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IMPLEMENTATION OF QABDH REQUIREMENTS IN MURABAHA FINANCING AT KOPERASI SYIRKAH BERKAH BERSAMA (KSBB) SIDOARJO

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Abstract

One of the financing procedures that are not by Sharia principles in Murabaha financing is the practice of selling goods by an Islamic Financing Institution before they are owned to financing customers. Seeing this phenomenon, Koperasi Syirkah Berkah Bersama (KSBB) took the initiative to become a Sharia financial institution capable of serving its members through Murabaha financing by really paying attention to Sharia compliance, especially from the aspect of implementing handover or qabdh in Murabaha financing. The purpose of this study is to find out how the implementation of handover or qabdh in Murabaha financing and the analysis of sharia compliance with this implementation at KSBB Sidoarjo. The research method used in this study is qualitative research with a case study approach. The data analysis technique used is descriptive-qualitative analysis. The research data comes from interviews with several informants and documents related to Murabaha financing at KSBB. The data that has been obtained is analyzed and compared with related theories. The results of this research indicate that in the process of Murabaha financing at KSBB, the management of KSBB does not represent members in purchasing the goods submitted to suppliers. KSBB also ensures that the goods are fully controlled before being sold to members who apply for financing. The entire Murabaha financing process at KSBB, especially from the qabdh aspect, does not violate sharia compliance set by the DSN MUI.

Keywords: *Murabaha, Qabdh, Sharia Compliance*

A. INTRODUCTION

Murabaha is the most financing most often issued by Islamic financial institutions. Financing based on profit and loss sharing (PLS) such as musyarakah and mudharabah has a smaller portion than financing based on debt-like financing such as Murabaha¹.

This phenomenon cannot be separated from various criticisms. One of the criticisms of Murabaha financing is criticism related to Sharia compliance, namely the conformity of Murabaha financing practices to Sharia rules. The Sharia Financial Services Authority stated that the ease of the Murabaha financing

¹ Mohammad Dulal Miah and Yasushi Suzuki, "Murabaha Syndrome of Islamic Banks: A Paradox or Product of the System?," *Journal of Islamic*

Accounting and Business Research 11, no. 7 (2020): 1363–78, <https://doi.org/10.1108/JIABR-05-2018-0067>.

process at Sharia financial institutions does not guarantee the validity of practices in the field by Sharia rules and standards and applicable laws and regulations. Several things related to discrepancies between the reality of Murabaha financing practices and the concepts and provisions of Sharia law standards and positive law in Indonesia are still often found, making this the basis for preparing guidance of Murabaha product standards issued by the Indonesia Financial Services Authority (Otoritas Jasa Keuangan Syariah (OJK))².

Various opinions have emerged which state that the implementation of Murabaha financing in the field is no different from the practice of interest-bearing credit or the practice of combining debt transfers with buying³ and selling because the risks associated with the sale and purchase agreement which is the basis of Murabaha seem to be non-existent. This transaction is like a case of selling goods that are not yet owned⁴.

The form of sale and purchase agreement has various risks as is commonly encountered. In the jurisprudence of buying and selling (*fiqh al buyu*'), the rule is "profit is compensation for loss". For example, the risk of goods not being sold in commerce or buying and selling exists. For example, an item does not sell because there is a defect in the item, or it does not meet the prospective buyer's expectations in terms of the price and specifications of the item. This kind of risk is a natural consequence of the world of commerce because accepting and being ready to bear this kind of risk, buying and selling contracts such as Murabaha become halal, and differ from debt or usury

contracts. These are the consequences and character of commerce that cannot be changed and must be accepted. The Prophet said:

وَعَنْ عَائِشَةَ قَالَتْ: قَالَ رَسُولُ اللَّهِ: الْخُرَاجُ بِالضَّمَانِ

Narrated 'Aishah (RA): Allah's Messenger (ﷺ) said: "Any profit goes to the one who bears responsibility." (Reported by Tirmidzi)

Seeing this phenomenon, the Syirkah Berkah Bersama Cooperative (Koperasi Syirkah Berkah Bersama (KSBB)) Sidoarjo is committed to ensuring that the entire process of Murabaha financing and other financing can run by sharia rules and not be manipulated to obtain usury profits. In general, one thing that distinguishes KSBB from other Sharia financial institutions. Goods submitted for procurement by KSBB members to be purchased in Murabaha in installments must be bought by KSBB and handed over (qabdh) to KSBB so that the goods can be controlled in full before being resold to members who apply for Murabaha financing. This scheme is used by KSBB so that the contract is truly a sale and purchase agreement and not a loan and borrowing contract for money sent to usury.

The implementation of qabdh requirements in Murabaha financing in Sharia financial institutions is one of the things where errors are usually found on the Sharia side, making the Murabaha contract invalid and making the Murabaha contract no different from mere consumer credit loans which usually occur in conventional financial institutions based on ribawi interest. Ownership is an important part of contract law in Islam. Ownership is one of the conditions of

² Tim Penyusun, *Standar Produk Perbankan Syariah Murabaha*, ed. Setiawan Budi Utomo (Jakarta: Otoritas Jasa Keuangan Syariah, 2019), <https://www.ojk.go.id/id/kanal/syariah/berita-dan-kegiatan/publikasi/Documents/Pages/Buku-Standar-Produk-Perbankan-Syariah-Murabaha/Buku-Standar-Produk-Murabaha.pdf>.

³ For Authors, "International Journal of Islamic and Middle Eastern Finance and Management,"

Managerial Finance 34, no. 10 (2008), <https://doi.org/10.1108/mf.2008.00934jaa.001>.

⁴ Issam Tlemsani, Farhi Marir, and Munir Majdalawieh, "Screening of Murabaha Business Process through Quran and Hadith: A Text Mining Analysis," *Journal of Islamic Accounting and Business Research* 11, no. 9 (2020): 1889–1905, <https://doi.org/10.1108/JIABR-05-2020-0159>.

the subject or actor of the contract which is one of the very important issues in murabaha transactions discussed by academics.⁵

As time goes on, since KSBB was founded in 2019, the composition of Murabaha financing at KSBB is very large, namely around 90% of the financing contracts totaling 264 contracts with a value of 4.7 billion Rupiah at KSBB are Murabaha contracts. Based on the description above, the implementation of qabdh requirements for Murabaha financing in the Syirkah Berkah Bersama operation in Sidoarjo is interesting to research. This research aims to answer the question of how qabdh is implemented in Murabaha financing at KSBB and the sharia compliance analysis of this implementation.

Some previous studies related to this research, including research conducted by Muh. Shadiqul Fajri entitled “Application of Shariah Compliance in Murabaha Financing Flow at Bank Muamalat Indonesia Makassar Branch”. The results of this study state that: The results showed that; (1) Murabaha financing uses a bai' li al-amri bi al-syira' scheme using a wakalah contract intermediary. (2) In the distribution of murabaha financing, several mistakes violate sharia principles, including; a) The signing of the wakalah contract and the murabaha contract are carried out simultaneously. b) Bank Muamalat Indonesia has not controlled the Murabaha object perfectly when making a Murabaha contract with the customer. c) Bank Muamalat Indonesia approves the customer's Murabaha financing process where the customer has previously made a sale and purchase agreement with the developer/homeowner⁶. The difference with this research is that the scope of research conducted by Muh. Shadiqul Fajri above is banking while the scope of research conducted by the author is

cooperative and the focus of research conducted by the author is the implementation of the terms of handover (qabdh) in murabaha financing. Furthermore, research was conducted by Amelia Anwar and Hud Leo Perkasa Maki entitled “Analysis of the Implementation of the Murabaha Agreement and Ulama Fatwa on the Development of Islamic Banking in Indonesia”. In the study, it is stated that broadly speaking, there are 3 types of application of Murabaha financing in Islamic banking, namely

- a. Application of Murabaha financing that is consistent with muamalah fiqh.
- b. The second type is similar to the first type, but the transfer of ownership is directly from the supplier to the customer, while the payment is made by the bank directly to the first seller/supplier. This Murabaha model still has the opportunity to violate Sharia provisions if the bank as the first buyer never receives the goods (qabdh) on its behalf but directly on behalf of the customer. Because in Sharia principles the Murabaha sale and purchase agreement must be made after the goods, in principle, become the property of the bank.
- c. Third Type, The bank enters into a murabaha agreement with the customer, and at the same time represents (wakalah contract) to the customer to purchase the goods himself. The funds are then credited to the customer's account and the customer signs a receipt. This type of arrangement may violate the Shariah provisions if the bank represents the customer to purchase goods from a third party, while the Murabaha sale and purchase agreement has been made before the

⁵ “Issues of Possession in Murabaha Financing,” *COMSATS Journal of Islamic Finance* 4, no. 2 (2019): 81–93, <https://doi.org/10.26652/cjif.4201925>.

⁶ Muh. Shadiqul Fajri, “Penerapan Shariah Compliance dalam Alur Pembiayaan Murabahah pada B

goods, in principle, become the bank's property.

Murabaha Financing

Murabaha financing is financing based on a sale and purchase agreement (*bai'*). *Bai'* or buying and selling in Arabic is the opposite word of purchase (الشراء), sometimes it also means purchase⁷. The definition of buying and selling in Sharia is exchanging property for goods to control and own them. Sholeh Al-Fauzan explained that, in Sharia, buying and selling is the exchange of property for⁸ property to own and give ownership⁹. National Sharia Board – Indonesian Ulama Council (Dewan Syariah Nasional – Majelis Ulama Indonesia (DSN-MUI)) defines a Sale and Purchase contract as a contract between the seller (*al-Ba'i*) and the buyer (*al-Musyitari*) which results in the transfer of ownership of the exchanged objects (goods (*mabi'/mutsman*)) and the price (*tsaman*)).¹⁰

Bai' al-murabaha is the sale and purchase of *mabi'* (the goods being traded) at *Ra's al-mal* (the base price) plus a certain amount of profit agreed upon in the contract¹¹. Ibn Rushd argues that Murabaha is the sale and purchase of goods at the original price with an additional agreed profit¹².

Murabaha financing implemented in sharia financial institutions in Indonesia, including sharia cooperatives, is financing with the murabaha concept for Purchase Orders (Murabaha lil amri bi asy-syiraa'). Murabaha to the Purchase Order is a sale and purchase with a Murabaha contract in which the seller, namely the Sharia financial institution, does not originally own the goods

for which the customer is applying for financing, the financial institution only provides the goods to meet the needs of the customer who orders them by purchasing the goods after the financing application has been made. from customers, then sell them to customers accompanied by additional profits that have been explained and agreed upon previously¹³

The Murabaha financing that currently applies in Sharia financial institutions is more complex than the *bai' al-murabaha* known in classical jurisprudence books that were implemented in the past. There are three parties involved in Murabaha financing currently implemented in Sharia financial institutions, namely:

1. First seller (supplier or dealer),
2. Sharia financial institutions as first buyers (buyers from suppliers) and second sellers, namely intermediary traders between the first seller (supplier) and buyers (customers),
3. Financing customers who act as second buyers.

Customers buy goods from Sharia financial institutions through Murabaha financing because they do not have sufficient funds to pay in full (cash) the value of the goods and because the seller (supplier or dealer) does not sell them on time. Then the financial institution buys it in cash and sells it to customers (who apply for financing) at a higher price using a credit system. Sharia financial institutions do not buy these goods here except after the buyer (financing customer) applies for financing and explains

⁷ Ibnu Manzhur, "Qamus Lisan Al Arabi," accessed June 10, 2023, <https://www.almaany.com/ar/dict/ar-ar/لسان%20العرب/?c=بايع>.

⁸ Isa ad Duwaisy, *Jual Beli yang Diperbolehkan dan Yang Dilarang*, ed. Ruslan Nurhadi (Bogor: Pustaka Ibnu Katsir, 2006).

⁹ Abdurrahman Sa'di dan dkk, *Fiqh Jual-Beli: Panduan Bisnis Syariah*, ed. Abdullah (Senayan Publishing, 2008)

¹⁰ Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia, "Akad Jual Beli," 1 § (2017), 3.

¹¹ Ghufroon Mas'adi, *Fiqh Muamalah Kontekstual* (Jakarta: PT RajaGrafindo Persada, 2002), 142

¹² Muhammad Syafii Antonio, *Bank Syariah dari Teori ke Praktik* (Jakarta: Gema Insani, 2005), 101.

¹³ *Ibid.*, 103.

the specifications of the goods being proposed¹⁴.

The application of Murabaha financing in Sharia financial institutions is more complex than the application of Bai' al-murabaha in the past, making many scholars research the validity of Bai' al-murabaha in Sharia financial institutions. Research conducted by these scholars has produced different opinions in detailing the validity of implementing Murabaha financing in Sharia financial institutions.

Fiqh experts disagree regarding the obligation to fulfill promises in Murabaha financing. The National Sharia Council of the Indonesian Ulema Council (DSN MUI) in its fatwa no. 04/DSN-MUI/IV/2000 in explaining murabaha provisions to customers states that the customer's promise to purchase murabaha financing that applies to sharia financial institutions in Indonesia is binding. If the buyer (Sharia financial institution) accepts the request of the customer (customer) for an item or asset, then the buyer must accept (buy) the asset that has been purchased by the Islamic financial institution according to the agreement he agreed to, because legally the agreement is binding, then both parties must make a sale and purchase contract. However, Bakr bin Abdullah Abu Zaid explained that one of the conditions for allowing Murabaha buying and selling to purchase orders implemented in financial institutions is that there is no binding obligation to perfect the transaction agreement either in writing or verbally before the financial institution obtains the goods with ownership. and valid handover¹⁵. Binding obligations between financial institutions and

customers in purchasing promises before ownership of goods by the seller, namely financial institutions including selling goods that are not yet owned which are prohibited in the Shari'a. This binding obligation is essentially a contract and if the binding obligation is enforced then this is a false contract which is prohibited because the financial institution at that time is selling to the buyer (customer) something that he does not yet own¹⁶.

The decision of the Islamic Fiqh Academy (Majma' al-Fiqih al-Islam) Islamic Conference Organization No. 40-41 ((2/5 and 3/5) explains that orders made by financing customers are only as a (promise) so that there is a right of khiyar for both parties or one of the parties agreeing. If there is no right of khiyar, then it is not permitted because the binding nature of the agreement in commerce resembles conventional buying and selling which requires the seller (financial institution) to be the owner of the goods so that it does not violate the Prophet's prohibition, namely selling something that does not belong to him¹⁷.

Fiqh experts also disagree regarding the imposition of fines on buyers (customers) if the customer cancels their appointment. DSN MUI in fatwa no. 04/DSN-MUI/IV/2000 states that if a customer cancels a purchase, the financing customer is obliged to pay a fine imposed by the Sharia financial institution in the amount of the real costs incurred by the Sharia financial institution in the process of purchasing the goods. However, on the other hand, Bakr Abu Zaid explained that there is no compensation charged to parties who cancel their promise to

¹⁴ Kholid Syamhudi, "Mengenal Jual Beli Murabaha," *Komunitas Pengusaha Muslim Indonesia*, diakses Juni 26, 2022, <https://pengusahamuslim.com/1073-mengenal-jual-beli-murabaha.html>.

¹⁵ Ibid.

¹⁶ Kholid Syamhudi, "Kekeliruan Yang Muncul Dalam Fatwa Kontemporer (nawazil) [1/2] Read more [https://pengusahamuslim.com/2017-kekeliruan-yang-muncul-dalam-fatwa-](https://pengusahamuslim.com/2017-kekeliruan-yang-muncul-dalam-fatwa-kontemporer-nawazil-12.html)

[kontemporer-nawazil-12.html](https://pengusahamuslim.com/2017-kekeliruan-yang-muncul-dalam-fatwa-kontemporer-nawazil-12.html)," *Komunitas Pengusaha Muslim Indonesia*, diakses Juni 25, 2022, <https://pengusahamuslim.com/2017-kekeliruan-yang-muncul-dalam-fatwa-kontemporer-nawazil-12.html>.

¹⁷ Abdullah bin Muhammad Ath-thayar, *Ensiklopedi Fiqh Muamalah Dalam Pandangan 4 madzhab*, ed. Miftahul Khairi (Yogyakarta: Maktabah al-Hanif, 2009), 76–77.

purchase in Murabaha financing because of the risk of customer uncertainty in purchasing goods from Sharia financial institutions, which is one of the bases for allowing Murabaha financing for purchase orders¹⁸.

Sharia financial institutions may not make profits from goods for which they are not responsible. Muhammad Arifin explained that goods to be sold by Sharia financial institutions to financing customers must first be handed over by the first seller (supplier) to the Sharia financial institution. The status of goods that have become the property of Sharia financial institutions is still not enough to allow Sharia financial institutions to sell goods that have been ordered by Murabaha financing customers. The Prophet forbade buyers from reselling goods even though they legally belonged to them if the goods they bought had not been fully handed over. If the buyer does this, then the buyer has made a profit from the goods for which he is not yet responsible¹⁹. This is by the following words of the Prophet. "The Messenger of Allah (ﷺ) said: 'It is not lawful to lend and sell, nor two conditions in a sale, nor to profit from what is not possessed, nor to sell what one does not have. (Reported by Tirmidzi)²⁰

Implementation of Handover (Qabdh) in Buying and Selling

Al-qabdh [القبض] is a word that has many meanings. Among them is taking (الأخذ)²¹, ownership (الملك)²², accepting (تسلم).²³

Qabdh or taqabudh is one of the halal requirements for reselling goods that have been previously purchased. The Prophet explained that if someone has bought an item, then he can only sell it to someone else if he has received the item. In the Hadith narrated by the Prophet, he said:

It was narrated that Hakim bin Hizam said

"I said: 'O Messenger of Allah, a man is asking me to sell him something that I do not possess; Shall I sell it to him?' He said: 'Do not sell what is not with you.'" (Reported by Ibnu Majah)²⁴

From the Hadith of Hakim bin Hizam, it is explained that Hakim bin Hizam once bought foodstuffs, then resold them to other people at a profit, while he never received them. Then The Prophet said,

لَا تَبِعُهُ حَتَّى تَقْبِضَهُ

'Do not sell it until you take possession of it.'"²⁵

in another Hadith it is stated:

'From Ibn Abbas, he said, "As for what was prohibited by the Messenger of Allah, namely food, it must not be sold until it is held in hand." Then Ibn Abbas said, "And I think everything is like that." (Muttafaqun 'alaih)²⁶

¹⁸ Bakr Abu Zaid, *Selayang Pandang Hukum Murabaha BMT (Baitul Maal wa Tamwiil)*, ed. Muhammad Nur Ikhwan Muslim., 2007, http://www.kajian.net/kajian-audio/eBook/Buku_Lainnya/Selayang_Pandang_Hukum_Murabaha_BMT_-_Baitul_Mal_wa_Tamwil.pdf?l=25.

¹⁹ "Diskusi Perbankan Syariah Bagian ke-3 dan ke-4," *Komunitas Pengusaha Muslim Indonesia*, diakses Juni 26, 2022, <https://pengusahamuslim.com/1414-diskusi-perbankan-syariah-bag-3-dan-4.html>.

²⁰ Muhammad bin Isa at Tirmidzi, *Jami' At-Tirmidhi*, Vol. 1, Bo, n.d., <https://sunnah.com/tirmidhi:1234#:~:text=Amr bin Shu'aib narrated,one does not have.%22>.

²¹ Manzhur, "Qamus Lisan Al Arabi." diakses Juli 19, 2023, <https://www.almaany.com/ar/dict/ar-ar/قبض/>.

²² IBID

²³ Ahmad Mukhtar Umar, "Mu'jam Al Lughah Al 'Arabiyyah Al Mu'ashirah," accessed July 19, 2023, <https://www.almaany.com/ar/dict/ar-ar/قبض/>.

²⁴ Muhammad Ibnu Majah, "Sunan Ibn Majah," n.d., <https://www.prophetmuhammad.com/ibnmajah/2187>.

²⁵ IBID

²⁶ Muhammad Fuad Abdul Baqi, *Himpunan Hadits Shahih Disepakati Oleh Bukhari Dan Muslim*, ed. Salim Bahreisy (Surabaya: Bina Ilmu, 2003), 550.

As for the meaning of qabdh in terms of terminology, the scholars return to the meaning of urf, namely, the public's understanding because it has not been found in the literature of madhab scholars who provide a specific definition for qabdh. Ammi Nur Bait quotes several statements from scholars regarding the definition of qabdh in terms of terms which shows that the definition of qabdh in terms of terms is returned to urf. Here's the explanation:

- a. Al-Kasani (One of the Hanafiyah scholars who died: 578 H) in the book (Bada'i as-Shana'I, 5/244), explains that the definition of handover, according to us (Hanafiyah scholars), is releasing or emptying (at-takhliyah). This means that the seller has released the object of the transaction to be handed over to the buyer, by removing all obstacles, which the buyer has the right to transact with. So the seller hands over the object, while the buyer receives it. Khalil bin Ishaq (One of the Malikiyah scholars who died: 776 H). In the book Mukhtashar Khalil explains,

وقبض العقار بالتخلية، وغيره بالعرف...

The handover of the house (property) is by at-Takhliyah (vacating). Meanwhile, other objects are returned to urf (community understanding).

- b. An-Nawawi (one of the scholars of the Shafi'i madhab who died at 676 H). In the book of Al-Majmu' Syarh al-Muhadzab explains:

قال أصحابنا: الرجوع في القبض إلى العرف

“The scholars of our madhab (syafi'iyah) say, related to hand over accepting transactions, returned to urf (public understanding)”. (al-Majmu', 9/ 275)

- c. Syaikhul Islam Ibnu Taimiyyah (one of the scholars of Hambali madhab

who died at 728 H) in the book of *Majmu' al-Fatawa* explains:

الأسماء تعرف حدودها تارة بالشرع

كالصلاة، وتارة بالعرف كالقبض والتفرقة

There are terms whose boundaries are returned to the definition of sharia, such as prayer, and sometimes there are terms that are returned to urf (community understanding), such as handover or separation. (Majmu' al-Fatawa, 29/448).

An-Nawawi explained the details of qabdh when viewed from the object, namely:

etc, the form of qabdh is at-takhliyah, namely the seller releases any personal attributes and allows the buyer to use them. At this time, the implementation is marked by a deed of sale and purchase in front of a notary or if it is not registered with a notary, the seller allows the buyer to do whatever they want with the object.

- a. Movable but heavy property, such as wood, wheat baskets, etc.

Its implementation is to remove the goods from the territory of the seller's authority. An-Nawawi explains:

فقبضه بالنقل إلى مكان لا اختصاص

للبيع به سواء نقل إلى ملك المشتري أو

موات أو شارع

“The *handover* is by moving it to a place that is not the seller's area, either moving it to the buyer's area or placing it on empty land or the side of the road

- b. Objects that can be held in the hand, such as dinars, dirhams, books, or other small objects.

The form of qabdh is the physical receipt of the goods by the buyer. An-Nawawi explained

فقبضه بالتناول بلا خلاف

“Taqabudh for small objects is to be accepted by the buyer in this case there is no difference of opinion among the ulama (Al-Majmu’ Syarh al-Muhadzab, 9/276)

Yusuf asy-Subaili explained that the implementation of qabdh in buying and selling is to follow the urf or prevailing community customs, the implementation of which varies based on the type of goods, for example ²⁷:

- ✓ Qabdh property such as houses and land by allowing buyers to occupy it.
- ✓ Qabdh food, clothing, and household utensils by moving them from their original place.
- ✓ Qabdh gold, silver, and jewels by taking these items by hand.
- ✓ Qabdh money by holding it in your hands or posting it in a bank account.
- ✓ Qabdh the car by taking it out of its original location or by receiving documents that include the buyer's name.

Consequences of Qabdh in Buying and Selling

Qabdh in buying and selling has several consequences, including: ²⁸

- a. Authority to use goods (resell).
A person is not authorized to buy goods and then resell them before qabdh (handover) occurs as explained in the Hadith of Hakim bin Hizam.
- b. Responsibility shifts from the seller to the buyer.

If the goods are lost or damaged after the sale and purchase occurs and before qabdh occurs, then the goods are under the responsibility of the seller because the goods are still

under his responsibility. However, if the reason for the disappearance or damage is caused by the buyer, for example: If the seller intends to hand over the goods to the buyer, but the buyer delays the handover time so that the goods are lost or damaged, then the risk is borne by the buyer, due to his negligence.

History of Sharia Cooperatives in (Koperasi Syariah) in Indonesia

Koperasi comes from the word cooperation (English), which means cooperation. Law number (Undang-Undang) 25 of 1992 explains that cooperatives are business entities consisting of individuals or cooperative legal entities that base their activities on cooperative principles as well as being a people's economic movement based on the principle of kinship.

Sharia cooperatives in Indonesia emerged in the pre-independence era with the establishment of the Islamic Trade Union in 1905. At first, the Islamic Trade Union was oriented towards economic cooperation between Muslim traders until 1912. After that, the Islamic Trade Union was oriented towards political movements. Furthermore, the Islamic Trade Union movement did not develop²⁹. After that, sharia cooperatives did not develop very much.

Sharia cooperatives developed again in 1992 with the establishment of Baitul Maal wa Tamwil Insan Kamil (BMT), which was a cooperative legal entity in Jakarta. Initially, BMT Insan Kamil was only a Sharia-based community self-help group (syariah KSM) but had operations like a bank. Law number 7 of 1992 which states that all activities in the form of collecting public funds in the form of savings and distributing them in the form of

²⁷ Yusuf al Subaili, *Fiqh Perbankan Syariah: Pengantar Fiqh Muamalat Dan Aplikasinya Dalam Perekonomian Modern*, ed. Erwandi Tarmizi, n.d., 9–10.

²⁸ Ibid

²⁹ Muhammad Hasan Rina Anggraini and Muhammad Zulkarnain, *Ekonomi Koperasi*, ed. Syaiful Bahri (Bandung: Media Sains Indonesia, 2022), 25–26.

credit must be in the form of a bank is a problem in itself for BMT which is still in the form of sharia KSM³⁰. BMT Insan Kamil officially became a cooperative legal entity after the government passed Law No. 25 of 1992 concerning Cooperatives in October 1992. A cooperative legal entity is considered more appropriate to oversee BMT's operations because BMT has a people's economic basis that adheres to the principle of members, by members, and for members so that it can carry out activities to collect and channel funds from and for members. by the Cooperative Law³¹.

In 2015 the Minister of Cooperatives and Small and Medium Enterprises stipulated regulation number 16 concerning the Implementation of Sharia Savings and Loans and Financing Business Activities by Cooperatives. This Ministerial Regulation changes the status of KJKS to KSPPS (Sharia Savings and Loans and Financing Cooperative) by removing the Decree of the Minister of State for Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number: 91/Kep/M.KUKM/IX/2004 concerning Guidelines for Implementing Sharia Financial Services Cooperative Business Activities (KJKS) and Regulation of the Minister of State for Cooperatives and SMEs of the Republic of Indonesia Number: 35.2/PER/M.KUKM/X/2007 concerning Guidelines for Operational Standards for the Management of Sharia Financial Services Cooperatives (Koperasi Jasa Keuangan Syariah - KJKS) and Sharia Financial Services Units (Unit Jasa Keuangan Syariah -UJKS)³².

B. RESEARCH METHODS

The research carried out was to answer the research problem formulation in this study. The formulation of this problem requires an answer with in-depth study, especially literature studies supported by interviews and in-depth discussions with KSBB administrators, managers and members, academics, and Muslim intellectuals in the Sharia financial sector. The answer to the problem formulation cannot be obtained using inferential statistical procedures. Therefore, to achieve this, research was used with a qualitative approach and the method used was an exploratory case study. Robert Yin explains that the definition of case study research is a research method that specifically investigates contemporary phenomena found in real-life contexts, which is carried out when the boundaries between the phenomenon and the context are not clear, using various data sources³³.

C. RESULTS AND DISCUSSION

KSBB aims to make it easier for Muslims who are members to carry out syirkah according to Sharia, both to invest and submit investment requests, also apply for credit using Sharia schemes, and work together to carry out various other useful activities which in the end are expected to strengthen the economy of Muslims in general.

KSBB is a consumer cooperative that has a Sharia Savings and Loans and Financing Unit (USPPS). In February 2023, KSBB obtained official permission to become a cooperative with national coverage. As a consumer cooperative that has USPPS, KSBB sells goods needed by members using a credit scheme (taqsith). The number of KSBB members as of February 2023 is 781 members. Since it was founded in May 2019 until February 2023,

³⁰ Fadillah Mursid, "Kebijakan Regulasi Baitul Maal Wat Tamwil (BMT) Di Indonesia," *Jurnal Kajian Syari'ah Dan Masyarakat* 18, no. 2 (2018): 13.

³¹ Carunia Mulya Firdausi, *Koperasi Dalam Sistem Perekonomian Di Indonesia* (Jakarta: Yayasan Pustaka Obor Indonesia, 2019), 105.

³² Mursid, "Kebijakan Regulasi Baitul Maal Wat Tamwil (BMT) Di Indonesia," 12.

³³ Yin, *Studi Kasus: Desain Dan Metode* (Jakarta: PT. Raja Grafindo, 2000), 18.

KSBB has implemented 264 financing contracts with a value of 4.7 billion Rupiah.³⁴

In 2022, KSBB assets will increase by 148%, namely from IDR 1,313,482,277 in 2021 to IDR 3,267,281,763 in 2022. Outstanding Murabaha financing will increase by 227.67%, namely from IDR 913,542,783 in 2021 to IDR 2,996,718,904 in 2022. KSBB managed to earn a profit of IDR 75,286,550 in 2022.

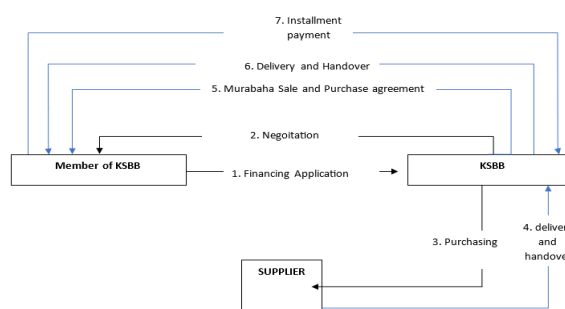
The number of KSBB members increases every year. The increase in the number of KSBB members cannot be separated from intensive promotion on social media, plus the expansion of KSBB's regional coverage to a national scale has meant that the number of members has increased rapidly and has the potential to grow further. The following is a graph of the development of the number of KSBB members from 2019 to 2022

Murabaha financing at KSBB is financing to fulfill the request of a member who wants to acquire an item with a sale and purchase agreement. In contrast to most Sharia financial institutions, the Murabaha financing contract at KSBB does not use a wakalah contract in purchasing goods from suppliers. The following is the Murabaha financing procedure at KSBB:

- a. The member who submits the procurement of goods shall state the specifications of the goods being proposed. Members must fill out the online form provided by KSBB at <http://bit.ly/KreditKSBB>. If all requirements are met, the KSBB admin will respond and the application will proceed to the analysis stage no later than 1 working day after submission.
- b. KSBB will search for goods according to the specifications desired by members.

- c. If KSBB has found the item in question, KSBB will inform the member of the selling price of the item in real-time after going through a verification process by management regarding risks and profit projections. At this stage, the sale and purchase agreement has not yet occurred because KSBB does not yet have the goods.
- d. If the member agrees to the price offered taqsith by KSBB, then KSBB purchases the goods according to specifications.
- e. KSBB brings the goods to the KSBB office or home or the place desired by the member applying for financing to carry out the contract. In this process, KSBB ensures that goods that have been purchased by KSBB for resale under Murabaha have been removed from the supplier's warehouse before being resold to members.
- f. KSBB and members who apply for financing carry out a Murabaha sale and purchase agreement using taqsith (credit) and a guarantee agreement.
- g. After the agreement is signed by both parties, KSBB hands over the goods to the members.

The following is the Murabaha financing scheme at KSBB:



³⁴ "Profil KSBB," n.d., <https://ksbb.co.id/>.

From the data presented previously, the author analyzes the implementation of qabdh requirements in Murabaha financing at KSBB as follows:

1. Implementation of qabdh requirements in Murabaha financing for movable goods at KSBB.

KSBB ensures that goods that have been purchased by KSBB for resale under Murabaha have at least been removed from the supplier's warehouse before being resold to members based on Hadith:

From the Ibn 'Abbas radhiallahu 'anhuma he said: Rasulullah shallallahu 'alaihi wa sallam said:

"Whoever buys food, let him not sell it again until he has received it." Ibn 'Abbas said: And I think that everything is legal like food. (Mutafaqun 'alaih).³⁵

In its implementation, KSBB managers can enter into murabaha contracts at the KSBB office, KSBB members' homes, or at least outside the supplier's warehouse. KSBB also ensures that the recipient of goods from suppliers is the KSBB manager or his representative and not the member who applied for financing from KSBB. For example, if a KSBB member applies for Murabaha financing for the procurement of a motorbike, the KSBB management will purchase the motorbike from a dealer or motorbike showroom according to the specifications submitted by the member. At the delivery stage, KSBB can ask the dealer or showroom to send the motorbikes that have been purchased by KSBB to the KSBB office, or to the home of the member who applied for financing. If the motorbike is sent to a member's house, the person receiving the motorbike is

the KSBB manager, not the member who applied for it.

Elimination of waka lah contracts for members who apply for financing to purchase goods under Murabaha financing ensures that the process of handing over goods from suppliers to KSBB occurs. As a consequence, all risks related to the goods move from the supplier to KSBB after handing over the goods. KSBB is responsible if there is damage to goods while the goods are in their control, KSBB management cannot pass on this risk or charge repair costs to members who apply for financing because the goods have not yet been sold and handed over to members.

2. Implementation of qabdh requirements in Murabaha financing for immovable goods at KSBB.

In financing immovable goods, KSBB ensures that the immovable assets have been purchased by KSBB. In the case of purchasing immovable assets such as land and houses, KSBB makes a private sale and purchase agreement with the seller first before carrying out the sale and purchase process before a notary or Land Deed Official (Pejabat Pembuat Akta Tanah - PPAT). KSBB uses a private sale and purchase agreement to ensure that the immovable asset has been purchased by KSBB so that KSBB can receive documents related to the immovable asset from the seller as an implementation of the qabdh or handover of the asset. Next, KSBB will carry out the process of making a sale and purchase agreement (AJB) for the immovable asset before a notary or Land Deed Making Official (PPAT). After that, KSBB carries out sales

³⁵ Baqi, *Himpunan Hadits Shahih Disepakati oleh Bukhari dan Muslim*, 550.

contracts to members who apply for financing.

When making a sale and purchase agreement (Akta Jual Beli-AJB) at PPAT, the immovable asset AJB document is directly in the name of the member applying for financing. This is done so that the Murabaha financing process is not subject to Land and Building Rights Acquisition Fee (Bea Perolehan Hak atas Tanah dan Bangunan-BPHTB) twice, namely when KSBB buys from the owner of immovable assets and when KSBB sells to members. Handling the name of an asset certificate directly to the member applying for financing is not a problem according to Sharia because, in law, the name listed on an asset certificate does not mean that the name is the owner of the asset.

The Ministry of Finance explained that in the case of Murabaha transactions for the acquisition of rights to land and/or buildings by Law Number 21 of 1997, Law Number 20 of 2000 concerning Fees for Acquisition of Land and Building Rights are the objects of BPHTB. The BPHTB rate is 5% of the Acquisition Value of the Tax Object. This creates unfair treatment with conventional banking. In the case of housing loans from conventional banks, buying and selling takes place between the housing development company (developer) and the creditor as the buyer. So BPHTB is owed directly to the creditor as the buyer. However, in Murabaha financing, two sales and purchase transactions take place, namely between the housing development company and the Sharia financial institution (LKS) and between LKS and the customer as the final buyer. As a result, BPHTB is owed money in Murabaha financing twice, namely by LKS and by the customer as the final

buyer. With the enactment of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, the authority to impose BPHTB no later than 2011 rests with the Regency/City and no longer with the central government. So starting in 2011 the mechanism for imposing BPHTB for each region can be different depending on each regional regulation.³⁶

The implementation of qabdh handover in Murabaha financing at KSBB is visible from the journal of purchase and sale of goods transactions carried out by KSBB. In the transaction journal, it can be seen that the goods submitted by members were purchased by KSBB. This can be seen from the increase in the inventory account on the debit side, which shows that the goods submitted increase the value of KSBB's inventory of goods. This is to the guidelines of Statement of Financial Accounting Standards (Pernyataan Standar Akuntansi Keuangan-PSAK) number 102. This is also in line with AAOIFI standards regarding the treatment of acquisitions in Murabaha transactions³⁷.

D. CONCLUSION

From the results of the discussion above, the author draws several conclusions regarding the implementation of qabdh requirements in Murabaha financing at KSBB, namely:

- 1) There are two ways to implement qabdh or handover in Murabaha financing depending on the type of goods to be handed over, namely:
 - If the goods handed over are movable goods, such as electronic

³⁶ Anang Mury Kurniawan dan Widyaiswara, "Aspek Perpajakan Transaksi Murabaha Pasca Perubahan Undang-Undang Perpajakan," *Badan Pendidikan dan Pelatihan Kementerian Keuangan*, last modified 2010, diakses Agustus 3, 2023, <https://bppk.kemenkeu.go.id/sekretariat-badan/berita>.

³⁷ Mezbah Uddin Ahmed, Ruslan Sabirzyanov, and Romzie Rosman, "A Critique on Accounting for Murabaha Contract," *Journal of Islamic Accounting and Business Research* 7, no. 3 (2016): 190–201, <https://doi.org/10.1108/jiabr-04-2016-0041>.

goods, vehicles, etc., then implement qabdh by moving them from the seller's or supplier's location.

- If the goods handed over are immovable goods, such as land and houses, then the implementation of qabdh is by transferring letters or ownership documents which are then registered with PPAT.
- 2) If seen from the implementation of the qabdh requirements, the Murabaha financing process at KSBB complies with Sharia principles, namely, KSBB sells goods to members who apply for financing after KSBB has carried out

the handover of goods from the seller or supplier so that KSBB also bears the risk before KSBB carries out the sales contract to the buyer or financing members. With this risk, KSBB is entitled to profit in the form of Murabaha margin as per Hadith:

وَعَنْ عَائِشَةَ قَالَتْ: قَالَ رَسُولُ اللَّهِ: الْخُرَاجُ بِالضَّمَانِ

Narrated 'Aishah (RA): Allah's Messenger (ﷺ) said: "Any profit goes to the one who bears responsibility." (Reported by Tirmidzi)

REFERENCES

- [1] Ahmed, Mezbah Uddin, Ruslan Sabirzyanov, and Romzie Rosman. "A Critique on Accounting for Murabaha Contract." *Journal of Islamic Accounting and Business Research* 7, no. 3 (2016): 190–201. <https://doi.org/10.1108/jiabr-04-2016-0041>.
- [2] Anggraini, Muhammad Hasan Rina, and Muhammad Zulkarnain. *Ekonomi Koperasi*. Edited by Syaiful Bahri. Bandung: Media Sains Indonesia, 2022.
- [3] Anwar, Amelia, Hud Leo, and Perkasa Maki. "Analisis Implementasi Akad Murabahah Dan Fatwa Ulama Terhadap Perkembangan Perbankan Syariah Di Indonesia." *Adzkiya : Jurnal Hukum Dan Ekonomi Syariah* 6, no. 2 (February 19, 2019). <https://doi.org/10.32332/ADZKIYA.V6I2.1279>.
- [4] Authors, For. "International Journal of Islamic and Middle Eastern Finance and Management." *Managerial Finance* 34, no. 10 (2008). <https://doi.org/10.1108/mf.2008.00934jaa.001>.
- [5] Bait, Ammi Nur. "Mengenal Taqabudh (Serah Terima)." Accessed February 25, 2023. <https://pengusahamuslim.com/7425-mengenal-taqabudh-serah-terima.html>.
- [6] Baqi, Muhammad Fuad Abdul. *Himpunan Hadits Shahih Disepakati Oleh Bukhari Dan Muslim*. Edited by Salim Bahreisy. Surabaya: Bina Ilmu, 2003.
- [7] Firdausi, Carunia Mulya. *Koperasi Dalam Sistem Perekonomian Di Indonesia*. Jakarta: Yayasan Pustaka Obor Indonesia, 2019.
- [8] Indonesia, Fatwa Dewan Syariah Nasional Majelis Ulama. Akad Jual Beli, 1 § (2017).
- [9] Kurniawan, Anang Mury, and Widyaiswara. "Aspek Perpajakan Transaksi Murabahah Pasca Perubahan Undang-Undang Perpajakan." Badan Pendidikan dan Pelatihan Kementerian Keuangan, 2010. <https://bppk.kemenkeu.go.id/sekretariat-badan/berita>.
- [10] Majah, Muhammad Ibnu. "Sunan Ibn Majah," n.d. <https://www.prophetmuhammad.com/ibnmajah/2187>.
- [11] Manzhur, Ibnu. "Qamus Lisan Al Arabi." Accessed June 10, 2023. <https://www.almaany.com/ar/dict/ar-ar/لسانالعرب/?c=الرباع>.
- [12] Miah, Mohammad Dulal, and Yasushi Suzuki. "Murabaha Syndrome of Islamic Banks: A Paradox or Product of the System?" *Journal of Islamic Accounting and Business Research*

- 11, no. 7 (2020): 1363–78. <https://doi.org/10.1108/JIABR-05-2018-0067>.
- [13] Murshid, Fadillah. “Kebijakan Regulasi Baitul Maal Wat Tamwil (BMT) Di Indonesia.” *Jurnal Kajian Syari’ah Dan Masyarakat* 18, no. 2 (2018): 9–30.
- [14] Penyusun, Tim. *Standar Produk Perbankan Syariah Murabahah*. Edited by Setiawan Budi Utomo. Jakarta: Otoritas Jasa Keuangan Syariah, 2019. [https://www.ojk.go.id/id/kanal/syariah/berita-dan-kegiatan/publikasi/Documents/Pages/Buku-Standar-Produk-Perbankan-Syariah-Murabahah/Buku Standar Produk Murabahah.pdf](https://www.ojk.go.id/id/kanal/syariah/berita-dan-kegiatan/publikasi/Documents/Pages/Buku-Standar-Produk-Perbankan-Syariah-Murabahah/Buku%20Standar%20Produk%20Murabahah.pdf).
- [15] “Profil KSBB,” n.d. <https://ksbb.co.id/>.
- [16] Subaily, Yusuf al. *Fiqh Perbankan Syariah: Pengantar Fiqh Muamalat Dan Aplikasinya Dalam Perekonomian Modern*. Edited by Erwandi Tarmizi, n.d.
- [17] Tirmidzi, Muhammad bin Isa at. *Jami` At-Tirmidhi*. Vol. 1, Bo., n.d. <https://sunnah.com/tirmidhi:1234#:~:text=’Amr bin Shu’aib narrated, one does not have.’%22>.
- [18] Tlemsani, Issam, Farhi Marir, and Munir Majdalawieh. “Screening of Murabaha Business Process through Quran and Hadith: A Text Mining Analysis.” *Journal of Islamic Accounting and Business Research* 11, no. 9 (2020): 1889–1905. <https://doi.org/10.1108/JIABR-05-2020-0159>.
- [19] Umar, Ahmad Mukhtar. “Mu’jam Al Lughah Al ’Arabiyyah Al Mu’ashirah.” Accessed July 19, 2023. <https://www.almaany.com/ar/dict/ar-ar/قبض/>.
- [20] “Undang-Undang RI No. 25 Tahun 1992 Tentang Perkoperasian Indonesia.” 1992. <https://www.dpr.go.id/dokjdih/document/uu/783.pdf>.
- [21] Mufti Hassan Ashraf Usmani, Ali Usmani, Mufti Uzair Ashraf Usmani, and Hassan Ali. “Issues of Possession in Murabaha Financing.” *COMSATS Journal of Islamic Finance* 4, no. 2 (2019): 81–93. <https://doi.org/10.26652/cjif.4201925>.
- [22] Yin. *Studi Kasus: Desain Dan Metode*. Jakarta: PT. Raja Grafindo, 2000.