

## Review of Islamic Economic Law on the Handling of Problem Financing at PT Bank Syariah Indonesia Samarinda Bhayangkara Branch

Muhammad Dwi Eko Rhomadon<sup>1</sup>, Muhammad Rafi Ardyansah<sup>2</sup>

<sup>1</sup>UIN Sultan Aji Muhammad Idris Samarinda, eko.rhomadon@gmail.com

<sup>2</sup>Yarmouk University, rafi.ardiansah@gmail.com

---

### Abstracts:

This research discusses the review of Islamic Economic Law on the handling of problem financing at PT Bank Syariah Indonesia, Tbk. Samarinda Branch. Non-performing financing is a major challenge in Islamic banking that requires resolution in accordance with sharia principles. This research aims to identify the factors that cause non-performing financing and analyse the settlement mechanism based on the perspective of fiqh muamalah. The research method used is qualitative with a descriptive-analytical approach. The results show that the main causes of non-performing financing include internal factors, such as negligence in credit analysis, as well as external factors, such as economic conditions and the inability of customers to fulfil their obligations. In its settlement, Bank Syariah Indonesia applies several strategies, such as restructuring, rescheduling, and settlement through appropriate sharia contracts. From the perspective of muamalah fiqh, these measures are acceptable as long as they do not contain elements of usury, gharar, and dzalim. This research is expected to serve as a reference in improving the effectiveness of financing risk management in Islamic banks to remain in accordance with sharia principles.

**Keywords:** Islamic Economic Law, Joint Financing, Islamic Banks, Sharia Agreements

---

### A. Introduction

As one of the financial business entities that has an intermediary function, Bank Syariah Indonesia is certainly faced with a variety of relatively high risks, one of the risks faced by Bank Syariah Indonesia for the distribution of retail segment financing, namely Microfinance, Consumer Financing (Mitra Guna, FLPP, Pension), Pawning (Gadai and Cicil Emas), Small Medium Enterprises (SME) Financing<sup>1</sup>. The category of problematic financing in the state of principal payments or principal instalments based on the collectibility of a loan, namely current, special attention, non-current payments, doubtful financing so that bad financing is called Non Performing Financing (NPF). This will also affect the performance of Bank Syariah Indonesia. Therefore, Bank Syariah Indonesia is required to always maintain a balance between managing the risks faced and the services provided to customers.<sup>2</sup>

The application of the sharia concept to all Islamic bank products is one of the advantages of Islamic banks compared to banks that operate without the concept of sharia. However, the public's assumption of doubts about the sharia concept in the application of financing is inevitable<sup>3</sup>. This is due to the lack of understanding of the concept applied by Islamic banks in particular. In this case, before providing financing, Bank Syariah Indonesia (BSI) must feel confident or believe that the financing provided will actually be returned, such confidence is usually obtained through assessments made by Bank Syariah Indonesia (BSI) on customers / debtors by paying attention to the principles of providing healthy

---

<sup>1</sup> Chrisanty Amalia, et al., "Juridical Analysis of the Settlement of Problem Financing at Bank Syaiah (Study at PT. Bank Muamalat Indonesia, Tbk., in Medan City)", *USU Law Journal*, Vol. 1, (1), (2013), pp. 1-17

<sup>2</sup> Roy Halidy Erlangga, *Retail Collection, Restructuring & Recovery Officer of Balikpapan Area at PT Bank Syariah Indonesia, Tbk. Samarinda Bhayangkara Branch*, interview, on 15 June 2023 in Samarinda.

<sup>3</sup> Madjid Sitti Saleha, "Handling Problem Financing in Islamic Banks", *Journal of Sharia Economic Law* Vol.2 No.2 2018.

financing.<sup>4</sup>

Financing will quality or not quality starts during the financing analysis, financing analysis errors will misleading financing decisions, wrong financing decisions are the potential for low quality financing or the potential for non-performing financing. As for financing that is classified as problematic (NPF), if it has entered the category of substandard financing (collectibility 3), doubtful financing (collectibility 4) and bad financing (collectibility 5).<sup>3</sup> The influence of the causes of problematic financing mostly from the customer's own factors, for example, lack of knowledge of the business financed by the bank, the customer does side streaming (misuse of funds from the bank), family conflicts or maybe the debtor from the start intends to deceive the bank (back character). Financing is a process that starts from the analysis of financing feasibility to its realisation. However, the realisation of financing is not the last stage of the financing process. After the realisation of financing, Bank Syariah Indonesia needs to monitor and supervise, if one day there is problem financing due to several reasons. Bank Syariah Indonesia (BSI) must be able to analyse the causes of non-performing financing so that it can make efforts to restore the quality of the financing, namely in terms of handling.<sup>5</sup>

The problematic financing that arises requires immediate handling by the bank so that it does not continue to become bad credit or non-performing financing (Non Performing Loan) which if the percentage continues to increase will affect the health level of a bank. Therefore, banks are obliged to apply and implement the prudential principles related to the distribution of financing.<sup>6</sup> Therefore, the handling carried out by Bank Syariah Indonesia is the method used in accordance with what is regulated in the Banking Law and / or Sharia Banking Law, and the Fatwas of the National Sharia Council (DSN) and in accordance with Muamalah Jurisprudence.<sup>7</sup>

In the sense that financing is used to define funding carried out by financing institutions, such as Islamic banking to customers. Financing is also a process, starting from the analysis of the feasibility of financing to its realisation. After realising financing, Islamic banks need to monitor and supervise financing, this is to minimise and avoid problems in financing or problematic financing Nationally, the financial ratios of Sharia Commercial Banks (BUS) can be seen in the table below:

Indicators	2021	2022	2023
			Des
NPF (%)	3,6	3,23	3,13
NPF Net (%)	1,95	1,88	1,57
Non-performing finance	6,597	7,263	7,713
Non-performing finance Net	3,938	4,241	3,877
Total Financing to Third Party non Bank/Total Financing to Non Bank	202,298	225,146	246,532

Source: ojk.go.id

<sup>4</sup> Djamil, Fathurrahman, *Settlement of Problem Financing in Islamic Banks*, (Jakarta: Sinar Grafika, 2012), pp. 66.

<sup>5</sup> Rahmat Ilyas, "Analysis of the Financing System in Islamic Banking". *Journal of Sharia Law and Economics*, Vol. 06, No. 4).

<sup>6</sup> Yuniarti Vinna S., "Analysis of Sharia Economic Law on the Settlement of Problem Financing in Islamic Banking", *Perspective Journal*, Vol. 2 No. 2, 2018.

<sup>7</sup> Stiven Borneo Patra, *Account Maintenance Staff of Balikpapan Area at PT Bank Syariah Indonesia*, Tbk. Samarinda Bhayangkara Branch, interview, on 15 May 2023 in Samarinda.

In 2021 the total financing disbursed was 202,298 M with NPF 3.6%, in 2022 the total financing disbursed was 225,146 M with NPF 3.23%, in December 2023 the total financing disbursed was 246,532 M with NPF 3.13% and in September 2021 the total financing disbursed was 256,873 M with NPF 3.19% (see table 1.1).<sup>8</sup>

From the results of the research conducted by the author, it can be seen that the percentage of non-performing financing that occurs at PT Bank Syariah Indonesia, Tbk. Samarinda Bhayangkara Branch Office in 2021-2022 is 7.55% (percent) and in 2022-2023 it increases to 8.55% for the retail financing segment caused by external factors from the bank, namely the debtor.

PT Bank Syariah Indonesia, Tbk. Bhayangkara Samarinda Branch, in this non-performing financing is resolved by collection activities, restructuring, collateral auctions or banks can take through write-offs of financing and write-offs of receivables if previous efforts do not provide optimal results and the non-performing financing has decreased performance and prospects through two stages, For financing that cannot be resolved through the rescue stage, further financing is carried out through the financing settlement stage, namely settlement through litigation (court) and/or by means of a parate execution auction carried out through the intermediary of the State Property and Auction Service Office (KPKNL) or Private Auction Hall (BLS).<sup>9</sup>

Based on the background of the problem above, the author is interested in further examining the handling of problematic financing in order to obtain a juridical description of problematic financing in the world of Islamic banking in terms of handling problematic financing and a review of muamalah fiqh on the handling of problematic financing at PT Bank Syariah Indonesia, Tbk.

## B. Research Methods

The type of research conducted in this study is normative empirical research with qualitative descriptive analysis. Normative empirical is a type of research that is field or (empirical) by examining the review of muamalah fiqh regarding the handling of problem financing at Bank Syariah Indonesia, Tbk. Samarinda Bhayangkara Branch and about how the review of muamalah fiqh on the handling of non-performing financing at PT Bank Syariah Indonesia, Tbk. Samarinda Bhayangkara Branch.

The type of data used is primary data obtained through interviews with direct sources. In addition, researchers also use secondary data obtained through documents on the Internet and Islamic economic law books

## C. Discussion

Non-performing finance (NPF) that occurs at BSI Samarinda Bhayangkara Branch is generally the same as that of other banks. Non-performing financing is a risk contained in every provision of financing by banks. This risk is in the form of a situation where the financing cannot be returned on time or exceeds the predetermined period.<sup>10</sup>

The settlement of problem financing in Islamic Banks in the legal arrangements of muamalah fiqh can be divided into three efforts, the first of which is tahkim, al-qadha and also al-ishlah. Tahkim is

<sup>8</sup> Roy Halidy Erlangga, *Retail Collection, Restructuring & Recovery Officer Area Retail Collection, Restructuring & Recovery*, Balikpapan at PT Bank Syariah Indonesia, Tbk, Samarinda Bhayangkara Branch, interview, on 15 June 2023, at: 11.00 WITA.

<sup>9</sup> Ismail, *Islamic Banking*. (Jakarta: Kencana, 2011), p.106.

<sup>10</sup> Muhammad Syafi'i Antonio, *Islamic Bank from Theory to Practice*, Gema Insani Press, Jakarta: 2015. h.25.

appointing someone as a referee or peacemaker. While Salam Madkur states in the book *Al-Qadha Fil Islam* that tahkim terminologically means appointing someone or more as a referee or peacemaker by two or more people who are disputing in order to resolve the case they are disputing peacefully.<sup>11</sup>

While the current term tahkim can be translated as arbitration, and the person who acts as an umpire is called an arbitrator or hakam. As for al-Qadha is an official government institution to carry out judicial functions that are authorised to resolve civil and criminal cases. The person authorised to settle cases in court is qadli (judge). The power of qadli is not limited by the conflicting parties but is regulated as absolute authority and relative authority that oversees the judicial institution. The decision of the qadli is binding on both parties.<sup>12</sup>

In addition to the Al-Qadha mechanism and tahkim, there is also a third method, namely Al-*Ishlah*, which means breaking the quarrel or dispute. In the Shari'ah sense, Al-*Ishlah* is a type of contract (agreement) to end the resistance (dispute) between 2 (two) people in dispute. Disputes or differences of opinion in the field of Islamic civil law can be resolved by the parties through Alternative Dispute Resolution based on good faith by overriding litigation settlement.<sup>13</sup>

For this reason, the handling or restructuring of financing carried out by Bank Syariah Indonesia, Samarinda Bhayangkara Branch is a technical term used in banking or other financial institutions for the efforts and steps taken by BSI in an effort to overcome the financing problems faced. In the laws and regulations applicable to banks that carry out activities based on sharia principles, there are several Bank Indonesia provisions that provide an understanding of financing restructuring, namely<sup>14</sup>:

- a. Bank Indonesia Regulation No. 10/18/PBI/2008 on Financing Restructuring for Sharia Banks and Sharia Business Units, as follows:

Financing Restructuring is an effort made by the Bank in order to assist customers to settle their obligations, among others through:<sup>15</sup>

- 1) Rescheduling, which is a change in the payment schedule of customer obligations or the time period;
- 2) Reconditioning, which is a change in part or all of the terms of Financing, including changes to the payment schedule, the number of instalments, the period of time and/or the provision of discounts as long as it does not increase the customer's remaining obligations to be paid to the Bank;
- 3) Restructuring, which is a change in financing terms not limited to rescheduling or reconditioning.
- 4) Bank Indonesia Regulation No. 8/12/PBI/2006 dated 10 July 2006 concerning Periodic Reports of Commercial Banks, Explanation of Article 2 paragraph (4) letter g: "*Financing Restructuring is an improvement effort made by banks in financing, receivables, and or ijarah activities against debtors who have difficulty fulfilling their obligations*"<sup>16</sup>.

<sup>11</sup> Arfan, A., *Kulliyah Muamalah Jurisprudence Rules: Typology and Its Application in Islamic Economics and Islamic Banking*, Malang: UIN Maliki Press: 2013. h.250.

<sup>12</sup> Euis Amalia, et. al., *Concepts and Mechanisms of Islamic Banks*, (FSH UIN Syahid Jakarta: 2007), p.56.

<sup>13</sup> Vinna Sri Yuniarti, *Analysis of Sharia Economic Law on the Settlement of Problem Financing*.

<sup>14</sup> Siti Saleha Madjid, *Handling Problematic Pompeian in Islamic Banks*, Journal of Sharia Economic Law Vol2 No.2 2018.

<sup>15</sup> Arifin Zaenul, *Basics of Islamic Bank Management*, Jakarta: Alfabeta, Cet II, 2003. p.34.

<sup>16</sup> Muhammad Turmudi, "Settlement of Problem Financing in Islamic Financial Institutions (Study of BMT AL-

- b. PBI No. 8/21/PBI/2006 dated 5 October 2006 concerning Asset Quality Assessment of Commercial Banks Carrying out Business Activities Based on Sharia Principles, Article 1 point 31: "*Financing Restructuring is an improvement effort made by the Bank in the activity of Providing Funds to customers who are experiencing difficulties in fulfilling their obligations by following the applicable provisions, namely the fatwa of the National Sharia Council and Financial Accounting Standards applicable to Islamic banks*".

Bank Syariah Indonesia Samarinda Bhayangkara Branch in handling non-performing financing is carried out in accordance with the provisions of the DSN Fatwa relating to the settlement of receivables. That restructuring is a method of settlement that is in line with sharia principles in settling debts or obligations of non-performing financing based on sharia principles, carried out, among others, through:

- 1) Rescheduling
- 2) Reconditioning
- 3) Restructuring
- 4) Settlement by guarantee
- 5) Write Off.

In seeing problematic financing, BSI Samarinda Bhayangkara Branch first conducts a financing assessment so that BSI is sure that the financing provided will return smoothly again. The financing assessment aims to see the ability of members to make instalments. The financing assessment criteria are generally carried out by institutions using the 5C analysis (Character, Capacity, Capital, Conditional, and Collateral).

The review of muamalah fiqh on the handling of problem financing at PT Bank Syariah Indonesia, Tbk. Samarinda Bhayangkara Branch involves the basic principles of sharia that govern financial transactions and the treatment of debts or liabilities that are problematic. Here are some important points that need to be considered, as follows:

- 1) Shariah-compliant agreements
- 2) Avoiding Usury
- 3) Principles of Justice and Beneficence
- 4) Financing Restructuring
- 5) Dispute Resolution Mechanism
- 6) Openness and Transparency
- 7) Write-off of Receivables

By following the above principles, Bank Syariah Indonesia Samarinda Bhayangkara Branch can handle non-performing loans in a fair, transparent, and sharia-compliant manner, thereby maintaining customer trust and satisfaction as well as the sustainability of the bank's operations.

#### D. Conclusion

Handling problematic financing at Bank Syariah Indonesia Samarinda Bhayangkara Branch by revitalising financing by rescheduling, reconditioning, and restructuring. If there is no more hope and the customer has no effort to resolve it, the bank will settle it with the collateral / guarantee that was tied before. To be able to handle problem financing, PT Bank

Syariah Indonesia, Tbk. Samarinda Bhayangkara Branch makes several other efforts such as rescheduling, rearranging the terms of financing by reviewing the contents of the financing contract, improving the funding structure (recapitulation) and business organisation, seizing collateral / collateral by selling voluntarily and / or collateral auction.

The review of muamalah fiqh on the handling of non-performing financing at Bank Syariah Indonesia Samarinda Bhayangkara Branch, that BSI has implemented the handling of non-performing financing by rescuing non-performing financing by billing by letter or telephone, making a visit to the customer's home by way of rescue through: First, rescheduling by BSI is not allowed to increase the amount of the remaining financing bill. Second, restructuring. When viewed from theory and research results, it can be seen that the policies implemented by BSI have succeeded in minimising non-performing financing. BSI visits customers and conducts deliberations regarding solutions to resolve problematic financing. If after making an emotional approach with the customer, it does not produce results, then BSI will take the final settlement action, namely confiscation or voluntary sale of collateral. In handling problematic financing, of course, it is in accordance with the provisions of the DSN Fatwa relating to the settlement of receivables. That restructuring is a way of settlement that is in line with sharia principles in settling debts or obligations from non-performing financing based on sharia principles.

## LITERATURE

### Books

- Adiwarman Karim, *Fiqh and Financial Analysis*, IIIT Indonesia. Jakarta: 2003
- Ahmad, Mahdi Rizqullah. *Biography of the Messenger of Allah An Analysis Based on Authentic Sources*. Jakarta: Qithi Press, 2009
- Al-Khallaf, A. W. *Ilmu Ushul al-Fikih*. Cet. XII, 1972
- Amiruddin, and Zainal Asikin. *Introduction to Legal Research Methods*. Jakarta: PT Raja Grafindo Persada, 2004
- Antonio Muhammad Syafi'i, *Islamic Banking from Theory to Practice*, Gema Insani Press, Jakarta: 2015.
- Arfan, A., *Kulliyah Muamalah Jurisprudence Rules: Typology and Its Application in Islamic Economics and Islamic Banking*. Malang: UIN Maliki Press: 2013.
- Arifin Zaenul, *Basics of Islamic Bank Management*, Jakarta: Alvabet, Cet II, 2003
- Az-Zuhaili, Wahbah. *Fiqh Islam Wa Adillatuhu*. Depok: Gema Insani, 2007. Bakry, N. S., *Fikih and Ushul Fikih*. PT Raja Grafindo Persada, Jakarta: 2003.



- Department of National Education. Kamus Besar Bahasa Indonesia (Fourth Edition). Jakarta: Gramedia Pustaka Utama, 2012.
- Euis Amalia, M Taufiqi and Dwi Nuraini I, Concepts and Mechanisms of Islamic Banks, (FSH UIN Syahid Jakarta: 2007).
- Fathurrahman, Djamil, Settlement of Problem Financing in Islamic Banks, Jakarta: Sinar Grafika, 2012
- Faishal Shaykh bin Abdul Aziz Al-Mubarak, Bulughul Maram and its Explanations, Cet. 2, translated by Imam Fauji and Ikhwanuddin Abdillah, Ahmad Ihsanuddin and Arif Mahmudi (ed.), Jakarta: Ummul Qura 1437 H/2016 AD.
- Gustav Radbruch in Achmad Ali, Revealing Legal Theory and Judicial Theory, (Jakarta: Kencana Prenada Media, 2009).
- Ghazaly, Abdul Rahman. Fiqh Muamalat. Jakarta: Kencana, 2010.
- Hanbal, Ahmad bin. Musnad of Imam Ahmad bin Hanbal. Beirut: Dar Al- Khotob Al-Ilmiyah, 2008.
- Harun. Fiqh Muamalah. Surakarta: T. Sentosa, 2017. Mardani. Fiqh of Sharia Economics. Jakarta: Kencana, 2019.
- M. Ichwan Sam et al, Set of Fatwas of the National Sharia Council Ibn Majah, Sunan Ibn Majah, Volume II, Qahirah: Dar al-Hadist, 2008.
- M. Cholil Nafis, Sharia Economic Law Theory: A Comprehensive Study of Islamic Economic Law Theory, Its Application in the Fatwa of the National Sharia Council and Its Absorption into Legislation, Jakarta: UI-Press, 2011.
- Pudjihardji. Fikih Muamalah Sharia Economics. Malang: UB Press, 2019. Rashid, Sulaiman. Islamic Fiqh. Bandung: Sinar Baru Algesindo, 2019.
- Rohmaniyah, W., Contemporary Fikih Muamalah, (Vol. 129), (Duta Media Publishing: 2019 Rivai Veithzal and Arifin Arviyan, Islamic Banking: A Theory, Concept and Application, Jakarta: Bumi Aksara, 2010.
- Salim and Syahrums, Qualitative Research Methodology (Concepts and Applications in Social, Religious, and Educational Sciences), Citapustaka Media, Cet. 5, Bandung: 2012.
- Sudiarti, S., Contemporary Fikih Muamalah, 2018.
- Suhendi, Hendi. Fiqh Muamalah. Jakarta: Rajawali Pers, 2016.
- Sugiyono, Quantitative, Qualitative and R & D Research Methods, CV. Alfabert, Bandung: 2015. Sugiyono, Quantitative, Qualitative and R & D Research Methods, Bandung: CV. Alfabert, 2015 Syahrums and Salim, Qualitative Research Methodology (Concepts and Applications in Social Sciences, Religion, and Education), Bandung: Citapustaka Media, Cet. 5, 2012.
- Sjadeini Sutan Remy, Kapita Selecta Hukum Perbankan, Volume I, t.tp: t.th Veithzal Rivai and H. Arviyan Arifin, Islamic Banking, Bumi Aksara, Jakarta: 2010.
- Z Wangsawidjaja, Islamic Bank Financing, Jakarta: Gramedia Pustaka Utama, 2012

### **Interview**

Stiven Borneo Patra, Account Maintenance Staff Balikpapan Area at PT Bank Syariah

Indonesia Samarinda Bhayangkara Branch, interview, on 15 May 2023 in Samarinda.

Roy Halidy Erlangga, Retail Collection, Restructuring & Recovery Officer of Balikpapan Area

at PT Bank Syariah Indonesia, Tbk. Samarinda Bhayangkara Branch, interview, on 15 June 2023 in Samarinda.

Munawar Chalil, Branch Manager at PT Bank Syariah Indonesia Samarinda Bhayangkara

Branch, interview, on 16 October 2023 in Samarinda.

### **Regulations**

Kitab Undang-Undang Hukum Perdata (Burgelig Watsbook).

Supreme Court Regulation Number 02 of 2008 concerning the Compilation of Sharia

Economic Law.

Regulation of the Minister of Finance of the Republic of Indonesia No. 213/PMK.06/2020

concerning Guidelines for the Implementation of Auctions.

Republic of Indonesia, Law Number 10 of 1998 concerning Amendments to Law Number 7 of

1992 concerning Banking.

Republic of Indonesia, Law Number 21 Year 2008 on Islamic

Banking.