



The Analysis Of Sharia Conformity To Kafalah Contract and Hasanah Card Products In Islamic Banking

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Abstract This study focused on assessing the conformity of sharia to kafalah contracts in Hasanah Card products. The main findings show that the implementation of kafalah contracts on Hasanah Cards still does not fully meet the required Sharia criteria. The majority of scholars are of the view that the agreement related to ujah for kafalah services falls into the category of riba qardh, so it is forbidden. Therefore, it is important to keep the kafalah in its purity context as a form of aid and almsgiving without any element of imbalance or compensation that is not under the principles of Shariah.

This research is expected to make a significant contribution to the development of Islamic financial products that are more in line with Islamic teachings. By highlighting shortcomings in the implementation of the kafalah contract in the Hasanah Card product, it is hoped that it will encourage better improvement and innovation efforts to ensure Sharia compliance in Islamic finance practices. In addition, this research is also expected to increase public awareness of the importance of applying sharia principles in every aspect of finance, to create a more transparent, fair, and under Islamic values.

Keywords : Akad Kafalah, Sharia Financial Products, Sharia Compliance, Hasanah Card, Ujah Riba

Abstrak Penelitian ini difokuskan pada penilaian kesesuaian syariah terhadap akad kafalah dalam produk Hasanah Card. Temuan utama menunjukkan bahwa implementasi akad kafalah pada Hasanah Card masih belum memenuhi sepenuhnya kriteria syariah yang diperlukan. Mayoritas ulama berpandangan bahwa kesepakatan terkait ujah atas jasa kafalah termasuk dalam kategori riba qardh, sehingga diharamkan. Oleh karena itu, penting untuk menjaga agar kafalah tetap berada dalam konteks kemurniannya sebagai bentuk bantuan dan derma tanpa adanya unsur ketidakseimbangan atau kompensasi yang tidak sesuai dengan prinsip-prinsip syariah. Penelitian ini diharapkan dapat memberikan kontribusi yang signifikan pada pengembangan produk-produk keuangan syariah yang lebih sesuai dengan ajaran Islam. Dengan menyoroti kekurangan dalam implementasi akad kafalah dalam produk Hasanah Card, diharapkan akan mendorong upaya-upaya perbaikan dan inovasi yang lebih baik untuk memastikan kesesuaian syariah dalam praktik keuangan Islam. Selain itu, penelitian ini juga diharapkan dapat meningkatkan kesadaran masyarakat terhadap pentingnya penerapan prinsip-prinsip syariah dalam setiap aspek keuangan, sehingga tercipta lingkungan keuangan yang lebih transparan, adil, dan sesuai dengan nilai-nilai Islam.

Keyword: Akad Kafalah, Produk Keuangan Syariah, Kesesuaian Syariah, Hasanah Card, Ujah Riba

INTRODUCTION

Islamic banking has become an important part of the national financial system. Islamic banking focuses on developing products and services that comply with sharia principles, such as mudharabah, murābahah, and wakalah contracts. One of the Islamic banking products that has been developed is the Hasanah Card, which offers various conveniences and facilities to customers. Concerning the development of this product, the kafalah contract has been used as one of the mechanisms to increase security and certainty in financial transactions.

Kafalah in the context of Islamic banking means an agreement that allows a third party to guarantee one's obligations. In principle, the kafalah contract aims to ensure the security of transactions and reduce the risk of loss for the parties involved. However, in its implementation, the kafalah contract can also affect the cost structure and benefits obtained by the parties involved.

In this study, we will conduct a sharia alignment analysis of the kafalah contract on Hasanah Card products. This study aims to find out whether the kafalah contract on Hasanah Card products meets sharia requirements and how it is implemented in Islamic banking. Thus, this research is expected to contribute to the development of Islamic financial products that are more in line with sharia principles and increase public awareness of the importance of sharia application in sharia finance.

METHOD

This research method uses a literature review to analyze sharia compliance in kafalah contracts and Hasanah card products in sharia banking. A literature review is a method that focuses on collecting and analyzing data from various secondary sources such as books, scientific articles, journals, official documents, and other publications relevant to the research topic. This method was chosen because it allows researchers to identify, evaluate and synthesize existing knowledge about the subject under study.

The first step in this research is to identify various relevant secondary data sources. Data sources used include scientific journals, textbooks, conference articles, theses, dissertations, research reports, and official documents from Islamic financial institutions. The main focus is looking for literature that discusses kafalah contracts in the context of sharia banking as well as case studies of Hasanah card products.

Literature selection is carried out based on several criteria, including relevance to the research topic, credibility of the source, such as publication by a reputable journal or author recognized in the field, as well as the accuracy and up-to-dateness of the data presented. Researchers used keywords such as "kafalah", "Hasanah Card", "sharia banking", "sharia compliance", and "sharia banking" in the literature search process.

After the literature is selected, the researcher collects data for further analysis. The data collected includes concepts, principles and application of kafalah contracts as well as analysis of Hasanah card products from a sharia perspective. The analysis was carried out using a qualitative descriptive approach, where researchers studied and compared various

views and findings in the literature. Researchers also analyzed the suitability of Hasanah card products with sharia principles regulated by the National Sharia Council-Indonesian Ulema Council (DSN-MUI) as well as other relevant literature. Aspects analyzed include the structure of the kafalah contract, the benefits and risks of using Hasanah cards, as well as compliance with sharia principles.

Next, the researcher synthesizes findings from various literature to provide a comprehensive picture of the compatibility of sharia in kafalah contracts and hasanah card products. Researchers also provide interpretations of the implications of their findings for sharia banking practices and the development of sharia financial products. By using a literature review method, this research is expected to provide in-depth insight into the compatibility of sharia in kafalah contracts and Hasanah card products in sharia banking. It is hoped that the results of this research can become a reference for practitioners and academics in understanding and applying sharia principles to sharia banking products and services.

RESULT AND DISCUSSION

A. Introduction

The development of financial systems under Sharia principles has become a primary focus for many countries with significant Muslim populations. One crucial aspect of Sharia-compliant financial systems is the existence of contracts that adhere to Sharia principles, such as the kafalah contract. The kafalah contract is a guarantee agreement made between the guarantor (kaafil) and the guaranteed party (maqbuul) to secure the obligations of a third party. In the context of Islamic banking, the implementation of the kafalah contract is essential as it serves as an instrument facilitating various transactions conducted by Islamic banks. However, with the continuous evolution of the financial industry and market dynamics, a comprehensive analysis of the Sharia compliance of the kafalah contract and its resultant products is necessary.

Ensuring Sharia compliance with the kafalah contract poses challenges in interpreting Sharia principles for modern financial transactions, necessitating transparent and accountable practices. Effective risk management aligned with Sharia principles is crucial, while realizing the social and economic benefits requires robust implementation. Besides, fostering collaboration among stakeholders is imperative for

addressing evolving market dynamics and ensuring the continued relevance and effectiveness of the kafalah contract in Islamic banking.

This article aims to analyze the Sharia compliance of the kafalah contract and hasanah products, focusing on the implementation of the kafalah contract in Islamic banking. Through an in-depth study, it is hoped that the extent to which the kafalah contract and hasanah products in Islamic banking comply with Sharia principles can be identified, as well as potential opportunities for improvement or further innovation to enhance Sharia compliance and effectiveness in supporting economic activities based on Islamic values.

B. Theories And Concepts

The development of financial systems in line with Sharia principles has emerged as a central concern for many nations with substantial Muslim populations. A pivotal aspect within Sharia-compliant financial systems lies in the formulation and application of contracts that adhere strictly to Sharia principles. One such contract of significance is the kafalah contract, which serves as a guarantee agreement between the guarantor (kaafil) and the guaranteed party (maqbuul), ensuring the fulfilment of obligations owed to a third party.

In the realm of Islamic banking, the implementation of the kafalah contract assumes paramount importance as it serves as a pivotal instrument facilitating a myriad of transactions within Islamic financial institutions. However, amidst the dynamic evolution of the financial landscape and the ever-changing market dynamics, a comprehensive analysis delving into the theoretical and conceptual foundations of Sharia compliance regarding the kafalah contract and its derivative products becomes imperative.

This article endeavours to undertake an exhaustive examination of the theoretical and conceptual underpinnings of Sharia compliance vis-à-vis the kafalah contract and hasanah products, with a particular emphasis on their application within Islamic banking. Through such an analysis, it aims to elucidate the extent to which the kafalah contract and associated products adhere to the fundamental tenets of Sharia, while also identifying potential avenues for refinement or innovation to bolster their Sharia compliance and efficacy in facilitating economic activities grounded in Islamic principles.

C. Analysis Of Sharia Conformity To Akad Kafalah

In analyzing the Sharia compliance of the kafalah contract, several important aspects need to be considered. First, there must be a deep understanding of the Sharia principles that underpin the kafalah contract itself. This includes understanding concepts such as justice, balance, and the prohibition of usury (*riba*).

Second, there is an evaluation of the practical implementation of the kafalah contract within the context of Islamic banking. This involves examining whether the execution of the kafalah contract has met Sharia standards in terms of transparency, accountability, and fairness in the distribution of risks among the parties involved. Third, there is an examination of the social and economic impact of the kafalah contract. This includes ensuring that the kafalah contract does not have negative effects on society or the environment, and instead, provides tangible benefits in supporting the sustainability and economic prosperity of the community.

Through this analysis of Sharia compliance with the kafalah contract, it is hoped that the extent to which the kafalah contract adheres to Sharia principles and contributes positively to the development of an economy based on Islamic values can be identified.

D. Implementation Of Akad Kafalah In Sharia Banking

The implementation of the kafalah contract in Islamic banking involves several key considerations. Firstly, it requires adherence to Sharia principles in structuring the contract, ensuring that it complies with the Islamic legal framework regarding matters such as consent, consideration, and lawful purpose. Secondly, the practical execution of the kafalah contract in Islamic banking necessitates transparency and accountability in the contractual arrangements. This includes clearly defining the roles and responsibilities of each party involved, as well as providing mechanisms for oversight and dispute resolution under Sharia principles.

The implementation of the kafalah contract in Islamic banking requires diligence in assessing and managing risks associated with the guarantee arrangement. This involves conducting thorough due diligence on the parties involved, as well as implementing risk mitigation strategies that are consistent with Sharia principles, such as avoiding excessive uncertainty (*gharar*) and speculation (*maysir*). Overall, the implementation of the kafalah contract in Islamic banking should uphold the principles of fairness, transparency, and risk-sharing inherent in Islamic finance, while also

ensuring compliance with Sharia guidelines and regulations. By doing so, Islamic banks can effectively utilize the kafalah contract as a tool for providing financial services that align with Islamic ethical and legal standards.

CONCLUSION AND SUGGESTION

Conclusion:

In analyzing the Sharia compliance of the kafalah contract and its implementation in Islamic banking, it can be concluded that alignment with Sharia principles is of paramount importance. The kafalah contract must meet standards of justice, transparency, and accountability to ensure compliance with Sharia principles. The implementation of the kafalah contract in Islamic banking must also consider risk management that aligns with Sharia principles and ensures positive social and economic impacts on the community.

Suggestion:

Based on this analysis, several recommendations can be made to enhance Sharia compliance and the effectiveness of implementing the kafalah contract in Islamic banking:

1. Strengthening understanding and awareness of Sharia principles among practitioners in Islamic banking to ensure that the implementation of the kafalah contract consistently meets Sharia compliance standards.
2. Developing guidelines and best practice standards for implementing the kafalah contract to assist Islamic banks in ensuring compliance with Sharia principles and enhancing transparency and accountability in their business processes.
3. Enhancing capacity and skills in Sharia risk management to effectively identify, measure, and manage risks associated with the implementation of the kafalah contract.
4. Encouraging collaboration among Islamic financial institutions, regulatory authorities, and academic institutions to develop in-depth research and studies on the implementation of the kafalah contract and its impact on Sharia compliance and community welfare.

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