

IMPLEMENTATION PRINCIPLE MUDHARABAH IN ISLAMIC BANKING IN INDONESIA

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Keywords

Sharia Banking, Contract
Mudharabah, Profit Sharing,
Mitigation Risk

Abstract. Implementation principle mudharabah is the main pillar operational Islamic banking in Indonesia for push growth equitable economy. Research law normative This aim For analyze mechanism implementation contract mudharabah as well as mitigation strategy formulation risk in optimize financing for results. Research results show that mechanism mudharabah has integrated to in law positive through Constitution Number 21 of 2008 concerning Islamic Banking, DSN-MUI Fatwa, and OJK regulations, which include function fundraising (funding) and fund distribution (financing). However, optimization financing mudharabah Still face challenge big in the form of height risk asymmetry information and potential moral hazard from customers manager (mudharib). As solution, Islamic banking implements mitigation strategies modern multidimensional risk. The strategy covering strengthening aspect juridical through tightening clause contracts (restrictive covenants) and bindings guarantee financing (rahn). In addition, mitigation optimized past integration digital technologies such as system integrated Point of Sales cashier and account separate (segregated accounts) for monitor cash flow in real, scheme staged financing, and improvement HR competency becomes assessor financing specific industry. Research This conclude that strengthening management modern risk capable secure operational product for results without sacrifice sharia compliance.

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1. INTRODUCTION

Development industry Islamic finance in Indonesia shows trend significant positive in two decades final along with increasing awareness public to system economy free usury. As a country with the largest Muslim population in the world, Indonesia has very massive market potential For growth institution finance Sharia- based (Sadari & Hakim, 2019). Government and authorities monetary Keep going give support regulations to create conducive ecosystem for development Islamic banking. The presence of Islamic banking is not just become alternative industry banking conventional, but rather become the main pillar in realize system inclusive, stable and socially just finances (Ulum, 2017).

Essence the main thing that differentiates Islamic banking with banking conventional lies in the prohibition interest system (*riba*) and application system for results (*profit-loss sharing*). System conventional set early profits in a way Certain without care about condition real business run by customers (Syukron, 2013). On the other hand, Islamic banking emphasizes justice distributive where benefits and risks loss covered together in a way proportional in accordance agreement. Principle justice partnership this is what it is Power pull main at a time moral basis for operational institution global and domestic Islamic finance (Al-Hakim, 2013).

One of instrument the most important finances in system for results Islamic banking is contract mudharabah. Based on draft base jurisprudence transactions, mudharabah is form Work The same commerce between fund owner (shahibul maal) and capital manager (mudharib) with portion distribution profit based on agreed ratio (Almahmudi, 2020). In context institutions banking, sharia banks can act as fundraising manager from society, as well as as fund owners who channel capital to

customers perpetrator business. Contract This reflect philosophy true Islamic economics that encourages productivity sector real through partnership mutually strategic trust (Hermawan, 2014).

Implementation principle Mudharabah in Indonesia is formally covered by strong regulations to ensure certainty law for market players. Law Number 21 of 2008 concerning Sharia Banking and various Fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) have become reference main operational contract (Gayo & Taufik, 2012). The Financial Services Authority (OJK) also periodically emit codification product Islamic banking for ensure sharia compliance is running side by side with principle prudential banking. Corridor clear laws This crucial for build trust public wide to validity products for the results offered banking (Hayati, 2018).

However, the reality on the ground show existence wide gap between ideal regulation with practice current distribution financing mudharabah. Statistical data Islamic banking in general consistent show that portion financing mudharabah still very low compared to with financing-based sell purchase (murabahah) (Anjani & Hasmarani, 2012). Islamic banks tend to more choose contract murabahah Because its risky nature low and yield more income Certain for banks. Phenomenon This trigger criticism from various academics that Islamic banking in Indonesia has not yet fully operate function ideally as driving force system for pure results (Yuliana & Kartasari, 2012).

Reluctance Islamic banking for optimize financing mudharabah triggered by the height risk asymmetry information between bank and customer managers. Sharia banks do not own control full or supervision direct to management daily business run by customers capital manager (Lubis, 2016). Conditions This open gap occurrence moral hazard, where customers Can just hide actual benefits or report losses that are not real. As a result, Islamic banks must emit cost very high supervision (agency cost) for ensure validity report finance customers (Sa'adah, 2017).

Apart from the problem asymmetry information, limitations capacity source Power Humans in internal Islamic banking also become obstacle Serious in implementation principle mudharabah. Doing analysis eligibility business For financing for results need skill business sector far real more deep compared to just analysis credit conventional (Mauludin, 2020). Assessor financing (account officer) of Islamic banks is required capable projecting profitability business customers in a way accurate on various sector dynamic industry. Lack of competence specific This make party bank management often takes track safe with limit ceiling financing based for results (Munthe, 2017).

See complexity problem said, research deep about implementation principle mudharabah in Islamic banking in Indonesia is urgent For carried out. Evaluation comprehensive to obstacle structural, operational, and managerial required For formulate solution applicable alternatives for industry Islamic finance. Research This will study to what extent is the effectiveness regulations moment This in mitigate risk financing for results without reduce essence sharia partnership. Through understanding deep to root problems, formulation of strengthening strategies product mudharabah can arranged with more appropriate target.

Based on background rear view, focus main study This formulated to in a number of question key about dynamics current contract mudharabah. First, how mechanism implementation principle mudharabah in Islamic banking in Indonesia at the moment this? Second, how mitigation solutions and strategies effective risk For increase portion financing mudharabah in Indonesia? Through answer on questions said, research This expected capable give contribution theoretical for academics and recommendations practical for maker policy.

2. METHOD

Study This use type study law normative which focuses on study principles law, synchronization regulation and systematics law written related Islamic banking in Indonesia. The approach applied is approach statute approach to examine suitability operational banking with regulations normative, as well as approach conceptual approach to dissect doctrines Islamic law regarding contract *mudharabah* (Soekanto, 2007). The main data source used in the form of material law secondary sources from material primary law, such as Constitution Number 21 of 2008 concerning Islamic Banking and DSN-MUI Fatwa, as well as material law secondary which includes journal scientific, thesis, and literature law relevant Islamic economics.

Collection techniques material law done through studies library research with method inventory, classify, and record document law written in a way systematically. Furthermore, all material the law that has been collected analyzed use method analysis descriptive-qualitative with reasoning logic deductive. The process of drawing conclusion depart from premise general in the form of regulations and theories contract *mudharabah* normative, which then withdrawn to premise specifically to identify as well as answer gap law in implementation financing for results in industry domestic Islamic banking.

3. RESULTS AND DISCUSSION

Mechanism Implementation Principle Mudharabah in Islamic Banking in Indonesia

Development *Islamic* banking in Indonesia refers to sharia compliance which is characteristics main differentiator with banking conventional. One of the instrument finances that reflect mark justice this Islamic economy is contract *mudharabah*. Implementation contract this is not in Indonesia only sourced from classical Islamic law (*fiqh muamalah*), but rather has transformed to in the legal system positive national. Through integration law said, operational partnership for results own strength law binding equals with instrument other modern finance.

Foundation the highest formal legal umbrella practice mudharabah is Constitution Number 21 of 2008 concerning Islamic Banking. Regulation This confirm that Islamic banks are institutions that run activity business based on sharia principles. In Constitution said, the contract *mudharabah* recognized in a way firm as one of the form activity business collection and distribution of funds. The existence of laws This give guarantee certainty very strong legal *certainty* for the perpetrators industry banking as well as public wide as customers.

In addition to the law, the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) is references authoritative in set the validity of a sharia products. DSN-MUI Fatwa Number 1 of 2000 concerning Current Accounts, Fatwa Number 2 of 2000 concerning Savings, and Fatwa Number 115 of 2017 concerning Mudharabah become a normative pillar main. These fatwas detailing pillars, conditions, rights, and obligations of the parties to the transaction to avoid from element *gharar* (uncertainty) and *usury*. The Financial Services Authority (OJK) then absorb this fatwa to in OJK Regulations (POJK) and Codification Product Islamic Banking.

In structure operational Islamic banking, mudharabah implemented in two schemes big, namely fundraising (*funding*) and fund distribution (*financing*). This scheme create system circulation mutual finance connected between party who has excess funds with parties who need capital. Islamic banks act as intermediary financial *intermediary* that bridges second party the with hold trust principle for results. Flexibility It is the role of the bank that makes contract *mudharabah* become very unique and dynamic.

On function fundraising, position Islamic banking law is as capital manager (*mudharib*), whereas customers domiciled fund depositor as fund owner (*shahibul maal*). Customer entrust a number of the money to the bank for managed in various sector halal and productive business. Products *funding* that uses contract This usually in the form of Mudharabah Savings or Sharia Mudharabah Deposit. In position this, the bank has freedom full or limited for invest the funds in accordance with the type of sub- contract agreed upon.

Distribution type product fundraising is differentiated into two variations main, namely *mudharabah absolute* and *mudharabah muqayyadah*. On investment mudharabah *absolute* (not bound), customer give authority full to the bank for manage the funds without limitation sector business certain. On the other hand, in investment *mudharabah muqayyadah*. customer give condition special about location, type business, or segment customers distribution of funds. The majority product savings and deposits in Indonesia at the moment This use scheme *mudharabah absolute* Because its high elasticity.

Mechanism distribution benefits of function fundraising is based on portion number the ratio called with term ratio. Ratio for results This must agreed at the beginning contract in a way transparent moment customers open account product savings. Shared profits is not percentage still from the nominal capital saved, but rather percentage from realization income bank operations (*revenue sharing*) or *profit sharing*). System This make reward results customers nature fluctuating follow performance real management assets carried out the bank.

Switch on function distribution of funds or financing, occurs reconstruction connection the law of the opposite from function fundraising. In the scheme financing This, Islamic banks position themselves self as capital owner (*shahibul maal*) which provides funding full until one hundred percent. On the other hand other, customers recipient financing act as manager the business (*mudharib*) that operates the capital in the project real. Change position law This demanding sharia banks run function analysis eligibility business very carefully.

Mechanism financing mudharabah started with business proposal submission by customers to the Islamic bank for assessed eligibility its business. Islamic banks through officials financing (*account officer*) will conduct due diligence on aspect commercial, legal and sharia compliance of the business said. Analysis This focused on projections cash flow and reputation managerial customers capital manager. If the proposal is stated worthy and fulfilling principle caution, second split party will sign contract agreement financing.

After contract signed, Islamic banks will disburse financing capital in a way gradually or at a time in accordance with need stages realization project business customers. In accordance with characteristics original contract *mudharabah*, Islamic banks in general normative forbidden for follow mix in a way direct in governance daily management business customer. Management rights full in hand customers as perpetrator dominant business skill technical operational. Pemb restrictions intervention This aim give room creativity business for customers.

Although forbidden do intervention managerial daily, Islamic banks remain own right constitutional for do supervision in a way regular and professional supervision done through review field (*on-site visit*) or inspection report finance mandatory periodic submitted by the customer. OJK confirms that supervision This important for ensure capital is used in accordance objective beginning contract. Supervisory steps This is form mitigation risks so that banks can detect deviation or decline performance business since early.

In matter distribution profit financing, customers manager must deposit part bank profits according to agreed ratio in a way periodic every month or per term business. Basis of calculation for results refers to the benefits gross *profit* or profit net *profit* from bookkeeping business customers. If the business the produce big profits, then the nominal return the results received by the bank will also be increase linearly. Characteristics This create connection mutual partnership profitable between sector banking and sector real.

The most crucial aspect in mechanism implementation financing *mudharabah* is provision juridical about settlement loss financial business. If financed business experience loss, then loss financial the fully borne by the sharia bank as *the owner Maal*. Customer manager No bear loss capital material, but they experience non- material losses in the form of disappearance time, energy and expertise that have been poured out. Provisions This reflect justice essential Islamic economics where material capital and non- material capital own position equivalent.

However, the liability loss full by Islamic banks only valid If loss the caused by risk business pure. If the investigation prove that loss happen consequence deliberate negligence (*ta'addi*), violation agreement contract (*taqsir*), or deviation law (*mukhalafat al-syurut*) by the customer, then characteristic trust contract fall. In condition deviation said, the relationship law changed become change loss, and customers manager must return all capital owned by the bank.

For strengthen certainty operationally, Islamic banks in Indonesia are required to pouring all over clause financing the to in document deed agreement written. Deed This generally made in front of notary to have strength perfect proof in the eyes law national. In deed the loaded with ratio details, term time, rights bank supervision, as well as mechanism settlement disputes. Neat legal documentation This minimize potential conflict interpretation provision contract between banks and customers in the future.

In a way comprehensive, mechanism implementation principle mudharabah in Indonesia has form structure systematic, adaptive and compliant operations law. Synergy between Constitution Sharia Banking, DSN-MUI Fatwa, and OJK regulations are proven capable turn on essence for results in system modern finance. Relationship patterns partnership This placing Islamic banks not just as creditors, but as partners grow with the business world. Success implementation mechanism This become key main in push creation stability system finance national based justice.

Risk Mitigation Solutions and Strategies in Optimizing Financing Mudharabah

The height level risk asymmetry information need arrangement re-evaluate mitigation strategies comprehensive risk management Islamic banking in Indonesia. Optimizing financing *mudharabah* No can done only with depend on moral bond of consciousness religious from party customers managers. Islamic banks must build A system management integrated, adaptive, and risk - averse certainty strong law. Synergy between update clause contract, utilization innovation technology, and strengthening internal competencies become key main For increase portion financing based for results This.

The fundamental step that becomes solution main in mitigation risk This is strengthening standardization contract agreement through tightening clauses. Islamic banks need compile deed agreement more *mudharabah* deep with detailing rights, obligations, and limitation operational for customers capital manager (*mudharib*). Clause contract This must obligatory customers for apply principle transparency strict accounting and standards quality management business. Tightening this legal document functioning as instrument prevention early for minimize potential dispute later interpretation day.

Implementation guarantee financing (*rahn*) becomes instrument law the next one is very crucial in securing the capital of Islamic banks. Based on DSN-MUI Fatwa Number 8 of 2000, Islamic banks are permitted in a way law for request guarantee or collateral from customers capital managers. The existence of guarantee This No aim for change essence contract *mudharabah* become debt agreement conventional. Guarantee the functioning as tool hitter economic *deterrent* to prevent action arbitrary or intention bad from party manager business.

Provision execution guarantee financing *mudharabah* arranged in a way strict in corridor law Islamic economics and regulation Financial Services Authority. Guarantee owned by customers only can disbursed or executed if customers proven do injury promise (*breach of contract*), concealment profit, or deliberate negligence (*ta'addi*). If *the* loss business happen pure Because factor risk business that is not can avoided, then guarantee the No may confiscated by the bank. Certainty scheme enforcement law This give protection balanced for banks without oppress right customers Honest.

highly effective contemporary solution moment This is utilization innovation technology financial. for monitor activity business customers. Sharia banks can obligatory customers manager For integrate system digital cashier business they with system internal bank monitoring. Through this digital integration, Islamic banks can monitor every transaction sales and movement cash flow real - *time* digitalization supervision This in a way automatic close gap for customers For manipulate or hide income data business.

Implementation technology This digital surveillance is also capable of cut cost supervision in a way significant which during This complained about industry. In the system conventional past, Islamic banks must send officer field in a way periodically For inspect bookkeeping customers manually. The manual process eat long time, requires cost large operational costs, and often less accurate. With monitoring digital data- based, efficiency bank operations increase, so that banks can offer ratio for more results competitive.

In addition to monitoring cash flow, Islamic banks need implementing a separation strategy bank accounts for working capital management financing. Customer manager required open account separate special from account personal or account line business those others. All funds are coming in from results sale project *mudharabah* must distributed in a way exclusive to in account special mentioned. Restrictions track Then cross finance This makes it easier for banks to conduct digital forensic audits of capital turnover that has been distributed.

Mitigation strategies risks must also be touch aspect strengthening competence source Power humans within Islamic banking themselves. Islamic banks need to training and printing officials financing who has skill specifically in the sector real. Appraiser financing No may only control theory banking and accounting normative, but rather must understand dynamics operational financed industry. Understanding deep to ecosystem business sector real create an analysis process eligibility business become far more sharp and accurate.

Improvement quality analysis risk before contract done through implementation method evaluation eligibility based scenario business.. Islamic banks do not may only fixated on projections

finance optimistic proposal in the business proposal by the customer. Bank officials must capable compile simulation condition economy worst case against sector business customers before give capital approval. Analysis mitigation mature pre - agreement This ensure that funded projects own Power stand tall to market shocks.

Collaboration strategic with institution rating credit or information bureau credit independent also becomes solution important things that need to be done optimized. Sharia banks can utilizing historical data behavior finance customers through System Service Information Financial Services Authority (SLIK) for track record customer track record. Customers who have history management bad finances or Once experience fail pay at another institution must eliminated since beginning. Selection strict collective data- based This lower risk of misdirection in distribution of productive capital.

Next solution is implementation scheme financing based stages project or working capital disbursement in a way gradually. Islamic banks do not recommended For melt all over ceiling financing worth big at the same time at the beginning agreement contract executed. Disbursement of capital terms next only will done if customers capable show achievement of certain agreed work targets. Disbursement method gradually This limit magnitude loss material maximum bank if project experience failure in the middle road.

For overcome risk losses that are not unexpectedly, Islamic banking can utilise product Islamic insurance working capital financing. Through mechanism closing sharia insurance, risk loss financial consequence disaster nature, accident, or failure systemic can diverted to takaful company. Financing protected by insurance provide a sense of security for bank management for channeling capital in scale big. This scheme realize principle mutual assistance (*ta'awun*) between institutions Islamic finance in mitigate risk macroeconomics.

Formation committee supervisor ad-hoc merges are also possible become alternative solution for project financing *mudharabah* which is very valuable. The committee This filled by representatives professional from Islamic bank and team expert external independent in the field industry related. Task main committee This is give input strategic to customers manager without interfere execution operational daily. Attendance committee expert This accompany customers for business can walking in the corridor of governance good corporate *governance*.

On the side formal law, optimization role Religious Courts and the National Sharia Arbitration Board (BASYARNAS) in settlement dispute must Keep going improved. If happen case *moral hazard* that is detrimental to banks, the enforcement process law law must walk in a way fast, fair and cost effective cheap. Certainty law in settlement dispute sharia business increases trust self industry banking For invest. Execution decision firm dispute give effect deterrent *effect* for perpetrator other efforts so as not to do manipulation.

Strengthening strategy ecosystem is also carried out with method direct financing *mudharabah* in the sector businesses that are priority programs development government. Sectors like resilience food, energy renewable, and industrial creative usually own support incentives and a bigger market stable. Flowing capital to sectors that have ecosystem ripe reduce risk failure business consequence factor external macro. Alignment direction financing This at a time confirm role real Islamic banking in support growth economy national.

In addition, Islamic banking needs to active do education and mentoring business in a way periodically to the perpetrators business micro, small, and medium enterprises (MSMEs). Mentoring This aim for increase literacy financial and governance capabilities managerial customers capital managers. Educated customers with Good will own awareness tall about importance guard reputation business and accuracy reporting financial. Relationship harmonious partnership This change paradigm transactional become connection grow together term long.

Table 1 Matrix of Financing Risk Mitigation Solutions and Strategies Mudharabah

Category Mitigation	Tactical Solutions & Strategies	Solutions & Instruments / Media	Operational Impact and Output
Legal & Contractual	Standardization & tightening clause restrictive covenants.	Deed Notary, Clause Transparency Accountancy.	Minimize gap future legal interpretation disputes.

Category Mitigation	Tactical Solutions & Strategies	Instruments / Media	Operational Impact and Output
Legal & Contractual	Implementation guarantee financing (<i>rahn</i>) as tool hitter economy.	DSN-MUI Fatwa No. 8/2000, Collateral Materiality.	Prevent action arbitrary and intentional bad (<i>moral hazard</i>) customers.
Legal & Contractual	Optimization track law execution dispute non-business financial.	Religious Court, Arbitration Institution (BASYARNAS).	Give effect deterrent for manager proven business default.
Information Technology	Monitoring business activities and cash flow in a way <i>real-time</i> .	System integration digital cashier (<i>Point of Sales/POS</i>).	Close gap manipulation report income and cut <i>agency costs</i> .
Information Technology	Separation Then cross bank working capital finance.	Account special separate (<i>segregated accounts</i>).	Facilitate the digital forensic audit process against bank capital turnover.
Information Technology	Tracking record footsteps behavior finance candidate customers.	System Service Information Financial Services Authority (SLIK).	Eliminate customers with history fail pay since stage pre-contract.
Operational & Financial	Improvement analysis eligibility business pre-contract.	Simulation method condition economy worst (<i>stress testing</i>).	Ensure project own Power stand tall to market shocks.
Operational & Financial	Distribution of working capital in a way periodically.	Financing scheme-based stages project (<i>staged financing</i>).	Limit magnitude loss material maximum If project failed in the middle road.
Operational & Financial	Diversion risk loss financial consequence factor external.	Product Islamic financing insurance (<i>takafu</i>).	Provides a sense of security for bank management for channeling large capital.
Managerial & Ecosystem	Formation team supervisor professional For project scale big.	Committee supervisor ad-hoc combination (Internal & External Experts).	Give input strategic without intervene management daily customers.
Managerial & Ecosystem	Alignment direction distribution financing with state programs.	Priority sectors government (Food, Energy, MSMEs).	Zoom out risk failure business blessing stable market ecosystem.
Managerial & Ecosystem	Improvement capacity managerial and literacy finance customers.	Education and mentoring business periodically by the bank.	Change paradigm transactional become partnership grow together.
Human Resources	Print assessor dominant financing ecosystem real.	Training specialization industry (<i>industry-specific specialists</i>).	Increase accuracy projection finance and analysis risks in the field.

4. CONCLUSION

Mechanism implementation principle *mudharabah* in Islamic banking in Indonesia has own runway strong and systematic juridical, which integrates aspect Islamic law to in the legal system positive national through Constitution Number 21 of 2008 concerning Islamic Banking, DSN-MUI Fatwa, and Regulations Financial Services Authority (OJK). In operational banking, contracts This implemented in a way flexible to in two functions main, namely fundraising (funding) through product savings or sharia deposits, as well as distribution of funds (financing) to sector productive. In the scheme financing, Islamic banks act as capital owner (*shahibul maal*) which provides funding full until one hundred percent, whereas customers act as manager business (*mudharib*) with system distribution profit based on the ratio agreed at the beginning contract. In terms of normative, banks are prohibited intervene management daily business customers However entitled do supervision professional, where the loss business pure will borne by the bank meanwhile loss consequence negligence fully become not quite enough answer customers.

Mitigation solutions and strategies risk in optimize financing *mudharabah* executed through a modern multidimensional approach to addressing obstacle asymmetry information and potential action arbitrary (*moral hazard*) of manager business. Structure mitigation This strengthened through

standardization law contract written with restrictive covenants and binding clauses guarantee legitimate financing according to sharia as tool hitter economy. More continue, innovation technology financial optimized through integration system digital cashier (Point of Sales) and its use account separate (segregated accounts) to monitor customer cash flow in a way real and cut cost supervision (agency costs). Supporting steps other implemented through scheme staged financing, transfer risk financial past sharia insurance (takaful), selection record footsteps finance via OJK's SLIK, as well as improvement capacity source Power man banking become assessor financing experts in the field industry sector real specific.

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