



## Sharia Compliance On Murabahah Financing In Islamic Banks

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### Abstract

*Murabahah is the practice of purchasing and selling items while adding a margin for the bank to benefit from. The majority of Indonesian Islamic Banking's overall financing, or about 60%, is currently provided by financing under Murabahah contracts. The research method used in this article is a literature analysis sourced from scientific articles with a literature-based approach, relying on the analysis and interpretation of data from various relevant sources of literature regarding the topic of Murabahah financing. The study's findings indicate that the Sharia compliance in Murabahah financing at Islamic banks is in accordance with the Sharia Banking Law and the Fatwa issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). The financing adheres to the principles of Sharia, meaning it does not involve elements of riba (usury), maisir (gambling), garar (uncertainty), haram (forbidden), zalim (oppression), and includes a contract that is supervised by the Sharia Supervisory Board (DPS).*

**Keywords:** *Islamic Banks, Murabahah, Sharia Compliance,*

### A. Introduction

Sharia principles are rules of agreement based on Islamic law between banks and other parties to deposit funds, finance business activities, or other activities declared by sharia. (Martono, 2020) As regulated in Law no. 21 of 2008 concerning Islamic Banking. This is also contained in article 2 which states that "Sharia banking in carrying out its business activities is based on sharia principles, economic democracy, and prudential principles" which is meant by sharia principles, among other things, are business activities that do not contain elements of usury, maisir (profit-making transactions). -profit), gharar (transaction object is not clear), unlawful and unjust (transactions that cause injustice to other parties).

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## A. Rio Makkulau

The existence of sharia banking is seen as an emotional-ideological self-rescue, not a rescue (solution) from economic problems, even on a macro level an existential rescue, which saves humanity from the power of capital that undermines human existence, which leads to humanitarian problems. Referring to the basic principles of sharia banking that profit sharing patterns are by Islamic law, banking products in the form of profit sharing should be superior to other products. This fact gives rise to the impression that Indonesian Islamic banks are not profit-sharing banks, but murabahah banks. Islamic banks in practice have tended to enter into murabahah contracts, because Islamic banks want to obtain a fixed income, from a predetermined level of murabahah profits. (Muhamad Izazi Nurjaman, Doli Witro, 2021) Even more ironic, some Islamic bank policies for the financing sector are still relatively the same as conventional bank policies. Even though conventional bank policies are not appropriate to be applied to Islamic bank operations, especially regarding policies on determining profit rates (margin/profit), financing periods, and financing guarantees. (Mu'allim, 2014)

There are many negative views of the public towards murabahah financing because according to those who cannot accept murabahah as a product of Islamic banks, they argue that the margin or profit obtained by Islamic banks from murabahah transactions is the same as prohibited interest. Strictly speaking, margin and interest are the same, so murabahah financing is the same as conventional bank financing. (Sjahdeini, 2020)

The idealism of Islamic banking is banking that is based on theory, economic principles, and a solid set of laws. The perpetrators have good morals and ihsan in the economic field, both those who act as producers, consumers, entrepreneurs, and employees. One of them is the failure to put sharia principles into practice, namely in terms of public perception, which presupposes that Islamic banks are only a moniker intended to appeal to the Muslim community's compassion in the banking sector. They contend that Islamic banks are simply conventional financial institutions with Islamic conditions for banking transactions since these institutions continue to conduct contracts in ways that are against religious law. That is one form of attitude from the public regarding the existence of Islamic banking because it cannot be denied that the connotation of banking has long been distinctly separate from sharia so that at the beginning of the establishment of sharia banking many did not believe in the success of Islamic economists in uniting banking institutions with sharia.

The contract that gets a lot of evaluations about the halalness of its implementation is murabahah, which is a sale and purchase with the selling price consisting of the purchase price and the profit that has been agreed upon. (Erlindawati, 2017) This is because there is a misperception of the murabahah contract. Murabahah is often equated with an ordinary credit agreement, only the name is changed to a murabahah or buying and selling contract. (Tusakdiyah, 2020) Apart from the higher selling price, compared to the price applied for credit at conventional banks, there is also no difference in the implementation procedure between murabahah and conventional bank credit. (Yuspin, 2007)

Seeing that murabahah is one of the most common types of contracts (contracts) applied in Islamic banking financing activities. Murabahah is implemented through the mechanism of buying and selling goods with the addition of a margin as a profit to be obtained by the bank. (Anugrah, 2020) The portion of financing with Murabahah contracts currently contributes the most to the total financing of Indonesian Islamic Banking, which is around 60%. This is because most of the credit and financing provided by the banking sector in Indonesia is

based on the consumer sector. To be able to compete with conventional banking, the easy and simple features of Murabahah Financing make it the prima donna for Islamic banking to meet consumer financing needs such as the procurement of motorized vehicles, buying houses, and other consumer needs.

Although Murabahah financing is considered one of the financial instruments that aligns with Sharia principles, there are several challenges and issues that can arise during its implementation. Some of the problems with Murabahah financing include:

Unreasonable markup: In Murabahah financing, banks add a markup or profit margin to the cost price of the goods before selling them to customers. Sometimes, the markup set may not be in line with market conditions or is excessively high, leading to criticism that this practice resembles *riba*, which is prohibited in Islam. Transparency and information: Some customers may face difficulties in understanding the entire mechanism and costs involved in Murabahah financing. Improved transparency and clear information are necessary to enable customers to make informed decisions. Asset quality: In Murabahah financing, the bank acts as the owner of the goods before selling them to the customer. This creates a risk related to the quality and condition of the purchased goods. If the goods are defective or damaged, the customer may incur losses. Usage in non-real sectors: Critics argue that Murabahah financing is sometimes used more in non-productive sectors, such as finance and real estate, rather than supporting more productive sectors in the real economy. Sharia compliance issues: Despite being claimed as a Sharia-compliant financial product, some Murabahah financing may not fully comply with Sharia principles. This can happen due to inadequate supervision or a lack of deep understanding of Sharia among financial practitioners.

## **B. Methods**

This study was conducted using the method of literature review (Nur Khusna et al., 2021) which is carried out in a descriptive analysis related to research articles that discuss murabahah financing. The research approach used includes a theological approach (the approach used to analyze legal provisions originating from the Koran and hadith on issues related to the implementation of Islamic banking financing), and juridical (studying sharia principles originating from statutory aspects). (UU No. 21 of 2008 concerning Sharia Banking), DSN-MUI Fatwa, and other related legal regulations), Islamic economic system (Reviewing banking activities, especially in murabahah financing contracts with the fulfillment of aspects of the objectives of Islamic economic principles/sharia principles). By using secondary data sourced from the scientific literature that discusses the issue of murabahah financing in Islamic banks.

## **C. Results and Discussion**

*Murabahah (DSN Fatwa No.04/DSN-MUI/IV/2000) is financing based on the principle of buying and selling.*(Chrisna et al., 2020) Selling an item by confirming the purchase price to the buyer and the buyer pays it at a higher price as a profit. (Riyani et al., 2022) *Murabahah (al-bai bi tsaman ajil) is a sale and purchase transaction of goods plus a margin agreed by the parties.* (Muhamad, 2020) The bank acts as a seller, while the customer acts as a buyer. The selling price is the price the bank buys from the supplier plus profit (margin). (Panetir Bungkes & Sahyuli, 2021) Both parties must agree on a selling price and payment terms. The selling price is stated in the sale and purchase contract and if it has been agreed it cannot change during the validity of the

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contract. (Muhlis, 2020) In murabahah banking, it is a sale and purchase agreement in which the bank's profits have been agreed upon by the bank and the customer at the beginning of the agreement, as well as the selling price. (Gita Oktaviani Sindhu, 2021) So that the bank will explain the price of an item to the customer and then will share a certain price according to the agreement. (Melina, 2020) In this transaction, goods are delivered immediately after the contract, while payment is made in installments. (Surayya Fadhilah Nasution, 2021)

The operational sharia of murabahah financing products in Islamic banking raises debates and there are even those who doubt its sharia. This is based on the assumption that the pricing mechanism for murabahah financing uses the same calculation method as for compensatory banks, namely in the form of a percentage of financing per year (% p.a), then the calculation system for setting margins for Islamic banks still refers to the BI rate and is adjusted to interest rates, credit interest on conventional banks. Of course, many people think that Islamic banks are simply replacing the term interest with margin. Abdullah Saeed criticized this murabahah product which according to him there is no substantial difference between markup and interest. If Islamic law allows murabahah, why is conventional bank interest prohibited? (Saeed, 2020) Therefore, the determination of the amount of margin in murabahah financing must refer to the calculation of the amount of profit to be obtained by Islamic banks in their financing transactions.

Besides that, some consider murabahah financing as bai'inah, and some consider bai'atani fi bai'ah (as two buying and selling in one sale and purchase), some consider murabahah financing to be bai' ma'dum (sale and purchase of something that doesn't exist) in fact, some consider it as lost. Bai'inah is a sale and purchase contract in which a person (seller) sells an item to another person (buyer) on credit at a high price, then the seller buys back the item in cash at a lower price. Bai' al-murabahah in the practice of Islamic banking is not the same as bai'inah. In bai'inah, in essence, there is no sale and purchase contract, where the ownership of the goods does not experience a shift, but remains with the original owner. Meanwhile, in murabahah financing, there is a transfer of ownership of goods to the customer. (Rozalinda, 2020)

Bai'atani fi bai'ah is two buying and selling in one buying and selling "I sell my house to you on condition that you sell your car to me." This form of buying and selling is prohibited. The prohibition of two buying and selling in one sale and purchase is based on the hadith of the Prophet Muhammad saw, a history of Nasa'i received from Abu Hurairah that "Rasulullah SAW forbids two buying and selling in one buying and selling." Murabahah financing in Islamic banking is not the same as bai'atani fi bai'ah, in the implementation of murabahah financing there is only one sale and purchase contract, namely between the bank and the supplier. This sale and purchase are completed with the handover of goods (taqabud). Then a new sale and purchase agreement appear between the customer and the bank. So murabahah financing in Islamic banking is not bai'atani fi bai'ah..

Bai' ma'dum, namely buying and selling which is carried out on something that was not there at the time of the contract. Buying and selling like this are meant buying and selling prohibited based on the hadith of the Prophet narrated by Bukhari received from Ibn Umar that the Prophet forbade buying and selling of something that you do not have. In practice, murabahah financing in Islamic banking is not buying and selling in the true sense because the bank does not provide goods, but the bank only provides funds to purchase goods needed by the customer. This means that the goods that are the object of buying and selling are goods that exist (exist) not

ma'dum (do not exist). When submitting a financing application, the customer is required to list the details of the items to be purchased. After going through the stages and procedures for financing, and disbursing funds, the bank, and the customer enter into a sale and purchase contract. Then it ends with a wakalah contract from the bank. Where the bank represents the customer to buy the items needed as written in the application. This is al-hilah ash-syar'iyyah to avoid usury from funds distributed to customers. In language, the plural form of the word al-hilah is hiyal according to language means to divert. In terms of al-hilah is doing a practice that is permissible to nullify the syar'i law and turn it into another law or vice versa.

The customer who applies must meet the legal terms of the agreement, namely, the element of subjective requirements must be 21 years old or have/have been married, physically and mentally healthy, according to the results of data analysis conducted by researchers on murabahah financing at Islamic banks. The murabahah object, which is typically a house, must also be certain, clear, and entirely held by the bank.

In reality, the murabahah customer may acquire the item themselves or through a bank agent through a wakalah contract or representation. It is possible and does not contradict Islamic sharia after the wakalah contract, as long as the murabaha buyer acts on behalf of the bank to buy the murabaha object, as stated in fatwa No.04/DSN-MUI/IV/2000 about murabaha. The sharia basis for murabahah transactions is as follows: The first part of number (9) states that the murabahah sale and purchase contract must be carried out after the products in question in fact become the bank's property if the bank is acting as the customer to purchase goods from a third party. (Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 tentang Murabahah 2020)

As a result, it may be said that the DSN-MUI fatwa and Islamic banking law are what apply to the implementation of sharia principles in murabahah contracts at Suariah banks. In murabahah financing, the customer gains if interest is not levied on this murabahah so that the customer will not lose if market interest rates climb or drop. However, the selling price, known as murabahah, is what is used and it won't vary over the duration of the contract. As a result, there won't be any increases or decreases in the customer's monthly payments during the term of the contract. In addition to being required to adhere to the contractual obligations outlined in Article 1320 of the Civil Code. In theory, mu'amalah in Islam must adhere to sharia law and not be in violation of it. According to the fiqh experts, Islam must avoid aspects that are forbidden by syara' in economic activities (mu'amalah), specifically elements of interest/usury, speculation/maisir, dishonest deception/hiding something or garar, unfair, and unlawful.

The certainty of the project and the level of cooperation can eliminate the factor of maisir/chance and unfair components in murabahah. The client is not affected in this instance by changes in bank interest rates. When something that is certain to be uncertain, like the price or gabn, is changed, there is an element of uncertainty present. This occurs if the consumer then agrees to murabahah financing for houses within 1 year with a margin of 5% or murabahah for houses within 2 years with a margin of 10%. There is uncertainty because it is unclear whether the agreed price is 5% or 10%. No garar will take place unless the customer explicitly agrees to conduct a murabahah transaction for a house with a 5% margin paid within a year. Garar components in the murabahah application can be eliminated with the assurance of installment payments.

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Because Islamic banks in this instance do not acknowledge the interest system, it is therefore clear that the number of monthly installments may be predicted by the financing duration suggested by the customer. Because Islam essentially justifies buying and selling while forbidding usury, the idea of murabahah can be used to erase the aspect of usury. Because the price of the item the customer is about to buy and the profit made by the bank are both clearly stated, the customer does not feel technically disadvantaged by the Islamic bank.

Likewise, the item being traded must already exist at the time the contract is signed and cannot be a prohibited item. Thus, it can be said that the Sharia Banking Law, which prohibits the use of interest (usury), speculation (maisir), garar, unjustness, and unlawfulness in financing, is followed when sharia principles are applied in murabahah financing contracts at Islamic banks. Therefore, it can be said that the execution of murabahah financing contracts in Islamic banks follows a consensual system, which is outlined in the Civil Code and is applied in Islamic law, namely by signing the deed before the goods are delivered and the price is set forth in the financing contract.

If only Islamic banks do not carry out their sharia principles then this will be a finding for all parties as mandated by Law No. 21 of 2008 concerning Islamic Banking in Chapter X, administrative sanctions, article 56 which confirms that: "Bank Indonesia establishes administrative sanctions on Islamic Banks or UUS, members of the board of commissioners, members of the Sharia Supervisory Board, directors, and/or employees of Islamic Banks or Conventional Commercial Banks who have UUS, which hinder and/or do not implement Sharia Principles in carrying out their business or duties or do not fulfill their obligations as stipulated in the Law Invite this.." (*UU No.21 Tahun 2008 Tentang Perbankan Syariah*, 2008)

With this law, it is an obligation for all parties concerned to participate in supervising that Islamic banks operate on sharia principles so that maqashid sharia in economic activities can be realized, namely in business activities that do not contain elements of usury, maisir, garar, unlawful and unjust. To measure how consistent Islamic banks are in conducting transactions based on sharia principles is the role and authority of DPS in assessing this. The existence of DPS which is mandatory for every Islamic bank in the organizational structure is intended to ensure that Islamic banks can run according to the correct sharia path. DPS is a board that supervises sharia principles in the business activities of sharia banks which in carrying out their functions act independently, DPS is an affiliated party of the bank. (Bakry & Masse, 2020)

DPS duties, authorities, and responsibilities include: (1) Ensuring and supervising the suitability of bank operational activities against fatwas issued by DSN-MUI. (2) Analyze the sharia features of the bank's operating policies and products. (3) Including sharia-compliant viewpoints in bank publication reports regarding the implementation of overall bank operations. (4) Examine new goods and services for which there is no fatwa yet and ask the DSN-MUI for one. (5) Delivering the findings of the sharia supervision to the directors, commissioners, DSN-MUI, and Bank Indonesia at least once every six months (BI).

The purpose of sharia supervision of financing based on the murabahah principle is to gain confidence that Financing based on the murabahah principle provided by banks to customers receiving funds complies with sharia principles. The contract for channeling funds based on the principle of murabahah has been prepared by referring to the applicable DSN-MUI fatwa regarding murabahah.

In ensuring the conformity of murabahah buying and selling practices carried out by Islamic banks with sharia provisions to be determined by the DSN, the DPS usually conducts periodic supervision. Substantive tests on financing transactions based on the murabahah principle that must be carried out by DPS include: (1) Ensuring that the goods being traded are not prohibited by Islamic sharia. (2) Ensuring that the bank sells the goods to the customer at a selling price equal to the purchase price plus a margin. (3) Examining whether the wakalah contract has been made by the bank separately from the murabahah contract, if the bank wants to represent the customer to buy the goods from a third party, the murabahah sale and purchase contract must be carried out after the goods in principle belong to the bank as evidenced by an invoice or receipt Accountable trading. (4) Examining financing based on the murabahah principle is carried out after a customer application and an agreement to purchase an item or asset from the bank are made. The existence of sharia supervision carried out by DPS requires Islamic banks to be careful in carrying out murabahah buying and selling transactions with customers. Besides that, it is also required to carry out administrative orders so that various documents needed by DPS can be available at any time when supervision is carried out.

Murabahah financing is one of the forms of financing in the Sharia-based financial system. In Murabahah financing, a bank or Sharia financial institution purchases the desired goods on behalf of the customer and then sells them to the customer with an agreed markup (profit margin) that has been predetermined. The payment from the customer to the bank is made in installments or specific payments according to the agreement. The theory of Sharia compliance in Murabahah financing involves adhering to Sharia principles during the transaction. Some key principles that need to be observed in Murabahah financing are as follows:

Principle of Sale and Purchase: Murabahah financing is based on the principle of sale and purchase in Islam. The transaction must be conducted honestly and fairly between both parties. The agreed-upon price must be clear, and there should be no elements of deception or manipulation. Principle of Ownership: In Murabahah financing, the bank becomes the owner of the goods before selling them to the customer. The ownership of the goods must be legally transferred to the bank before the sales transaction to the customer. Principle of Profit: The profit or markup set in Murabahah financing must be reasonable and fair. The bank should not set a markup that is not in line with market conditions or engage in hoarding practices. Principle of Transparency: All terms and costs related to Murabahah financing must be explained transparently to the customer. There should be no elements of ambiguity or deception in providing information. Principle of Social Responsibility: The bank or Sharia financial institution must ensure that the goods bought and sold in Murabahah financing comply with Islamic ethics and do not harm society or the environment. Principle of Risk Sharing: Risks associated with Murabahah financing must be shared fairly between the bank and the customer according to the agreed-upon terms.

Sharia financial institutions often involve a Sharia Supervisory Board to ensure that all transactions comply with Sharia principles. Additionally, regulations from the authorities overseeing Sharia financial institutions play a crucial role in ensuring Sharia compliance in Murabahah financing and other Sharia financial products.

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Sharia compliance in Murabahah financing is of utmost importance in the context of Islamic finance. Murabahah financing must strictly adhere to Sharia principles to be considered valid and permissible in Islam. Several important aspects should be considered to ensure Sharia compliance in Murabahah financing:

**Prohibition of Riba:** Murabahah financing must completely avoid any element of riba (usury). Riba is one of the five major prohibitions in Islam, and any financing containing riba cannot be considered Sharia-compliant.

**Transparency and Information:** Sharia-compliant banks or financial institutions must provide clear and transparent information to customers regarding all aspects of Murabahah financing, including costs, markups, and contract conditions. Customers must have sufficient information to make informed decisions.

**Ownership of Assets:** Banks must genuinely own the assets that will be sold to customers before initiating Murabahah financing. This means the bank must purchase the asset with cash before selling it with a markup to the customer.

**Halal and Suitable Assets:** The assets financed through Murabahah must be halal (permissible in Islam) and suitable. They must not involve any prohibited elements in Islam, and they should meet the criteria of suitability and quality.

**Clear Contract and Real Transactions:** All Murabahah financing transactions must be based on clear and valid contracts according to Islamic law. The transactions should also reflect real economic activities and not be merely speculative or resembling riba-based transactions.

**Oversight by the Sharia Supervisory Board:** Sharia-compliant financial institutions providing Murabahah financing must have a Sharia Supervisory Board responsible for ensuring that all products and transactions comply with Sharia principles. It is crucial for Sharia-compliant financial institutions to have a strong commitment to fully adhere to Sharia principles and ensure that their Murabahah financing aligns with the guidelines and fatwas issued by relevant Sharia authorities. Good oversight and transparency will help ensure that Murabahah financing truly complies with Sharia principles and provides fair benefits to all parties involved.

## **D. Conclusion**

Murabahah financing contract is a form of certainty agreement involving the exchange of real assets ('ayn) with financial assets (dayn). It is the most dominant financing sought by customers from Islamic banks for consumer activities. The Sharia compliance in Murabahah financing at Islamic banks is in accordance with the Sharia Banking Law and the Fatwa issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). The financing is based on Sharia principles, which means it does not involve elements of riba (usury), maisir (gambling), garar (uncertainty), haram (forbidden), zalim (oppression), and it undergoes supervision of the contract or product by the Sharia Supervisory Board (DPS). Ensuring Sharia compliance in Murabahah financing is an obligation to ensure that all aspects of the financing align with Sharia principles in Islam. Murabahah financing must be conducted in compliance with the laws and ethics of Islam to be considered valid and permissible. By ensuring Sharia compliance in Murabahah financing, Islamic banks can provide financial services that align with Islamic values, and customers can feel confident that their transactions are conducted with high ethics and adherence to Sharia principles. Murabahah financing must truly adhere to Sharia principles, enhance transparency, and provide clear information to customers regarding the terms and conditions of the financing. Additionally, regulatory bodies play a crucial role in overseeing Islamic financial products and ensuring their compliance with Sharia guidelines.

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