

## The Role of the Sharia Supervisory Board in Protecting Member Rights on Murabahah Financing Products\*

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### Abstract

*The Sharia Supervisory Board's primary responsibility is to monitor and ensure that all business operations at BMT BEST are conducted in accordance with sharia principles as outlined by the National Sharia Council. Qualitative, descriptive methods were employed for this study. The study's findings led to the conclusion that BMT BEST's Sharia Supervisory Board serves primarily as a meeting venue for outside consultants who advise on matters pertaining to the regulation of financial institutions. Policy guidance for BMT BEST's initiatives was contributed by DPS. Because it is simpler to put into reality than other products with similar characteristics, murabaha finance has seen a surge in popularity in recent years. This money can be used for any number of things, including making purchases, investments, etc. To fulfill its duty to safeguard its members against usury transactions on murabahah financing products, BMT works to verify that contracts for murabahah financing implemented at BMT BEST adhere to sharia regulations. To prevent usury transactions, sharia-compliant contracts for murabahah finance are implemented.*

**Keywords:** DPS; Financing; Murabahah; BMT

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## A. INTRODUCTION

In today's globalized economy, a country's financial system is the established order within which financial institutions carry out their missions to provide a wide range of financial services to the general public. For the sake of economic expansion and improved living conditions, the primary function of the financial system is to redistribute savings from savers to borrowers.<sup>3</sup> BMT is an abbreviation of Baitul Maal Wa Tamwil or commonly known by the public, namely the Integrated Independent Business Center which operates based on sharia principles. The role of Baitul Maal Wa Tamwil (BMT) is quite large in helping finance small and medium enterprises. The advantages of BMT compared to Islamic banking are its flexibility and speed in serving the community. Requirements and procedures are kept as simple as possible while taking into account risk and security. This is a great opportunity for BMT as a sharia microfinance institution to develop and receive support from the government, both in terms of capital, legality, supervision and infrastructure.<sup>4</sup>

In addition to acting as a buyer and seller of various halal commodities required by clients or members, BMT also offers the fund distribution product of murabahah, which is highly popular due to its profitable qualities, ease of implementation, and low risk considerations to consider in implementation. When items are sold under the terms of Murabahah finance, both the seller and the buyer are required to be transparent about the transaction's underlying economics. Both immediate and deferred payment options are available. Since a murabahah transaction involves a sale and purchase, the commodity being sold must be actualized, the seller must have title to the commodity, and the seller must have physical or constructive possession of the commodity.<sup>5</sup>

Through this murabahah contract, it is easier for customers or members to get an item without having to provide a certain amount of cash first. Simply put, by agreeing to use a murabahah contract, the customer or member is facilitated because they have obtained financing from a bank or Islamic financial institution for the procurement of the goods needed. Not only the

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<sup>3</sup> Heri Sudarsono, *Bank dan lembaga Keuangan Syariah*, (Yogyakarta: Ekonisia, 2003), h. 96

<sup>4</sup> S Burhanuddin, *Aspek Hukum Lembaga Keuangan Syariah*, (Yogyakarta: Graha Ilmu, 2010), h. 200.

<sup>5</sup> Endro Wibowo, "Manajemen Risiko Pembiayaan Murabahah di BMT Amanah Ummah", *Al-tijarah*. Vol 1 No. 2, Sekolah Tinggi Agama Islam Ali bin Ali thalib, Desember 2015, 166

profits of the bank or Islamic financial institution are mutually agreed upon, but the method of payment and the repayment period are mutually agreed upon.<sup>6</sup>

In Indonesia, a sharia financial institution's Sharia Supervisory Board (DPS) must be recommended by the DSN, an autonomous entity under the Indonesian Ulema Council. Sharia Institutions, such as Sharia Banking and Sharia Financial Institutions, are required to own the Sharia Supervisory Board. According to Syafe'i Antonio, the DPS's primary responsibility is to supervise the day-to-day activities of the bank to ensure compliance with sharia regulations. The Sharia Supervisory Board is tasked with overseeing the operations of Sharia Banks and Sharia Financial Institutions to ensure that there are no deviations from sharia bank goods and services that have been approved by the National Sharia Council (DSN) via DSN. The Sharia Supervisory Board is responsible for advising the board of directors and supervising the sharia-compliant activities of Islamic financial institutions.<sup>7</sup>

The author has a vested interest in learning more about the Sharia Supervisory Board's efforts to safeguard members' interests with regard to murabahah financing products at BMT, as there have been numerous instances where members have claimed that such products violate Islamic law and improperly bind them through usury transactions.

In the problems above, several questions arise that become the focus of research, namely: How is the implementation of murabahah financing at BMT BEST Kroya? What is the role of the Sharia Supervisory Board in protecting the rights of members on murabahah financing products at BMT BEST Kroya?

## B. METHODS

This study uses descriptive qualitative research, with the methods of observation, interviews and documentation as data collection techniques, with the results obtained will be expressed in the form of narrative not numbers.<sup>8</sup> The objects in this research are managers, DPS and members of BMT BEST Kroya. The purpose of this qualitative research is a positive orientation, namely understanding the phenomenon in general terms and understanding the characteristics and systematic relationships of the phenomena of field facts and

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<sup>6</sup> Zainal Arifin, *Dasar-Dasar Manajemen Bank Syariah*, (Tangerang: Pustaka Alvabet, 2012), h.28.

<sup>7</sup> M. Syafi'I Antonio, *Bank Syariah dari Teori ke Praktik*, (Jakarta: Gema Insani, 2001), h. 234

<sup>8</sup> Setiawan, Johan, dan Albi Anggito, *Metode Penelitian Kualitatif*, (Sukabumi: CV Jejak, 2018), h. 8

being able to produce theoretical formations in substance based on conceptualization.<sup>9</sup>

## B. RESULTS AND DISCUSSION

### 1. *Baitul Maal wa Tamwil*

Baitul Maal wa Tamwil (BMT) is an institution that consists of two terms, namely baitulmaal and baitul tamwil. Baitulmaal is more focused on collecting and distributing efforts and non-profit ones such as zakat, infaq, and alms. The Baitul Tamwil is a collection and distribution and commercial business. These efforts are an integral part of BMT as an institution that supports the economic activities of small communities based on Islam.<sup>10</sup>

The functions of BMT include: a). Fundraising and channeling; b). Source of income and information provider; c). An institution that can provide financing for small, micro, medium enterprises and cooperatives without asking for collateral; d). Improving the quality of human resources for members, administrators, and managers to be more professional, respectful and trustworthy; e). Strengthen and improve the quality of the business and the market for members' products.<sup>11</sup>

### 2. Sharia Supervisory Board

Decree of the National Sharia Supervisory Board No. 3 of 2000 that DPS is part of the relevant sharia microfinance institution and its stipulation is with the approval of the National Sharia Council (DSN). DPS is the one who oversees the implementation of DSN decisions in Islamic microfinance institutions.<sup>12</sup> The Sharia Supervisory Board has a role that Islamic financial institutions need. The roles of the Shariah Board in Islamic financial institutions are:

- 1) The main role in the Sharia Supervisory Board is to oversee the day-to-day operations of sharia financial institutions in accordance with sharia provisions.

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<sup>9</sup> Setiawan, Johan, dan Albi Anggito, *Metode Penelitian Kualitatif*, h. 14

<sup>10</sup> Nurul Huda, Muhammad Haykal, *Lembaga Keuangan Islam Tinjauan Teoritis dan Praktis*, (Jakarta: Kencana, 2010)

<sup>11</sup> Nurul Huda, Muhammad Haykal, *Lembaga Keuangan Islam Tinjauan Teoritis dan Praktis*, h. 363

<sup>12</sup> Ghufon Safinah, *Sistem dan mekanisme Pengawasan Syariah*, (Jakarta: Renais, 2007), h. 17

- 2) The Sharia Supervisory Board must make periodic statements (usually annually) that the Islamic finance it supervises has been running.
- 3) The Sharia Supervisory Board examines and makes recommendations for new products for the Islamic financial institutions it supervises.
- 4) The Sharia Supervisory Board, in conjunction with the board of commissioners and directors, is responsible for ensuring that Islamic principles are upheld in all operations of Islamic financial institutions.
- 5) The Sharia Supervisory Board is also tasked with conducting socialization to the public about Islamic financial institutions, through media that are already running and applicable in the community.<sup>13</sup>

### 3. Murabaha Financing

Financing is often used to indicate the main activities of Islamic Financial Institutions. Because it relates to getting an opinion. Based on Law no. 7 of 1992, what is meant by financing is "the provision of money or bills that can be offered with it based on the purpose or loan-borrowing agreement to pay off the debt after a certain period of time plus a certain amount of interest, compensation or profit sharing".<sup>14</sup>

Linguistically, the word Murabaha comes from the Arabic word rababa. Yurabihu, murabahatan, which means profit or profit, such as the expression "*tijaratun rabihah, wa baai'u ash-syai murabahatan*" which means profitable trade, and selling an item that is profitable. In terms, according to Islamic jurists (*fuqaha*), the meaning of murabahah is "*al-bai bira'sil maal waribhum ma'lum*" which means buying and selling at the basic price plus a known profit.<sup>15</sup>

Murabaha is justified by the Qur'an, As-Sunnah and Ijma' in the Qur'an Allah SWT says in Surah An-Nisa: 29. "O you who believe, do not eat each other's property with vanity, except by way of commerce which takes place consensual among you." (Surat an-Nisa verse 29).<sup>16</sup>

Wahbah Az-Zuhaili interprets the verse with the sentence, do not take other people's property by illegal means in buying and selling, (not also) with

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<sup>13</sup> Kuart Ismanto, *Managemen Syariah: Implementasi TQM dalam Lembaga Keuangan syariah*, (Yogyakarta: Pustaka Pelajar, 2009).

<sup>14</sup> Muhammad Ridwan, *Manajemen Baitul Maal Wa tamwil*, (Yogyakarta: UII Press, 2004), h. 163.

<sup>15</sup> Faturrahman Djamin, *Penerapan Hukum Perjanjian dalam Transaksi di Lembaga Keuangan Syariah*, (Jakarta: Sinar Grafika, 2013), h. 180.

<sup>16</sup> Departemen Agama RI, *Al-Hikmah Al-Qur'an dan Terjemahannya*, (Bandung: Diponegoro, 2008), h. 84.

usury, gambling, looting and fraud. However, it is permissible for you to take property other than yourself by means of trade that is born from the pleasure and sincerity of heart between the two parties and in the shari'a corridor. *Tijarah* is an attempt to make a profit through buying and selling. *Tiradhi* (mutually willing) is an agreement that equally appears between the two parties to the transaction, buying and selling without any element of fraud.

The terms of *murabahah* financing are: 1). There are sellers and buyers. The perpetrator includes the law and is *baligh* (reasonable and can distinguish what is good and what is not), so buying and selling with crazy people becomes invalid, while buying and selling with small children is said to be legal if allowed by the guardian. 2). There is an object of sale and purchase. The object of sale and purchase must be clear and the goods are *halal*.<sup>17</sup>

#### 4. Implementation of *murabahah* financing at BMT BEST Kroya

Financing is an activity in channeling funds to parties other than banks based on sharia principles. The distribution of funds in the form of financing is based on the trust given by the owner of the fund to the user of the fund.<sup>18</sup> The financing provided by BMT serves to assist the community in meeting their needs in increasing their business. Communities are individuals, entrepreneurs, institutions, business entities and others who need funds.<sup>19</sup> According to the National Sharia Council Fatwa No. 04/DSN-MUI/IV/2000 concerning *murabahah*, namely selling an item by confirming the purchase price to the buyer and the buyer paying it at a higher price as profit.<sup>20</sup>

*Murabahah* financing is financing which is a sale and purchase contract of an item in which the BMT acts as the seller and the member as the buyer, with the price of capital plus a mutually agreed profit. In principle, *murabahah*, the goods are delivered immediately after an agreement between the two parties, while the payment is deferred due or in installments. The financing that is in great demand among the public is *murabahah* financing because it is easier to practice than other products and the requirements are easier, its allocation is for buying and selling, purchasing goods, and others.<sup>21</sup>

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<sup>17</sup> Wiroso, *Murabahah*, (Yogyakarta: UII Press, 2005), h. 167

<sup>18</sup> Arifin, *Dasar-Dasar Manajemen Bank Syariah*, (Jakarta: Pustaka Alvabet, 2006), h. 60

<sup>19</sup> Wangsawidjaja, *Pembiayaan Bank Syariah*, (Jakarta: Gramedia Pustaka Utama, 2012), h. 143

<sup>20</sup> Fatwa DSN-MUI No 4 /DSN-MUI/IV/2000 Tentang *Murabahah*

<sup>21</sup> Suparman, (2021, September 7), wawancara dengan Direktur SDI dan Litbang di BMT BEST Kroya, (Via, Interviewer)

BMT BEST's murabahah financing process makes use of both wakalah and no wakalah contracts, albeit the latter is more common. Members frequently abuse Wakalah contracts, causing the money intended to purchase the goods to instead be utilized for other purposes. Contracts without wakalah at BMT BEST are initiated by members submitting an application and purchase agreement for an item or asset. If BMT agrees to the terms, it will have to place a legal order with suppliers or merchants in order to acquire the requested products or assets. BMT then makes the commodities or assets available to the members for purchase, and the members are obligated to accept (buy) them according to the terms of the agreement. The original order agreement in this sale and purchase may require a member to pay an advance (urbun) to BMT. If the member subsequently decides not to purchase the BMT, the whole amount of the BMT will be deducted from the initial payment. If the BMT's losses exceed the member's initial payment, the BMT might come after the member for the difference.<sup>22</sup>

In contrast to the DSN-MUI Fatwa No. 4 of 2000 concerning murabahah, which states that the goods being traded must already be owned by the BMT, the murabahah financing procedure that takes place at BMT BEST is in accordance with sharia because the purchase of goods uses a contract without wakalah prior to the existence of a murabahah contract. For the simple reason that it is against the law to trade something that has never been owned and never will be owned. However, BMT BEST has not done a great job of applying knowledge to its current and potential participants. Because many BMT BEST members lack product knowledge, especially with regards to murabahah finance goods, BMT BEST is the only organization that can be relied upon to provide accurate information. Members are expected to know not just how murabahah financing works, but also how the other products in BMT BEST work.

In general, the murabahah financing carried out at BMT BEST is in accordance with the provisions of the MUI DSN. If BMT BEST does not comply with Islamic law, it will no longer be allowed to operate because if it continues, it will be detrimental to the members. In its supervision, the Sharia Supervisory Board visits the BMT office, checks the products at BMT so that they are in accordance with sharia provisions, in checking not every month but 2 times a year.<sup>23</sup>

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<sup>22</sup> Suparman, (2021, Agustus 27), wawancara dengan Direktur SDI dan Litbang di BMT BEST Kroya, (Via, Interviewer)

<sup>23</sup> Faiz Al Hamizi, (2021, Agustus 31), wawancara dengan DPS di BMT BEST Kroya, (Via, Interviewer)

## 5. The role of the Sharia Supervisory Board in protecting the rights of members

The National Sharia Council (DSN) at sharia institutions is represented by the Sharia Supervisory Board (DPS). It is the responsibility of the Sharia Supervisory Board to ensure that Islamic financial institutions follow DSN rulings. The Sharia Supervisory Board is responsible for ensuring that sharia financial institutions adhere to the sharia provisions and principles determined by the National Sharia Council in their day-to-day operations. Sharia financial institutions rely heavily on the guidance of the Sharia Supervisory Board to ensure that the services they offer their consumers and members are in accordance with sharia law. Islamic financial institutions are distinct from their conventional counterparts in that they do not solely focus on making a profit from their services, but rather they apply sharia principles based on the teachings of the Qur'an and the Hadith (traditions of the companions of Muhammad) in all of their dealings.<sup>24</sup>

The Sharia Supervisory Board's primary function is to ensure that Islamic financial institutions are operating in line with sharia provisions, and it must provide periodic statements (often once per year) attesting to this.<sup>25</sup>

DPS performance at BMT BEST is ongoing, although DPS duties are being carried out in accordance with established SOP (Product Operational Standards). Due to their hectic schedule, though, DPS isn't constantly at the office. The Sharia Supervisory Board's primary responsibility is to ensure that all business operations at BMT BEST adhere to the sharia norms established by the National Sharia Council. Additionally, the Sharia Supervisory Board is responsible for keeping an eye on any problematic contracts. Additionally, it serves as a check to ensure that usurious dealings are avoided. In order to ensure that the contracts used are in line with the DSN-MUI fatwas, the Sharia Supervisory Board also issues opinions on the items in BMT BEST. The Sharia Supervisory Board at BMT BEST will serve as a meeting place for experts interested in supervising and will take part in formulating guidelines for BMT BEST's various programs.<sup>26</sup>

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<sup>24</sup> Bagya Agung Prabowo & Jasri Bin Jamal, Peran DPS terhadap Praktek Kepatuhan Syariah dalam Perbankan Syariah di Indonesia, *Jurnal Hukum: Ius Quialustum Faculty of Law 24*, No 1, (2017), hal 121

<sup>25</sup> Kwat Ismanto, *Managemen Syariah: Implementasi TQM dalam Lembaga Keuangan Syariah*, (Yogyakarta: Pustaka Pelajar, 2009)

<sup>26</sup> Suparman, (2021, Agustus 27), wawancara dengan Direktur SDI dan Litbang di BMT BEST Kroya, (Via, Interviewer)



The role of the Sharia Supervisory Board in protecting the rights of members at BMT BEST is as follows:

- a. Supervise activities and products to comply with sharia provisions.
- b. Supervise the implementation of management tasks so that they are always guided by the DSN fatwas.
- c. Provide policies on programs at BMT Ben Sejahtera (BEST) to comply with sharia provisions.
- d. As a control to avoid ribawi transactions.
- e. As a consultant related to the supervision of existing contracts at BMT Ben Sejahtera (BEST).

While the Sharia Supervisory Board has fulfilled its duties in accordance with the DSN, its members have not been physically present at the BMT Ben Sejahtera office on a daily basis. However, they have attended every annual meeting and contributed to the discussion. Duties to members and parties of BMT Ben Sejahtera are also the responsibility of the Sharia Supervisory Board, which meets once a year at the RAT (Annual Member Meeting).<sup>27</sup>

#### **D. CONCLUSION**

Although the DSN-MUI Fatwa No. 4 of 2000 regarding murabahah stipulates that the goods being traded must already be owned by the BMT, the implementation of murabahah financing that occurred at BMT Ben Sejahtera (BEST) was in accordance with procedures and in accordance with sharia because in fact the purchase of goods used a contract without wakalah before the murabahah contract. Since it is against the law to trade anything that neither party has held in the past or will possess in the future.

The role of the Sharia Supervisory Board in protecting the rights of members is as follows: Supervise activities and products to comply with sharia provisions; Supervise the implementation of management tasks so that they are always guided by the DSN fatwas; Provide policies on programs at BMT Ben Sejahtera (BEST) to comply with sharia provisions; As a control to avoid usury transactions; As a consultant related to the supervision of existing contracts at BMT Ben Sejahtera (BEST).

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<sup>27</sup> Faiz Al Hamizi, (2021, Agustus 31), wawancara dengan DPS di BMT BEST Kroya, (Via, Interviewer)

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