

RISK ANALYSIS OF *MUSYARAKAH* FINANCING AT BANK ACEH SYARIAH, INDONESIA

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Abstract

Musyarakah financing is one form of sharia-based financing applied by Islamic financial institutions, including Bank Aceh Syariah. This article aims to identify the risks in the *musyarakah* financing scheme. This research uses an empirical juridical approach with a descriptive qualitative method. Data were obtained through interviews with Bank Aceh Syari'ah employees and analysis of related documents. The results showed that Bank Aceh Syari'ah implemented risk management policies by periodically assessing customer eligibility and monitoring financing. However, there are obstacles in implementation, such as low customer interest in profit-sharing schemes and a lack of understanding of *musyarakah* contracts. This study suggests increasing socialisation and Islamic financial literacy in the community and strengthening risk mitigation policies to improve the effectiveness of *musyarakah* financing at Bank Aceh Syari'ah.

Keywords: Bank Aceh Syariah, Financing, Musyarakah, and Risk Management,

Abstrak

Pembiayaan musyarakah merupakan salah satu bentuk pembiayaan syariah yang diterapkan oleh lembaga keuangan syariah, termasuk Bank Aceh Syariah. Artikel ini bertujuan untuk mengidentifikasi risiko dalam skema pembiayaan musyarakah. Penelitian ini menggunakan pendekatan yuridis empiris dengan metode kualitatif deskriptif. Data diperoleh melalui wawancara dengan karyawan Bank Aceh Syariah dan analisis dokumen terkait. Hasil penelitian menunjukkan bahwa Bank Aceh Syariah telah menerapkan kebijakan manajemen risiko dengan melakukan penilaian berkala terhadap kelayakan nasabah dan pemantauan pembiayaan. Namun, terdapat hambatan dalam implementasi, seperti rendahnya minat nasabah terhadap skema pembagian keuntungan dan kurangnya pemahaman terhadap kontrak musyarakah. Studi ini menyarankan untuk meningkatkan sosialisasi dan literasi keuangan syariah di masyarakat serta memperkuat kebijakan mitigasi risiko guna meningkatkan efektivitas pembiayaan musyarakah di Bank Aceh Syariah.

Kata Kunci: Bank Aceh Syariah, Manajemen Risiko, Pembiayaan Musyarakah

INTRODUCTION

The *musyarakah* agreement, according to the concept of muamalah, is a cooperation agreement between two or more parties to carry out a specific business; each party, in doing business, contributes based on an agreement that the profits and risks will be borne together according to the agreement when making the contract.¹ Each party gets a margin by bearing the risk if there is a loss. Based on DSN-MUI Fatwa Number 8 of 2000, *musyarakah* financing is a form of financing carried out through a cooperation contract between two or more business entities for a specific business, in which each business entity contributes capital, and the profits obtained are divided according to their respective contributions.

Musyarakah is typically used in project finance, where the customer and the financial institution contribute capital to support the initiative. Classical and contemporary scholars define *musyarakah* as follows. The Malikiyah scholars interpret *musyarakah* as a licence to act legally for two people who cooperate with their property. According to the Shafi'iyah scholars, *musyarakah* is the right to act for two or more people on something they agree on. According to the Hanafis, *musyarakah* is a contract by people cooperating in capital and profit.² Regarding the forms of *musyarakah* contracts, the fiqh scholars divide them into two forms, namely *musyarakah amlak* and *musyarakah uqud*. *Musyarakah al-amlak*, usually called ownership *musyarakah*, is when two or more people jointly own an item without having to do a *shirkah* contract or happen. While *musyarakah Al'uqud* is a form of agreement between two or more parties to combine assets to conduct business/business, the results are shared in profit and loss. The division is according to what has been agreed upon.³ In the context of banking, *musyarakah* financing is a working mechanism that involves the accumulation of work and capital that provides customers with benefits by producing goods and services that meet their needs. The *musyarakah* concept can be applied in various fields of business to generate profits. Some shariah banking managers define *musyarakah* as a form of participation in investment in a particular company.⁴

¹ Zainuddin Ali, *Shari'ah Banking Law* (Jakarta: Sinar Grafika, 2008), pp. 28.

² Qomarul Huda, *Fiqh Muamalah* (Yogyakarta: Teras, 2011), pp. 100.

³ Hendi Suhendi, *Fiqh Muamalah* (Jakarta: PT RajaGrafindo Persada, 2010), p. 129.

⁴ Fairuz Azzahra, "A Fiqh View of the Musyarakah Akad and Its Implementation in Sharia Banking," *Journal of Scientific Research Student* 1, no. 3 (2024), pp. 344.

In Islamic financial institutions, *musyarakah* agreements include a type known as permanent *musyarakah*, which refers to a long-term business partnership. Nonetheless, this particular model is rarely used. However, this ongoing capital investment offers significant appeal to equity investments and can serve as a component of an investment portfolio. *Musyarakah* is explicitly applied to loans related to working capital. In this case, the bank provides capital to purchase assets, facilities and other partners in *musyarakah* financing risk management, which is an effort that minimises the occurrence of risks that will arise and can harm the bank and the provision of *musyarakah* financing.⁵ In the approach to *musyarakah* financing risk management at Bank Aceh Syariah, aligning with the bank's objectives, business strategy, and operational capacity is necessary. The various risk categories include credit risk arising from the customer's default or the bank's default against the agreed terms. Market risk arises from changes in market prices that affect the balance sheet and related accounts. Liquidity risk arises from the bank's inability to fulfil its obligations due to limited cash flow funding sources. Legal risk arises from a lack of support from laws and regulations. Compliance risk arises from the bank's negligence in complying with applicable laws, rules, and Sharia principles. Investment risk arises from potential losses from bearing the financial losses of customers whose businesses are financed through profit-sharing schemes.⁶

RESEARCH METHODS

In researching this article, the author uses an *empirical juridical* approach, namely legal research on the existing factual approach by researching both aspects of legislation governing the protection of Bank Aceh Syari'ah risks in *musyarakah* financing. The *empirical juridical* aspect is used to examine the applicable legal provisions and implement the provisions of Bank Aceh Syariah's management policy to protect the bank's interests in *musyarakah* financing.⁷

⁵ Nur Khoiriyah Rohmawati, "Mitigating Non Performing Financing Risk of Banking Products with 5C Principles," *Journal of Business and Economics Research (JBE)* 5, no. 3 (2024), pp. 437.

⁶ Muhammad Farid, "Risk Management in Shari'ah Banking," *Journal of Islamic Accounting and Finance* 3, no. 2 (2021), pp. 46.

⁷ Soerjono Soekarno, *Normative Legal Research* (Jakarta: Raja Grafindo Persada, 2001), pp. 13.

The author uses a specific research approach in preparing this scientific paper, specifically using qualitative research through descriptive analysis techniques.⁸ This approach focuses on analysing and defining phenomena during the research period and investigating the reasons behind specific symptoms. Therefore, in this study, researchers describe events that occur in the field. The author will systematically analyse the risk of musyarakah contract financing at Bank Aceh Syari'ah through the descriptive analysis method. Through this method, researchers can also analyse the financing agreement between Bank Aceh Syari'ah and customers, involving musyarakah financing. Then the author examines legal protection efforts for consumers in *musyarakah* financing.

The data collection technique that the author uses is interviews. The author conducts interviews with interviewees and sources as parties who provide answers to the questions asked.⁹ The data analysis process is the stage of managing data obtained by researchers to produce answers to the problems that have been formulated. Data analysis aims to explain concretely, according to the research objectives, as a research process to conclude.¹⁰

RESULTS AND DISCUSSION

A. Shari'ah Banking Concepts

The role of banking and financial institutions in Indonesia is very urgent in the sustainability of the country's economy, therefore its presence becomes a support for every pulse starting from the economic activities of the community, region and also the state, banking institutions are known as risks and public trust institutions so that this institution must have explicit legal provisions in carrying out all its work activities.¹¹ Islamic banks are undoubtedly a new hope for the banking sector and financial institutions in

⁸ Muhammad Siddiq Armia, *PENENTUAN METODE & PENDEKATAN PENELITIAN HUKUM*, ed. Chairul Fahmi (Banda Aceh: Lembaga Kajian Konstitusi Indonesia, 2022).

⁹ Lexy J. Moleong, *Normative Legal Research Methodology* (Bandung: Remaja Rosdakarya, 2010), p. 187.

¹⁰ Azharsyah Ibrahim, *Islamic Economics and Business Research Methodology* (Banda Aceh: Ar-Raniry Press, 2021), p. 230. 230.

¹¹ Chairul Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia," *Jurnal Ilmiah Peuradeun* 11, no. 2 (May 30, 2023): 667–86, <https://doi.org/10.26811/PEURADEUN.V11I2.923>.

Indonesia. Islamic banks operate by Islamic rules, especially those derived from the teachings of the Qur'an and Hadith.¹² The presence of Bank Aceh Syariah is expected to strengthen the traditional economic framework that relies on interest.¹³

The rise of Bank Aceh Syariah in Indonesia is promising, and its growth is anticipated to continue. The advancement of Islamic finance in any country depends mainly on supportive laws and regulations that can foster an enabling environment for the expansion of Islamic banking. The evidence can be traced back to the enactment of Law No. 7 of 1992, which was later revised by Law No. 10 of 1998, and the establishment of Law No. 21 of 2008, relating to Islamic Banking. Before establishing Law No. 21 of 2008 on Islamic Banking, Islamic banking in Indonesia was administered under the framework of Law No. 7 of 1992 on Banking and its amendment through Law No. 10 of 1998, along with related regulations. Musyarakah financing operates similarly to *Mudharabah*, as both involve profit sharing to pool funds. In musyarakah financing, the bank collaborates with the client on a project or transaction, provides the necessary capital or funds, and contributes expertise and resources to complete the venture. The client plays the role of manager and investor.¹⁴

To create healthy and efficient banking, bank control aims to assess two things contained in every bank activity, namely, risk and elements or resources in the bank that can mitigate or control the risk. The amount of risk contained in a bank essentially shows the amount of potential problems faced by the bank, so that the risk does not manifest itself and become a problem, resources are needed within the bank to support, for example, the allowance for write-offs of productive assets is a resource to support the risk of bad debts and the existence of sufficient liquidity tools is to anticipate liquidity risk. Above all these quantitative resources, the most critical and central resource is the qualitative resource, namely, bank management.¹⁵

¹² Wahyu Akbar et al., "Optimization of Sharia Banking Regulations in Developing the Halal Cosmetic Industry in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (June 30, 2024): 1-12, <https://doi.org/10.30984/JIS.V22I1.2611>.

¹³ Zainudin Ali, *Shari'ah Banking Law* (Jakarta: Sinar Grafika, 2008), pp. 28.

¹⁴ Andrianto, *Management of Islamic Banks* (Surabaya: Qiara Media Publisher, 2019), p. 340.

¹⁵ OJK Indonesia, "Implementation of Risk Management for Commercial Banks," Pub. L. No. 18 (2016).

B. Risk in Musyarakah financing at Bank Aceh Shari'ah

Liability to the bank or if the customer fails to fulfil the following conditions:

- a. Market Risk Market risk refers to the potential for financial loss due to fluctuations in macroeconomic conditions, including inflation, currency exchange rates and interest rates. Although the bank does not calculate profit sharing based on interest rates, the influence of interest rates must still be recognised, as the impact can spread to various sectors, including those financed by the bank.
- b. Operational Risk This risk includes the risk of errors in internal processes, which may consist of internal fraud, such as inaccuracies in financial records, intentional misstatements in tax filings, processing errors, and discrepancies in accounting or reporting, as well as unethical practices such as bribery.
- c. Legal Risk This risk relates to the risk of financial loss resulting from the failure to fulfil legal obligations outlined in the contract, which includes the identification of the Customer as a financing party, the object of financing, collateral, and the terms of the financing agreement itself.¹⁶

B. Basic Concepts of Musyarakah Akad in Fiqh Muamalah

The *Musyarakah* agreement is used in Islamic banks in transactions based on Islamic law.¹⁷ The legal basis for the *Musyarakah* agreement is found in the Qur'an and Hadith. Several verses of the Qur'an and Hadith that discuss the *Musyarakah* agreement:

a. QS. Shad: 24

قَالَ لَقَدْ ظَلَمَكَ بِسُؤَالِ نَعْجَتِكَ إِلَى نِعَاجِهِ وَإِنَّ كَثِيرًا مِّنَ الْخُلَطَاءِ لَيَبْغِي بَعْضُهُمْ عَلَى بَعْضٍ إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ وَقَلِيلٌ مَّا هُمْ وَظَنَّ دَاوُدُ أَنَّمَا فَتَنَّاهُ فَاسْتَغْفَرَ رَبَّهُ وَخَرَّ رَاكِعًا وَأَنَابَ ۝٢

Meaning: "He (David) said, "Indeed, he has indeed wronged you by asking for your sheep to be joined to his. Indeed, many of those who enter into partnerships do harm to one another, except those who believe and do righteous deeds, and

¹⁶ Arifin, *Basics of Islamic Bank Management* (Jakarta: Alfabel Library, 2005), p. 211.

¹⁷ Wahyu Akbar et al., "Optimization of Sharia Banking Regulations in Developing the Halal Cosmetic Industry in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (June 30, 2024): 1-12, <https://doi.org/10.30984/JIS.V22I1.2611>.

those are very few." David believed that we were only testing him. So, he sought forgiveness from his Lord and he fell down and repented. (Q.S Shad:24).

This verse tells the story of Prophet David AS, who settled a dispute between two people. The context of this verse is often used as the Sharia basis for *Musyarakah* contracts in Fiqh Muamalah.¹⁸ It shows that partnership (*Shirkah*) is recognised in Islam. There is a warning that in partnerships, there is often injustice committed by one party against another. The exception given to those who believe and do righteous deeds shows the importance of integrity and ethics in partnerships. Also, it depicts the brush of Prophet David, who was humble and quickly repented when he realised his mistake.

b. Hadith

عن أبي هريرة رضي الله عنه يرفعه إلى النبي صلى الله عليه وسلم: إِنَّ اللَّهَ يَقُولُ: أَنَا ثَالِثُ الشَّرِيكَيْنِ مَا لَمْ يَخُنْ أَحَدُهُمَا صَاحِبَهُ، فَإِذَا خَانَ خَرَجْتُ مِنْ بَيْنِهِمَا

Meaning: "From Abu Hurairah, the Prophet said: Allah Almighty says: "I am the third party (the Protector) for two people who do business partners, as long as one of them does not betray his partner. If one of them betrays the other, then I will withdraw from them (not protect them)." (HR Abu Daud and al-Hakim)

The above hadith indicates the permissibility of partnerships (*shirkah*) in various occupations. All partnerships, whether in the form of property or actions in other matters, whether they are in joint ventures, limited liability companies, or anything else. The basis for this is the permissible ruling. In Islamic law, *shirkah* is the cooperation between two or more parties to conduct business activities. In Sharia banks, it is called a sharing pattern or PLS (Profit and Loss Sharing).¹⁹ This concept has two patterns: the first is that one party provides capital (*rab-al-mal*) while the other party manages the capital. At the same time, the second pattern includes capital and participates in its management. The first is called *mudharabah*, and the second is termed *musyarakah*. In fiqh, *musyarakah* is defined as a mixture (*al-ikhtilath*) between

¹⁸ Siti Fatimah, "SYIRKAH DALAM BISNIS SYARIAH," *Muawadah : Jurnal Hukum Ekonomi Syariah* 1, no. 1 (2022).

¹⁹ Muhammad Adil Maulana and Abdullah Kelib, "Kedudukan Bank Syariah Dalam Penyelesaian Sengketa Melalui Arbitrase (Studi Perbandingan Indonesia Dan Malaysia)," *Notarius* 16, no. 1 (2023), <https://doi.org/10.14710/nts.v16i1.42790>.

two assets (al-malaini) because if there is no mixing of the two assets, it cannot be said to be *musyarakah*.²⁰ Or the cooperation of two or more people in allocating capital and working together for a business venture.²¹

The term *musyarakah* is used more generally in the Qur'an. However, based on the narrations attributed to the apostle and companions, *musyarakah* is justified. According to Kashmir, *Musyarakah* is a cooperation contract between two or more parties to run various businesses. Each party provides funds or charity according to the agreement that the value of profit or risk is accepted simultaneously, based on the contract.²²

In the scholars' view, *musyarakah* is a form of business cooperation that is permitted in Islam. The scholars agree that *musyarakah* contracts are based on the principle of partnership, in which two or more parties pool capital and share profits and losses according to the agreement.²³ However, there are different views on the details of its application. In the view of classical and contemporary scholars, *musyarakah* is defined as follows. The Malikiyah scholars say *musyarakah* is a license to act legally for two people who cooperate with their property. According to the Shafi'iyah scholars, *musyarakah* is the right to act for two or more people on something they do. Own. According to the Hanafiyah scholars, *musyarakah* is a contract by people cooperating in capital and profits.²⁴

Musyarakah, as a form of co-operation and partnership in business, has various types depending on the nature of the transaction and its characteristics. In the context of *musyarakah*, there are two main types.²⁵

²⁰ Imam Abi Zakaria Mahyuddin Ibn Sharf Al-Nawawi, *Majmu' Syarah Muhazzab* (Bairut: Dar al-Fikr, 1996), p. 317. 317.

²¹ Iwandi Iwandi, Rustam Efendi, and Chairul Fahmi, "THE CONCEPT OF FRANCHISING IN THE INDONESIAN'S CIVIL LAW AND ISLAM," *Al-Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 4, no. 2 (2023), <https://doi.org/10.22373/al-mudharabah.v5i2.3409>.

²² Cashmere, *Banks and Other Financial Institutions Revised Edition* (Jakarta: Raja Grafindo Persada, 2014), p. 169. 169.

²³ Chairul Fahmi, "Revitalisasi Penerapan Hukum Syariat Di Aceh," *Jurnal Tsaqafh* 8, no. 2 (2012).

²⁴ Rahmad Kurniawan, Nur Asnawi, and Chairul Fahmi, "Juridical-Philosophical Review of the Position of Sharia Compliance in Islamic Banking in Indonesia," *Jurnal Ilmu Hukum Tambun Bungai* 9, no. 2 (December 31, 2024): 531-45, <https://doi.org/10.61394/JIHTB.V9I2.497>.

²⁵ Tiara and Teuku Muhammad Nurdin, "Syirkah Dalam Perspektif Syafi' Iah," *Iqtishady (Jurnal Ekonomi Syari'ah)* 2, no. 2 (2021).

Regarding the forms of *musyarakah* contracts, the fiqh scholars divide them into two forms, namely:

1) *Musyarakah Amlak* (ownership)

The first type is *Musyarakah al-amlak*, usually called ownership *musyarakah*, for example, two or more people jointly own an item without having to do a *shirkah* contract or happen. This transaction occurs not because of the contract, but rather the desire to own property together. *Musyarakah al-amlak* is divided into two forms, among others:

- a. *Musyarakah Al Jabr/Ijbariyah* occurs due to a natural event, such as the death of a person who bequeaths his property. This form is also known as forced *musyarakah*, as it does not involve any effort from the parties involved to create joint ownership.
- b. *Musyarakah Ikhtiyariyah*, formed through voluntary acts or deeds of the associates, such as grants or purchases. This type arises as a result of the initiative of the parties involved.²⁶

2) *Musyarakah Al'Uqud*

Musyarakah Al'uqud is a form of agreement between two or more parties to combine assets to conduct a business, the results are shared in the form of profit or loss. The division is according to what has been agreed upon.²⁷ There are several forms of *Shirkah Uqud*, namely:²⁸

- a. *Al In'an* involves two or more parties contributing different amounts of capital. Profits are shared based on the amount of each party's capital.
- b. *Shirkah A'mal or Shirkah Abdan*, Cooperation between individuals who share the same profession to carry out a work project. Each party contributes in the form of skills, and profits are shared equally.
- c. *Mufawadah* involves two parties contributing equal amounts of capital. Profits are shared equally.
- d. *Shirkah Wuqud* is a collaboration between a fund owner and a party with certain credibility or expertise. Profits and losses are shared based on negotiations between the parties involved.

²⁶ Fatimah, "SYIRKAH DALAM BISNIS SYARIAH."

²⁷ Hendi Suhendi, *Fiqh Muamalah...*, p. 129.

²⁸ Tiara and Nurdin, "Syirkah Dalam Perspektif Syafi' Iah."

According to Law Number 21 of 2008 concerning Islamic Banking, Islamic banking includes all aspects related to Islamic banks and business units, including institutions, business activities, and the methods and processes used in carrying out these activities. Bank Aceh Syariah operates by Islamic principles and is categorised into Islamic Commercial Banks (BUS) and Islamic People's Financing Banks (BPRS). Musyarakah financing is based on several fundamental pillars established by scholars to assess the validity of contracts, which include the following:²⁹

1. Sighat or ijab qabul: All parties must articulate this to show consent and clarity of purpose in forming the contract.
2. Parties to the transaction: Partners entering into a musyarakah contract must be competent to give or receive power of representation.
3. Object of transaction (Capital and Work): The capital deposited must be in cash or the form of business assets such as inventory, real estate, equipment, and other resources.

C. Constraints on the Implementation of Musyarakah Financing at Bank Aceh Syariah

The challenges faced in *musyarakah* financing at Bank Aceh Syariah include customers who do not have a clear business plan. The bank is still hesitant to disburse *musyarakah* financing to these customers, coupled with a lack of customer interest in the profit-sharing option.³⁰ This can be seen from the small number of *musyarakah* financing applications. In addition, the challenge faced by the bank is the trust of customers and the high risk of safeguarding the interests of customers, as mandated in Law Number 10 of 1998, bank secrecy is not absolute in the Indonesian context and several things are excluded regarding the obligation to maintain the secrets of a bank itself.³¹

In providing financing, Bank Aceh Syariah must have confidence in the ability and capability to fulfil the agreed-upon agreements in each transaction. To obtain this confidence, Bank Aceh Syariah thoroughly assesses the character, ability, capital, and aspects listed on the bank. The problems

²⁹ Fatimah, "SYIRKAH DALAM BISNIS SYARIAH."

³⁰ Chairul Fahmi et al., "The State's Business Upon Indigenous Land in Indonesia: A Legacy from Dutch Colonial Regime to Modern Indonesian State," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (August 24, 2024): 1566–96, <https://doi.org/10.22373/SJHK.V8I3.19992>.

³¹ Ismail, *Banking Management* (Jakarta: Kencana Prenada Media Group, 2010), p. 20.

experienced by Bank Aceh Syariah every year are increasing, namely in musyarakah financing products. This is reinforced by data from PT Bank Aceh Syariah, which shows that problematic musyarakah financing continues to grow every year due to two factors, namely errors in analysing financing and poor customer character.³²

Based on Fatwa DSN-MUI Number 8 Year 2000, musyarakah financing is a financial arrangement based on a cooperation agreement between two or more parties for a particular business venture, in which each participant contributes capital and profits are shared proportionally according to their investment.³³ This financing model is typically used in project funding, where the client and the bank contribute resources to support the initiative. The fatwa outlines several provisions regarding *musyarakah* financing, including the requirement for parties to express their intention to enter into a contract (agreement) through a clear statement of *ijab* and *qabul*. The fatwa emphasises that the offer and acceptance must explicitly convey the purpose of the contract, that acceptance takes place at the time of agreement, and that the contract must be documented in writing, by correspondence, or through modern communication methods. The basic principles governing *musyarakah*, as stated in the fatwa, as follows:³⁴

- a. The capital contribution from each party can be in the form of cash or non-cash assets that can be valued in money. Profits are shared according to mutual agreement at the beginning of the contract.
- b. The portion of capital that bears losses contributed. *Musyarakah* can be implemented in the form of *abdan* (co-operation of expertise), in the form of *inanc* (co-operation of funds), or a combination of both.
- c. The business management can be done jointly or left to one of the agreed parties.

³² Interview with the financing party of Bank Aceh Syari'ah Head Office, on 3 June 2024 at 11.15, in Batoh, Darul Imarah sub-district, Aceh Besar district.

³³ Chairul Fahmi and Syarifah Riyani, "ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT," *Wahana Akademika: Jurnal Studi Islam Dan Sosial* 11, no. 1 (July 17, 2024): 89–104, <https://doi.org/10.21580/WA.V11I1.20007>.

³⁴ Fairuz Azzahra, "Pandangan Fiqh Terhadap Akad Musyarakah Dan Implementasinya Pada Perbankan Syari'ah."

This fatwa is the basis for *musyarakah* financing operations in Indonesian Islamic banking, including in Bank Aceh Syariah, to remain by sharia principles.³⁵

D. Factors Causing Problems in Musyarakah Financing

Musyarakah financing is a form of sharia-compliant financial arrangement that is based on the principle of profit sharing.³⁶ In this model, banks or Islamic financial institutions work with customers to oversee a project or business venture. The results show that various factors can cause problems in musyarakah financing, among others:

1. Internal Factors

The internal elements that lead to non-performing financing often stem from inadequate assessment by the account officer of the customer's financial situation, cash flow, and ability to make payments. When financing is provided beyond the customer's management, they cannot meet the instalment obligations. This problem is further exacerbated by the customer's lack of transparency in reporting financial status, leading to the accounts officer miscalculating the customer's cash flow, stopping the financing process. Internal elements that cause problems with bank financing include:³⁷

- a. Incorrect judgment that fails to anticipate developments throughout the financing. For example, funds may be allocated without proper evaluation, causing customers to struggle with instalments beyond their means.
- b. Collusion between bank staff who manage financing and customers results in the bank approving loans that should not have been granted. For example, the bank may have misjudged the value of the collateral.

³⁵ National Shari'ah Council..., p. 2.

³⁶ Chairul Fahmi and Peter Tobias Stoll, "Measuring WTO Approaches in Resolving Palm Oil and Biofuel Trade Disputes from Indonesia," *BESTUUR* 12, no. 2 (December 31, 2024): 172-90, <https://doi.org/10.20961/BESTUUR.V12I2.94203>.

³⁷ Sri Wahyuni et al., "THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS," *JURISTA: Jurnal Hukum Dan Keadilan* 7, no. 1 (June 10, 2023): 1-23, <https://doi.org/10.22373/JURISTA.V7I1.42>.

- c. Lack of understanding among bank employees about the nature of the debtor's business, preventing them from conducting thorough and proper analyses.
- d. Excessive pressure from related parties, such as commissioners or bank executives, jeopardises officers' independence in making financing decisions.
- e. Shortcomings in providing support and supervision related to debtor financing.

2. External Factors

External factors refer to influences that are not within the bank's control. Typically, when viewed from an external perspective, financing problems arise mainly because customers misuse funds. Instead of directing financing to productive or investment-related activities, customers often allocate these resources to consumption. Another concern is global economic volatility, which can significantly affect the overall financial landscape, particularly highlighted during the COVID-19 pandemic last year. The bank's strategy includes implementing financing relaxation to address financing challenges from external factors. Applicants submit their requests to the bank, which evaluates their needs and the underlying issues. Once the committee approves, the bank offers relaxation, which can be margin relief or deferment of principal repayment.³⁸

E. Risks in Musyarakah Financing at Bank Aceh Syariah

In *musyarakah* financing risk management, which is an effort that minimises the occurrence of risks that will arise and can harm the bank and the provision of *musyarakah* financing. The risk management policy of *musyarakah* financing at Bank Aceh Shari'ah must be adjusted to the bank's objectives, business policies, and capabilities. Types of risk such as:

1. Credit risk is due to the failure of the customer or the bank under the agreed terms.
2. Market risk is the position of the balance sheet and administrative accounts due to changes in market prices.

³⁸ Rino Aryanto Saputro et al, "Credit Restructuring Collectability of Banking Loans Affected by the Coronavirus Disease 2019 (Covid-19) Pandemic," *Journal of Kenotariatan Minutes* 4, no. 2 (2023), pp. 483.

3. Liquidity risk due to the bank's inability to fulfil its maturing obligations from cash flow funding sources.
4. Legal risks arising from the absence of supporting laws and regulations.
5. Compliance risk results from the bank not fulfilling and not implementing prevailing laws, regulations, and Sharia principles.
6. Investment risk is the bank's risk of losing the customer's business in profit-sharing-based financing.³⁹

Several strategies undertaken by Bank Aceh Syariah in overcoming financing problems include:⁴⁰

1. Consultation

Consultation occurs when the client has positive intentions and is willing to fulfil their responsibilities. The bank will conduct a site visit to assess whether the client's business is facing challenges. This procedure is prioritised before resorting to legal remedies.

2. Billing

Collecting overdue instalment payments is a practice implemented by Bank Aceh Syariah. Does Bank Aceh Syariah implement a practice? This collection procedure is carried out by making telephone calls (*Call*), Visiting (*visit*), and *Inviting* (*invite*).

3. *Rescheduling*

The approach taken involves extending the duration of the financing or repayment. Here, the client receives a deferral regarding the funding term. After discussions between the client and the bank, the bank allowed the client to undergo a restructuring of the financing agreement, which eased the burden of repayment obligations by:

- a. Extend the term of financing.
- b. B.b. Extending the repayment schedule; for example, if repayments were required initially every quarter, they can be shifted to semi-annually.

³⁹ OJK Indonesia, "Implementation of Risk Management for Sharia Commercial Banks and Sharia Business Units" (2016), p.3, [https://www.ojk.go.id/id/regulasi/Documents/Page/POJK-tentang-Penerapan-Manajemen-Risiko-bagi-Bank-Umum-Syariah-dan-Unit-Usaha-Syariah/pojk 65-2016.pdf](https://www.ojk.go.id/id/regulasi/Documents/Page/POJK-tentang-Penerapan-Manajemen-Risiko-bagi-Bank-Umum-Syariah-dan-Unit-Usaha-Syariah/pojk%2065-2016.pdf).

⁴⁰ Interview with the financing party of Bank Aceh Syari'ah Head Office on 3 June 2024 at 11.15, in Batoh, Darul Imarah District, Aceh Besar Regency.

- c. Lowering the amount payable for each payment, which in turn leads to a more extended financing period.

The risks faced by banks have a significant impact, including a decline in the value of investments affecting shareholders, which may lead to a decrease in share prices or profits. Employees may experience a reduction in income, such as a pay cut. Customers may face a decline in service quality and a decrease in the variety and quality of products available. Bank Aceh Syari'ah's interest in the protection of customers according to Law Number 10 of 1998, bank secrecy is not absolute in the Indonesian context, and several things are excluded regarding the obligation to maintain the secrets of a bank itself. Bank Aceh Syariah employees said that very few customers took *musyarakah* financing. The marketing strategy for *musyarakah* financing products was not optimal due to several factors, including a lack of promotion, which results in customers not getting clear information from Bank Aceh Syariah.⁴¹

Bank Aceh Syariah employees also said that in carrying out all activities related to transactions, Bank Aceh Syariah must comply with and follow all regulations that have been established for the protection of banks and also maintain everything related to customer identity. Bank Aceh Syariah employees also said that the risk in the *musyarakah* business is the joint responsibility of all parties.

To disburse financing, Bank Aceh Syariah must have confidence in the ability and capacity to comply with the agreements stipulated in each transaction. To build this confidence, Bank Aceh thoroughly evaluates the bank's character, capability, capital and other relevant aspects. The challenges faced by Bank Aceh Syariah are increasing from year to year, especially regarding *musyarakah* financing products. This is supported by data from PT Bank Aceh Syariah, which shows that non-performing *musyarakah* financing continues to increase every year, which is caused by two main factors: errors in financing analysis and poor customer character.⁴²

Operationally, the income earned by Bank Aceh Syari'ah is uncertain, so the exact income level cannot be known. Bank Aceh Syari'ah can only

⁴¹ Government of Indonesia, "Banking," Pub. L. No. 10 (1998), pp. 3, <https://peraturan.bpk.go.id/details/45486/uu-no-10-tahun-1998>.

⁴² Interview with the financing party of Bank Aceh Syari'ah Head Office on 3 June 2024 at 11.15, in Batoh, Darul Imarah District, Aceh Besar Regency.

estimate through the rec records run by previous customers, so the cash flow becomes an estimate. In this case, the bank is adequate to use the management function and must handle the financing with prudential banking. However, potential losses will still occur, which will conflict with the bank's interests, as the bank should not lose money. In the Aceh region, the principles of Islamic economics are implemented through the enactment of Qanun 11 of 2018, which has encouraged a comprehensive understanding of Islamic financing products. Although *musyarakah* is considered the ideal model for Islamic banking, offering many advantages over alternative systems, it has yet to emerge as the primary financing method at Bank Aceh Syariah.⁴³

PT Bank Aceh Syariah employees stated that customers are less familiar with *musyarakah* contracts than other financing. In carrying out financial transactions involving *musyarakah* products, Bank Aceh Syariah must ensure that the financing is carried out by sharia principles as stated in various provisions of Islamic law, including the DSN MUI fatwa. Bank Aceh Syariah must understand that *musyarakah* contracts are different from other contracts. When there is a loss, Bank Aceh Syariah must bear it and not delegate it unilaterally to the customer.

CONCLUSION

Based on the research results in this article, it can be concluded that Bank Aceh Syariah in *musyarakah* financing operations has tried to apply sharia principles by prioritising the concept of profit and loss sharing by the provisions of Fatwa DSN-MUI No. 08/DSN-MUI/IV/2000 and the principles of fiqh *muamalah*. As a bank transitioning from a conventional system to a fully sharia-compliant system, Bank Aceh Syariah faces various challenges in implementing *musyarakah-based* financing, which involves financing capital and sharing business risks with customers. In implementing *musyarakah* financing, Bank Aceh Syariah has established a risk management policy to minimise potential risks that could harm the bank. Key risks identified include credit, market, liquidity, legal, compliance and investment risks. Each of these risks has a specific impact on the sustainability of the bank's business, including potentially reducing the value of shareholder investments, reducing

⁴³ Jarmanisa et al., "ANALYSIS OF RISK COVERAGE AGREEMENT BETWEEN PT. J&T AND AN INSURANCE COMPANY FOR DELIVERY OF CONSUMER GOODS IN THE CONTEXT OF KAFALAH CONTRACT," *JURISTA: Jurnal Hukum Dan Keadilan* 5, no. 2 (October 1, 2021): 126-46, <https://doi.org/10.1234/JURISTA.V5I2.11>.

employee income, and reducing the quality of services and products to customers.

Despite various mitigation measures, such as strict customer selection and regular financing monitoring, Bank Aceh Syariah still faces significant obstacles. In addition, the customer protection system implemented by Bank Aceh Syariah already refers to Law No. 10 of 1998 on Banking, including the provisions on bank secrecy. However, in Indonesia, the principle of bank secrecy is not absolute, as there are exceptions in some instances as stipulated in the legislation.

On the other hand, Bank Aceh Syari'ah is still facing the fact that *musyarakah* financing has not become a mainstay product. However, in Islamic economics, *musyarakah* is an ideal model because it is based on the principles of justice and sharing risks and rewards. Operationally, the income from *musyarakah* financing is also difficult to ascertain, as it depends on the customer's business results. Hence, the bank has to apply more prudential banking principles and tighter financial estimation management. Finally, Bank Aceh Syariah employees also realise that in a *musyarakah* contract, the risk of loss is a shared responsibility between the bank and the customer. This emphasises the difference between *musyarakah* financing and other contracts such as *murabahah*, which is more based on buying and selling.

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