

ABSTRAK

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Judul Tesis IMPLEMENTASI PEMBIAYAAN *MUSYĀRAKAH
MUTANĀQISHAH* (MMQ) DI LEMBAGA KEUANGAN
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Kebutuhan terhadap barang, jasa, dan keperluan bisnis lain bagi pelaku usaha serta mitra (*syarīk*), salah satu pembiayaannya yakni kerja sama dengan bank syariah atau Lembaga Keuangan Syariah (LKS), termasuk pembiayaan pemilikan rumah. Harga *property*, berdasarkan hukum *supply and demand* pada saat ini lebih dominan baik sisi penawaran, maupun permintaan. Penelitian ini focus pada permasalahan tentang implementasi akad *musyārahah mutanāqishah* dalam praktik pembiayaan di Lembaga Keuangan Syariah, ketentuan hukum akad *musyārahah mutanāqishah* dalam praktik pembiayaan di Lembaga Keuangan Syariah, dan tinjauan Hukum Ekonomi Syariah (HES) terhadap akad *musyārahah mutanāqishah* dalam praktik pembiayaan di Lembaga Keuangan Syariah menurut Fatwa Dewan Syariah Nasional (DSN) dan Hukum Positif. Tujuan penelitian, esensinya mencari relevansi ilmiah dari ketiga permasalahan itu, baik dari dimensi implementatif, maupun normatif. Kerangka pemikiran, diskursus *musyārahah mutanāqishah* merupakan *hybrid contract* antara akad *musyārahah* dan *ijārah*. Juga, *term* ini secara implemenatif di masyarakat masih kurang populer. Metode penelitian, yaitu melalui pendekatan kualitatif deskriptif terhadap produk pembiayaan di LKS, lalu dianalisis secara *yuridis normatif* berdasarkan Fatwa DSN dan peraturan perundang-undangan yang berlaku di Indonesia. Metode pengambilan data bersumber dari berbagai *literature*, regulasi, *interview*, dan data lainnya yang relevan dengan materi pembahasan. Kesimpulan, pembiayaan *musyārahah mutanāqishah*, diimplementasikan pada produk-produk pembiayaan pemilikan rumah (PPR-iB), PPR-Indent iB, dan kerja sama bisnis inventori, seperti pembiayaan mesin, alat-alat produksi pabrik, kendaraan, juga bentuk usaha lain yang bersifat produktif dan sesuai prinsip syariah dengan mode jual-beli, *refinancing*, bagi hasil, dan sewa-menyewa. Ketentuan hukum akad *musyārahah mutanāqishah*, tentunya tunduk dan mengacu pada Fatwa DSN serta regulasi yang berlaku di Indonesia. Tinjauan Hukum Ekonomi Syariah (HES) terhadap implementasi pembiayaan akad *musyārahah mutanāqishah* ini, *empirically* adanya harmonisasi antara Fatwa DSN dan ketentuan hukum positif yang berlaku di Indonesia. Karena, segala ketentuan sebagaimana termaktub dalam Fatwa DSN-MUI Nomor 73/DSN-MUI/XI/2008 Tentang *Musyārahah Mutanāqishah*, Surat Keputusan DSN-MUI Nomor 1/DSN-MUI/X/2013 Tentang Pedoman Implementasi *Musyārahah Mutanāqishah* Dalam Produk Pembiayaan, Kompilasi Hukum Ekonomi Syariah (KHES) dan ketentuan sebagaimana diatur dalam Undang-Undang Nomor 21 Tahun 2008 Tentang Perbankan Syariah, Peraturan Otoritas Jasa Keuangan (POJK) terkait dengan pembiayaan *musyārahah mutanāqishah*, Peraturan Bank Indonesia (PBI), serta Surat Edaran Bank Indonesia (SEBI) yang mengatur pembiayaan di Lembaga Keuangan Syariah ini, satu sama lain substansi ketentuannya saling mengikat dan keterkaitan.

Keyword: *Pembiayaan, Musyārahah, Mutanāqishah.*

ABSTRACT

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Title of the Thesis *MUSHĀRAKAH MUTANĀQISHAH* (MMQ) FINANCING IMPLEMENTATION IN SHARIA FINANCIAL INSTITUTIONS (LKS), Research at PT. Bank Muamalat Indonesia, Tbk. Bandung Branch Office.

Needs for goods, services, and about other business needs for business people and partners (*sharīk*), one of the financing which cooperation with Islamic banks or Sharia Financial Institutions (LKS), including home ownership financing. Property prices, based on the law of supply and demand, are currently more dominant in terms of supply and demand. This study focuses on issues regarding the implementation of the *mushārahah mutanāqishah* contract in the practice of financing in Sharia Financial Institutions, the legal provisions of *mushārahah mutanāqishah* contract in financing practices in Sharia Financial Institutions, and a review of Sharia Economic Law (HES) on *mushārahah mutanāqishah* contracts in financing practices in Sharia Financial Institutions according to Fatwa of the National Sharia Council (DSN) and Positive Law. The purpose of the study, essentially search for scientific relevance of the three problems, both from the implementation and normative dimensions. The framework of thought, *mushārahah mutanāqishah* discourse with hybrid contract between *mushārahah* and *ijārah* contracts. Also, this term implementing at communities is still less popular. The research method, which is through a descriptive qualitative approach to financing products in the LKS then analyzed in a normative juridical manner based on the DSN of Fatwa and period of validity laws and regulations in Indonesia. The method of retrieved data comes from various literatures, regulations, interviews, and other data which relevant to the material's discussion. Conclusion, *mushārahah mutanāqishah* financing, is implemented in home ownership financing products (PPR-iB), iB PPR-Indent, and inventory business cooperation, such as machinery financing, factory production equipment, vehicles, as well as other productive forms of business and in accordance with sharia principles with buying and selling modes, refinancing, profit sharing and leasing. The legal provisions of the *mushārahah mutanāqishah* contract of course are subject to and refer to the DSN of Fatwa and regulations that period of validity in Indonesia. Review of Sharia Economic Law (HES) on the implementation this financing of the *mushārahah mutanāqishah* contract, empirically there is a harmonization between DSN of Fatwa and the positive law period of validity in Indonesia. Because all provisions as enshrined out in the DSN-MUI of Fatwa Number 73/DSN-MUI/XI/2008 concerning *Mushārahah Mutanāqishah*, DSN-MUI Decree Number 1/DSN-MUI/X/2013 concerning Guidelines for Implementing *Mushārahah Mutanāqishah* in Financing Products, Compilation Sharia Economic Law (KHES) and provisions as stipulated of Law Number 21 of 2008 concerning Sharia Banking, Financial Services Authority Regulation (POJK) related to the financing of *mushārahah mutanāqishah*, Bank Indonesia Regulation (PBI), and Bank Indonesia Circular Letter (SEBI) who regulates financing in this Sharia Financial Institution, all provisions knot each other there are binding and affiliating.

Keyword: *Financing, Mushārahah, Mutanāqishah.*