

# Standardization of Murabahah Products in Sharia Banking Business on Bank NTB Sharia

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## Abstract

*Murabaha* financing mechanism does not guarantee practice in the field in accordance with the provisions and sharia standards and applicable laws and regulations. Therefore we need a product standard based on uniformity of murabaha contract standards in all Islamic financial institutions. Permasalahan this research about regulating the standardization of murabaha contract products in Islamic banking in Indonesia and the standard form of murabaha contract products of Bank NTB Syariah. The purpose of the study is analyzing the legal arrangements for murabahah financing contract product standards and analyzing the substance of the murabahah product standards for Bank NTB Syariah. Normative juridical research methods. The research approach uses the law approach and concept approach. Types and sources of legal research materials using primary, secondary and tertiary legal sources. The technique of collecting legal materials uses document study and analysis of legal materials. The results of the analysis of the study, first in the order of legal arrangements for the standardization of murabaha contract products are regulated in Act Number 21 of 2008 concerning Sharia Banking Article 26 (1) that all forms of Islamic bank activities must be based on Sharia Principles specifically regulated in the National Sharia Council Fatwa NO: 04 / DSN-MUI / IV / 2000 Concerning Murabaha. Second, in the Murabahah Sharia Banking Product Standard Book, it contains all the provisions regarding murabahah contracts. Bank NTB Syariah states that the product standards used are in accordance with the Murabahah Banking Product Standards Manual based on the contract attached in this study. But there needs to be a special standard that regulates the standardization of murabaha products in the form of laws and regulations.

**Keywords:** Standardization, Murabaha, Islamic Banking

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## 1. INTRODUCTION

Islamic banks were born as an alternative solution to the problem of conflict between the relationship between banks and usury. Thus, the longing of Indonesian Muslims who want to escape from the problem of usury has received an answer with the birth of Islamic banks. Around the 90s Islamic banks in Indonesia were born precisely after there was Government Regulation Number 72 of 1992 concerning Banks Based on Revenue Sharing Principles, which were updated with Act Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking in form a bank that operates with a profit sharing system.

With the issuance of Government Regulation Number 72 of 1992 concerning Banks Based on Revenue Sharing Principles Article 6 has clearly stated that profit sharing banks may not conduct business activities that are not based on profit sharing (interest) principles, whereas banks whose business activities are not based on profit sharing principles it is not permitted to conduct business activities based on profit sharing principles, opening wider avenues for operational activities for Islamic Banking.

In general there are three types of activities carried out by Islamic banks or we often refer to by the term "contract". First, the sale and purchase agreement (contract *tijarah*) is grouped in investment financing with the types of financing products including: buying and selling by installments (*al-bai'u bitsaman ajil*) and buying and selling by maturity (*al-murabahah*) and leasing rent (*ijarah*). Second, the cooperation agreement (*syariah contract*) is divided into financing that is working capital by type, namely: financing with a partial amount of capital between the bank and the borrower (*al-musyarakah*), financing with 100% funds from the bank (*al-mudharabah*) and benevolent-oriented financing (*hasan*) where the bank will provide a number of financing.

One of them is, murabaha is a financing for the sale and purchase of goods by means of the bank as the first party stating the initial acquisition of the price of goods and the amount of profit (margin) with the approval of the second party. Basically, the occurrence of the murabahah contract is because the second party does not have money to buy an item, so through a bank intermediary that provides financing services for buying and selling or murabahah pays a certain price for the third party. Between the banks as the first party and the second party a murabaha agreement occurs, whereby the bank will not order goods before there is an agreement. If it has been agreed, both the type of goods desired, price and margins then the bank will buy the goods to third parties as providers of goods.

Unfortunately, the ease of the mechanism of murabaha financing does not guarantee practice in the field in accordance with sharia provisions and standards as well as applicable laws and regulations. If a dispute arises between the bank and the customer, the agreement that has been agreed is often considered to be incompatible

with sharia principles, so that on a green table often cancels the agreement. Not only refers to sharia principles, it must also be adjusted to the applicable positive law.

In determining the standards of murabaha contract products, it is necessary to pay attention to legal sources such as the Qur'an, Hadith, Ijma and Qiyas. Of course also must be considered sharia principles such as mufsadat, gharar, maisyir and usury. With standardization, wherever the murabaha product is used it will be the same standard form. Based on the background above, so this is interesting and it is necessary to conduct a study of the standardization of murabaha contracts in Bank NTB Syariah.

The problem in this study is the regulation of the standardization of murabahah financing products in the sharia banking business in Indonesia and the standardization of murabahah financing products at Bank NTB Syariah. Thus the purpose of this study is to analyze the legal arrangements for murabahah financing product standards in Sharia Banking based on sharia principles and to analyze the substance governing the form of product standards in murabahah financing contracts at Bank NTB Syariah.

## 2. METHODOLOGY

The research method used is normative juridical research. The research approach uses a statute approach and a conceptual approach. Types and sources of legal materials in this study use primary, secondary and tertiary legal sources. The technique of collecting legal materials is to use document studies and analysis of legal materials using deductive thinking methods.

## 3. DISCUSSION

### Legal Regulations Against Standardization of Murabahah Covenant Products in Islamic Banking in Indonesia

The pillars of murabaha include the parties who have a contract (akidain), that is, the seller (bai '), buyer (musytari), object of sale (mabi'), price (tsaman) and ijab kabul (shigat akad).

First, the harmony of the contract is the existence of the parties making the contract, the parties must fulfill two conditions, namely (1) have a level of legal ability called tamyiz, and (2) the existence of a number of parties (more than one party). Tamyiz is a skill level that must be possessed by the parties in order to create the desired contract, a contract will not be achieved if the parties to the agreement are small children and crazy people.

In addition, the parties to the contract must be more than one, so that no contract occurs on their own and based on their own will. A contract will not occur with only one party making the consent and qabul, because in the contract there are always two parties or preferably an individual, a group of people, a partnership or a business entity. So in a murabahah contract, the Bank acts as the Seller and the Customer acts as the Buyer.

The parties involved in the murabaha contract are:

- 1) Seller (Bank)
- 2) Buyer (Customer)
- 3) Supplier (Supplier)

Second, the existence of an object in the form of an object which becomes an object in murabaha. The object or object is an object that is permissible according to Islamic Shari'a, that is, one of them is a clean and lawful object so that it can fulfill the elements as a condition for making the contract object. The object in the murabahah contract must fulfill the element of the existence of goods that can be traded and the nominal price of the goods.

The contract object can be in the form of objects, benefits of objects, services or jobs or something that is not contrary to sharia. Because if there are no objects, the contract will be useless and useless. The object of murabaha financing must be to avoid traits that violate sharia principles such as:

- a. Riba, additional revenue from vanity due to the exchange of similar goods that are not of the same quality, quantity and delivery time (usury fadl) or in lending and borrowing transactions that require customers to receive facilities to return funds received exceeding the principal due to the passage of time (usury nasi'ah) .
- b. Maysir, a transaction that is subject to an uncertain situation and has the probability of taking advantage of the loss of another party.
- c. Gharar, transactions using objects that are not clear, not owned, are not known to exist or cannot be submitted at the time the transaction is made.
- d. Haram, both objects and transactions that are prohibited by sharia.
- e. Zalim, a transaction that causes injustice for one party.
- f. Risywah (bribe), a gift given to someone in order to get certain interests.

Third, the selling price of the bank is the price of goods that the bank provides to the customer. The selling price of a bank is based on the cost of the bank plus the margin (profit) desired by the bank. The bank's base price can be calculated based on the acquisition price of the goods minus the down payment provided by the customer. The bank's base price must be explicitly and honestly informed by the bank to the customer and stated

in the murabahah financing contract. The bank's base price can also be stated as a murabaha financing ceiling. The buyer must pay the price of the goods agreed upon in the murabahah at the agreed time. The fourth is consent and qabul. Consent according to the fraction of the compiler namely stating the will (submission) made by the first party (bank) and qabul namely the will of the second party expressing acceptance from the first. Consent and qabul as a statement of the will of the parties which is also called shigatul 'contract both verbally, in writing and / or deeds.

The basis of sharia murabaha contract in sharia banking activities consists of Al-Qur'an and Al-Hadith, and Ijma with fatwas issued by the National Sharia Board. In addition, it must also remember that transactions that are permissible in Islam, namely remembering the principles of sharia to avoid prohibited elements such as mufsadat, gharar, maisyir and usury '.

The legal arrangements in the standardization of murabahah contract products have been summarized in a book published by the Department of Sharia Banking and the Financial Services Authority (OJK) "Sharia Murabahah Banking Product Standards" both operational standards and standard content in the murabahah contract itself. This is a reference for all financial service players in carrying out operational applications and product features.

Based on the theory of legal certainty in Utrecht's opinion that legal certainty contains two meanings, namely first, the existence of general rules that make individuals know what actions may or may not be done, and second, in the form of legal security for individuals from government abuse because of the existence of rules that are generally the individual can know what may be charged or done by the State to the individual.

Operational Standards The procedure of murabaha in Islamic banks becomes a guidance document that is systematically compiled to carry out and complete a job. The existence of Standard Operating Procedures (hereinafter referred to as SOPs) becomes the sequence material for a job, by seeing its function as a guideline, then all employees in the Islamic bank environment know what may and may not be done. SOP is a way of implementing or technical implementation of a contract clause to show professionalism at work.

These operational standards are forcing banks to carry out their work according to established procedures, to highlight the performance of Islamic banking. The principle is the same as a law that has the legal force to force, to protect and limit the things that should and should not be done both for the bank and the customer so that a healthy contract of SOP product is present as a binding norm for the parties.

With the presence of SOPs can be used as a legal basis if in the future there are irregularities committed by Islamic financial institutions. So that there are rules that limit Islamic bank financial institutions to what should be there and do not need to be stated in the SOP and become a legal umbrella for the bank's authority towards customers regarding matters that are the responsibility of the customer related to the contract to be carried out, in addition to the SOPs that become the legal basis for a sharia based murabaha contract is Fatwa National Sharia Board Number 04 / DSN-MUI / IV / 2000 concerning Murabaha which regulates the general provisions of murabaha. In the arrangement of the legal arrangements for the overall standardization of murabaha contract products in accordance with the provisions set forth in the Sharia Banking Product Standards Book by the Financial Services Authority in cooperation with the National Sharia Board and industry players with other speakers.

Can be seen in Act Number 21 of 2008 concerning Sharia Banking Article 26 Paragraph (1) states that business activities as referred to in Article 19, Article 20 and Article 21 and / or sharia products and services, are subject to Sharia Principles. The sharia principle as stated by the Indonesian Mejlis Ulama, National Sharia Council No: 04 / DSN-MUI / IV / 2000 concerning Murabaha. Bank Indonesia Regulation and Regulation of the Financial Services Authority Number 24 / POJK.03 / 2015 concerning Products and Activities of Sharia Banks and Sharia Business Units were formed in a Standard Book of Islamic Banking Products Murabahah by the Financial Services Authority (OJK).

### **The Substance of Murabahah Covenant Standards at Bank NTB Syariah**

Sharia principles in carrying out business transactions or muamalah, especially in Islamic Banking that does not contain usur known as "MAGHRIB", as follows:

1. Maisyir means free from all things that contain nonproductive elements such as gambling.
2. Gharar is free from all things that are doubtful or doubtful.
3. Riba 'which is free from the element of interest.
4. Bathil is free from all things that are damaged or invalid.

By observing this flow, the application of the murabahah contract at the NTB Syariah Bank is in accordance with what has been stated in the Murabahah Financing Product Standards Book and the National Sharia Board Fatwa. However, it is deemed necessary to make it in the form of a statutory regulation so that there is a standard that becomes a reference in order to provide more certainty in the implementation of murabahah contracts not only at the NTB Syariah Bank but also other syarial banks.

The practice of murabahah financing that is still used in Islamic banks is concluded that it cannot be said

that according to sharia principles can be seen in the following examples. So it becomes a consideration not to do the same thing in the future in the implementation of murabahah contracts in accordance with sharia principles. So this is where the role of benefit is used, that the legality of something that does not yet have a national basis but is needed solely to seek human benefit. Another opinion expressed by Imam Maliki as stated in the book written by Abu Zahrah entitled "Usul Fiqh" explains that the conditions of the maslahah of the mursalah can be used as a legal basis:

1. Match or worth between the good used according to the circumstances and between the goals of those who use the maslahah al-mursalah. While al-Mursalah's maslahah itself does not exclude the basic arguments that have been established and does not contradict the arguments of the qat'iyyah.
2. Maslahah al-mursalah should be able to be accepted rationally in its situation with the existing problems. This means that the problem is according to reason. Then if the problem is offered to scholars, they can accept it.
3. It should not use the maslahah al-mursalah that does not eliminate existing ones and if it does not rationally use the theory, humans will experience narrowness in thinking. Allah SWT in his word mentions which means: "Allah SWT does not make religion for you narrowly.

Formation of law based on benefit is solely intended to seek the benefit of humans. That is, in the context of looking for something that is beneficial and also avoids human deprivation that is very broad. Maslahat is something that develops based on developments that always exist in every environment. Regarding the formation of this law, sometimes it seems beneficial at one time, but at other times it actually brings mudharat. Likewise, an environment is sometimes beneficial in certain environments, but it is harmful to other environments.

The form of standard regulation has been compiled by OJK in the Murabahah Sharia Banking Product Standards Book. However, there is a need to affirm the standards as outlined in a legal rule that specifically regulates the murabahah financing contract standards for Islamic banks, so that the realization of murabahah standards is evenly distributed in Islamic banking.

#### 4. CONCLUSION

The standardization of murabahah financing products in the Islamic banking business in Indonesia is based on the Al-Qur'an and Al-Hadith, and Ijma with fatwas issued by the National Sharia Board. Legal arrangements for the standardization of murabaha products are regulated in Act Number 21 of 2008 concerning Sharia Banking Article 26 (1) that all forms of sharia bank activities must be based on Sharia Principles specifically regulated in the National Sharia Council Fatwa NO: 04 / DSN-MUI / IV / 2000 About Murabaha. The standardization of murabahah contract products as a whole is outlined in the Sharia Banking Product Standards Book by the Financial Services Authority.

The substance of the standardization of murabahah financing products in NTB Syariah banks in the Murabahah Syariah Banking Product Standards Book, contains all the provisions regarding murabahah contracts. The form of standard regulation has been compiled by OJK in the Murabahah Sharia Banking Product Standards Book. However, there is a need to confirm the standards as outlined in a legal rule that specifically regulates the murabahah financing contract standards for Islamic banks, so that the realization of murabahah standards is evenly distributed in Islamic banking.

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