

## ANALYSIS OF MUDHARABAH CONTRACTS IN SHARIA BANKING

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### Abstract

This article aims to analyze Mudharabah contracts in Islamic Banking. Theories related to this article include Mudharabah, Mudharabah Legal Basis, Characteristics, Pillars and Terms, and Distribution of Mudharabah. The method used in this research is a literature study results of this article.

Keywords: *Mudharabah, Legal Basis, Characteristics, Types, Pillars and Conditions, Distribution of Mudharabah, Sharia Banking*

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### 1. INTRODUCTION

Islam is a religion that as a whole regulates the affairs of the world and the hereafter of its people. God created humans as creatures who interact socially and need each other both to socialize and to meet their needs. As God's creatures, we as humans are not only ordered to worship, but also ordered to do muamalah so that we can fulfill our needs. In this life, there are people who have excess funds and people who lack funds. With the existence of these two types of humans, it is hoped that they can complement each other in meeting the needs of this life. For this reason, Islam allows sharia in business, including Mudharabah. An Islamic financial institution is a business entity whose activities are in the field of Islamic finance and its assets are both financial and non-financial based on Islamic sharia principles. In Islamic banking operational activities, it may not contain elements of usury or elements that are prohibited in Islam. Over time, more and more Islamic banks are providing services to the Islamic banking community with the aim of meeting market demand, for example, financial products issued by Islamic banks, namely Mudharabah.

### 2. DISCUSSION

#### 2.1. Mudharabah

*Mudharabah* Derived from the Arabic word dharb, meaning to hit or walk. The definition of hitting or walking is more precisely the process of someone hitting his feet in running a business. Technically, al-mudharabah is a business cooperation contract between two parties where the first party (shahibul mal) provides all (100%) of the capital, while the other party becomes the manager. Mudharabah business profits are divided according to the agreement set forth in the contract, whereas if the loss is borne by the owner of the capital as long as the loss is not the result of the manager's negligence, if the loss is due to fraud or negligence of the manager, the manager must be responsible for the loss. So, Mudharabah is a cooperation agreement between two parties where the first party (fund owner) provides all the funds, while the second party (fund manager) acts as manager, and profits are shared between them according to the agreement while financial losses are only borne by the fund owner.

## 2.2. Legal Foundation

*Mudharabah* based on the laws contained in the Al-Qur'an, Hadith, and Ijma' scholars. Among the arguments that allow the practice of *Mudharabah* contracts are as follows:

Al-Qur'an :

"...and from those who walk the earth looking for some of Allah SWT's gifts..." (QS. Al-Muzammil: 20), from this verse it is explained that as a human being who lives where, then may he always seek rizki (God's gift) by *bermuamalah*, one of which is the cooperation between human beings. In the Al-Qur'an, including this verse, there is no explicit explanation regarding the implementation of *mudharabah*, but it can be concluded that cooperation in *mudharabah* is permissible.

"When the prayers have been performed, then scatter you on the face of the earth and seek the grace of Allah SWT..." (QS Al-Jumuah: 10)

"There is no sin (obstacle) for you to seek the bounty of your Lord..." (QS Al-Baqarah: 198)

Hadith :

"It was narrated from Ibn Abbas Bin Abdul Muthalib that if he gives funds to his business partners in *Mudharabah*, he requires that the funds are not carried across the ocean, down dangerous valleys, or buying livestock. If it violates these rules, the person concerned is responsible for the funds. This condition was conveyed to Rasulullah SAW and he allowed it. (HR Thabrani) This hadith refers to the truth of *Mudharabah* transactions.

Ijma' Ulama:

It was narrated that a number of friends made *Mudharabah* by using the orphan's assets as capital and none of them could refute or refuse. If a friend's practice of a deed is witnessed by another friend and no one disputes it, then this is *ijma'*.

## 2.3. *Mudharabah* characteristics

The characteristics of *Mudharabah* are as follows:

1. *Mudharabah* is a business cooperation contract between *shahibul maal* (fund owner) and *mudharib* (fund manager) with a profit sharing ratio according to an agreement in advance.
2. If the business suffers a loss, then all losses are borne by the owner of the funds, unless negligence or errors are found by the fund manager, such as misappropriation, fraud and misuse of funds.
3. *Mudharabah* consists of two types, namely *Mudharabah Muthlaqah* (unrestricted investment) and *Mudharabah Muqayyadah* (committed investment).
4. *Mudharabah Muthlaqah* is *Mudharabah* where the fund owner gives freedom to the fund manager in managing the investment.
5. *Mudharabah Muqayyadah* is *Mudharabah* in which the owner of the fund provides limits to the fund manager regarding the place, method and object of investment.
6. Banks can act both as owners of funds and managers of funds. If the bank acts as the owner of the funds, the funds distributed are called *mudharabah* financing. If the bank is the fund manager, then the funds received:
  - a. In *mudharabah muqayyadah* it is presented in the report on changes in restricted investment as a restricted investment from the customer;
  - b. In *mudharabah muthlaqah* it is presented in the balance sheet as an unrestricted investment.
7. Refunds of *mudharabah* financing can be made simultaneously with the distribution of profit sharing or at the end of the *mudharabah*.

8. In principle, in mudharabah financing there is no guarantee, but so that the fund manager does not commit irregularities, the owner of the fund can request guarantees from the fund manager or a third party. This guarantee can only be disbursed if the fund manager is proven to have violated the things that have been mutually agreed upon in the contract.

### 3.CONCLUSION

Mudharabah comes from the word *darb*, which means to hit or go. More precisely, hit or go is the process of a person taking a business trip. Mudharabah is a contract between two parties whereby one party, called a *rab al-mal* (investor), entrusts money to a second party, called a *mudharib*, for the purpose of running a trading business. (Saeed, 2004: 77). Mudharabah Today it is the main vehicle for Islamic financial institutions to mobilize public funds and to provide various facilities, such as financing facilities for entrepreneurs. With this Mudharabah contract, it shows that Islamic banking is very important for entrepreneurs in supporting the sustainability of their business. However, there are still many people who do not know about this Mudharabah. Therefore, with this article, we will discuss the Mudharabah contract with the aim that the community can understand a little about the concept of the Mudharabah contract itself.

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