

Factors Affecting Musyarak Financing In Sharia Banking In South Sulawesi

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Abstract: This study aims to examine the problem of what factors influence Musyarak Financing in Islamic Banking in South Sulawesi. The type of research used is social law research / empirical, research conducted with an approach to the legal reality in society. The research results show that it is actually not limited to customers who have religious emotional ties (the Muslim community). The research method used is a normative research method with a statutory approach Sharia banking services can be enjoyed by anyone regardless of religion, as long as they want to follow the way of doing business that is permitted by sharia. society needs financial institutions that are strong, transparent, fair and committed to helping improve the economy and businesses of customers. The musyarakah contract is one of the contracts that is permissible according to sharia based on the arguments in the Al-Qur'an and As-Sunnah. So that the factors that affect musyarakah financing services are important to study.

Keywords: Financing ; Musharakah; Islamic Bank

1. Introduction

The presence of Islamic banking in Indonesia is one form of the government's efforts in realizing national development goals as mandated by the 1945 Constitution, namely the creation of a just and prosperous society based on economic democracy.¹ In realizing these development goals, community participation is needed in the form of exploring potential in the economy based on Islamic Sharia values) which are based on the values of justice, benefits, balance, universality.² Sharia Bank is a bank that carries out business activities based on sharia principles, or Islamic legal principles regulated in the fatwa of the Indonesian Ulema Council such as the principles of justice and balance ('adl wa tawazun), benefit (maslahah), universalism (natural), and does not contain gharar, maysir, usury, injustice and unlawful objects³. Islamic banking, in other words, Islamic banking, cannot be separated from efforts to raise public funds that are in line with the value orientation that grows in Islamic society. Islam prohibits the practice of muamalah which can lead to usury, so that interest-free banks

¹Utama, USA History and Development of Regulation Regarding Sharia Banking in the National Legal System in Indonesia. Yuridika Insight Journal, 2018. 2(2), 187- 200.

²Utama, USA Development of Islamic Banking in Indonesia. Unes Law Review, 2020.2(3), 290-298

³OJK, Sharia Banking and Institutions, accessed on September 10, 2022 at <https://www.ojk.go.id/id/kanal/syariah/about-syariah/pages/PBS-dan-kesiswaan.aspx>

are established in accordance with the basic principles of Islamic teachings. think that bank interest is usury and because of that the law is haram⁴.

On the basis of this thought, efforts are made to have a banking system whose operations do not charge interest to its customers (interest free banking system) or commonly called banking based on sharia principles (Islamic banking). The role of Islamic banks in spurring regional economic growth is increasingly strategic in order to realize a more balanced economic structure⁵. The role of Islamic banks in spurring regional economic growth is increasingly strategic in order to realize a more balanced economic structure. Support for the development of Islamic banking is also shown by the existence of a "dual banking system planting system", how conventional banks are allowed to open Sharia business units. Also after the official merger of 3 ⁶general Islamic banks, Mandiri Syariah, BRI Syariah, and BNI Syariah, it became a larger banking institution in the field of Islamic banking called Bank Syariah Indonesia which is expected to optimize the potential for development of Islamic banking in Indonesia, especially at least to be able to compete with Conventional BUMN Bank institutions that already exist today.

The partnership between the bank and the customer to jointly provide capital by buying shares to finance an investment is defined as a joint venture or musharaka. Another important instrument used by Islamic banking to provide financing other than mudharabah is musharaka or equity participation. Another term used for musharaka is shirkah. Or shirk. Islamic financial institutions translate it as "participation financing" in order to better underline one aspect of musharaka which will be explained below. In the opinion of the author, Musyarakah can be translated into Indonesian with "partnership" or "partnership" or "perkongsi". In musharaka two or more partners contribute to provide capital to finance an investment.⁷

Profits from musharaka are also regulated, as is the case with mudharabah, in accordance with the PLS profit and loss sharing principle or as the term is used by Law no. 10 of 1998 is the principle of profit sharing. Profits are divided according to a pre-determined

⁴Saputro, AW The Potential of Monopolistic Practices in the Merger of Indonesian Sharia Banks: A Review of Islamic Economic Law and the Law of Prohibition of Monopoly. *Lex Generalis Journal of Law*, 2021. 2(2), 174-194

⁵Suhendro, D. Overview of the Development and Growth of Islamic Banking in Indonesia. *Human Falah*, 2018.5(2), 1-17

⁶ Yanis, Ahmad Samhan, and Maswar Patuh Priyadi. "Faktor-faktor yang mempengaruhi pembiayaan murabahah pada perbankan syariah di Indonesia." *Jurnal Ilmu Dan Riset Akuntansi (JIRA)* 4.8 (2015).Page. 34.

⁷ Joan, Kevin, et al. "Musyarakah Mutanaqisha Berbasis Lingkungan." *Business Innovation and Entrepreneurship Journal* 2.1 (2020): 20-27.

proportion. Both parties bear the risk of financial loss. In contrast to the provisions in mudharabah which do not allow banks in the position of shahib al-mal to interfere in the management of the company, in musyarakah banks have the right to be represented on the directors of the company concerned and have voting rights.

In musharaka, the bank is a business partner. Thus, in its position as a business partner, the bank has the same rights as fellow business partners in the musharaka agreement, including participating in managing the business being financed.⁸ In addition, in supporting its operations in the context of implementing and regulating the Musyarakah Agreement, the National Sharia Council Fatwa was issued No: 08/DSN/MUI/IV/2000 concerning Musyarakah Financing and also Bank Indonesia Regulation Number 22/16/PBI/2020 concerning the Third Amendment to Bank Indonesia Regulation Number 19/4/PBI/2017 concerning Sharia Short-Term Liquidity Financing for Sharia Commercial Banks which is the national legal umbrella.⁹

Islamic Banking in implementing Musyarakah Financing Products. However, the reality shows that there are various problems that arise related to Musyarakah which ended in a dispute in court between the Customer and the banking party, such as the case of Mr. Wendy as the plaintiff for the appeal with the Bank Bukopin Syariah which was decided by the Samarinda Religious High Court as the defendant in the appeal that the Bank Bukopin Syariah has committed an unlawful act related to the implementation of the Musyarakah Line Facility Agreement which is not in line with Islamic law; Based on the Decision of PTA SAMARINDA Number 47/Pdt.G/2019/PTA.Smd¹⁰, registered on October 30, 2019. From some of the problems above, the author feels the need to examine the phenomenon of Sharia Economic Law, especially regarding Musyarakah Contracts, Factors Affecting Musyarakah Financing in Islamic Banking in South Sulawesi.

2. Method

The type of research used is social law research / Empirical, research conducted with an approach to the legal reality in society. This research is based on the existence of a gap between expectations (das sollen) and reality (das sein) in the field of law in this connection

⁸ Trimulato, Trimulato. "Analisis potensi produk Musyarakah terhadap pembiayaan sektor riil UMKM." *Jurnal Ekonomi & Studi Pembangunan* 18.1 (2017): 41-51.

⁹ Husaini, Hambali. "Pembiayaan Musyarakah Dalam Memberikan Kemanfaatan Pada Perbankan Syariah Di Sulawesi Selatan." *Journal of Lex Theory (JLT)* 2.2 (2021): 225-235.

¹⁰Supreme Court. Judgment Directory. <https://ujungan3.mahkamahagung.go.id/direktori/ujungan/f63c0678571e88c4fb116dc2dc0b3b0c.html> accessed on January 28, 2021

the research orientation is law in action. This research is based on legal research conducted with a doctrinal or normative approach that views law as a set of normative rules or rules, and a non-doctrinal or sociological approach. This is because in this study, law is not only interpreted or conceptualized as the whole of the principles and rules that govern human life in society, but also includes the institutions and processes that bring about the enactment of the law.

3. Results and Discussion

From the explanation of the product and the Musyarakah contract system in Islamic banking, the following is the data from the questionnaire on the understanding of financing staff (respondents) at Islamic banks related to the factors that influence the implementation of Musyarakah contract products in Islamic banking in South Sulawesi.¹¹

3.1 Islamic Principle Factors Influence the Implementation of Musharaka Financing In Islamic Banking In South Sulawesi

Table 1:

No.	Information	Frequency	Percentage (%)
1.	Influence	23	69.70 %
2.	Less influence	6	18.18%
3.	Not affect	4	12.12%
Amount		33	100 %

Data source: Primary data processed in 2022

Islamic principles factors affect the implementation of musyarakah financing in Islamic banking in South Sulawesi, 69.70% said that they affect sharia principles in the implementation of musyarakah financing in South Sulawesi, 18.18% have less influence on sharia principles, and 12.12% do not affect the implementation of musyarakah financing in Islamic banking in South Sulawesi.¹² Factors that influence Sharia principles according to

¹¹ Nasution, Yusuf Wildan, Marliyah Marliyah, and Khairina Tambunan. "Dana Sukuk sebagai Alternative Sumber Dana Pembiayaan pada Bank Syariah." *Economic Reviews Journal* 2.1 (2023): 55-67.

¹² Mulato, Tri, et al. "Pengembangan Program Studi Perbankan Syariah Berbasis Integrasi Peran Bank Syariah Bagi Sektor Riil UMKM." *Jurnal Ilmiah Ekonomi Islam* 7.2 (2021): 621-637.

sharia banking staff because respondents feel that the musyarakah financing product has gone through the consideration of the Sharia Supervisory Board (DPS) in sharia banking in terms of sharia compliance standards, in the author's analysis Al-Tufi's view on mashlahah comes from the discussion (syarah) Hadith Number 32 Hadith Arba'in Nawawi, which reads La Darara wa La Dirara, which means do not cause harm or harm to others, and do not repay one loss for another.¹³

Theory good luckdIn several studies, the approach used based on Islamic economic values, according to Al-Thufi It is based on the idea that maslahah is placed as an independent and most dominant argument in Islamic legislation, whether substantially the benefit itself is confirmed by the syara' or vice versa. Al Thufi's style of thinking in this maslahah theory can be seen in the renewal of the Law Islam.¹⁴ Some theories HierAl-Maslahah archists try to find answers to muamalah-muamalah problems from the aspect of benefit through various methods or approaches that refer to Islamic law sources, very relevant and even very essential to find where the legal basis (Shariah) in the economic field, including banking is Sharia. Textually and contextually stated clearly and unequivocally "Sharia Bank" in the main sources of Islamic Law. namely in the Al-Quran and As-Sunnah or through other sourceslaw the next is Ijtihad, ijma' and others through interpretation.¹⁵

A number of Islamic economic values by Arfin Hamid¹⁶, is a grand theory that is able to answer all the problems of Islamic economics. The development of the Al-Maslahah Hierarchical Theory in the context of Maqashid Al-Syariah Theory is to realize goodness while avoiding evil or attracting benefits and reject harm.¹⁷ According to Arief Dirga Kusuma Account Officer at Bank Sulselbar Syariah "there are still following conventional aspects because of the demands to sell and compete in Islamic banking institutions that have conventional parents, especially in sharia business units whose human resource system (HR) is still mixed with the banking system. conventional."¹⁸ In carrying out the musharaka

¹³SINDOnews.com on Friday, January 22 "The Concept of Maslahah According to Najmuddin At-Thufi". To be accessed via the page

<https://kalam.sindonews.com/read/30782/70/concept-maslahah-menurut-najmuddin-at-thufi-1611324068>

¹⁴ Efrinaldi "The Theory of Benefit in the Discourse of Islamic Law Reform: A Study of Najm Din Thufi's Thoughts", *Journal of the Legal Pulpit*, No. 55 Year XII, November-December 2001, p.34

¹⁵ Mulato, Tri. "Memahami Konsumsi Islami Upaya Meningkatkan Produk Pembiayaan Mudharabah di Bank Syariah." *JESI (Jurnal Ekonomi Syariah Indonesia)* 7.1 (2017): 42-48.

¹⁶HM Arfin Hamid, *Grounding Sharia Economy in Indonesia. Socio-Juridical Perspective*, (Jakarta: elSASA, Jakarta, 2007), p. 265

¹⁷Amir Mu'alim and Yusdani, *Configuration of Islamic Legal Thought*, (Yogyakarta: UII Pres, 2001), p. 50

¹⁸Interview with Arief Dirga Kusuma, Account Officer, Bank Sulselbar Syariah, 27 January 2022.

contract process, it is very possible to have a benchmark for interest rates in terms of balancing the demands of conventional banks which are the parent of Islamic banks and in order to be more competitive, of course with conventional customers who already exist at these financial institutions, as the researchers found in the two financial institutions. sharia where the research is conducted, namely Bank Sulselbar Syariah and Bank OCBC NISP Syariah which is a Sharia Business Unit.¹⁹

3.2 Factors Requirements for Partnership between Customers and Islamic Banks affect the implementation of Musyarakah financing in Islamic banking in South Sulawesi

Table 2:

No.	Information	Frequency	Percentage (%)
1.	Influence	25	75.75%
2.	Less influence	5	15.15%
3.	Not affect	3	9.10%
Amount		33	100 %

Data source: Primary data processed in 2022

Partnership factors between customers and Islamic banks affect the implementation of musyarakah financing in Islamic banking in South Sulawesi, 75.75% influence, 15.15% less influence, and 9.10% do not influence, Customer partnership factors affect according to respondents Staff at Islamic banks in South Sulawesi because they consider partnerships in the Musyarakah contract is an important,²⁰ joint venture / syirka on the basis of the merger of business capital so that many things must be the conditions and standards for doing it, guarantee of credit or financing based on Sharia Principles in the sense of confidence in the ability and ability of the debtor customer to pay off his obligations in accordance with the

¹⁹ Iwansurya, Dian Hasiman. "Model Pembiayaan Syariah Untuk Peternak Sapi Di Kecamatan Moyo Hilir Kabupaten Sumbawa." *Journal Of Innovation Research And Knowledge* 1.9 (2022): 899-918.

²⁰ Muslimin, Supriadi, and Wardah Jafar. "Implementasi Pembiayaan Akad Mudharabah dan Musyarakah serta Kontribusinya Meningkatkan Perekonomian Anggota BMT." *Al-Azhar Journal of Islamic Economics* 1.1 (2019): 49-65.

agreement is the most important factor that must be considered by the bank. To obtain this assurance, before granting credit, the bank must conduct a careful assessment of the character, ability, capital, collateral, business prospects of the debtor's customer.²¹ According to Anugrah, the staff of the Makassar Branch of Bank Muamalat Financing Analyst²² business financing that can be used for joint venture capital so that in the future reports on business processes and business results that will be shared and there are principles of honesty and fairness as well as transparency in the jointly financed business mechanism so that it does not end up losing but generates operating profits to be shared according to the results with the agreed portion of the margin.

3.3 Income Factors Islamic Banking Profits affect the implementation of musyarakah financing in Islamic banking in South Sulawesi.

Table 3

No.	Information	Frequency	Percentage (%)
1.	Influence	20	60.60%
2.	Less influence	8	24.25%
3.	Not affect	5	15.15%
Amount		33	100 %

Data source: Primary data processed in 2022

The income factor of Islamic banking profits affects the implementation of musyarakah financing in Islamic banking in South Sulawesi, 60.60% affects, 24.25% Less affects, 15.15% Does not affect, The income factor of banking profits according to Islamic

²¹Nursakti, SP Guarantee of Mortgage on Murabahah and Musyarakah Financing Products at Bank Muamalat Indonesia. *Journal of Legal Studies*, (2018). Volumes 14, 83–84.

²²Interview with Anugrah Luthfi, Financing Analyst, Bank Muamalat Makassar Branch, 12 January 2022.

banking staff as respondents in this study affects because Islamic banks as business institutions always always compete with products that can compete in the market, especially for customers who tend to choose to use Islamic banks, so it is important to know the interest of customers in terms of financing and the tendency of customers to facilitate the musharaka contract which is still not too much different from other contracts that selling well to attract customers as well as murabaha (buying and selling) contracts.²³

According to Prof. Arfin Hamid²⁴

The tendency of customers towards financing products with a Murabahah (buying and selling) contract system has a negative impact on the existence of Islamic banks because the concept of a contract to see the success of Islamic banks is how products with mudharabah and musyarakah contracts are used by the Islamic economic community,²⁵ but in reality the bank's business Sharia in the field is still easier to sell products with murabahah contracts compared to mudharabah and musyarakah contracts, Due to the principle of a profit sharing system which in its implementation many obstacles, including the difficulty of recognizing or estimating the costs incurred in the business, as well as the complexity of the distribution pattern on the principles of modern banking, this profit factor causes Bank Muamalat to no longer sell Musyarakah products for the provision of business capital, and only sells musyarakah mutanaqisah (MMQ) products. In the financing of musyarakah mutanaqishah contracts²⁶ housing finance for customers with this scheme which is in demand for customers who want to own a house with this contract.

3.4 The COVID-19 pandemic factor affects the implementation of musyarakah financing in Islamic banking in South Sulawesi

Table 4

No.	Information	Frequency	Percentage (%)
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²³ Sofyan, Syathir. "Kritisasi Bank Syariah Terhadap Pembiayaan Sektor Pertanian Di Sulawesi Selatan." *Bilancia: Jurnal Studi Ilmu Syariah Dan Hukum* 10.1 (2016): 102-121.

²⁴ Interview with Prof. Arfin Hamid, Malino, Gowa Regency, South Sulawesi, 22 January 2022.

²⁵ Baedawi, Muhammad, Achmad Abubakar, and Halimah Basri. "Analisis Pembiayaan Mudharabah Terhadap Tingkat Profitabilitas (Profit Margin) PT. Bank Negara Indonesia Syariah Makassar." *Jurnal Mirai Management* 7.2 (2022): 23-33.

²⁶ Abubakar, Lastuti, Tri Handayani. Juridical Study of Housing Financing through Musyarakah Mutanaqisah (MMQ) Agreements as an Alternative for Housing Financing in an Effort to Develop Islamic Banking Products. *Journal of Islamic Economic Law*, 2017. Vol. 1, No. 1. p. 17

1.	Influence	33	100%
2.	Less influence	-	-
3.	Not affect	-	-
Amount		33	100 %

Data source: Primary data processed in 2022

The COVID-19 pandemic factor affected the implementation of musyarakah financing in Islamic banking in South Sulawesi, 100% affecting the Covid 19 Factor. Since the emergence of the COVID-19 outbreak, the impact of Islamic banking business activities. This is because the Covid-19 outbreak has made some activities limited and limited, as an effort to prevent the transmission and spread of this virus. But resulted in a slowdown and congestion of business activities.²⁷

The economic sector experienced a decline, many business actors experienced a decrease in income, which resulted in the inability to fulfill their obligations to pay debts or their ongoing financing in the banking sector. Business actors who have payment obligations at the bank will find it difficult to fulfill their obligations if their business experiences a decrease in income due to the COVID-19 pandemic. Under these conditions, it is certain that one of the sectors affected is the banking sector, which has channeled its financing, especially musyarakah financing, to business actors, but experiencing congestion has resulted in the income of banks as business institutions being also affected.²⁸

Under current conditions, banks, including Islamic banks, must have their own business strategies that are different from normal conditions. However, experiencing congestion resulted in the income of banks as business institutions being also affected. Under current conditions, banks, including Islamic banks, must have their own business strategies that are different from normal conditions. However, experiencing congestion

²⁷ Sholiha, Imroatus. "Eksistensi Perbankan Syariah di Indonesia." *Iqtishodiyah: Jurnal Ekonomi dan Bisnis Islam* 4.1 (2018).

²⁸ Sani, Nur, Rusdiah Hasanuddin, and Neng Indriyani. "Pengaruh Produk Mudharabah, Musyarakah, Dan Murabahah Terhadap Ingkat Keuntungan Pada Pt Bank Bni Syariah Kc Makassar." *Accounting Journal* 1.4 (2020): 146-154.

resulted in the income of banks as business institutions being also affected. Under current conditions, banks, including Islamic banks, must have their own business strategies that are different from normal conditions.²⁹

The Financial Services Authority as a supervisory agency for financial institutions has issued a stimulant in the form of an OJK Regulation for parties affected by the COVID-19 outbreak in fulfilling their obligations at financial institutions.³⁰ However, what about the institutional side, in this case, for example Islamic banking, if the musharaka financing customer experiences difficulty in paying, it will have an impact on decreasing income for the bank. Different business strategies need to be implemented during the current pandemic, especially for Islamic banking institutions that have also been affected by COVID-19. The corona virus has a fairly broad impact on the activities carried out by the community, one of which is the impact on economic activities in banking financial institutions, both in conventional banks and Islamic banks.

Economic activities are all activities carried out by humans in an effort to fulfill their needs. The impact of covid-19 on the Islamic banking sector, according to Arief Dirga Kusuma³¹The Account Officer of Bank Sulselbar Syariah at the Makassar branch, had the effect of decreasing credit distribution (financing) and even temporarily stopping such as musyarakah financing, decreasing asset quality, and tightening margins, as well as many financing restructurings, as well as non-performing financing that has reached the auction stage.

4. Conclusion

Factors Affecting Musyarakah Financing empirically Sharia Principle Factors, Partnership Factors Between Customers and Sharia Banks, Sharia Banking Profit Income Factors, and also the Covid 19 Factor, greatly affect every aspect not only in terms of operational needs, but also unable to support maqasid sharia is fulfilled in the Musyarakah contract which is the mainstay of sharia banking financing in South Sulawesi, so that this goal is achieved, it requires an increase in effectiveness by making improvements to every

²⁹ Hajar, Hajar. "Analisis Manajemen Risiko Pembiayaan Natural Uncertainty Contracts (NUC)(Studi Pada PT Bank Syariah Mandiri Kantor Area Malang)." *'Anil Islam: Jurnal Kebudayaan dan Ilmu Keislaman* 10.1 (2017): 116-141.

³⁰ Asmawati, A., T. Trimulato, and I. Ismawati. "Strategi Pemasaran Produk Tabungan Meningkatkan Minat Masyarakat di Bank Syariah Indonesia KCP Takalar Sulawesi Selatan." *Jurnal Hukum Ekonomi Syariah* 5.2 (2022): 169-184.

³¹Interview with Arief Dirga Kusuma, Account Officer, Bank Sulselbar Syariah, 27 January 2022.

factor that affects the musyarakah contract, which will have an impact on increasing the use of the musyarakah contract for the welfare and benefit of the ummah. .

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