the products, their terms or conditions of legal documents, their implementation of products in the market, and the related IT system with multimedia and commercial broadcasting.[24]

As for determining shariah compliance, including the *maqashid sharia* in Islamic financial transactions and products, this is done with two basic things, the first is sharia governance,[25] [26] and the second is sharia auditing.[27] [28] They are translated into the standards for achieving sharia compliance as drawn by Saiful Azhar Rosly, which

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[21]Fahmi Ali Hudaefi and Kamaruzaman Noordin, "Harmonizing and Constructing an Integrated Maqasid Al-Shari'ah Index for Measuring the Performance of Islamic Banks," *ISRA International Journal of Islamic Finance* 11, no. 2 (2019): 285, https://doi.org/10.1108/IJIF-01-2018-0003.

[22]Essia Ries Ahmed, Md. Aminul Islam, and Tariq Tawfeeq Yousif Alabdullah, "The Moderating Role of Shariah Supervisory Board on Sukuk Pricing Benchmark," *International Journal of Excellence Islamic Banking & Finance* 6, no. 2 (2017): 29, https://www.researchgate.net/publication/335456089_The_Moderating_Role_of_Shariah_Supervisory_Board_on_Sukuk_Pricing_Benchmark_International_Journal_of_Excellence_in_Islamic_Banking_Finance_Essia_Ries_Ahmed_1.

[23]Shahul Hameed et al., "Alternative Disclosure and Performance Measures for Islamic Banks," in *2nd Conference on Administrative Sciences: Meeting the Challenges of the Globalization Age* (Dhahran: King Fahd University, 2004), 22, https://doi.org/10.1017/CBO9781107415324.004.

[24]Ahcene Lahsasna, *Shari'ah Non-Compliance Risk Management and Legal Documentation in Islamic Finance* (Singapore: John Wiley & Sons Singapore Pte, Ltd., 2014), 14.

[25]Engku Rabiah Adawiah Engku Ali and Umar A. Oseni, "Towards An Effective Legal and Regulatory Framework for Islamic Financial Transactions: Major Initiatives of the Central Bank of Malaysia," *International Journal of Law and Management* 59, no. 5 (2017): 655, https://doi.org/10.1108/IJLMA-04-2016-0038.

[26]Ahmad Alkhamees, "The Impact of Shari'ah Governance Practices on Shari'ah Compliance in Contemporary Islamic Finance," *Journal of Banking Regulation* 14, no. 2 (2013): 137, https://doi.org/10.1057/jbr.2012.12.

[27]Agus Arwani, "Issues and Challenges of Shariah Auditing in Islamic Financial Institution and Corporate Governance Compliance," *Media Riset Akuntansi, Auditing & Informasi* 18, no. 2 (2018): 172, https://doi.org/10.25105/mraai.v18i2.3008.

[28]Zurina Shafii, Supiah Salleh, and Shahwan Hj Syahidawati, "Management of Shariah Non-Compliance Audit Risk in the Islamic Financial Institutions Via the Development of Shariah Compliance Audit Framework and Shariah Audit Programme," *Kyoto Bulletin of Islamic Area Studies* 3, no. 2 (2010): 6, https://oarep.usim.edu.my/jspui/handle/123456789/20125.

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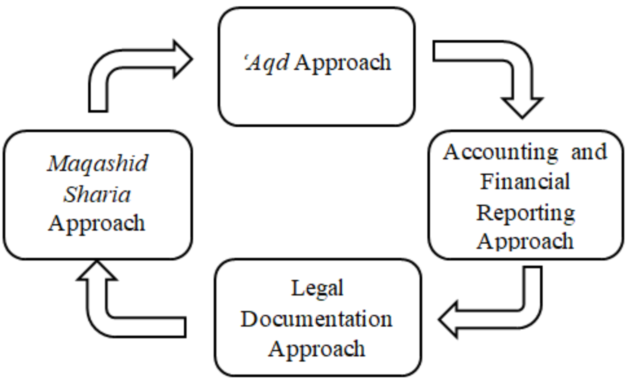
are acquired through four approaches, *'aqd* approach, *maqashid sharia* approach, legal documentation approach, accounting and financial reporting approach. These approaches and standards can be drawn up as follows:[29]

Figure 2. Sharia Compliance Standards for Islamic Financial Transactions and Products



Source: Processed Data

First, the *'aqd* approach. This approach is based on the criterion that a product is sharia compliance when the product fully complies with the requirements of the present contract so that this contract is valid and binding on its contractors.[30] A valid contract is one in which its elements and conditions are met, the object of the contract is accepted by the rule of sharia, and there are no descriptions related to it that detract from its legitimacy.[31]

Second, the *maqashid sharia* approach. *Maqashid sharia* allows financial institutions to more accurately match their products and

[29]Saiful Azhar Rosly, "Shariah Parameters Reconsidered," *International Journal of Islamic and Middle Eastern Finance and Management* 3, no. 2 (2010): 135, https://doi.org/10.1108/17538391011054372.

[30]Ibid., 136.

[31]Muhammad 'Uthman Shabir, *Al-Madkhal Ila Fiqh Al-Mu'amalat Al-Maliyyah: Al-Mal, Al-Milkiyyah, Al-'Aqd*, 2nd ed. (Amman: Dar Al-Nafais, 2010), 289.

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businesses with the demands of Islamic ethics and thus justice, because *maqashid sharia* is based on obtaining benefit and removing harm in preserving all five necessities, and in preserving wealth in particular. The financial institution must ensure that it provides products and services that ward off evils as found in the Western style of finance, and the institution must work to bring interests by securing the benefits of mutual assistance and fair transactions, which are found in the correct trade contract.[32] Allah has legislated to preserve wealth, from the rulings by preserving it from the side of materiality by controlling its development system and methods of circulation, as well as from the side of irreality by keeping away damage from it, preventing its false eating and waste, and provide security for it.[33]

Third, the legal documentation approach. Contracts concern the realization of its pillars, in which the rights of the contracting parties were defined and made clear. Documents provide security and protection for them when their rights, duties, and responsibilities are clearly defined in the terms of the contract. The existence of documents and the documentation of contracts thus constitute a kind of consumer protection system.[34] Documentation has been initiated in financial transactions to preserve wealth, by keeping it away from disputes and causing damage to it, because documentation is a reason for maintaining and preserving it from loss and a means to cut off disputes, injustice, and suspicion between the parties and a way to maintain security in society.[35]

Fourth, the accounting and financial reporting approach. Accounting is the record of financial inflows and outflows in various categories, including audits.[36] The purpose of financial reporting is to provide information about the financial strength, performance, and

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[32]Rosly, "Shariah Parameters Reconsidered," 137.

[33]'Iz Al-Din bin Zaghibah, *Maqasid Al-Shari'ah Al-Khashshah Bi Al-Tasharrufat Al-Maliyyah*, 1st ed. (Dubai: Markaz Jam'iyyat Al-Majid li Al-Tsaqafah wa Al-Turats, 2001), 103.

[34]Rosly, "Shariah Parameters Reconsidered," 138.

[35]Zaghibah, *Maqasid Al-Shari'ah Al-Khashshah Bi Al-Tasharrufat Al-Maliyyah*, 185.

[36]Samir Alamad, *Financial and Accounting Principles in Islamic Finance* (Cham: Springer International Publishing, 2019), 77.

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changes in the financial condition of an organization that benefits a wide range of users, from the board of directors, stakeholders, and others, in making economic decisions. This information works to remove the uncertainty and simplification of the financial contract through realistic reports of any transaction so that the financial reports clarify exactly what was traded in commercial transactions. Accounting information is used by investors to make economic decisions by predicting the future cash flows of the company or organization in which they invested. Financial reports must be understandable, reliable, and relevant to their business dealings or accounting categories.[37]

The Making of Murabaha Bank Financing

Murabaha bank financing is a development of the murabaha that already existed in *fiqh al-mu'amalat*. Murabaha is a sharia-based product, which must follow the laws and mechanisms (including the elements and conditions) as well as the procedures for the implementation of the contract as defined in the *fiqh al-mu'amalat*.[38] In this context, when the Islamic bank offered to finance, it did not offer customers a loan contract but a deferred sale contract.[39]

Islamic financial engineering has produced murabaha to the purchase order because it covers an aspect of the need that cannot be achieved through mudharaba and musharaka, so anyone that needs to buy something determines what he desires, and the bank buys at the request of him, as the bank in this is not a merchant who acquires goods and services, but a manager who manages the needs.[40] Islamic financial engineering also produced a *murabahah bil wakalah*, whereby the Islamic bank authorizes the customer to buy what he desires on behalf of the bank, and the bank immediately sells the

[37]Rosly, "Shariah Parameters Reconsidered," 139.

[38]M. Kabir Hassan and Michael Mahlknecht, *Islamic Capital Markets: Products and Strategies* (Chichester: John Wiley & Sons, Ltd., 2011), 37.

[39]Hussein Kureshi and Mohsin Hayat, *Contracts and Deals in Islamic Finance: A Users Guide to Cash Flows, Balance Sheets, and Capital Structures* (Singapore: John Wiley & Sons Singapore Pte. Ltd., 2015), 29.

[40]Mardhi bin Mushawwih Al-'Anzi, *Fiqh Al-Handasat Al-Maliyyah Al-Islamiyyah: Dirasah Ta'shiliyyah Tathbiqiyyah* (n.p.: Alukah Library, 2015), 33.

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same commodity to the customer on a deferred sale basis.[41]

Yusuf Al-Qaradawi portrayed the murabaha to the purchase order simply and practically, someone went to the Islamic bank and told him that he wanted to buy a commodity with specific specifications, from a specific company, and he did not now have the price or only had a part of it. The bank replied that he will buy this commodity for him with the specifications from the party he appointed, provided that it earns a certain amount or a certain percentage, and pays within the specified period, but the sale does not take place until after the bank buys the said commodity and acquires it by the bank or through his agent, so that the sale is for what he already owned, as everything between the bank and the customer now dates to sell after owning and possessing the commodity.[42]

Murabahah bil wakalah is a recent development on murabaha, in which the Islamic bank appoints the customer as his agent under wakala contract to purchase any permitted commodity that the customer wishes to purchase on behalf of the bank. The customer then provides the bank with the purchase invoice and the bank pays the purchase price. Here the bank purchases the commodity on behalf of the customer, but does not record the commodity in its book nor keep it in its warehouse, and immediately sells the said commodity to the customer on a deferred payment basis.[43] This financing is developed through hybrid contracts by adding the wakala contract shortly after the agreement on the murabaha contract,[44] or it is done by the inclusion of two separate contracts, the wakala contract first and then the murabaha contract after the completion of the wakala.[45]

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[41]Kureshi and Hayat, *Contracts and Deals in Islamic Finance: A Users Guide to Cash Flows, Balance Sheets, and Capital Structures*, 26.

[42]Yusuf Al-Qaradawi, *Bay' Al-Murabahah Li Al-Amir Bi Al-Shira' Kama Tajrihi Al-Masharif Al-Islamiyyah*, 3rd ed. (Cairo: Maktabat Wahbah, 1995), 24.

[43]Kureshi and Hayat, *Contracts and Deals in Islamic Finance: A Users Guide to Cash Flows, Balance Sheets, and Capital Structures*, 26.

[44]Andi Rio Makkulau Wahyu and M. Wahyuddin Abdullah, "Penerapan Prinsip Syariah Dalam Akad Pembiayaan Murabahah Pada Bank Muamalat," *Jurnal Iqtisaduna* 3, no. 1 (2017): 63, https://doi.org/10.24252/iqtisaduna.v3i1.4032.

[45]Ah. Azharuddin Lathif, "Konsep Dan Aplikasi Akad Murabahah Pada Perbankan Syariah Di Indonesia," *Ahkam: Jurnal Ilmu Syariah* 12, no. 2 (2012): 72, https://doi.org/10.15408/ajis.v12i2.967.

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The 'Aqd Approach for Validity of Murabaha Financing

What Islamic banks referred to regarding the existence of the promise in the sale of bank murabaha in the form of murabaha to the purchase order, is the decision of the Islamic *Fiqh* Academy of the Organization of the Islamic Conference, held at its Fifth Conference session in Kuwait in 1988 regarding the fulfillment of the promise and murabaha for the purchase order. In the terms of the murabaha to the purchase order, promise is permissible on the condition that there is an option for the parties, both or one of them.[46] The same terms were also found in the legal standards issued by the AAOIFI regarding murabaha, in the third chapter, the acquisition of the asset or good by the institution before its sale using murabaha.[47]

As for Islamic financing formulas, bankers refer to the *fiqh al-buyu'* to devise legal frameworks for bank's transactions, because the origin of murabaha financing is murabaha sale.[48] In order to comply with Islamic finance principles, a transaction needs to be bonafide among independent parties (supplier, buyer, and financier). In the most popular mode of financing in a murabaha sale, an Islamic bank sells the goods financed with predetermined tenor and sale prices that cannot be changed afterward, even if the repayment is delayed.[49]

To ensure profitability and save their financial performance from loss and crisis, Islamic banks should not totally rely on collateral as a reason for expanding the provision of murabaha financing mode, because in case of the value of collateral decreased against the finance, will lead to credit risk and reduces the performance.[50] Islamic banks

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[46]'Ali Ahmad Al-Salus, *Mawsu'at Al-Qadhaya Al-Fiqhiyyah Al-Mu'ashirah Wa Al-Iqtishad Al-Islami*, 7th ed. (Doha: Dar Al-Thaqafah, 2002), 602.

[47]AAOIFI, *The Accounting and Auditing Organization for Islamic Financial Institutions Shari'ah Standards* (Manama: AAOIFI, 2015), 206.

[48]Abdul Hamid Abdul Fattah Al-Maghribi, *Al-Idarah Al-Istiratijiyyah Fi Al-Bunuk Al-Islamiyyah* (Jeddah: Islamic Research dan Training Institution Islamic Development Bank, 2004), 141.

[49]Diallo and Gundogdu, "Islamic Financial Product Development in the Context of Education and Health," 135.

[50]Omer Allagabo Omer Mustafa, "Assessment of the Financial Performance of Islamic Commercial Banks in Sudan Under Credit Risk and Inflation Pressures (1995-2017)," *Journal of Islamic Banking and Finance* 7, no. 1 (2019): 17, https://doi.org/10.15640/jibf.v7n1a2.

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could increase their financing of murabaha transactions to boost their profitability and compensate for high credit risk exposure. There is also the need to review the costs of other products of Islamic banks, which tends to affect the repayment ability of the customers,[51] even though the collateral will guarantee the ongoing financing.[52]

The scope of sharia compliance is not limited to the attestation of fair representation of financial aspects of an organization, it is also, and more importantly to ensure that sharia controls are conceptually sound and effective in ensuring Islamic values and sharia principles of financial transactions.[53] The sale of murabaha made by the bank should not involve a guaranteed profit as the bank sold the commodity and made a profit before taking it over. This is because murabaha is not a guaranteed profit sale, as the bank bought the commodity and became the owner of it, it bears the burden of loss and the burden of the defect, and carrying these risks is one of the legitimate reasons for deserving of the profit.[54] [55]

The Maqasid Sharia in Murabaha Bank Financing

Murabaha bank financing is a kind of financial transaction, and what is attributed to be mentioned here is what Sheikh Ibn 'Ashur said that the *maqashid sharia* in wealth are five things, its circulation,

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[51]Abdulrazaq T. Jimoh, John A. Attah, and Aliyu I. Nafiu, "Murabaha-Related Credit Risk and Financial Performance of Islamic Banks in Africa," *International Journal of Islamic Banking and Finance Research* 5, no. 1 (2021): 63, https://doi.org/10.46281/ijibfr.v5i1.1279.

[52]Muhammad Fahmul Iltiham and Nur Iva Apriliyah, "Optimizing Insurance and Guarantees for Deceased Customers in Murabaha Financing: A Comprehensive Analysis," *Malia: Jurnal Ekonomi Islam* 14, no. 1 (2022): 145, https://doi.org/10.35891/ml.v14i1.3858.

[53]Issam Tlemsani, Farhi Marir, and Munir Majdalawieh, "Screening of Murabaha Business Process Through Quran and Hadith: A Text Mining Analysis," *Journal of Islamic Accounting and Business Research* 11, no. 9 (2020): 1892, https://doi.org/10.1108/JIABR-05-2020-0159.

[54]Izzeddin Mohamed Khouja, *Al-Dalil Al-Shari Li Al-Murabahah*, 1st ed. (n.p.: Shirkah Al-Barakah li Al-Istithmar wa Al-Tanmiyah, 1998), 39.

[55]Mohamed Ahmed Samireh, "Murabaha to Purchase Orderer Between Theory and Practice," *Social Mentality and Researcher Thinkers Journal* 6, no. 32 (2020): 828, https://doi.org/10.31576/smryj.475.

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its clarity, its preservation, its stability, and justice in it.[56] [57] The other aspects of the *maqashid sharia* concerning transaction law in Islam are *mashlahah* and *raf' al-haraj* (removal of hardship).[58] [59] [60]

The commonly perceived idea of the *mashlahah* perspective in murabaha, is that it helps the community to carry out and improve welfare and various activities, by selling an item by confirming its purchase price to the buyer and the buyer pays it at a price more as profit.[61] On the other side, products in the form of murabaha financing as an alternative to conventional transaction systems based on interest, make murabaha contract contained *mashlahah* value of public interest, so that economic behaviour does not fall prey to prohibited practices.[62] As for the *raf' al-haraj*, achieving the *maqashid sharia* should be considered as the main priority instead of over-emphasizing on technical aspects of the rulings, which can cause a lot of hardship.[63] On the other side, the removal of hardship also offers higher social benefits,[64] so it conforms to the above mentioned principle of public interest. In this regard, sharia compliance murabaha should be contributing to the removal of hardship in the bank's consumers

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[56]Mohammad bin Salih bin Hamid, "Al-Maqasid Al-Shariyyah Fi Al-Muamalat Al-Masrafiyyah Wa Tatbiqatiha," *Majallah Kulliyyah Al-Iqtisad Wa Al-Ulum Al-Siyasiyyah* 35, no. 2 (2023): 806, https://doi.org/10.21608/jfsu.2023.174030.1081.

[57]Muhammad Al-Thahir Ibn 'Ashur, *Maqashid Al-Shari'ah Al-Islamiyyah* (Beirut: Dar Al-Kitab Al-Lubnani, 2011), 306.

[58]Amrulla Hayatudin and Panji Adam, "Application of Maqasid Al-Shari'ah in Murabahah Contract in Sharia Financial Institutions," *Indonesian Journal of Islamic Economics Research* 2, no. 2 (2020): 88, https://doi.org/10.18326/ijier.v2i2.4311.

[59]Suzuki and Miah, "Shari'ah-Compliant Benchmark and Shari'ah-Based Raf' Al-Haraj Benchmark on Prohibition of Riba," 157.

[60]Muhammad Shahrul Ifwat Ishak and Nur Syahirah Mohammad Nasir, "Maqasid Al-Shari'ah in Islamic Finance: Harmonizing Theory and Reality," *The Journal of Muamalat and Islamic Finance Research* 18, no. 1 (2021): 111, https://doi.org/10.33102/jmifr.v18i1.334.

[61]Susi Aryani Manangin et al., "The Nature of Murabahah Financing in Islamic Banking in Indonesia," *IOSR Journal of Humanities and Social Science (IOSR-JHSS)* 25, no. 7 (2020): 19, https://doi.org/10.9790/0837-2507071630.

[62]Hayatudin and Adam, "Application of Maqasid Al-Shari'ah in Murabahah Contract in Sharia Financial Institutions," 89.

[63]Ishak and Nasir, "Maqasid Al-Shari'ah in Islamic Finance: Harmonizing Theory and Reality," 112.

[64]Suzuki and Miah, "Shari'ah-Compliant Benchmark and Shari'ah-Based Raf' Al-Haraj Benchmark on Prohibition of Riba," 158.

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through the function of wealth creation.[65]

Principles of Documentation for Murabaha Financing Contract

The documents have two functions, firstly, as official legal function, meaning that the judicial work becomes more complete when the document is present for it. And secondly as a mean of proof or testimony by the contracting parties to the future contract.[66] In this document, the contractors agreed on the contract in particular on the terms and conditions. Therefore, if one or both parties to the contract are unable to fulfill their obligations, each or both accept the penalties agreed upon in the contract.[67]

The validity of the contract in writing depends on the validity of the document written for it, and the validity of the document depends on the fulfillment of the conditions and contents of it.[68] The failure of contract documents to comply with sharia contractual obligations exposes the contractual parties to the risk of non-sharia compliance, it is the same as if the contracting parties fail to comply with sharia.[69] This is fundamental, as the legal consequences emerging from a contract are directly related to the compliance of formats and materials with Islamic law principles and requirements.[70] In this regard, the Sharia Supervisory Board has to oversee the contract document drafted, to declare that there has or hasn't been a violation of sharia principles, and has to check regularly on the implication of

[65]Ibid., 159.

[66]Muhammad, *Bisnis Syariah: Transaksi Dan Pola Pengikatannya*, 1st ed. (Depok: Rajawali Press, 2018), 269.

[67]Muhammad, *Manajemen Bank Syariah*, 2nd ed. (Yogyakarta: UPP Sekolah Sekolah Tinggi Ilmu Manajemen YKPN, 2011), 85.

[68]Muhammad, *Bisnis Syariah: Transaksi Dan Pola Pengikatannya*, 274.

[69]Nurul Syazwani Mohd. Noor, Muhammad Hakimi Mohd. Shafiai, and Abdul Ghafar Ismail, "The Derivation of Shariah Risk in Islamic Finance: A Theoretical Approach," *Journal of Islamic Accounting and Business Research* 10, no. 5 (2019): 666, https://doi.org/10.1108/JIABR-08-2017-0112.

[70]Rusdi Salam Januardi and Burhanudin Harahap, "Legal Aspect of Sharia Investment and Working Capital Financing (A Case Study in Murabaha Contract in Micro Capital Service Unit of Daleman Syari'ah of PT. Permodalan Nasional Madani (Persero) Solo Branch)," *South East Asia Journal of Contemporary Business, Economics, and Law* 24, no. 5 (2021): 151, https://seajbel.com/wp-content/uploads/2021/10/SEAJBEL24.ISU-5-861.pdf.

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said contract document so that the positive legal aspects and sharia law can be fulfilled.[71]

Principles of Accounting and Financial Reports in the Islamic Bank for Murabaha

Accounting represents the examination and evaluation of documentary cycles, accounting books, records, reports, and the like, to ensure their efficiency in preserving the bank's funds and depositors' funds, and to develop them in legitimate ways, as well as to ensure that the data and information are honest and true and can be relied upon in making administrative decisions, especially performance, investment, financing, and differentiation decisions from various alternatives.[72] An expansion of innovative hybrid products such as murabaha financing requires careful consideration as to their legitimacy in order to protect consumers' interests, sharia compliance, and financial inclusiveness.[73]

Because the nature of the Islamic bank's activity and operations is based mainly on the profit and loss sharing system and the difference in returns from one operation to another according to the terms of its contract and its results, the accounting process in the Islamic bank extends to reviewing the operations to ensure the implementation of the contract for each of the murabaha, mudharaba, musharaka operations, and so on. It also extends to achieving the soundness of the distributions decided by the bank's management to the holders of investment accounts, taking into account that these distributions may be quarterly or at intervals throughout the bank's fiscal year, and this is related to the shareholder's share of the surpluses generated and distributed to them. Such accounting shall be registered in the register of an external accountants and auditors.[74]

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[71] Abi Waqqosh et al., "The Role of the Sharia Supervisory Board (DPS) in Supervision of Contract Implementation at the Binjai Branch BRI Sharia," *E-Mabis: Jurnal Ekonomi Manajemen Dan Bisnis* 22, no. 1 (2021): 74, https://doi.org/10.29103/e-mabis.v22i1.657.

[72] Al-Maghribi, *Al-Idarah Al-Istiratijiyyah Fi Al-Bunuk Al-Islamiyyah*, 256.

[73] M. Kabir Hassan et al., "A Survey on Islamic Finance and Accounting Standards," *Borsa Istanbul Review* 19, no. 1 (2019): 4, https://doi.org/10.1016/J.BIR.2019.07.006.

[74] Al-Maghribi, *Al-Idarah Al-Istiratijiyyah Fi Al-Bunuk Al-Islamiyyah*, 364.

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The abovementioned standards are based on the bank's financial disclosure for the National Financial Authority as well as for public information. As for accounting for murabaha financing for the purpose of internal auditing, information about murabaha-related disclosure should contain financial statements relating to the bank including the following points: (1) The value of assets when executing the murabaha measured at historical cost; (2) The clarifications that murabaha receivables (deferred sales receivables) are measured when cost occurs; (3) It was mentioned that the profits of murabaha were completed when contracting, with no distribution within the periods coming; (4) The deferred profit is not deducted from the murabaha receivable; (5) There is no clear treatment for early repayment if it occurs; (6) There is no clear handling of cases of customer insolvency or delay in payment if any.[75]

Conclusion

The sharia compliance of murabaha financing is based on four approaches, namely the *'aqd* approach, *maqashid sharia* approach, the documentation approach, and the accounting and financial reporting approach. The *'aqd* approach states that the murabaha transaction should be bonafide among independent parties (supplier, buyer, and financier) and not involve a guaranteed profit. As for the *maqashid sharia* approach, besides ensuring *maqashid sharia* in wealth (its circulation, its clarity, its preservation, its stability, and justice in it), the murabaha should ensure public interest as well as to contribute to the removal of hardship. In the documentation approach, the form and the materials of the contract documented for murabaha should comply with the principle and requirements of the contract according to Islamic law and has to be overseen by the Sharia Supervisory Board in drafting. And for the accounting and financial reporting approach, the information disclosure should contain the value of assets when

[75]Khansaa Naser Hussaina and Alaa Fareed Abdulahad, "The Extent of the Application of Internal Auditing Standards in Iraqi Commercial Banks," *International Journal of Professional Business Review* 7, no. 3 (2022): 88, https://doi.org/10.26668/businessreview/2022.v7i3.600.

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executing the murabaha, clarifications that murabaha receivables are measured on the cost, the profits of murabaha were completed when contracting, the deferred profit is not deducted from the murabaha receivable, there is no clear treatment for early repayment if it occurs, and there is no clear handling of cases of customer insolvency or delay in payment if any.

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