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# *PROFIT EQUALIZATION RESERVE* (PER) AS AN EFFORT TO MITIGATE THE RISK OF RETURNS IN SHARI'A BANKING IN THE PERSPECTIVE OF THE MAXIM "*AL-MASHAQQAH TAJLIBU AL-TAISIR*"

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***Abstract***

*The application of Profit Equalization as an effort to mitigate the risk of returns on Islamic financial institutions, especially Islamic banking is still being a question for practitioners and academics, some groups support and some groups criticize, so this research aims to examine the application of the Profit Equalization Reserve (PER) as an effort to mitigate the risk of returns in Islamic banking perspective of third main principle, namely al- mashaqqah tajlibu al-taisir, Method in this study is a qualitative method with secondary data processing taken from literatures which related to PER management. This research shows that the risk of returns is mashaqqah al 'azimmah, which is a serious difficulty and can affect the continuity of the Islamic banks activities. So, rukhshoh is needed which in this problem is the application of income smoothing without mitigation or with mitigation (PER), PER in this case is Takhfif Taqdim which is, risk mitigation efforts before they arise. The result of this research is that PER application is permissible and legitimate as long as it does not violate the Shari'a and Islamic economic principles, meaning that all of reports and information must be conveyed clearly to customers so as to avoid gharar elements.*

**Keywords***:* *Profit Equalization Reserve, Risk of Return, Tajlibu Taisir, Fiqh maxim*

## A. Introduction

Talking about Islamic financial institutions, the most popular are Islamic banks, but the development of Islamic banks in Indonesia is still quite slow.[1] This is evidenced by the total

[1] CNBC Indonesia TV, "CNBC Indonesia," *Left Behind, RI Needs to Change Sharia Bank Development Strategy*, 2020, https://www.cnbcindonesia.com/syariah/20

assets of Islamic banks in Indonesia is still inferior to the total assets of Islamic banks in Malaysia, the lack of socialization and understanding to the public is the cause of the slow development of Islamic banks in Indonesia.[2] First established in 1990 by Indonesian Council of Ulama (MUI) under the name Muamalah Bank, Islamic banks continue to try to develop their business in Indonesia and since then the banking system in Indonesia has become a dual banking system, namely the conventional banking system and the Islamic banking system.[3]

Islamic economic activities carried out by Islamic banks have never escaped the risks that exist, one of which is the risk of returns. Risk of returns is one of the 2 additional risks that exist in Islamic financial institutions and has been monitored by Indonesian Bank since 2011.[4] This is supported by the enactment of Bank Indonesia regulation number 13/23/PBI/2011 and Financial Services Authority (OJK) regulation number 65/POJK.03/2016 concerning the implementation of risk management for Islamic commercial banks and Sharia business units. The application of appropriate risk management can reduce the impact of the risk of returns, mitigation efforts must also be in accordance with Islamic economic principles including honesty, transparency, fairness, and trust.[5]

It was very interesting to study when the National Sharia Council - Indonesian Council of Ulama (DSN-MUI) issued a fatwa on the application of reserve funds in the income smoothing method. Profit Equalization Reserve (PER) is one of the two options allowed by DSN to mitigate the risk of returns in Islamic banking in Indonesia[6] Of course, in its application, PER has a series of conditions and rules that must be obeyed by Islamic banks because after all, Islamic banks are financial institutions whose management must

201022103603-31-196237/tertinggal-ri-perlu-ubah-strategi-pengembangan-bank-syariah .

[2] Syahrizal Sidik, "CNBC Indonesia," *Ri's Islamic Financial Assets Lost to Malaysia, La Tahzan!* (blog), 2020, https://www.cnbcindonesia.com/syariah/20201229182015-29-212366/aset-keuangan-syariah-ri-kalah-dari-malaysia-la-tahzan-ya

[3] Financial Services Authority, "History of Islamic Banking," 2021, https://www.ojk.go.id/id/kanal/syariah/tentang-syariah/Pages/Sejarah-Perbankan-Syariah.aspx .

[4] Chairul Akhmad, "Republika," *BI Begins to Monitor the Calculation of Investment Risk and Returns* (blog), 2012, https://republika.co.id/berita/lxit26/bi-mulai-awasi-perhitungan-risiko-investasi-dan-imbal-hasil .

[5] Muhammad Job and Aditya Vishnu Pribadi, *Understanding Islamic Finance : A-Z Sharia Finance (Indonesian Edition)* (Jakarta: Gramedia Pustaka Utama, 2013), 102–106.

[6] *DSN-MUI Fatwa No.* 87/DSN-MUI/XI. *Income Smoothing of Third-Party Funds*, 2021.

be in accordance with Islamic law.[7] Is the decision to allow PER in accordance with the needs of Islamic banks? So what does PER look like if viewed in the fiqh rules?, Then in this case the researcher specifically conducts research on the application of PER in an effort to mitigate the risk of returns in Islamic banking in the perspective of the maxim muamalah fiqh "*al mashaqqah al taisir"s.*

*Al Mashaqqah* linguistically means fatigue, exhaustion, difficulties and hardships. While *al taisir* means convenience. So that the rule has the meaning of difficulty causing ease, meaning the implementation of a law that causes difficulties[8] Then in its implementation there is also a relief so that the law can be done without any difficulties or difficulties.

The legal basis of this rule is the Qur'an and hadith, including:

***First,*** surah Al Baqarah verse 185,

شَهْرُ رَمَضَانَ الَّذِيْٓ اُنْزِلَ فِيْهِ الْقُرْاٰنُ هُدًى لِّلنَّاسِ
وَبَيِّنٰتٍ مِّنَ الْهُدٰى وَالْفُرْقَانِۚ فَمَنْ شَهِدَ مِنْكُمُ الشَّهْرَ
فَلْيَصُمْهُ ۗ وَمَنْ كَانَ مَرِيْضًا اَوْ عَلٰى سَفَرٍ فَعِدَّةٌ مِّنْ
اَيَّامٍ اُخَرَ ۗ يُرِيْدُ اللّٰهُ بِكُمُ الْيُسْرَ وَلَا يُرِيْدُ بِكُمُ الْعُسْرَ ۖ
وَلِتُكْمِلُوا الْعِدَّةَ وَلِتُكَبِّرُوا اللّٰهَ عَلٰى مَا هَدٰىكُمْ وَلَعَلَّكُمْ
تَشْكُرُوْنَ

*"(The appointed few days are) the month of Ramadan, the month in which the Qur'an is derived as a guide for man and explanations of that instruction and the distinction (between the right and the right). therefore, Whosoever among you is present (in the land where he dwells) in that month, Then let him fast in that month, and Whoever is sick or on the way (and he breaks his fast), Then (it is obligatory for him to fast), as many days as he leaves, on other days. God desires ease for you, and wills no hardship for you. and let ye suffice the numbers, and let ye glorify God for his instructions given to you, that ye may be grateful".*

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[7] Veithzal Rivai and Rifki Ismal, *Islamic risk management for Islamic banks: risks are not to be feared, but faced with ingenious, intelligent, and professional* (Jakarta: Gramedia Pustaka Utama, 2013), 24.

[8] Fathurrahman Azhari, *Qawaid Fiqhiyyah Muamalah* (Banjarmasin: Lembaga Pemberdayaan Kualitas Ummat (LPKU), 2015), 82–83.

***Secondly,*** surah Al A'raaf verse 157,

اَلَّذِيْنَ يَتَّبِعُوْنَ الرَّسُوْلَ النَّبِيَّ الْاُمِّيَّ الَّذِيْ يَجِدُوْنَهٗ
مَكْتُوْبًا عِنْدَهُمْ فِى التَّوْرٰىةِ وَالْاِنْجِيْلِ يَأْمُرُهُمْ
بِالْمَعْرُوْفِ وَيَنْهٰىهُمْ عَنِ الْمُنْكَرِ وَيُحِلُّ لَهُمُ الطَّيِّبٰتِ
وَيُحَرِّمُ عَلَيْهِمُ الْخَبٰۤىِٕثَ وَيَضَعُ عَنْهُمْ اِصْرَهُمْ وَالْاَغْلٰلَ
الَّتِيْ كَانَتْ عَلَيْهِمْۗ فَالَّذِيْنَ اٰمَنُوْا بِهٖ وَعَزَّرُوْهُ
وَنَصَرُوْهُ وَاتَّبَعُوا النُّوْرَ الَّذِيْٓ اُنْزِلَ مَعَهٗٓ ۙاُولٰۤىِٕكَ
هُمُ الْمُفْلِحُوْنَ ࣖ

*"(i.e.) those who follow the apostle, the Prophet whose Ummi (name) they find written in the Torah and the Gospel that is by their side, who tell them to do the ma'ruf and forbid them from doing the bad and justify for them all that is good and forbid for them all that is bad and throw out of them the burdens and fetters that are on them. And so the people who had faith in him. glorify him, help him and follow the bright light handed down to him (the Quran), they That are the lucky ones".*

***Third***, hadith narrated by Bukhori and Muslim from Anas R.A

يَسِّرُوْا وَلاَ تُعَسِّرُوْا, وَبَشِّرُوْا وَلاَ تُنَفِّرُوْا

*"Make it easy and don't make it difficult, be happy and don't be afraid.*[9]

Based on the legal basis of the rules above, it is explained that Islam provides convenience for mankind and does not provide teachings or laws that exceed the limits of human ability. But it doesn't necessarily mean that everyone's difficulties are considered as masyaqqoh. According to Sarwat in Hardi, the standard of mashaqqah [10] must be in one of the following positions: (1) On safari, it is permissible to perform *qashar* prayers, *jama' taqdim* or *jama' ta'khir*, break the fast and not perform Friday prayers for men and be replaced with midday prayers; (2) Sick, it is permissible to be sick if the disease will get worse when exposed to water. Besides that when someone is sick in the month of Ramadan, then Allah SWT. allowed to break the fast by replacing it at a later date; (3) Forced circumstances that may endanger survival. For example, a person is in a state of extreme starvation and almost death, then that person is allowed to eat anything even illicit goods in order to preserve his life but provided that it should not be excessive; (4) Forgetting to, for example, forgetting to eat and drink when fasting in the month of Ramadan, it is forgiven for him to continue his fast

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[9] Azhari, 83.

[10] Eja Armaz Hardi, "The Rule of Al-Masyaqqah Tajlibu At-Taisir in Economics," *Nizham*, 6 (2), (2018), 105, https://e-journal.metrouniv.ac.id/index.php/nizham/issue/view/139.

until breaking the fast; (5) Ignorance, as not being sanctioned for a person who has just converted to Islam when he does something that is not allowed when he really does not know the law of his actions; (6) *Umum Al-Balwa* (general difficulty), e.g. the ability of the doctor to look to the non-muhrim in order to treat patients in critical condition; (7) The inability to act legally, i.e. a violation of the law committed by a child, a lunatic and a newly converted person to a muslim, cannot be enforced by law upon them.[11]

The above conditions are the benchmark for the application of this *Al Mashaqqah* rule, besides that the scholars' also divide the levels of *mashaqqah* in order to find the right solution to the existing difficulties, *mashaqqah* levels are divided into three, namely: (1) *Al Mashaqqah Al 'Azimmah* (very severe difficulties), such as conditions that threaten life safety; (2) *Al Masyaqqah Al Mutawassithah* (mid or moderate difficulty), this kind of masyaqqoh should be considered, if it is closer to the heavy masyaqqoh, then there is ease there . However, if it is closer to the light *Masyaqqoh*, then there is no ease there; (3) *Al Mashaqqah Al Khafifah* (mild difficulties), such as hunger during fasting, or overheating during *thawaf*, this kind of *masyaqqoh* can be controlled easily including being patient.[12]

Next is *rukhshoh* (ease), as with the rule we are discussing this is the difficulty of bringing convenience, then *rukhshoh* (convenience) is also divided into several kinds according to the *masyaqqoh* faced, in other words this rukhshoh is the solution of the existence of *masyaqqoh* with the record *rukhshoh-rukhshoh* it should not be associated with intoxication, as for the kinds of *rukhshoh* are as follows: (1) *Takhfif Isqath*, that is, leniency in the form of abolition, such as the abolition of the obligation of prayer for women who are menstruating; (2) *Takhfif Tanqish*, i.e. relief in the form of deductions, such as *qoshor* prayers; (3) *Takhfif Ibdal*, i.e. relief in the form of replacement, wudlu which can be replaced with tayamum; (4) *Takhfif Taqdim*, i.e. leniency by way of precedence, such as jama' *taqdi* prayers; (5) *Takhfif Ta'khir*, i.e. waivers by way of ending, such as jama' *ta'khir* prayers. (6) Takhfif Tarkhis, that is, leniency due to *rukhshoh*, such as eating and drinking something that is forbidden to avoid death. (7) Takhfif Taghyir, i.e. leniency in the form of changing the way things are done, such

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11 Azhari, *Qawaid Fiqhiyyah Muamalah*, 83.

12 Hardi, "The Rule of Al-Masyaqqah Tajlibu At-Taisir in Economics", 103–104, https://e-journal.metrouniv.ac.id/index.php/nizham/issue/view/139.

as *khauf* (worry) prayers in times of war.[13]

The use of *rukhshoh* is not necessarily mandatory, *rukhshoh* also has its own legal divisions, including: (1) *Rukhshoh* whose law is mandatory, such as being allowed to eat carrion if his soul is threatened by hunger and there is no kosher food to eat; (2) *Rukhshoh* whose law is sunnat, such as perform *qashar* prayer for one who travels long distances; (3) *Rukhshoh* whose law is devastating, such as buying and selling greetings, namely buying and selling orders with money paid first and the goods delivered afterwards; (4) *Rukhshoh* whose law is *makruh*, such as *qashar* prayer even though the journey is not up to 84 km; (5) *Rukhshoh* whose law is primarily abandoned, such as praying when it is not in trouble.[14]

As for the rule of الْمَشَقَّةُ تَجْلِبُ التَّيْسِيْرِ has several derivative rules or what is often known as branch rules, here is the sound of the branch rules:[15] (1) الرُّخَصُ لاَتُنَاطُ بِالْمَعاصِى which means that *rukhshoh-rukhshoh* is not done with toxicity. In principle, *the rukhshoh* or waiver aims to perform worship to Allah SWT. Therefore *rukhshoh* cannot be done on things of a nature that are maksiat to Allah, on this basis then the ortang who travels to rob or steal is not justified in doing this *rukhshoh*; (2) الرُّخَصُ لاَتُنَاطُ بِالشَّكِّ, meaning *that rukhshoh-rukhshoh* it cannot be attributed to doubt. On the basis of this branch rule then if there is doubt in a person then *rukhshoh* in this case is not justified, for example at the time of the trip a person will do q a sh a r prayer but that person doubts he is qualified to do *qashar* prayer or not, then on the basis of this rule, that person must perform prayers without *qashar* because there is doubt in him.[16]

Based on the explanation above, it can be concluded that the purpose of writing this article is to analyze the application of *profit equalization reserve* (PER) as an effort to mitigate the risk of returns in Islamic banking in the perspective of the 3rd main rule, namely الْمَشَقَّةُ تَجْلِبُ التَّيْسِيْرِ . So that this article can provide benefits for Islamic banks to apply *profit equalization reserve* (PER) analysis in mitigating risks of returns while still being guided

[13] Azhari, *Qawaid Fiqhiyyah Muamalah*, 88-89.

[14] Duski Ibrahim, *Al-Qawa'id Al-Fiqhiyah (The Rules of Fiqh)*, 1 ed. (Palembang: CV. Amanah, 2019), 75–76.

[15] Luthfiana Basyirah, "Implementation of Qawa'id Fiqhiyyah Mu'amalah on Al-Qardhu Al-Hasan Products in Sharia Banking," *Justisia Ekonomika*, 5 (2), (2021), 290, http://dx.doi.org/10.30651/justeko.v5i2.10610.

[16] Ibrahim *Al-Qawa'id Al-Fiqhiyah (The Rules of Fiqh)*, 1 ed., 76–77.

by Islamic law, especially the main rules in muamalah fiqh.

## B. Research Methods

This research uses a descriptive qualitative method, which is research that explores or photographs the social situation thoroughly, broadly and deeply. [17] In this study, the problem to be explored is the application of PER in the perspective of fiqh rules الْمَشَقَّةُ تَجْلِبُ التَّيْسِيْرِ with secondary data sources drawn from some literature, rules and also research and issues about PER. It is suspected that the application of this PER is a form of relief that can be done by Islamic banks to overcome a difficulty, namely the risk of returns.

Furthermore, after the data has been collected, the next step is data analysis. The data analysis used in this qualitative research is inductive. Inductive data analysis is an analysis based on the data obtained and then developed using certain relationship patterns and then looking for data again and again so that a conclusion can be found from the research.[18]

## C. Results and Discussion

### Islamic Banks

Islamic bank is a bank that carries out its business activities in accordance with sharia principles. Based on its type, Islamic banks are divided into two, namely: Sharia Commercial Banks (BUS) and Sharia People's Financing Banks (BPRS)[19]. So that in essence an Islamic bank is a business entity that collects funds from the public in the form of savings and distributes them in the form of financing in accordance with sharia principles in order to improve the standard of living of the people at large.[20]

Because all activities of Islamic banks must be in accordance with sharia principles, their business activities must not contain the following elements: (1) *Riba*, namely the unauthorized addition of income (*vanity*); (2) *Maisir*, i.e. a transaction suspended on uncertain circumstances;

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[17] Sugiyono, *Policy Research Methods: Quantitative, Qualitative, Combination, R&D, and Evaluation Research Approaches* (London: Alfabeta, 2017), 209.

[18] I Made Laut Mertha Jaya, *Quantitative and Qualitative Research Methods: Theory, Application and Real Research* (Yogyakarta: Quadrant, 2021), 245.

[19] Luthfiana Basyirah and Moch. Cholid Wardi, "Application of POAC (Planning, Organizing, Actuating, Controling) Risk Management of Tabarok Business Capital Financing at PT BPRS Sarana Prima Mandiri Pamekasan," *NUANSA: Journal of Islamic Social and Religious Sciences Research*, 17 (1), (June 29, 2020), 290, https://doi.org/10.19105/nuansa.v17i1.2836.

[20] Indonesian Bankers Association (IBI), *Managing Sharia Banks : LSPP-IBI General Banking Level II Certification Module*, 1 ed. (Jakarta: Gramedia Pustaka Utama, 2014), 102.

(3) *Gharar***,** that is, a transaction whose object is unclear; (4) Haram, i.e. transactions whose objects are prohibited in sharia; (5) *Dzalim*, i.e. a transaction that creates injustice to the other party.[21]

As an Islamic financial institution, Islamic banks certainly have a slightly different role and function from conventional banks, as for the main functions of Islamic banks are divided into four, namely: (1) the function of an investment manager, where a Sharia bank acts as an investment manager from the owner of the fund which then distributes it to productive businesses so that it can generate profit where the profit will be divided based on the ratio agreed at the beginning of the contract; (2) *investor function*, where Islamic banks can provide capital to productive sectors to generate profits; (3**)** *social functions***,** where Islamic banks can also collect funds in the form of zakat, infaq, shodaqoh and waqf (ZISWAF) which then distribute them to entitled parties without taking advantage or reward; (4) *Financial Services Function***,** this function is a service provided by Islamic banks to the general public such as, payment of bills or transfers of money between others or between banks.[22]

**Risk of Return**

Risk according to the OJK is the potential loss due to the occurrence of a certain event.[23] Furthermore, the risk according to Veithzal Rivai is an adverse event or deviation of the result obtained from the expected. Basically, risks are attached to all aspects of human life and activities, from personal and corporate affairs, including Islamic financial institutions.[24]

Islamic banks are banks that do not provide interest-free services to their customers. This is because payment transactions and interest withdrawals are prohibited in Islamic finance. Islam forbids Muslims to withdraw and pay interest even though it is still a debate among scholars', is interest usury or something closely related to usury? However, as we know, the principle of Islamic financial institutions is prudence, so this is what makes the difference between Islamic finance and conventional finance, where Islamic financial institutions

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[21] A Wangsawidjaja Z, *Sharia Bank Financing* (Jakarta: Gramedia Pustaka Utama, 2012), 16.

[22] Ikit, *Sharia Bank Fund Management*, 1 ed. (Yogyakarta: Gava Media Publishers, 2018), 24.

[23] Financial Services Authority, "Regulation Bank Sharia" (2022), https://www.ojk.go.id/id/kanal/iknb/regulasi/banksyariah/Regulation-bank-sharia/Default.aspx.

[24] Rivai and Ismal, *Islamic risk management for Islamic banks: risks are not to be feared, but faced with ingenious, intelligent, and professional*, 56.

have agreed to provide interest-free services to their customers.

The rejection of interest is the basis of Islamic economists' thinking, raising the question of what can replace the mechanism of applying interest rates in an Islamic finance framework. This is where PLS comes in, PLS (*Profit and Loss Sharing*) or better known as profit sharing ratio is a method of resource allocation and is a core principle in Islamic finance. PLS can be interpreted as a cooperation contract with the distribution of business results (both profit and loss) borne jointly and has been approved at the beginning of the contract.[25]

The principle of distribution of business results of these Islamic financial institutions has been regulated in the DSN-MUI fatwa no. 15 of 2000 with the provisions, "The distribution of business results among the parties (partners) in the form of a joint venture may be based on the principle of profit sharing, namely profit sharing calculated from income after deducting capital and costs. It may also be based on the principle of *Net Revenue Sharing*, namely profit sharing calculated from income after deducting capital, and each principle has advantages and disadvantages".[26]

In practice, Islamic financial institutions are highly dependent on the financing carried out for the continuity of their operations, so the profit and the amount of profit sharing ratio that will be given to customers are greatly influenced by the success of the business carried out by *mudharib* through financing from the Islamic financial institution. This raises a question, what if Islamic financial institutions are unable to provide a profit-sharing ratio that meets the expectations of their customers?, this is where a risk that is often known as risk of returns finally arises.

Return risk according to the Financial Services Authority (OJK) in OJK regulation number 65 of 2016 is a risk caused by changes in the profit sharing rate paid by banks or sharia business units to customers due to changes in the level of returns received by banks or sharia business units from the distribution of funds, which can affect the behavior of third party fund customers (DPK). In the above sense, the cause of the[27] risk of returns can be caused by internal factors, including the large number of problematic financing or suboptimal financing or investment made so as to affect the level of income received and cause a decrease in the

[25] Mervyn K. Lewis et al., *Islamic Banking: Principles, Practices and Prospects*, 2 ed. (Jakarta: Serambi Ilmu Semesta, 2005), 13.

[26] *DSN-MUI, "DSN Fatwa No. 15/DSN-MUI/IX/2000*, 2022.

[27] Financial Services Authority, "History of Islamic Banking."

capital adequacy ratio of Islamic financial institutions, the next cause is external factors, including the returns offered by other Islamic financial institutions or interest rates offered by conventional financial institutions. This has an impact on the behavior of DPK customers to transfer their funds to financial institutions that provide higher returns or interest rates, so it is very important for Islamic financial institutions to mitigate these risks in order to be able to compete with other financial institutions.[28]

Risk of returns implies that even though Islamic banks and Islamic business units operate in full compliance with the provisions of the Islam, if they do not have a competitive level of return compared to other financial institutions, DPK customers have a reason to withdraw their funds, to avoid withdrawing these funds, owners of Islamic banks or Islamic business units need to allocate part of the profits received to DPK customers.[29] However, when this method is done, the profits obtained by Islamic banks will also decrease.

Return risk is a risk that only exists in Islamic financial institutions, because in conventional financial institutions this risk is called interest rate risk. This difference occurs because of the principles used by each of these financial institutions in the distribution of business results, the profit sharing ratio in Islamic financial institutions and interest in conventional financial institutions, but basically every risk always requires control efforts in accordance with existing risks, so that the impact generated by each risk can be mitigated.

The IFSB provides several principles to address risk of returns in Islamic banking, namely: (1) Islamic financial institutions should establish a comprehensive risk management and reporting process to estimate the potential impact of market factors affecting the level of income on assets compared to the level of income expected for DPK customers; (2) Islamic financial institutions must forge an appropriate framework for regulating commercial risks of *displaced* (customer relocation) that can be used; (3) Islamic financial institutions must standardize the implementation and rights of investment holders which must be clearly stated and explained of third party funds (DPK) customers.[30]

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[28] Muhammad Nur Riyanto Al-Arif and Yuke Rahmawati, *Islamic banking risk management : (an introduction)*, 1 ed. (Bandung: Pustaka Setia, 2018), 183.

[29] Rivai and Ismal, *Islamic risk management for Islamic banks: risks are not to be feared, but faced with ingenious, intelligent, and professional*, 148.

[30] Rivai and Ismal, *Islamic risk management for Islamic banks: risks are not to be feared, but faced with ingenious, intelligent, and professional*, 251.

Then the *Accounting Organization for Islamic Financial Institutions* (AAOIFI) offers a reserve fund method often referred to as the *Profit Equalization Reserve* (PER), which is *murabahah* income that is issued or set aside before allocating it to *mudharib* with the aim of providing a stable and competitive profit sharing rate.[31]

**Risk of Return in Perspective Maxim "*Al- Mashaqqah Tajlibu al Taisir*"**

The yield risk as described above is one of the two additional risks that only exist in Islamic banking, or more commonly known as unique risk because this risk arises according to the characteristics of the Islamic financial institution itself.[32] Yield risk is a risk that needs to be monitored seriously because this risk can cause changes in the behavior of third party funds (DPK) customers.

From the point of view of the maxim "*al mashaqqah tajlibu al taisir*" risk of return is a position of circumstances that always threaten the sustainability of Islamic bank activities, so it can be said to be *mashaqqah* (difficulty), this is in accordance with Bank Indonesia regulation number 13/23/PBI/2011 concerning the application of risk management for sharia banks and sharia business units, in which it contains that every management of Islamic banking activities must be integrated, comprehensive and accurate and in accordance with sharia principles in the risk management process so that these risks do not interfere with the continuity of the bank.[33]

Islamic banks must have the right system for identifying, measuring, assessing and managing return risk so that risks can be mitigated as early as possible so as not to cause losses in the future. In calculating the level of returns on deposit customers, Islamic banks must look for various existing loopholes ranging from internal and external factors of the bank with the timeliness of the maturity of the return provision, this is needed so that Islamic

[31] Muchammad Taufiq Affandi, "Profit Equalization Reserve and Investment Risk Reserve: Issues and Its Application," *Islamic Economics Journal,* 5 (2), (December 30, 2019), 314, https://doi.org/10.21111/iej.v5i2.4005.

[32] Erdem Oz et al., *Shari'ah Non-Compliance Risk in The Banking Sector: Impact on Capital Adequacy Framework of Islamic Banks* (Malaysia: Islamic Financial Services Board (IFSB), 2016), 21.

[33] Luthfiana Basyirah, Iskandar Ritonga, and Mugiyati, "Implementation of Risk Management in Tabarok Financing (Case Study at BPRS Sarana Prima Mandiri Pamekasan)," *MABNY : Journal of Sharia Management and Business,* 1 (2), (2021), 139, https://doi.org/10.19105/mabny.v1i02.4812

banks are able to always update about the risk profile of these returns.[34]

Referring to the level of *masyaqqoh* in the rule of تَجْلِبُ الْمَشَقَّةُ التَّيْسِيْرِ then according to researchers, the risk of returns being at the level of *Al Masyaqqoh Al 'Azimmah* is calculated if the risk of returns is not mitigated with the correct strategy will paralyze the activities of the Islamic bank due to the lack of customer interest in depositing their funds in Islamic banks due to uncompetitive returns. As we know that the main source of Islamic banking is financing and this financing fund is taken from the deposits of DPK customers through *mudharabah* or *murabahah* contracts, when the return provided by Islamic banks is lower than the existing interest rate, economically, DPK customers will definitely choose a higher level of return or move their funds to another bank (*fund flight*). This risk of returns inevitably occurs in all Islamic banks so that this cadaver becomes a common difficulty that exists in all Islamic banks which in this rule is referred to as *umum al balwa*.

Risks in banking are uncertainties that can cause losses or difficulties in the continuity of bank activities, but Allah has promised that there will be ease behind difficulties and Allah will not test his servants beyond the limits of ability, so that Islamic banks in terms risk of returns have been answered by the profit equalization reserve (PER) reserve fund method.

## ***Profit Equalization Reserve* (PER) Perspective Maxim *Al Mahaqqah Tajilbu Al Taisir***

In dealing with risk of returns, bank Indonesia proposes the *Profit Equalization Reserve* (PER) method as an effort to mitigate this risk, this proposal is taken by referring to the Accounting *Organization for Islamic Financial Institutions* (AAOIFI) policy on the application of PER.[35] The proposal to implement the PER was then further discussed by the National Sharia Council regarding its mechanism and management to remain in accordance with sharia principles, and finally the fatwa on PER came out in 2012 which was contained in fatwa No. 87/DSN-MUIIXII/2012 on income *smoothing* methods of third-party funds.

In its fatwa, DSN-MUI explained that mitigating the risk of Islamic bank returns can be done using the *Income Smoothing Method*, which is the regulation of recognition and reporting

[34] Azhari, *Qawaid Fiqhiyyah Muamalah*, 89–91.

[35] Achmad Boys Awaluddin Rifai, "Risk Analysis of Returns in Islamic Banks," *Al-Infaq: Journal of Islamic Economics*, 11 (2), (December 26, 2020), 232, https://doi.org/10.32507/ajei.v11i2.664.

of profits or income from time to time by withholding part of the income profit in one period and transferred to another period with the aim of reducing excessive fluctuations in profit sharing between Islamic Financial Institutions (LKS) and depository customers. funds (Third Party Funds/DPK).[36]

This income smoothing method is also divided into 2, namely income smoothing with mitigation and *income smoothing* without mitigation.[37] The *income smoothing* method with mitigation is to use profit *equalization reserve* (PER), where Islamic banks can only form reserves if the profit obtained by Islamic banks exceeds the projected reward/return rate for adjustment of the profit sharing of *mudharabah* (*muthlaqah*) funds. Meanwhile, the method of *income smoothing* without mitigation is that LKS may waive its rights (*isqath al-haqqlat-tanazul 'an al-haqq*) or reduce its share of profits to be given to customers as grants/rewards so that the reward rate is competitive.[38]

As explained above that risk of returns is a difficulty faced by Islamic banks,[39] the existence of the PER method as an effort to mitigate risk of returns can be said to be an ease and a breath of fresh air for financial management in Islamic bank. In accordance with the rule of الْمَشَقَّةُ تَجْلِبُ التَّيْسِيْرِ that there will be ease in difficulty on the condition that the easement is not done excessively,[40] and not should it be related to toxicity as the derivative rule sounds الرُّخَصُ لاتُنَاطُ بِالمعَاصِى which means the *rukhshoh-rukhshoh* cannot be attributed to toxicity.[41] So in the management of PER funds, there are rules that must be obeyed by Islamic banking, namely: the collection of PER funds can be done if the profit obtained exceeds the estimated profit and must obtain approval from DSN customers,

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[36] AAOIFI,"Public Hearing of AAOIFI's Draft Standards Held at Riphah International University Islamabad," *Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI)* (blog), 2022, https://aaoifi.com/announcement/public-hearing-of-aaoifis-draft-standards-held-at-riphah-international-university-islamabad/?lang=en.

[37] *DSN-MUI Fatwa No. 87/DSN-MUI/XI. Income Smoothing of Third-Party Funds,* 2021.

[38] Dian Nuriyah Solissa, "Profit Equalization Reserve (PER) as an Effort to Mitigate the Risk of Shari'a Banking Returns (A Study with a Maqasid asy-Shari'ah Approach)," *Az-Zarqa': Journal of Islamic Business Law*, 9 (1), (2017), 153, https://doi.org/10.14421/azzarqa.v9i1.1434.

[39] *DSN-MUI Fatwa No. 87/DSN-MUI/XI. Income Smoothing of Third-Party Funds,* 2021.

[40] Hardi, "The Rule of Al-Masyaqqah Tajlibu At-Taisir in Economics", 106, https://e-journal.metrouniv.ac.id/index.php/nizham/issue/view/139.

[41] Ibrahim *Al-Qawa'id Al-Fiqhiyah (The Rules of Fiqh)*, 1 ed., 76.

[42] so that in this matter there is a derivative rule in the form of a limit rule that reads الضَّرُوْرَةُ تُقَدَّرُبِقَدْرِهَا which means that the emergency is measured according to its level[43] and should not be excessive because it will cause toxicity, this concept is also explained by Yusuf Al Qardhawi, namely making it easier but not that it is underestimating, which means making it easier in jurisprudence can be done by paying more attention to the issue of *rukhshoh*, *ḍharuriyat* (primary needs), and *maqasid* and changes in fatwas as the times and the human situation changes.[44]

However, the decision regarding the application of PER in Islamic banking still reaps pros and cons, this is because PER is considered to have hurt the purity of mudhorobah cooperation where in terms of cooperation there must be advantages or disadvantages, but the application of PER is intended to avoid losses between the bank and *shahibul maal* (third party fund/ DPK customers) so that the returns obtained will always be stable as well as interest rates in conventional banks.

It should also be acknowledged that specific data regarding PER in Indonesia are still very limited. So that there are many impacts that can occur from the implementation of PERs that do not meet these standards, such as the results of research conducted by Sundarajan that the implementation of PERs that are not in accordance with standards still has a risk of injustice to DPK customers because of retained earnings which cannot be returned to DPK customers if in the long run certain times certain DPK customers have transferred their funds to other financial institutions.[45] There are also research results from Solissa, saying that the application of PER will disrupt the level of liquidity of Islamic banks and complicate their bookkeeping reports.[46]

Apart from the point of view of the research that has been carried out above, and still focus on the point of view of the rule الْمَشَقَّةُ تَجْلِبُ التَّيْسِيْرِ , then mitigation efforts in the form of PER

42 Azhari, *Qawaid Fiqhiyyah Muamalah*, 89.

43 M Pudjihardjo and Nur Faizin Muhith, *Rules of Jurisprudence for Islamic Economics*, Print Revision 1 (Malang: UB Press, 2019), 91.

44 Yusuf Al Qardhawi, *Taysīr al-Fiqh lī al-Muslim al-Mu'asir fi Dhaw'i al-Qur'an wa al-Sunnah* (Cairo: Maktabah Wahbah, 1988), 11–15.

45 V. Sundararajan, "Issues in Managing Profit Equalization Reserves and Investmen Risk Reserves in Islamic bank," *Journal Of Islamic Economics, Banking and finance,* 7 (2), (2008), 11, https://doi.org/10.4135/9788132107675.N6

46 Solissa, "Profit Equalization Reserve (PER) as an Effort to Mitigate the Risk of Shari'a Banking Returns (A Study with a Maqasid asy-Shari'ah Approach)", 165–167, https://doi.org/10.14421/azzarqa.v9i1.1434

this is a *rukhshoh* type of *Takhfif Taqdim*, that is, relief that comes first, if it is felt that the bank is unable to carry out its operations because it mitigates risks without using reserve funds that directly reduce its profit rate, then Islamic banks are allowed to use PER with clear terms and rules in the DSN-MUI fatwa. Risk mitigation efforts are mandatory things that must be done in order to avoid difficult conditions. as Allah SWT, said surah Al Baqarah verse 195 which reads:

وَاَنْفِقُوْا فِيْ سَبِيْلِ اللّٰهِ وَلَا تُلْقُوْا بِاَيْدِيْكُمْ اِلَى التَّهْلُكَةِ ۛ وَاَحْسِنُوْا ۛ اِنَّ اللّٰهَ يُحِبُّ الْمُحْسِنِيْنَ

*"and spend (your possessions) in the way of God, and do not throw yourselves into perdition, and do good, for Verily God likes those who do good".*

So in this case, the form of risk mitigation in the form of PER is considered legal to do as long as it is in accordance with the rules and conditions that have been determined and does not violate Islamic financial principles such as honesty and transparency, meaning that the form of the PER report must be clear so that DPK customers are familiar with the management of the PER fund.[47]

When the management of PER is understood by the customer and if later the PER funds are posted as retained earnings that will be distributed at the end of the year, then the customer can choose to move his funds at the beginning of the year and still get his retained rights, or the customer can also give up his rights if at the beginning of the contract there has been a discussion about the management of this PER fund, furthermore, regarding the disruption of bank liquidity due to the application of PER, the researcher believes that the bank will manage PER very well so that it does not interfere with its liquidity, meaning that Islamic banks certainly have a limit on how much PER funds are provided to mitigate the risk of returns so as not to cause *idle money* or it can also be by determining the period of disbursement of PER if it is not used, for example 1 year 3 times disbursed or 1 year 4 times and so on by means of put into the post of obligation immediately paid so that the funds must be used up immediately and not collected for too long,[48] the unused PER disbursement period is considered sufficient to help manage

[47] *DSN-MUI Fatwa No. 87/DSN-MUI/XI. Income Smoothing of Third-Party Funds*, 2021.

[48] Nurlaela Syahril Barokah and Afiati Kurniasih, "Perceptions of Islamic Commercial Bank Management towards the Possibility of Implementing Per (Profit Equalization Reserve) Reviewed from the Accounting Side of Islamic Banks," *Ratio: Journal of Islamic Banking* 1 (2), (December 1, 2015), 139–140, https://doi.org/10.30997/jn.v1i2.246.

the bank's liquidity so that it does not cause *idle money*. So in essence, PER management needs to be socialized to customers and the report must also be clear and transparent so that customers are able to understand PER management and avoid harmful or unclear elements (*gharar*).

**D. Conclusion**

Basically, the purpose of implementing PER is to provide certainty of a stable profit sharing rate to DPK customers and indirectly try to always provide benefits to DPK customers for *mudharabah* contracts that actually have a risk of loss, with the existence of PER he hopes that the profit sharing rate provided by Islamic banks is able to compete with the interest rates of conventional banks.

From the point of view of fiqh principles, the risk of yield is *mashaqqah* (difficulty) while PER is *rukhshoh* (relief) so that the application of PER in risk mitigation efforts is legitimate to do. However, keep in mind that the implementation of PER must be in accordance with the DSN-MUI fatwa, meaning that PER funds can only be set aside if the profit received by the bank exceeds the estimated profit and must obtain permission from the DPK customer.

The application of PER is certainly a relief that can be carried out by Islamic banks in responding to the risk of yields. But, PER is one of the two choices that can be taken by Islamic banks which means in view of the rules of الْمَشَقَّةُ تَجْلِبُ التَّيْسِيْرِ. PER is included in Takhfif Ibdal, which is permissible if the other options (without PER) cannot be executed.

So in essence, the application of PER in review of the rules of الْمَشَقَّةُ تَجْلِبُ التَّيْسِيْرِ is legal and permissible as long as it does not violate Islamic law and remains compliant with the DSN-MUI fatwa as the national sharia board. Openness, honesty, transparency and fairness are urgently needed in the management of this PER fund so that cooperation between Islamic banks and customers can be perfectly established.

The limitations of this study are that this research only focuses on one main maxim in muamalah fiqh. Thus, the researcher hopes that further researchers can discuss PER analysis as an effort to mitigate risks based on other muamalah fiqh maxim.

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