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Sharia Audit Evaluation of the Potential Non-Compliance in Murabahah Financing at Bank Syariah Indonesia

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Abstract

This research explores the role of sharia audit in assessing potential uncertainty (gharar) within murabahah financing practices at Bank Syariah Indonesia. The study focuses on the issue of possible deviations in the implementation of murabahah that could result in non-compliance with sharia principles. It addresses two main questions: (1) how murabahah is applied in Islamic banking practices, and (2) how sharia audit evaluates and mitigates potential uncertainties in these transactions. The study employs a qualitative approach using descriptive-analytical methods, drawing on literature from relevant journals, books, and established sharia standards. The results indicate that sharia audit has a significant role in identifying and reducing risks of uncertainty, particularly in areas such as asset ownership, pricing transparency, contractual processes, and penalty mechanisms.Nevertheless, the findings also reveal existing weaknesses in practice, especially when banks function solely as financing intermediaries without actual ownership of the goods. Therefore, enhancing the role of sharia audit is essential to ensure comprehensive compliance with Islamic principles.

Keywords: Sharia Audit, Murabahah, Gharar, Islamic Banking, Compliance

INTRODUCTION

The development of the Islamic banking industry in Indonesia over the past few decades has shown significant growth, both in terms of asset expansion, institutional network development, and financial product innovation (Financial Services Authority, 2023). One of the key milestones in this transformation was the establishment of Bank Syariah Indonesia as a result of the merger of several state-owned Islamic banks. This institution is expected to enhance competitiveness while also expanding Islamic financial inclusion, not only at the national level but also globally. In this context, Islamic banking is not solely oriented toward financial performance but is also required to consistently uphold compliance with Islamic principles as its fundamental operational foundation.

One of the most widely used financing products in Islamic banking practice is murabahah. This contract is a form of sale and purchase in which the bank first acquires the goods required by the customer and then resells them with an agreed profit margin (Antonio, 2019). The relatively simple nature of murabahah and its low risk profile make it a dominant financing instrument. However, its extensive use has also attracted criticism, particularly because in practice it is often considered similar to interest-based financing in conventional banking (Chapra, 2000).

Ideally, the murabahah contract must be free from prohibited elements in Islam, such as riba (interest), gharar (uncertainty), and maisir (speculation). However, in practice, the potential for gharar is still frequently found, particularly in terms of asset ownership, price transparency, and contract execution procedures (AAOIFI, 2021). Such uncertainty may arise, for example, when the bank does not fully possess the goods before selling them to the customer, or when the contract process is not conducted clearly and in accordance with Sharia principles. In addition, a lack of transparency regarding cost price and profit margin may also create negative perceptions among customers.

This issue is crucial because Sharia compliance is a core element that distinguishes Islamic banking from conventional banking. Non-compliance with Sharia principles not only affects legal aspects but may also reduce public trust in Islamic financial institutions. In the long term, this condition may hinder the overall growth of the Islamic banking industry. Therefore, an effective supervisory system is needed to ensure that all banking operational activities comply with Islamic principles.

In this regard, Sharia audit plays a vital role as a monitoring and evaluation mechanism for Sharia compliance. Sharia audit functions not only as a control tool but also as a means of detecting potential deviations and providing improvement recommendations. Sharia audit standards issued by AAOIFI and the fatwas of the National Sharia Council of the Indonesian Ulema Council serve as the main references in assessing the compliance of Islamic banking practices.

Nevertheless, the effectiveness of Sharia audits in identifying and reducing uncertainty in murabahah financing still faces various challenges. Several studies indicate that limitations in human resources, the complexity of financial products, and business pressures may affect the quality of Sharia audit implementation. In addition, there remains a gap between the ideal theoretical concept of murabahah and its actual implementation in practice.

Based on this description, a research gap can be identified, namely the suboptimal role of Sharia audit in addressing potential uncertainty in murabahah practices, particularly in large institutions such as Bank Syariah Indonesia. Therefore, this study is important to provide a deeper understanding of the role of Sharia audit in maintaining compliance and minimizing uncertainty risk.

The objectives of this study are: (1) to analyze murabahah practices in Islamic banking, particularly at Bank Syariah Indonesia, and (2) to evaluate the role of Sharia audit in identifying and mitigating potential uncertainty (gharar) in such financing. Thus, this study is expected to contribute both theoretically and practically to the development of a more effective Sharia audit system.

METHOD

This study employs a qualitative approach with a descriptive-analytical research design. The qualitative approach is chosen because this study aims to gain an in-depth understanding of the murabahah financing practice and to evaluate the role of Sharia audit in identifying potential uncertainty (gharar) in Islamic banking, particularly at Bank Syariah Indonesia (AAOIFI, 2021).

The descriptive-analytical method is used to systematically describe the facts and characteristics of the object under study, while also analyzing them based on Sharia principles and applicable audit standards. Therefore, this study not only focuses on describing phenomena but also provides a critical assessment of the compliance of murabahah practices with Sharia regulations.

1. Data Sources

This study uses secondary data obtained from various relevant literature sources, including:

- national and international scholarly journals discussing Sharia audit and murabahah,
- textbooks on Islamic banking,
- regulations and standards issued by the National Sharia Board of the Indonesian Ulema Council,
- international standards issued by AAOIFI,
- official reports and publications related to Islamic banking practices.

The selection of data sources is focused on relevant and up-to-date literature, particularly those published within the last ten years, to ensure that the analysis reflects current developments in the Islamic financial industry.

2. Data Collection Technique

Data collection is conducted through library research, which involves gathering, reading, and reviewing various literature related to the research topic.

The steps include:

- identifying relevant literature sources,
- categorizing data based on themes (murabahah, Sharia audit, and gharar),
- analyzing the content to identify concepts, theories, and previous research findings,
- recording important information that supports the analysis process.

Through this approach, the researcher obtains a comprehensive understanding of murabahah concepts and practices as well as the role of Sharia audit in Islamic banking.

3. Data Analysis Technique

Data analysis is conducted using descriptive qualitative analysis through the following stages:

a. Data Reduction

Collected data are selected and focused on information relevant to the research objectives, particularly murabahah practices and Sharia audit.

b. Data Display

The reduced data are systematically organized in narrative form to facilitate understanding and analysis.

c. Conclusion Drawing

The final stage involves drawing conclusions based on the analysis results by linking them to relevant Sharia theories and standards.

In addition, this study also applies a normative approach by comparing murabahah practices in the field with Sharia provisions established by the National Sharia Board of the Indonesian Ulema Council and AAOIFI. This approach aims to assess the level of compliance and identify potential uncertainty in the practice.

4. Data Validity Technique

To ensure data validity, this study applies source triangulation by comparing various literature sources to obtain consistent and reliable information. A cross-check process is also conducted against previous theories and studies to enhance the validity of the analysis.

RESULTS AND DISCUSSION

The findings indicate that murabahah financing practices at Bank Syariah Indonesia generally comply with Sharia principles established by the National Sharia Board of the Indonesian Ulema Council and AAOIFI international standards. However, in practice, several potential uncertainties (gharar) still exist and require further evaluation through Sharia audit mechanisms.

1. Uncertainty in Asset Ownership (Ownership Risk)

One of the fundamental principles of murabahah is that the bank must first own the asset before selling it to the customer. This ownership must be real (milk al-tam) and legally and administratively verifiable (Antonio, 2019). This principle distinguishes murabahah from conventional debt-based financing systems (National Sharia Board of the Indonesian Ulema Council, 2000).

However, in practice, banks often act only as fund providers, while asset purchases are carried out by customers through a wakalah (agency) mechanism. Although this is permitted in Islamic jurisprudence, it may create uncertainty if the separation of contracts is not clearly defined. Audit findings show that in some cases, documentation of asset ownership by the bank is insufficient, such as the absence of proof of purchase in the bank’s name or unclear ownership transfer.

2. Uncertainty in Price Transparency and Margin

In murabahah financing practice, the risk of late payment or default is unavoidable. To mitigate this, Islamic financial institutions generally apply late payment penalties as an instrument to encourage customer discipline (Chapra, 2000). However, in Sharia perspective, such penalties are strictly regulated and must not become a source of bank profit; instead, they must be allocated for social purposes. This rule aims to prevent hidden elements of riba in financing practices.

Although these provisions are clearly regulated, research findings indicate that in implementation, several uncertainties still exist in the management of penalty funds. Common issues include lack of transparency in recording and reporting penalty funds, absence of clear separation between social funds and bank income, and suboptimal settlement mechanisms for non-performing financing that do not fully reflect justice and balance principles. These conditions may raise doubts regarding Sharia compliance, especially when penalty management is not conducted transparently and accountably.

Moreover, dispute resolution mechanisms in problematic financing also require attention. In some cases, the approaches used do not fully reflect the principles of justice (‘adl) and public benefit (maslahah), which are the foundation of Islamic financial systems. This may lead to imbalance in rights and obligations between banks and customers and may negatively affect perceptions of Islamic banking practices (AAOIFI, 2021).

In this context, Sharia audit plays a crucial role in ensuring that all penalty management mechanisms comply with Sharia principles. Sharia audit does not only examine administrative aspects such as recording and reporting but also evaluates policies and procedures used in resolving problematic financing. Thus, audit ensures that all processes are transparent, accountable, and fair.

3. Uncertainty in Contract Procedures and Stages

Theoretically, murabahah contracts follow structured stages, starting from customer purchase requests, followed by the bank's purchase of goods, and ending with resale to the customer at an agreed price (Ismail, 2020). This sequence is essential to ensure the validity of the contract, particularly regarding ownership and clarity of the transaction object in Sharia perspective.

However, in practice, especially in Islamic banking institutions, there is a tendency to simplify procedures, which may create uncertainty (gharar). This simplification often results in several contract stages being executed simultaneously without clear separation. As a result, the purchase by the bank and resale to the customer appear to occur at the same time, obscuring the essence of a sequential sale contract.

This condition has several serious implications. First, the contract may become invalid under Sharia because it does not fulfill the required pillars and conditions of sale. Second, there may be mixing of different contracts, such as wakalah and murabahah, which should be clearly separated to avoid legal confusion. Third, the substance of ownership in the transaction may be lost, making murabahah resemble conventional debt-based financing. This contradicts the core principle of Islamic finance, which requires real asset-based transactions.

Furthermore, procedural irregularities may blur the legal relationship between the bank and the customer. When processes are not clearly documented, it becomes difficult to determine when ownership is transferred and who bears the risk of the asset. This situation increases the risk of disputes and raises doubts about the validity of transactions from a Sharia perspective.

In this context, Sharia audit plays an essential role as a monitoring and evaluation mechanism. It ensures that every stage of murabahah is carried out properly, sequentially, and in accordance with established standard operating procedures (SOPs). Audit also verifies the completeness and validity of documentation at each stage, from purchase orders and bank acquisition documents to the final sale contract.

Moreover, Sharia audit provides recommendations for improvement when non-compliance is identified. These may include clarifying procedural flows, strengthening contract separation, and improving internal control systems so that every transaction stage is properly documented. Thus, Sharia audit functions not only as a control mechanism but also as a tool to enhance the implementation of Sharia principles in banking practice.

Therefore, compliance with murabahah procedures and contract stages is essential. Clarity and consistency in contract execution not only ensure Sharia validity but also strengthen the integrity and credibility of Islamic banking in an increasingly complex financial industry.

4. Uncertainty in Penalty Mechanisms and Problematic Financing Resolution

In murabahah financing, the imposition of late payment penalties is permitted as an instrument to enforce customer discipline. However, such penalties must not be treated as a source of profit for the bank; instead, they must be allocated for social purposes in accordance with Sharia principles (National Sharia Board of the Indonesian Ulema Council, 2017).

Nevertheless, research findings indicate that there are still uncertainties in the management of penalty funds. The issues include a lack of transparency in fund management and reporting, the absence of a clear separation between social funds and bank income, and financing resolution mechanisms that do not fully reflect the principle of justice. These conditions potentially create elements of uncertainty (gharar) and reduce confidence in Sharia compliance.

In this context, Sharia audit plays an important role in ensuring that penalty fund management is conducted transparently and in accordance with Sharia provisions. Sharia audit not only evaluates administrative aspects but also assesses policies related to the settlement of non-performing financing to ensure they remain grounded in principles of justice and balance.

5. The Strategic Role of Sharia Audit in Mitigating Uncertainty

In general, Sharia audit has a strategic role in reducing potential uncertainty in Islamic banking practices. This role is reflected in three main functions: preventive, detective, and corrective functions (AAOIFI, 2021).

The preventive function ensures that product design and operational procedures comply with Sharia principles before implementation. The detective function focuses on identifying deviations or non-compliance occurring in practice. Meanwhile, the corrective function is realized through providing improvement recommendations to enhance Sharia compliance.

In addition to these three functions, Sharia audit also contributes significantly to increasing public trust in Islamic financial institutions, thereby strengthening the legitimacy and sustainability of the Islamic finance industry.

6. Challenges in the Implementation of Sharia Audit

Although Sharia audit plays a crucial role in ensuring compliance with Sharia principles, its implementation in practice still faces several complex challenges. One of the main issues is the limited number of qualified Sharia auditors who possess adequate competencies in both Islamic jurisprudence (fiqh muamalah) and technical auditing skills. This condition limits the effectiveness of supervisory functions, especially in responding to the rapidly evolving Islamic financial products.

In addition, the complexity of modern financial products presents another challenge. Continuous product innovation requires interdisciplinary understanding, not only in Sharia aspects but also in finance, law, and risk management. This requires Sharia auditors to continuously enhance their competence to conduct comprehensive assessments of transactions and financial products.

Another significant challenge is the variation in interpretation of Sharia standards and principles. Although guidelines have been provided by institutions such as AAOIFI and the National Sharia Board of the Indonesian Ulema Council, in practice there are still differences in interpretation that may affect audit results and field implementation. These differences can lead to inconsistencies in Sharia compliance across financial institutions.

Furthermore, business pressures also influence the effectiveness of Sharia audit. Demands for operational efficiency and competitiveness often lead to simplified procedures, which may compromise Sharia compliance. In certain situations, this can result in compromises on Sharia principles, particularly in financing processes that require fast execution.

Therefore, strategic measures are needed to strengthen the Sharia audit system. These efforts include improving human resource quality through continuous training and certification, refining and standardizing audit procedures to make them more structured and integrated, and utilizing information technology to enhance audit efficiency and accuracy. In addition, strengthening the role of the Sharia Supervisory Board (SSB) is essential, both in supervision and in issuing fatwas and recommendations, so that Sharia principles can be implemented consistently and sustainably.

CONCLUSION

Based on the analysis and discussion, it can be concluded that Sharia audit plays a very important role in evaluating and reducing potential uncertainty (gharar) in murabahah financing at Bank Syariah Indonesia. Sharia audit functions not only as a supervisory tool but also as an evaluation instrument that ensures all transaction processes comply with Sharia principles (AAOIFI, 2021).

The findings show that potential uncertainty in murabahah practices still exists, particularly in asset ownership, price and margin transparency, contract execution procedures, and the resolution of problematic financing. This condition is generally caused by a gap between theoretical concepts and practical implementation, such as insufficient ownership documentation, lack of transparency to customers, and simplified contract stages that reduce transaction clarity.

In this regard, Sharia audit performs three main functions: preventive, detective, and corrective. The preventive function ensures compliance of product design and procedures with Sharia standards. The detective function focuses on identifying deviations in practice, while the corrective function is realized through providing improvement recommendations to enhance Sharia compliance.

However, the implementation of Sharia audit still faces several challenges, including limited competent human resources, the complexity of modern financial products, and operational efficiency pressures in banking. Therefore, strengthening the Sharia audit system is necessary through improving auditor competence, refining operational standards, and optimizing the role of the Sharia Supervisory Board.

This study recommends that Bank Syariah Indonesia continuously improve the implementation of Sharia audit, particularly in ensuring actual ownership of murabahah assets, transparency of information to customers, and compliance with contract procedures. Furthermore, future research is expected to adopt an empirical approach based on field data to produce more comprehensive analysis.

Thus, strengthening Sharia audit is a key factor in maintaining the integrity, credibility, and sustainability of the Islamic banking industry amid the development of modern financial systems.

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