

ANALYSIS OF THE FATWA MECHANISM OF DSN-MUI APPLICATION NO. 29 / DSN-MUI / VI / 2002 HAJJ CREDIT FINANCING IN ISLAMIC FINANCIAL INSTITUTIONS

(Case Study: PT. BPRS Amanah Ummah Leuwiliang Bogor)

Sinta Paramita, Ibdalsyah, Hilman Hakiem

Ibn Khaldun Bogor University of Indonesia

ABSTRACT

Fatwas authority on sharia economy in Indonesia is under the National Sharia Council of Majelis Ulama Indonesia (DSN-MUI). The existence of DSN-MUI outside the central bank structure makes the fatwa authority independent, more credible and nationally recognized in issuing decisions and fatwas related to sharia issues faced by banks and other Islamic financial institutions. In some sharia banks there are different practices. Especially for the management of pilgrimage involving many sectors in it how compliance with the fatwa which has been determined by the National Sharia Council. Though banks are basically not only as a place to seek profit or invest for this world alone but as a way to get closer to Allah SWT. This research will examine the application of Fatwa DSN-MUI No.29 / DSN-MUI / VI / 2002 about Hajj Credit Financing by Islamic Finance Institutions at PT. BPRS Amanah Ummah Leuwiliang Bogor. Research use qualitative approach method with type of qualitative empirical research. The results from this study are administration service of pilgrimage and hajj credit financing on cost of hajj travel in BPRS Amanah Ummah for both features and product details based on sharia is permitted in accordance with the Fatwa DSN-MUI. 29 / DSN-MUI / VI / 2002 about Hajj credit financing in Islamic financial institution. PT. BPRS Amanah Ummah is expected to seek a better system, modern and practical in packing this product. Thus, it can attract prospective customers or prospective pilgrims.

Keywords: Fatwa DSN-MUI, Hajj Financing, Islamic Finance Institutions

1. Introduction

Hajj is one part of the fifth pillar of Islam which not only aims to increase Taqwa and spiritual value, but in operation and management also save great economic potential. This potential is seen in the management of Hajj involving several industrial, trade and services sectors. According to the results of the population census in 2010, 87.18% of Indonesia's

237,641,326 people are Muslims.¹ Every year, Indonesia sends pilgrims. According to the former Director General of Hajj and Umrah of the Ministry of Religious Affairs, Anggito Abimanyu, hajj quota in 2014 is 155,200 for regular hajj and 13,600 special pilgrims.² In total then the number of hajj quota in 2014 amounted to 168,800 people. The quota of pilgrims established by Saudi Arabia for Indonesia in 2015 amounted to 168,800 people. The amount is equal to the number of pilgrims last year.³

The Ministry of Religious Affairs is currently in the process of completing regulations regarding obligation of doing Hajj once in a lifetime and it is predicted to be completed by April 2015. However, the regulation has been implemented since last year. It has the support of the Fatwa Member of Indonesian Council of Ulama (MUI). However, the interest of Muslim Indonesia to fulfill the pillars of Islam is still high. This can be seen from the number of hajj quota in 2014. The desire of pilgrimage is not only owned by Muslims with a mature financial ability, but also by Muslims with less income levels.

Therefore, it becomes the main reason why many conventional banks open the Sharia Business Unit (UUS) or open a Sharia (BUS) Bank which is separated from the parent company. Islamic bank continues to strive to improve services to the communities; one of them is with the diversity of products offered. The products offered by Islamic bank include financing products, fund raising, and services. All products are intended to serve the needs of the community. The desire to fulfill the hajj of the Muslims in Indonesia inspires Financial Institutions (LKS) to provide solutions by creating a product which can realize the wishes of prospective Indonesian pilgrims with the product of Hajj credit financing. This financing product uses Qardh wal Ijarah principle. Qardh wal Ijarah is a loan agreement from a bank for customers accompanied by the assignment of the bank to keep the collateral stored, in a sense, the bank that is guaranteed by the customer (Antonio : 2001) . This financing product is a good prospect product because many Muslims are eager to perform the pilgrimage but will always be faced with the cost problem which is very expensive therefore the role of

¹ Access from http://id.wikipedia.org/wiki/Agama_di_Indonesia. date 28 March 2015 time 09.45 WIB

² Access from <http://www.antaranews.com/berita/422793/kuota-haji-tahun-2014-berkurang-40-persen>. date 28 March, time 10.01 WIB

³ Access from <http://www.tempo.co/read/news/2015/03/22/173651877/Jadwal-Sudah-Ditentukan-Ini-Kuota-Haji-Indonesia-2005-2015>. date 28 March 2015 date 10.22 WIB

sharia banking is very crucial here. Bank is not only as a place to seek profit or to invest for world life alone but as a way to get closer to Allah SWT.

Hajj credit financing basically using qardh wal ijarah contract, qardh financing is a loan of good / soft without reward (Ascarya: 2007). Is this type of financing in accordance with the principle, it is known that the bank is one of the profit institutions which always take advantage on every transaction they executed, then from where the bank get profit from this type of financing. Therefore, DSN feels it necessary to stipulate a fatwa on hajj financing as aguideline for Islamic banks. General provisions for hajj financing by Islamic financial institutions listed on Fatwa DSN-MUI No. 29 / DSN-MUI / VI / 2002 are:

1. In the administration service of pilgrimage for customers, LKS can obtain service rewards (ujrah) by using al-ijarah principle according to Fatwa DSN-MUI Number 9 / DSN-MUI / IV / 2000.
2. If necessary, LKS may assist in financing BPIH customers using al-qardh principles in accordance with the Fatwa DSN-MUI Number 19 / DSN-MUI / IV / 2001.
3. Hajj administration services performed by LKS shall not have a condition to give hajj credit financing.
4. Major fees for al-ijarah services should not be based on the amount of al-qardh given by LKS to customers.

In some Islamic banks there are different practices from the fatwa issued by DSN-MUI on hajj credit financing of Islamic financial institutions. Among them is ujroh borne by customer for more than one time. Though the bank is not a place to seek profit or investment of this world alone but will be a way to get closer to Allah SWT. Especially for the pilgrimage involving many sectors in it how compliance with the fatwa which has been determined by the National Sharia Council. Discussing the fatwa of DSN No.29 concerning Hajj credit financing by LKS when it is examined through ushul fiqh perspective, attitude taken by National Sharia Council is based on li al-maslahah al-mursalah principle(Considering cost and benefit)(Wangsawidjaja: 2012). But the things to be emphasized here is that the person remains in the corridor of istitha '(capable or affordable) to pay it off in an agreed time, because if he only relies on the desire alone without the ability to

pay off, he has forced himself (not with sincerity) Whereas worship must be carried out sincerely and in accordance with the ability.

Due to that the authors are interested to examine the Analysis of Implementation Mechanism of Fatwa DSN-MUI. 29 / DSN-MUI / VI / 2002 Concerning Hajj Credit Financing of Sharia Financial Institution (Case Study: PT BPRS Amanah Ummah Leuwiliang Bogor).

2.Theoretical Basis

2.1 Hajj

In etymology Hajj comes from the Arabic al-hajj which means visiting or coming. In fiqh terminology, pilgrimage is defined as a journey of visiting the Ka'aba to perform certain worship. Or travel to the Ka'bah in certain months to perform thawaf, sa'i, wukuf, and other rituals to fulfill Allah's call and expect His pleasure (Ritonga: 2002).

The literal meaning is: to go, to refrain, to come, to win with hujjah (argument), and to go to Mecca for worship. Its Fa'il (subject) is hajjun and hajjun. Its Muanats is hajjatun. Its Jama'ah is hujjajun and hajjijun. While once doing the hajj is expressed with hijjatan. In term means: go to Baitul Haram at any given time with the intention of carrying out some worship such as thawaf, sa'i, wukuf in Arafat, and so forth (Syaudi: 2012).

Hajj is one of the five pillars of Islam and one of worship that can not be separated with religion. If there is someone who denies it, he has disbelieved and left Islam (Sabiq: 2010). Hajj is included as worship which has been known in the shari'ah of previous religions before Islam. Prophet Ibrahim and Isma'il As built the Kaaba as a house of worship to worship Allah SWT alone and he called men to hajj to the *Bait* of Allah SWT. People obeyed his call, coming from different directions and studying the fundamentals of monotheistic religion.

Shafi'i, Tsauri, Auza'i, and Muhammad bin Hasan argue that Hajj is an obligation that its implementation may be postponed. In other words, the pilgrim may be made at any time during the lifetime of man. The one who ended the Hajj was innocent as long as he had done it before he died. However, if we already have the ability to perform it should be

hastened to do so because the pilgrimage requires not only material skills but also a strong physical and mental provision.

When the order to do hajj came down, the Messenger of Allah (PBUH) immediately accomplished it without delay. The order of the Hajj Fardhu was rather late until the ninth or tenth year. Despite it fall in the sixth year, the year of the Hudaibiyah incident, when there is no explanation on Hajj Fardhu. There is only a command to accomplish it and accomplish the Umrah after entering on the second exercise, but does not require the obligation to start the pilgrimage with Umrah (Qayyim: 1999).

2.2 Brief explanation on BPRS

In Act Number 7 of 1992 concerning Banking Article 5 Paragraph 1 updated with Law Number 10 Year 1998 states that "by type, the bank consists of commercial banks and People's credit bank" (Dzajuli and Januari: 2002). People's credit bank referred to in the law is a bank that receives deposits in the form of time deposits, savings deposits, and / or other similar forms (Law No. 7 of 1992, Article 1 Paragraph 3). In the Law on Islamic bank No. 21 Year 2008 BPRS means Islamic bank which in its activities does not provide payment services. Thus, People's Islamic credit bank (BPRS) is a bank which in conducting its business activities based on sharia principles. The stand for BPRS is Bank Pekreditan Rakyat Syariah. All laws and regulations which refer BPRS as Bank Perkreditan Rakyat Syariah should read it as Bank Pembiayaan Rakyat Syariah (BPRS) (Hasan: 2009).

The establishment of the BPRD is motivated by the condition of the Indonesian economy undergoing economic restructuring. The restructuring of the economy in Indonesia is manifested in various policies, whether in finance, monetary, and banking. In addition, the establishment of the BPRS is also motivated by the opportunity for the development of Islamic Bank in Bank Act which allow the use of profit sharing principles. The first BPRS which obtain a business license was BPRS Berkah Amal Sejahtera and SRB Dana Mardhatillah on October 19, 1991 (Huda and Heykal: 2010). Operation of BPRS for the first time is in 1992 (Machmud and Rukmana: 2010).

The presence of BPRS is expected to improve the economic welfare of Muslims, especially the low economic class. The main target of BPRS is Muslims in rural and sub-

district level. Because the people residing in that region generally belong to the class of economically low group. In addition, the presence of BPRS in the sub-districts can provide employment opportunities to communities which have potential, both in terms of capital and experts. The more BPRS, the more labor can be employed by the banks.

Ultimately, the ultimate goal of establishing an SRB is to foster the spirit of brotherhood (*ukhuwah Islamiyah*) through economic activity (*mu'amalah*). Based on the principle of meaning *ta'awun* (mutual help) between the owner of capital (*rab al-mal*) with the labour (*amil*).

2.3 Qard wal Ijarah contract

The only loan which is exercised in Islamic bank is Qard and its derivatives of Qardhul Hasan. Since interest is forbidden in Islam, both Qard and Qardhul Hasan loans are non-interest loans. More specifically, Qardhul Hasan's loan is a non-commercial, but social, benevolent loan. Al-Qard or loan is a gift to someone else that can be billed back or in other words lend without expecting a reward (Naja: 2011). In fiqh, al-Qard belongs to the category *tabarru* (mutual help). Some scholars allow lenders to charge the cost of lending services. The cost of this service is not an advantage, but is the actual cost incurred by the lender. Islamic law allows the lender to ask the borrower to pay for operational costs beside the underlying loan, to avoid this cost become interest as commission this cost should not be made proportional to the loan amount (Ashker: 1987).

Pillars of the Qard or Qardhul Hasan contract which must be in the transaction are as follows:

- 1) The contractor, ie *muqtaridh* (the borrower), the party in need.
- 2) Object of contract, namely *qard* (fund).
- 3) Objective, ie *'iwad* or counter value in the form of loan without reward (loan Rp.X, - returned Rp.X, -).
- 4) *Shighah*, namely *Ijab* and *Qabul*.

While the terms of the contract Qard or Qardhul Hasan that must be met in the transaction are as follows:

- 1) Willingness of both parties, and

2) Funds are used for something useful and lawful.

The qard loan is usually given by the bank to its customers as a bailout facility when the customer is over-draft. This facility can be part of another financing package, to facilitate transactions of customers (Ascarya: 2007).

The word *ijara* is derived from the word *al-'Ajr* which means compensation, substitution (substitute), consideration, return, or counter value (*al-'Iwad*) (Ayub: 2007). *Ijarah* means lease contract and also means hire contract. In the context of sharia banking, *ijarah* is a lease contract in which a bank or financial institution rents equipment, a building, goods such as machinery, aircraft, etc. to one of its customers based on the imposition of a rent Predefined (fixed charge) (Saleh: 1985).

According to Fatwa DSN-MUI No. 09 / DSN-MUI / IV / 2002 dated April 13, 2000 on *ijarah* financing, which is meant by *ijarah* is the transfer of use rights to a good or service within a certain time through payment of rent or wage, without being followed by the transfer of ownership of the goods itself.

2.4 Definition of Hajj credit financing (Dana Talangan Haji)

Bailing is an intermediary in buying and selling, while bailing is giving money to pay something or buy goods by paying later. The term bail is almost the same as *kafalah* (guardianship) whereby their similarities is they are funders to customers who are represented by the bank to the institution addressed customers. Meanwhile, according to the researcher after reading the definition of bailing above, the authors conclude that the bailout is to give property to others as a tool to pay for something that is needed at that time.

The purpose of granting bailout funds is in accordance with the contract that is done, namely contract of *qard wal ijarah* which is basically using the principle *ta'awun* (mutual help). In this context it is to help or assist the prospective pilgrims who want to perform the pilgrimage but have difficulties in funding issues. Here, Islamic banks have a role in providing loan facilities with *ijarah* contract namely lease contract with giving *ujrah* to syariah bank as the party which provide hajj credit financing. Prospective pilgrims can immediately register and pay the Hajj Traveling Fees (BPIH) in accordance with the required amount of the Ministry of Religious Affairs of the Republic of Indonesia. Thus, the financing

of the Hajj bailout funds is not given to prospective pilgrims who have no funds at all but its nature only helps the difficulties where the funds held can not be disbursed for some reasons.

3. Methodology

This research is using qualitative approach with the type of qualitative empirical research. This research was conducted at PT. BPRS Amanah Ummah Head Office. The location of PT. BPRS Amanah Ummah is at Jl. Raya Leuwiliang No. 1 Leuwiliang-Bogor. This research was conducted from March to August 2015. This research is an empirical law study which is a research through direct observation in the field, whereby this research will combine facts and theories taken from literature studies through stripping of books related to the DSN fatwa. In addition, the Qur'an, Hadith, and various other literatures are used as a reference related to the discussion in this study.

In the process of collecting data for the preparation of this thesis the author uses research with two methods, namely:

1. Library Research

That is data collection techniques where the authors make direct visits to several libraries to read, study, and review some written sources of reading books, articles, magazines, and others related to the discussion that the author discussed.

2. Field Research

Namely data collection techniques whereby the authors make direct observations to the field to obtain information or data. In this case, the authors use the method of interviewing with the parties who handle the object which author doing research on and addition with the data obtained from the company to complete and refine the discussion which the author discussed.

In this study, due to the data source is using library research and field research, the method of data collection is done through:

1. Interview Method

Interview is a dialogue done by the interviewer to obtain info from the interviewer.

2. Observation Method

Observation or observation is the collection of data by observing. The author observes directly to the object of research in the field by recording all activities related to the object of research. In general, observations made by the author is an observation description that aims to know the general description of the history of establishment, vision-mission, business activities and products owned by PT. BPRS Amanah Ummah.

3. Documentation Method

Documentation in this research is intended to find out important documents related to research object, including the profile, the various products, mechanisms, and so forth. So, the authors collect data of these things through archives, records and various other documents related to this research.

4. Analysis and Discussion

Based on the National Sharia Board Fatwa Number 29 / DSN-MUI / VI / 2002 Concerning Hajj credit financing, if it is needed, Islamic Financial Institution is allowed to finance the customer's BPIH financing by using qardh principle and in customer's pilgrimage, (Ujroh) using ijarah principle.

General provisions in the DSN-MUI Fatwa no. 29 / DSN-MUI / VI / 2002 on Hajj credit financing of Islamic finance institutions:

- 1) In administration service of pilgrimage for customers, LKS can obtain service fee (ujrah) by using al-Ijarah principles in accordance with the Fatwa DSN-MUI number 9 / DSN-MUI / IV / 2000.
- 2) If necessary, the LKS may assist in bailing out the payment of the customer's BPIH by using al-Qardh principles in accordance with the DSN-MUI Fatwa number 19 / DSN-MUI / IV / 2001.
- 3) Hajj administrationservices performed by LKS shall not have a condition to give hajj credit financing
- 4) Major fees for al-Ijarah services should not be based on the amount of al-Qardh bailouts given by LKS to customers.

Based on the above description, the other DSN Fatwa which made as reference is:

- 1) Fatwa DSN-MUI number 9 / DSN-MUI / IV / 2000 on Ijarah.
- 2) Fatwa DSN-MUI number 19 / DSN-MUI / IV / 2001 on al-Qardh.

Fatwa DSN-MUI No. 29 / DSN-MUI / VI / 2002 Concerning Hajj Credit Financing in Islamic Financial Institution, Point 1: In the handling of pilgrimage for clients, LKS may obtain service fee (ujroh) using al-Ijarah principles according to Fatwa DSN-MUI number 9 / DSN-MUI / IV / 2000.

The emphasis on the first point in the Fatwa DSN-MUI is about ujroh mechanism based on the principle of al-ijarah. For the pilgrimage, BPRS Amanah Ummah provides administration services to get seat number and certainty of hajj departure. For this service, BPRS Amanah Ummah receive ujroh as has been approved with amount of Rp 2.000.000, - per-customer and charged at the time of dropping the financing of registration fee of Hajj Travel. The ujroh fee which use al-ijarah principle required for customer is compliant with the DSN-MUI Fatwa number 9 / DSN-MUI / IV / 2000 on al-ijarah which at one of its points states that Rent or wage is something that is promised And paid by the customer to the LKS as benefit payment. Something that can be used as a price in the sale and purchase can also be used as rental or wages in Ijarah.

Fatwa DSN-MUI No. 29 / DSN-MUI / VI / 2002 Concerning Hajj Credit of Islamic financial institution Point 2: if necessary, LKS may assist in bailing out customer's BPIH payments using al-Qardh principles in accordance with the DSN-MUI Fatwa number 19 / DSN-MUI / IV / 2001.

The second point of DSN-MUI Fatwa emphasize on bailout of BPIH payments based on the principle of al-qardh. In order to build sharia bank products to meet the needs of customers, BPRS Amanah Ummah provides convenience for customers who want to perform the pilgrimage which are the administration service of Hajj and hajj credit financing service. Thus, in practice, BPRS Amanah Ummah is not only provide administration of pilgrimage services for customers who already have a fund but also giving credit financing for Hajj cost. Maximum credit financing (al-qardh) to get seat number is Rp. 22.500.000, -. Fund of al-qardh comes from the equity of the bank if funds is from DPK (Third Party Funds), it will come from profit-sharing contract.

Fatwa DSN-MUI No. 29 / DSN-MUI / VI / 2002 concerning Hajj Credit Financing of Islamic Financial Institutions. Point 3: Hajj administration services performed by LKS shall not be required to have a condition to give hajj credit financing

In practice, beside of providing hajj credit financing service BPRS Amanah Ummah also provide administration services for pilgrimage. This administration pilgrimage service is not limited for customers who want financing pilgrimage in BPRS Amanah Ummah. Both customers of Hajj credit financing and customer of administration pilgrimage service Hajj pilgrimage will be required to pay Ujroh since many operational cost will be incurred from registration to departure of pilgrimage. Ujroh charged is still within operational cost limits. If the prospective haj prospective customer declares that he / she cannot pay, customer is committed to repay in the maximum extension of 1 (one) year provided by the bank. During the extension of time, customers will not be charged ujroh fee.

Fatwa DSN-MUI No. 29 / DSN-MUI / VI / 2002 concerning Hajj Credit of Islamic financial institution Point 4: Fees of al-Ijarah should not be based on the amount of al-Qardh credit financing provided by LKS to customers.

BPRS Amanah Ummah gives maximum of Rp. 22.500.000, - credit financing (al-qardh) to get seat number. A qardh loan for administration service of pilgrimage is a loan that requires to pay ujroh fee. Thus, customers are required to pay the principal plus ujroh which has been agreed. Ujroh for pilgrimage is determined at Rp 2.000.000, -. Taking ujroh on services qardh should be in the limits of the real cost of operations. So ujroh cost to be paid by the customer is not based on the amount of al-qardh fund loan. Maximum financing period 12 (twelve) months with monthly schedule or at maturity. To register hajj credit financing (to get sheat pilgrimage) on cost of Hajj Travel (BPIH) is allowed not to use the guarantee, the customer is required to make an agreement if they cannot pay off the hajj financing then the seat number (sheat) is ready to be canceled by the bank. This is in accordance with the principle of al-qardh listed in the fatwa of DSN-MUI number 19 / DSN-MUI / IV / 2001 on al-Qardh.

Therefore, based on fatwa analysis above, it can be concluded that the administration service of pilgrimage and credit financing on cost of pilgrimage travel in BPRS Amanah Ummah for both features and product details based on shari'a are allowed in accordance with

the Fatwa DSN-MUI. 29 / DSN-MUI / VI / 2002 Concerning Hajj Credit Financing of Islamic Financial Institutions.

5. Conclusion and Recommendation

BPRS Amanah Ummah provides Hajj administration services and credit financing of the cost of Hajj travel. Each customer of Hajj administration service and hajj credit financing on cost of Hajj travel (BPIH) has a savings pilgrimage & umroh (Taharoh). PT. BPR Syariah Amanah Ummah only provides hajj credit financing on cost of Hajj travel (BPIH) to get the seat number / sheat, while for the repayment of the source of funds must be from the customers themselves. With this service, the bank receives Ujroh of hajj administration service which has been agreed-upon amount of Rp 2,000,000 per customer and will be charged upon dropping of registration on credit financing cost of Hajj travel. Maximum financing period is 12 (twelve) months with monthly schedule or at maturity. Cost of hajj travel on hajj departure has to go to through The Cenouncil of Hajj Guidance (MBIH) Amanah Ummah.

There is similar practice on hajj credit financing between PT. BPRS Amanah Ummah and Fatwa of DSN-MUI fatwa no. 29 / DSN-MUI / VI / 2002 concerning Hajj credit financing of Islamic Financial Institution. Hajj administration services and hajj credit financing at BPRS Amanah Ummah for both feature and product details based on sharia are permitted in accordance with the Fatwa DSN-MUI no. 29 / DSN-MUI / VI / 2002 Concerning Financing of Haji of Islamic Financial Institutions.

So, the advice that the author can give is:

1. Until now, product of Hajj credit financing has not been fully promoted by Islamic banks including BPRS Amanah Ummah. Moreover, promotion conducted by BPRS Amanah Ummah only to a handful of relatives. Thus, not many people know and have hajj credit financing in BPRS Amanah Ummah. If promotion of hajj credit financing on Hajj travel cost is done optimally, it can increase bank income by considering many number of customers at BPRS Amanah Ummah.

2. It is essential for management and people who are experts to understand the contract used in this product and for staff up to the Director of Marketing to further enhance the promotion of hajj credit financing on cost of hajj travel through both print and electronic media. Thus, the prospective pilgrims are not only close relatives or people who have known BPRS Amanah Ummah for a long time.
3. Strives for a better, modern and practical system in packing this product to attract prospective customers or prospective pilgrims.

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