

## CHAPTER FOUR

### FINDING AND ANALYSIS

#### A. **The Concept of *Wadi'ah* and *Murabahah* of *Baitul Maal wat Tamwil* of Universitas Muhammadiyah Yogyakarta in the *Fiqh* Perspective**

Baitul Maal wat Tamwil of Universitas Muhammadiyah Yogyakarta (BMT UMY) was established with professional and credible management principles with capable & trusted motto managed by human resources who have excellent abilities and skills in the field of Islamic microfinance institutions and are supported by a range of management, management supervisory boards and sharia supervisory boards that have managerial skills and Islamic knowledge recognized by their expertise.

Among the problems that involve a lot of community members in daily life is the problem of rulings (contract, transaction) in various fields. Because of this problem, directly involving people in society, the guidelines and their orders need to be learned and well known, so that there is no irregularities and violations that ruin the economic life and relationship of human beings. The consciousness of the people should be first embedded in each of them, before the people plunge in that activity. Religious understanding, self-control, experience, *Akhlaqul karimah* and knowledge of the subtleties of the rulings are to be mastered so as to unite in the same behavior (executor). With the presence of sharia financial institutions in this modern era is one alternative especially for Muslims who need and want to get banking services according to Islamic sharia and keep away from the

existence of *riba*. In this relation, Muslims in Indonesia have benefited Sharia banking services since the inception of Bank Muamalat Indonesia in the year 1992 which is the first Islamic Bank in Indonesia.<sup>31</sup>

In addition to the fund-raising, other functions are as a distributor of funds. channeling excess funds to the units in need. Now it is not difficult for us to meet sharia financial institutions both macro and micro among the community. BMT is one form of micro-based Sharia financial institution that can easily be found in community environment. BMT not only to raise funds and disburse public funds but can also offer banking products using Shariah principles that aim to seek profit without leaving the social soul therein.

Of the many transactions or the contract, among them is *Aqd Al-Wadi'ah* and *Aqd Murabahah*. The meaning of *Al-Wadi'ah* briefly is the custody, that is one's *Aqd* to the other by entrusted an object to be worthy of its care (as is customary things). While the meaning of *Murabahah* is buying and selling goods at the original price with additional agreed profit. In the development of sharia financial institutions are increasing both in terms of management, marketing strategy to the products and the contract therein. Therefore, this task will discuss one of the products offered by sharia finance institutions based on *Akad Wadi'ah* and *Akad Murabahah* that does not contradict sharia principles.<sup>32</sup>

### 1. The Concept of *Wadi'ah*

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<sup>31</sup> Ismail, 2010. *Perbankan Syariah*, Jakarta: Kencana, Page. 3.

<sup>32</sup> Mia Lasmi Wardiah, 2013. *Dasar-Dasar Perbankan*, Bandung: Pustaka Setia, Page. 18.

a. The definition of *Wadi'ah*

*Wadi'ah* is a contract of the person to another party by entrusted an item to be kept worthily (according to customs). Or some who interpret the *Wadi'ah* in terms of giving power to others to keep his/her estate by blatantly or with a there are cue with it.<sup>33</sup> The goods are known in the *Fiqh* language with *al-Wadi'ah*, according to the *al-Wadi'ah* is something that is placed not on the owner to be maintained, meaning that *al-Wadi'ah* is giving. The second meaning *Al-wadi'ah* in terms of language is to accept.<sup>34</sup> *Al-Wadi'ah* or known as a deposit, is a pure title from a party to another, either individual or legal entity that must be maintained and returned at any time when the pin wills. *Wadi'ah* is the granting of power by requester to the person who maintains his or her estate without compensation.<sup>35</sup> From some of the above opinions can be concluded that the *Wadi'ah* is a custody agreement on an item or another in an agreement between two or more parties. There are two *Aqd* of *Wadi'ah*, namely *Wadi'ah Yad Amanah* and *Wadi'ah Yad Dhamanah*. Basically *Wadi'ah* appears in the form of the *Yad Amanah* (hand trust) which then in its development raises the *Yad* scheme (hand of the insurer), this *Akad yad* scheme finally

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<sup>33</sup> Muhammad Syafi'i Antonio, 2001. *Bank Syariah Dalam Teori ke Praktik*, Jakarta: Gema Insani, Pge. 85.

<sup>34</sup> Abdurrahman al-Jaziri, 1969. *Al Fiqh 'Ala Mazahib al-'Arabah*, Page. 248.

<sup>35</sup> Mardani, 2012. *Fiqh Ekonomi Syariah Fiqh Muamalah*, Jakarta: Kencana, Page. 282.

much used in sharia banking and BMT applications in Funding products.<sup>36</sup>

b. The Legal Basis of *Wadi'ah*

1) *Al-Qur'an*

Based on one of the *Aqd* that aims to help each other among human beings, the *Fiqh* scholars agreed to declare that the *Wadi'ah* was prescribed and the law accepted it was Sunnah.<sup>37</sup>

The reason is the word of God in the letter An-Nisa : 58<sup>38</sup>

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا

"Indeed, Allah tells you to convey the mandate, to the right to receive it"

Another verse that can be used as the basis of the sharpness of *Wadi'ah* is *surah* Al-Baqarah : 283

فَإِنْ أَمِنَ بَعْضُكُم بَعْضًا فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمَانَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ

"But if some of you believe a part of the other, let it be that which is believed to fulfill his mandate (his debts) and let him fear his Lord God..." (Al-Baqarah: 283).<sup>39</sup>

2) *Al-Hadist*

From Abu Hurayrah RA. Said Rasulullah Saw. said: Give the mandate to the right to receive it and do not retaliate

<sup>36</sup> Humairoh Aljanah, 2016. *Implementasi Akad Wadiah di Lembaga Keuangan Syariah*, (Jakarta: PT Raja Grafindo Persada, Page. 28.

<sup>37</sup> *Ibid*, Page. 30

<sup>38</sup> Imam Mustofa, 2016. *Fiqh Mu'amalah Kontemporer*, Jakarta: PT Raja Grafindo Persada, Page. 181

<sup>39</sup> *Ibid*,

treacherous the person who has betrayed you. " (HR by Abu Dawood).<sup>40</sup>

### 3) *Ijma*

Scholars throughout the ages have made consensus or mores commonplace we know as *ijma*. The *ijma* is the legitimacy of *al-Wadi'ah* because the human needs of this matter clearly look as quoted by Dr. Azzuhaily in *Al-Fiqh al-Islami wa Adillatuhu* of book al-Mughni wa Syarh Kabir li Ibni Qudhamah and Mubsuth Li Imam Sarakhsy. That basically the beneficiary is the *Yad Amanah* (hand trust). This means that it is not responsible for any loss or damage incurred to the assets of the deposit as long as this is not the result of the negligence or carelessness in maintaining the deposit due to factors beyond the limits of capability.

This has been submitted by the Prophet in a hadith, "the guarantee of accountability is not required from borrowers who do not misuse (loans) and recipients of deposits that are not negligent to the deposit." But in the activity of the modern economy, the receiver is unlikely to be able to suffer the asset but use it in certain economic activities. Therefore, he had to ask permission from the giver to then use his wealth with the record he guaranteed to return the asset in its entirety. Thus, it is no

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<sup>40</sup> Adiwarmarman A. Karim, 2013. *Bank Islam Analisis Fiqih Dan Keuangan*, Jakarta: Raja Grafindo Persada, Page. 94

longer a *yad-amanah* but the *Yad-dhamanah* (hand of the insurer) responsible for any loss or damage incurred in the goods.<sup>41</sup>

The basis of *ijma*, the scholars agreed to be allowed *Wadi'ah*. It includes Sunnah. In the book of Mubdi is mentioned "*Ijma* in every period of time allowing *Wadi'ah*". In the book of Ishfah mentioned "The scholars agree that the *Wadi'ah* includes the Sunnah of worship and keep the deposit is rewarded.<sup>42</sup>

In the BMT UMY only used *aqd wadi'ah yad adh dhamanah*, because in the activity of the modern economy, the beneficiary will not likely have the asset, but use it in certain economic activities. Therefore, they have to ask permission from the giver to then use his wealth with the record he guaranteed to return the asset in its entirety. So BMT UMY used *wadi'ah yad dhamanah* (hand of the insurer) responsible for any loss or damage incurred in the goods.<sup>43</sup>

## 2. The Concept of *Murabahah*

### a. The definition of *Murabahah*

*Murabahah* is a masdar of the word *rabaha-yurabihu-Murabahatan* which means mutual benefit.<sup>44</sup> *Murabahah* buying and

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<sup>41</sup> Siti Nurhayati Wasilah, 2015. *Akuntansi Syariah Di Indonesia*, Salemba Empat: Jakarta, Cet. 4, Page. 254.

<sup>42</sup> Abdullah bin Muhammad ath-Thayyar, 2009. *Ensiklopedia Fiqh Muamalah dalam Pandangan 4 Mazhab*, Yogyakarta: Maktabah al-hanif, Page. 390.

<sup>43</sup> Mardianti Siwi Purnami S.EI as the manager operational of Baitul Maal wat Tamwil of Universitas Muhammadiyah Yogyakarta

<sup>44</sup> Ibnu Abidin, 2016. *Sebagaimana dikutip oleh Imam Mustofa*, Fiqih Mu'amalah Kontemporer, Jakarta:Rajawali Pers, cet.1, Page.65

selling is the transfer of ownership with contract and initial price with additional profit.<sup>45</sup>

Buying and selling *Murabahah* is legal, when one buys an item at a price of one hundred dirhams and I sell you, I take the profit of one dirham every ten of the Dirham. *Murabahah* according to the language of the word Raabaha which is the root said Rabaha meaning additional. In the sense of fuqaha, the sense of *Murabahah* is to buy and sell goods at the price of goods acquisition with additional profit agreed between the seller and the buyer of the goods. *Murabahah* is a trustworthy form of buying and selling.<sup>46</sup> The visible difference from the *Murabahah* buying and selling is that the seller must reveal the price of the goods and then there is a profit negotiation that finally agreed on both sides. In principle, the willingness of both sides is an important element in the *Murabahah* process.<sup>47</sup>

*Murabahah* in the term *Fiqh* is *Akad* buy and sell on certain goods where the seller clearly mentions the goods sold in the price of purchase and the profit that is traded, while the *Murabahah* in the technical banking is *Akad* buy and sell between the bank as the provider of the goods with the customer who ordered to buy the goods. The formulation of the agreement indicates that a treaty shall

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<sup>45</sup> *Ibid*, Page. 66

<sup>46</sup>Yahya bin Sharf al-Nawaw, "Ekonomi Syari'ah: Tinjauan Kritis Produk Murabahah dalam Perbankan Syari'ah di Indonesia" *Jurnal La Riba* Vol. I, No. 2, Page.189. (Desember 2007)

<sup>47</sup> Rifqi Muhammad," Produk Murabahah Solusi Bebas Transaksi Riba Dalam Lembaga Keuangan Syari'ah", *Jurnal Ummul Qura* Vol 5, No 1, (Maret 2015) Page.102

constitute the agreement of both parties to bind itself to the deed to be performed in a particular matter.<sup>48</sup>

Based on language *Murabahah* is form of mutual (*meaning: mutual*) derived from the Arabic language, namely *AR-ribhu* which means excess and additional (profit). So, *Murabahah* is interpreted by mutual increase (profitable). While in the definition of the former scholars are buying and selling with the original capital plus the known profit. The fact is that selling goods with a price (capital) that is known to the seller and the buyer with additional clear profit. So, *Murabahah* means mutual benefit. In *Fiqh Science*, *Murabahah* is interpreted to sell with the original capital together with the additional obvious profit.<sup>49</sup>

Based on terminology, the meaning of *Murabahah* is the purchase of goods with deferred payment (1 month, 2 months, 3 months and on according to agreement). *Murabahah* financing is given to customers in order to fulfill their inventory needs. Muhammad Syafi'i Antonio quoting Ibn Rusyd, said that *Murabahah* is buying and selling goods at the original price with additional agreed profit. In this contract, the seller must tell the price of the product he purchased and determine the level of profit in addition.<sup>50</sup>

b. The legal basis of *Murabahah*

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<sup>48</sup> Lina Maulidiana, "Penerapan Prinsip-Prinsip Murabahah Dalam Perjanjian Islam", dalam Jurnal Keadilan Progresif, Vol 3 No.2, (September 2012) Page.158

<sup>49</sup> Abdullah, "Kontrak Pembiayaan Murabahah dan Musawamah", *Jurnal Bisnis*, Vol.3 No.2 (Desember 2015), Page. 292

<sup>50</sup> *Ibid*,



### 1) Al-Qur'an

*Murabahah* is clearly part of the buying and selling permissible. Based on this, the legal basis of buying and selling *Murabahah* is allowed based on the buying and selling verses. Among these verses are:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

"God has driven buy and sell and prohibition of usury". Al-Baqarah : 275

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ  
تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ

"O Those who have believe, ye shall not eat one another's possessions with the way that is vanity, except with the business path of the prevailing with such a love among you. And do not kill yourselves; Indeed, Allah is the most merciful to you". An-Nisa : 29

### 2) Al-Hadits

روي عن ابن مسعود رضي الله عنه أنه كان لا يرى بائعده يز دهوره وده دوازده , أي كل عشرة ربحها درهم، وكل عشرة ربحها درهمان

"It is narrated from Ibn Mas'ud that he does not look at the problem of buying and selling done by counting every ten profit of one or two dirhams".

A history from Ibn Mas'ud mentions that it can buy and sell by taking advantage of a single dirham or two dirhams for every ten dirham of the underlying price. In addition, the transaction using the sale and purchase contract of *Murabahah* has become an urgent necessity in life. Many benefits are produced, both for those who are traders or not.<sup>51</sup>

### 3) *Al-Ijma*

This transaction has been practiced in various centuries and places without any of them, this means that the scholars approved it (Ash-Shawy, 1990, Page. 200).

### 4) The rule of *Fiqh*

الأَصْلُ فِي الْمَعَامَلَاتِ الْإِبَاحَةُ إِلَّا أَنْ يَدُلَّ دَلِيلٌ عَلَى تَحْرِيمِهَا

"Basically, all forms of rulings can be done unless there is a proposition that imposes it."

## **B. Sharia Compliance of *Aqd wadi'ah* and *Aqd Murabahah* of Baitul Maal wat Tamwil Universitas Muhammadiyah Yogyakarta Based on *Fatwa DSN-MUI***

BMT UMY is a sharia financial institution incorporated as a cooperative, therefore BMT UMY uses Law number 25 of 1992 concerning cooperatives, to become a customer of BMT UMY is required to pay mandatory savings and main savings. BMT and Islamic cooperatives are part

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<sup>51</sup> Wahbah az-Zuhaili, "Pembiayaan Murabahah Dalam Perspektif Islam", *Jurnal Syaikhuna* Vol. 10 No 2 (Maret 2015), Page.155

of the model of Islamic microfinance institutions (LKMS). Both of them provide services to the community at the lower middle level, namely by providing financing on a micro (small) scale. The current problems at BMT UMY is in their legal legality.

The reality that has happened so far the legality of the existence of BMT does not yet have a clear legal basis. The legal draft of LKMS which can be expected to become the legal for BMT so far has not yet been clarified. If the draft LKMS law has been ratified, then the existence of BMT can be attached to the LKMS Law.

BMT has the legal status of a cooperative. BMT which is incorporated as a cooperative in carrying out its business activities in the form of collecting funds and channeling it refers to the rules of Law No. 25 of 1992 concerning Cooperatives, Republic of Indonesia PP No. 9 of 1995 concerning the Implementation of Savings and Loan Business Activities by cooperatives, Decree of the State Minister for Cooperatives and Small and Medium Enterprises Number 91/Kep/M.KUKM/IX/2004 concerning Syari'ah Financial Services Cooperative Business Implementation Guidelines.<sup>52</sup>

Seeing the conditions above, BMT UMY is not considered an illegal financial institution but it operates with a cooperative legal entity; that is by registering its operations to the Office of Cooperatives and Small and Medium Enterprises (SMEs) at the Regency or Municipality level. So, it can be called the cooperative as a "clothes" and BMT UMY as a "body". In

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<sup>52</sup> Fadillah Mursid, "Kebijakan Regulasi Baitul Maal Wat Tamwil (Bmt) Di Indonesia" *Jurnal Kajian Syariah dan Masyarakat*, Vol. 18, No. 2, (Desember 2018), page 10

addition to using the cooperative law, BMT UMY uses the MUI DSN *fatwa* to adjust the products owned by BMT UMY. BMT UMY must confirm earlier the *fatwa* in the MUI DSN, if the product is contrary to the MUI DSN *fatwa*, the product cannot be publicized. Therefore the products of UMY BMT products must be in accordance with the *fatwa* DSN MUI.

For the products, there are savings and funding, for savings, namely *wadi'ah yad adh dhamanah*, the community needs to improve prosperity and in the storage of wealth, at the present time, it requires banking services and one of the BMT UMY products in the field of collecting funds from the public is savings, which is a deposit of funds which can only be made according to certain agreed conditions, but cannot withdrawn by check, demand deposit, and / or other means that are equalized, saving activities cannot all be justified by Islamic law (sharia).

Therefore, the DSN sees the need to establish *fatwa* about the forms of mu'amalah syar'iyah to be used as a guideline in the implementation of savings in Islamic banks,<sup>53</sup> so BMT UMY must be in accordance with the *fatwa* of national sharia board No: 02/DSN-MUI / IV/2000, and for the financing products, namely buying and selling *Murabahah*, that many people need assistance in channelling funds from BMT based on the principle of buying and selling, and in order to help the community to carry out and improve welfare and various activities, BMT UMY need *Murabahah* facilities for those who need it, namely selling an item by confirming its

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<sup>53</sup> *Fatwa* of National Sharia Council-Indonesia Ulema Council (DSN-MUI), *Op. Cit*, General Provision.

purchase price buyers and buyers pay it at a price that is more as profit. As consequences, the DSN considers it necessary to stipulate a *fatwa* on *Murabahah* to be used as a guideline by Islamic banks,<sup>54</sup> so *Murabahah* contract in BMT UMY must be in accordance with *fatwa* national board of sharia No: 04/DSN-MUI/IV/2000 on *Murabahah*.

### **1. Compliance of the *Aqd* (contract) with *Fatwa* DSN-MUI**

BMT UMY only used *aqd Wadi'ah Yad adh dhamanah* in *Wadi'ah* savings, because BMT UMY will manage its funds and use it in certain economic activities. Therefore, he had to ask permission from the giver to then use his wealth with the record he guaranteed to return the asset in its entirety. Therefore, BMT Umy uses *aqd Wadi'ah yad adh dhamanah* (hand insurer) who is responsible for any loss or damage incurred in the goods.

#### **a. Compliance of the *Aqd Wadi'ah* with Sharia Principles Based on *Fatwa* NO: 02/DSN-MUI/IV/2000 on Saving**

*Wadi'ah Yad adh Dhamanah* agreement is a transaction of depositing funds or goods from customers to BMT UMY with an obligation for BMT UMY as the party that saves to return funds or deposited goods at any time. In the implementation of the contract, the parties must follow everything mentioned in the contract when they filled out the form. The parties carry out the contract, then the partner receives the account number recorded in the deposit book. After that,

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<sup>54</sup> *Ibid*, General Provisions

the partner makes an initial deposit, then the finally partner carries out deposit and withdrawal transactions.

According to *fatwa* NO: 02 / DSN-MUI / IV / 2000, it is explained that Savings that are not justified in *shar'i* that is savings based on interest calculation. Justified savings are savings based on *Mudharabah* principles and *Wadi'ah*.

General Conditions of Savings based on *Wadi'ah* are;

#### 1. Savings.

*Wadi'ah Yad adh Dhamanah* at BMT UMY is in the form of deposits, *wadi'ah* deposits of savings from the Customer with a minimum deposit of *Wadi'ah* deposits of Rp. 10,000 rupiah.<sup>55</sup> To carry out *wadi'ah* savings, the transactions can be done every day. As explained in Article 1 in the *wadi'ah yad adh dhamanah* contract, the *wadi'ah yad adh dhamanah* contract is a transaction of depositing funds or goods from customers to BMY UMY with the obligation for BMT UMY as the party to deposit funds or safekeeping at any time.

#### 2. Deposits can be taken at any time (on call) or based deal.

*Wadi'ah Yad adh Dhamanah* contract never limits customers to take the savings, based on article 7 and article 9 of the Aqd *Wadi'ah Yad adh Dhamanah* contract, deposits can be taken at any time (on call) or in accordance with the agreement. So besides being

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<sup>55</sup> Mardianti Siwi Purnami S.EI as the manager operational of Baitul Maal wat Tamwil of Universitas Muhammadiyah Yogyakarta on April 12<sup>th</sup> 2019

able to be taken during the operational hours, BMT UMY and customers can also make an agreement when savings can be taken by customers. In withdrawal contracts, partner deposits have the right to withdraw *Wadi'ah Yad adh Dhamanah* savings during the operational hours of BMT UMY.<sup>56</sup> Withdrawing all deposit balances means closing the account. In the contract, the BMT is also obliged to return all savings when withdrawn, as explained in the *fatwa*.

3. There is no required imbalance, except in form giving ('athaya) which is voluntary from the BMT.

BMT UMY never gave or made an agreement to provide compensation when a customer made a *Wadi'ah Yad adh Dhamanah* savings contract. As explained in the Article 8 of Akd *Wadi'ah Yad Dhamanah* In the contract that the *Wadi'ah Yad adh Dhamanah* savings contract is not promised to give gifts or bonuses to the customers as stipulated in the *fatwa* MUI which explain there is no compensation required except prizes ('athaya) which are voluntary from the BMT UMY.

In the *wadi'ah* contract, the term of the contract is as long as the *Wadi'ah Yad Dhamanah* as long as the eposit account is still active, and the amount of money transacted and recorded in the partner's *Wadi'ah Yad adh Dhamanah* deposit account, in the BMT UMY contract is given permission by the partner to manage funds

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<sup>56</sup> Brochure of BMT UMY on *simpanan*, distributed on May 16<sup>th</sup> 2019

deposited in a lawful manner in accordance with sharia principles, BMT UMY guarantees and is fully responsible for the security of these funds.

To solve the problem in implementing the *Wadi'ah Yad adh Dhamanah* contract if a problem occurs, the parties agree to resolve it by deliberation to reach a consensus subject to sharia provisions, if there is no consensus then the parties agree to settle it in the legal sharia court where the *aqd* is signed or another court or the third party is believed to be the breaker agreed upon by the parties.

Based on the analysis above, it can be concluded that the contract of *wadi'ah* is compliant with sharia principle because it is in accordance with the regulations, that is *fatwa* No: 02/DSN-MUI/IV/2000 on saving.

**b. Compliance of the *Aqd Murabahah* with Sharia Principles Based on *Fatwa* DSN No. 04/DSN-MUI/IV/2000 on *Murabahah***

To measure the compliance of the *Aqd Murabahah* with sharia principle, *fatwa* DSN is explained first,

- 1) *Fatwa* DSN is related to General Provisions for *Murabahah*:
  - a) According to *fatwa* DSN, the bank and the customer must make a contract that is free of usury. In this regard, I found BMT UMY does not use usury devices' in the *Murabahah* Agreement. This is in accordance with the *Fatwa*.



- b) According to *fatwa* DSN, goods that are traded are not prohibited by the Islamic Sharia. As explained by the manager operational of BMT UMY, BMT UMY approved the application financing for types of goods that do not deviate from Islamic sharia.<sup>57</sup> This is in accordance with the *Fatwa*.
- c) According to *fatwa* DSN, the bank or BMT finances part or all of the purchase price of goods whose qualifications has been agreed. Based on my research BMT UMY fully finance of the purchase price of goods and ask for advances to customers who apply for financing, and this qualification has been agreed.<sup>58</sup> This is in accordance with the *Fatwa*.
- d) According to *fatwa* DSN, the bank or BMT buys goods needed by the customer on behalf of the bank own. In this regard, I found BMT UMY buys goods needed by its customers on behalf of BMT UMY itself.<sup>59</sup> This is in accordance with the *Fatwa*.
- e) According to *fatwa* DSN, the bank delivers all matters relating to the purchase. In this BMT UMY, everything relating to purchases to its customers, for example if purchases are made in debt. This is in accordance with *Fatwa*.
- f) According to *fatwa* DSN, the bank sells goods to customers by conveying the selling price worth the purchase price plus the

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<sup>57</sup> Mardianti Siwi Purnami S.El, *Op.Cit*

<sup>58</sup> Iin Puspitasari, the student of UMY as the customer of BMT UMY, Interview result, May 15<sup>th</sup>, 2019 2.12pm

<sup>59</sup> Brochure of BMT UMY on *pembiayaan*, distributed on 16<sup>th</sup> 2019

profit. Based on the *Aqd of Murabahah* BMT UMY gave details of price costs purchase of goods plus profit margins to its customers clearly and honestly. This is in accordance with the *Fatwa*.

g) According to *fatwa* DSN, the customer pays the price of the agreed upon an item for a certain period of time. BMT UMY provides a period of time instalment settlement to its customers in accordance with the agreement with how long monthly payment period according to the initial agreement. This is in accordance with the *Fatwa*.

h) According to *fatwa* DSN, the bank makes a special agreement with the customer if abuse or damage to the contract. BMT UMY does not enter into special agreements at the beginning of the contract if there is an abuse of the contract or damage to the contract at a later time. This is not in accordance with *Fatwa*.

2) *Fatwa* DSN concerning *Murabahah* Provisions to Customers:

a) According to *fatwa* DSN, the customer submits an application and promises to purchase an item to the bank or BMT. BMT customers come to BMT UMY and submit an application for *Murabahah* financing to BMT UMY, and complete the required documents. This is in accordance with the *Fatwa*.

b) According to *fatwa* DSN, if the bank accepts the request, the bank must first buy the assets ordered to the trader legally. BMT UMY

has received an order for customers, it will immediately buy the assets that have been ordered. this is in accordance with the *fatwa*

c) According to *fatwa* DSN, the bank then offers the asset to the customer and the customer must receive (buy) it in accordance with the agreement he has agreed to because legally the promise is binding; then both parties must make a sale and purchase contract. BMT UMY offers assets that have been purchased by BMT UMY customers, and customers must receive and buy according to the agreement made from the beginning, then BMT UMY and customers must make a sale and purchase contract.

d) According to *fatwa* DSN, in this sale and purchase the bank is allowed to ask customers to pay down payment when signing the initial order agreement. BMT UMY requested advance payment on goods items purchased by customers. Like a laptop, BMT UMY requested at least 20% of the price of the item and agreed by the customer. This matter has been in accordance with the *Fatwa*.

### 3) *Fatwa* DSN concerning Guarantees in *Murabahah*:

According to *fatwa* DSN, *Murabahah* guarantees are allowed so that customers are serious about their orders, banks can ask customers to provide guarantees that can be held. BMT UMY asked for assurance from its customers, namely blocking the key

in UMY Study Plan Card (KRS). This is in accordance with the DSN *Fatwa*.

4) *Fatwa* DSN on *Murabahah* Debt:

- a) According to *fatwa* DSN, in principle, the settlement of customer debt in *Murabahah* transactions has nothing to do with other transactions carried out by customers with third parties on the goods. If the customer resells the item with a profit or loss, he is still obliged to settle the debt to the bank. If the customer sells the item before the instalment period ends, he is not obliged to immediately pay off the entire instalment. If the sale of the item causes a loss, the customer still has to settle the debt according to the initial agreement. It may not slow down instalment payments or request that the loss be calculated.

The resale of *Murabahah* goods by BMT UMY customers before the instalment period ends is permitted as long as BMT customers of UMY continue to pay the remaining instalments to BMT UMY. If the sale of the item causes a loss, then BMT customers of UMY still have to settle their debt to BMT UMY. This is in accordance with the *Fatwa*.

5) DSN *Fatwa* concerning Postponement of Payment in *Murabahah*:

Customers who have the ability, are not allowed to delay settlement of his debt. If a customer postpones payment deliberately, the settlement was carried out through the Syari'ah Arbitration Agency

after not reaching an agreement through deliberation. In the implementation of this contract, if a problem occurs, the parties agree to resolve it by means of deliberation to reach consensus.

BMT UMY will hold a deliberation first with customers who intentionally delay payment of *Murabahah* instalments. If it does not reach an agreement, the BMT will submit the resolution of the problem through the religious court. This is not in accordance with the *Fatwa*, because BMT UMY conducted its final settlement in the religious court, but according to the *fatwa*, the final resolution was through Islamic arbitration.

6) DSN *Fatwa* concerning Bankruptcy in *Murabahah*:

If the customer has been declared bankrupt and failed to settle his debt, the bank must postpone the debt bill until he becomes able to return.

BMT UMY will provide a warning letter from stage one to stage three and if the permanent customer cannot pay then the BMT will make a reprimand, and if a warning letter has been submitted but has not yet been resolved it will be settled by a notary public and if the customer does not provide instalments at all there is no communication, there is no good faith, then it will be through legal channels, which will be registered in the religious court.<sup>60</sup> This is in accordance with the *fatwa*.

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<sup>60</sup> Mardianti Siwi Purnami S.EI, *Op.Cit*

From the results of interviews, whether the *Murabahah* financing products for students at BMT UMY are in accordance with the Islamic Sharia, from the BMT UMY it has been explained that BMT UMY is in accordance with Islamic sharia because it uses a sale and purchase contract, in Islamic contract buying and selling is allowed as long as both parties are not feel disadvantaged, and the agreement is approved by both sides. BMT UMY before making a financing contract BMT UMY explains what products are taken by the customer, and stated what the selling price is determined by BMT UMY from the original selling price of the item. After customers understand and agree that the contract will be carried out the financing.

Based on the analysis above, it can be concluded that the contract of *Murabahah* is compliant with sharia principle because it is in accordance with the regulations, that is *fatwa* No 04/DSN-MUI/IV/2000 on *Murabahah*.

## **2. Sharia Compliance of the Implementation of the *Aqd***

Sharia compliance is the most important factor in the concept and operation of Islamic financial institutions. This is because sharia compliance is an absolute requirement that must be met by financial institutions that run businesses based on sharia principles. It is expressly stated that sharia compliance is a deterrent reason for BMT institutions. Shariah compliance is fulfilled in fulfilling all sharia principles in all

activities carried out as a manifestation of the characteristics of BMT. The adherence of BMT UMY to sharia principles is judged by conformity with the *fatwa* and MUI, the National Sharia Council - the Indonesian Ulema Council (DSN-MUI) was formed in order to realize the aspirations of Muslims regarding economic problems.<sup>61</sup>

BMT compliance with sharia services are the core of BMT integrity and credibility so that in carrying out transactions between BMT and customers or third parties, they remain core to sharia. The existence of the BMT is intended for Muslim communities who want to convert Islam perfectly (kaffah) including in terms of fund management through BMT. Trust and confidence in BMT are based and maintained through the implementation of the principles of Islamic law adapted through the operational rules of the institution. Without compliance with sharia, the community will lose confidence in the BMT and will exacerbate the image of the BMT as an Islamic microfinance institution, thus threatening the existence of the BMT itself.<sup>62</sup>

BMT as a sharia micro-economic institution in its implementation must also follow Islamic sharia rules. So that in the application that must be considered include: First, keep away from the element of usury. This can be done, among others, by avoiding the use of the percentage system

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<sup>61</sup> DSN MUI, "Memasyarakatkan ekonomi syariah dan mensyariahkan ekonomi masyarakat" Available on <https://dsnmui.or.id/>, accessed on May 14<sup>th</sup> 2019 11.12am

<sup>62</sup> Febri Eka, "Kajian Terhadap Kepatuhan Syariah Baitul Maal wa Tamwil (BMT) di Daerah Istimewa Yogyakarta" Available on <https://law.ugm.ac.id/kajian-terhadap-kepatuhan-syariah-baitul-maal-wa-tamwil-bmt-di-daerah-istimewa-yogyakarta/>, accessed on May 16<sup>th</sup> 2019 9.56 pm

to impose costs on debt or giving rewards for deposits containing elements of multiplying debt/savings only because of the running of time. Second, implementing a profit sharing and trade system. This is done by referring to the Qur'an Surat al-Baqarah verse 275 and Al Nisa 'verse 29.<sup>63</sup> In every shari'ah institutional transaction, it must be based on a system of profit sharing and trade, or the transaction is based on the exchange of money with goods, which will encourage the production of goods/services, encourage the flow of goods/services, and avoid misuse of credit, speculation and inflation.<sup>64</sup>

The operational of the Baitul Mal wa Tamwil (BMT) in UMY, both in raising funds and channelling them to the public, more or less contained aspects of economic empowerment for the people. In collecting funds, BMT does this by picking up the ball. This actually teaches the community to set aside funds to save. However, when a person has funds deposited in a financial institution, let alone invested later, it will reduce his household's vulnerability to external risks and shocks and result in a decrease in the vulnerability of family consumption. The collection of funds made by the BMT is one form of mobilization of savings from customers or the community, which in the end the benefits will be felt by themselves. This is as stated in the basic objectives of credit cooperatives, namely to increase savings for customers, provide opportunities for

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<sup>63</sup> Moch. Khoirul Anwar. "Operasional Baitul Mal Wa Tamwil (Bmt) Dalam Pemberdayaan Ekonomi Umat Di Kabupaten Sidoarjo". *Jurnal Akuntansi*, Vol. 4 No. 2 (Januari 2013)

<sup>64</sup> Muhammad, 2000, Lembaga-Lembaga Keuangan Kontemporer, Yogyakarta: UII Press, Page.



themselves or others to use funds from these savings with various facilities, and educate customers in managing their money and streamline the collection of limited resources.

The operational principle of BMT UMY is based on the principle of profit sharing, buying and selling, and deposit (*wadi'ah*). even though it is similar to an Islamic bank, it can be called as the forerunner of an Islamic bank, BMT UMY has its own market share, namely small communities that are not affordable banking services and small business actors who experience "psychological" obstacles when dealing with banks and BMT UMY also provides loans and financing facilities for students, employees, and all customers of the Muhammadiyah University in Yogyakarta. According to Mardianti Siwi Purnami S.EI<sup>65</sup>, she explains that *Baitul Maal wat Tamwil* of Universitas Muhammadiyah Yogyakarta had carried out its operations in accordance with sharia principles, because before BMT UMY issued a product management supervisory board had a direct discussion with the MUI, and establish that product with approval from MUI.

**a. Sharia Compliance of the Implementation of the *Aqd Wadi'ah Yad***

***Dhamanah***

The operational of the implementation of Akad *Wadi'ah Yad Dhamanah* with customers, based on results of interviews with BMT customers, the operational implementation is in accordance with what

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<sup>65</sup> Mardianti Siwi Purnami S.EI as the manager operational of Baitul Maal wat Tamwil of Universitas Muhammadiyah Yogyakarta

has been stated in the *Wadi'ah* agreement and the *fatwa* of the National Shariah Council of the Indonesian Ulema Council. Operations that occur in the field do not deviate from the agreed rules. When BMT UMY's operating hours are open, BMT UMY has served well and immediately provides partner savings. In this *Wadi'ah Yad Dhamanah* savings account the BMT also does not provide the reimbursement that is required a guarantee that the customer deposit balance on the *wadi'ah* savings product will not decrease. BMT UMY also always reminds its customers when they are due, and BMT UMY will also provide time relief when customers get problems regarding instalment payments, the customers felt helped by the existence of *Murabahah* products at BMT UMY because customers felt their desires had been fulfilled easily without feeling burdened.<sup>66</sup> So that the *wadi'ah* contract implemented at BMY UMY is in accordance and not contrary to the *Fatwa* DSN No 02/DSN-MUI/IV/2000 about *Wadi'ah*.

**b. Sharia Compliance of the Implementation of the *Aqd Murabahah***

BMT UMY uses a sale and purchase contract in the *Murabahah*, In Islam, the contract of sale and purchase is permissible as long as both parties do not feel aggrieved, and the agreed agreement is agreed upon by both parties. The activity of BMT UMY always deliberates to each customer so that no one is harmed, and

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<sup>66</sup> Iin Puspitasari, *Op.Cit*

always obeys the *fatwa* that has been regulated by the MUI. From the explanation of BMT UMY customers before making a financing contract, first explain what product the customer has taken, and what the price is selling determined by BMT UMY from the original selling price of the item. After the customers understand and agree, the financing agreement process will be carried out. In this *Murabahah* sale and purchase agreement, it has been explained that the purchase price of goods and profits must be open between BMT UMY and customers, and in its application, customers feel that everything is in accordance with the agreement previously made, in accordance with the *Murabahah* agreement, BMT UMY never raises the price goods or profits that have been agreed upon, BMT UMY has also never asked for any additional fees in accordance with the contract agreement, so the activities carried out by BMT UMY have so far been in accordance with sharia principles and MUI *fatwas*.

Based on interviews with BMT UMY customers, customers were satisfied with the service at BMT UMY, because BMT UMY cared about its customers, when customers had problems in transactions, BMT UMY was responsive in responding to the problems of its customers, BMT UMY also reminded customers when payment *Murabahah* financing for students will be due, when the customer cannot pay within the stipulated period BMT UMY gives relief to customers in paying the instalment. BMT UMY asked the

customers what caused the customer to be unable to pay the installments on the date agreed upon between BMT UMY and customers.<sup>67</sup>

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<sup>67</sup> *Ibid*,