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Practice Incentive Compatible Contraints on Mudharabah Financing in Perspective Fatwa No. 07/DSN-MUI/IV/2000

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ABSTRACT

The MUI fatwa on mudharabah financing states that, in principle, no collateral is needed for mudharabah financing, but to ensure that mudharib does not break their promise, Islamic financial institutions are allowed to require collateral from third parties. The collateral can be disbursed if the mudharib is proven to have violated the contract. Incentive compatible constraints (ICC) are a way to control the presence of asymmetric information in the mudharabah contract. The purpose of this study is to analyze the application of incentive-compatible constraints to the mudharabah contract and to analyze the application of incentive-compatible constraints to the mudharabah contract from the perspective of Fatwa No. 07/DSN-MUI/IV/2000. This type of research is both descriptive and qualitative. The data sources used are primary and secondary. The results of the study show that: 1) the mudharabah financing implemented at BPRS Lantabur is of the mudharabah mutlaqah type; and 2) the ICC implementation at PT BPRS Lantabur is carried out through 4 aspects, namely by setting a higher stake of net worth and/or collateral, lowering operating risk, reducing unobservable cash flow, and reducing non-controllable costs. 3) The implementation of ICC on mudharabah financing at BPRS Lantabur is known to be in accordance with Fatwa No. 07/DSN-MUI/IV/2000.

Keywords: Fatwa, Incentive, Compatible, Contrains, Akad, Mudharabah

INTRODUCTION

Banking is a financial institution that is licensed to direct capital from customers which will then be channeled in the form of loans so that it functions as an intermediary between customers who deposit capital and fund managers. The progress of the Islamic finance industry is now almost significantly increasing(Adam, Panji, M.

Yunus, 2016) . The existence of financial institutions is believed to be able to bring the community to advance activities in the financial sector through activities in saving funds and activities in lending capital. Both activities in these banking activities will earn returns as well as costs attached to the use of bank institutions in activities in the financial sector or in sectoral economic activities(Amalia, 2016). The use of the banking system based on Islamic principles has been known since the time of the Prophet Muhammad(Agza, 2017).

Banks can accommodate customers' wealth but also can function to channel public deposits to support economic activities (Firmansyah, 2019). They argue that banks are trusted financial institutions to put money safely. Judging from Law no. 10 of 1998, the bank is an institution that functions to improve the welfare of the community(Firdaweri, 2014). Adherents of Islam in Indonesia have long wanted a financial institution that can run its system as in the teachings of Islam. For this reason, banking has now been divided into two types, namely Islamic banking and conventional banking.

BPRS Lantabur Tebuireng Jombang is an institution that has mudharabah financing facilities, namely the capital application ceiling can be more than 2 billion(Aisyah, 2016). In addition, regarding the application of Incentive Compatible Constraints at PT. BPRS Lantabur is much more complete, namely there are 4 ways, including higher stake in net worth and or collateral, lower operating risk, lower fraction of unobservable cash flow and through lower fraction of non-controllable cost. In addition, it has data on the number of customers for each financing at BPRS Lantabur Tebuireng Jombang in 2020-2021 as follows:

Table 1

Number of Financing Customers at PT. BPRS Lantabur Tebuireng Jombang 2017-2021

Financing Murabahah	2017	2018	2019	2020	2021
Murabahah	2.825	2.729	2.717	2.888	2.759
Mudharabah	1	1	1	1	3
Musyarakah	0	6	150	321	353

Ijarah Multi Jasa	451	448	454	442	466
Qard	71	16	5	56	44
Rahn	0	39	242	403	629
Total	**3.348**	**3.302**	**3.569**	**4.111**	**4.254**

Source : Data Base PT. BPRS Lantabur Tebuireng Jombang

Based on table 2, it can be seen that from year to year the total financing products at BPRS Lantabur Teuireng Jombang tend to increase every year, it can also be seen that the most distribution of funds is in buying and selling financing products (murabahah) and the least is the distribution of financing products. Mudharabah (Amini, 2021). The mudharabah contract implemented by Islamic banking is a financing contract that has a high chance of imperfect information (Anjani, Rivalah dan Hasmarani I, 2016). This can lead to a dispute between two parties, namely the provider of capital (shahibul mal) and the manager of capital (mudharib), events like this are commonly referred to as agency problems. Because when the funds have been given to Shahibul Mal, it will bring up asymmetric information(Fadhila, 2015)(Faradila, C, Arfan, M., 2017).

Asymmetric Information is a situation where the capital provider (shahibul mal) does not know the information that is known by the capital manager (mudharib) (Giannini, 2013). At the same time, uncontrollable actions emerged from the capital manager (mudharib) which only provided mudharib profits so that it could harm the shahibul mal. In this situation, it is the shahibul mal who should get the information that is used to measure the level of returns obtained by the capital manager, but in reality the information or data is not fully provided by the mudharb. As a result, the information obtained by Shahibul Maal is not accurate so that it cannot explain the actual performance of the mudharib in managing the capital that has been provided by the bank or the Shahibul Maal who has entrusted their capital to the mudharib (Harahap, 2018).

Actions that cannot be controlled are actions that cannot be seen directly (moral hazard) and also (advrse selection), namely business ethics which are inherently unrecognizable by the owner of the funds. Mudharabah as productive financing has a characteristic that is mutual trust between the capital provider and the capital manager, the nature of which makes mudharabah a high-risk financing. According to the results of interviews conducted with Account Officer staff (Husaini, 2017), Mr. Kusen, explaining that the BPRS Lantabur Tebuireng Jombang has the least number of customers because mudharabah financing has a large risk, because the funds entirely come from the bank and the customer only manages it. So when there is a loss that is not the fault of the mudharib, then it is a loss to the bank. Therefore, if there are customers who apply for mudharabah financing, all these business activities must be monitored by the bank, but there are some customers who do not want their business to be monitored continuously by the bank. So that fraud is still found on the part of the customer such as fraud in the financial statements of the business carried out (Rahayu, Susi nYeni, Hasaini, A., dan Azizah, F, 2016).

When a customer applies for financing, for example, mudharabah financing, the bank as the provider of capital will believe that the customer is in accordance with the initial purpose of the financing. However, this will create a problem if in reality there are customers who misuse the capital for other interests outside the initial agreement and the contract used is not appropriate. For this reason, the bank must also have a policy to minimize the incident due to several problematic financing factors above. In order to minimize the possibility of risk in mudharabah financing, PT. BPRS Lantabur Tebuireng Jombang applies several specific rules when providing mudharabah financing to capital managers (mudharib). These regulations are commonly called incentive compatible constraints. Compatible constraints according to Presley and Session are a way that can be applied in order to control asymmetric information in the mudharabah contract (Ruseely, I.D.P, Fransisca, Y dan Zahroh, 2014).

Researchers are interested in doing this research because the BPRS Lantabur Tebuireng is a sharia microfinance institution that is good in distributing financing, besides that this BPRS is a well-known central institution in the Jombang district. However, in terms of distribution of profit-sharing products, especially mudharabah, the number of customers is very small compared to other products. So that researchers are interested in conducting research on the distribution of mudharabah profit-sharing products, namely the application of Incentive Compatible Constraints or a method required for mudharib to reduce risks in mudharabah financing which will be reviewed based on Fatwa no. 07/DSN-MUI/IV/2000 which states that in principle there is no guarantee in mudharabah financing, but so that the mudharib does not deviate, the LKS can ask for guarantees from the mudharib or a third party.

THEORITICAL REVIEW

Incentive Compatible Constraints

According to Presley and Session incentive compatible constraints (ICC) is a method that can be used as an effort to control asymmetric information in mudharabah contracts. Meanwhile, according to Muhammad, there are 4 aspects in Incentive compatible constraints as well as according to Pressly and Session.

Meanwhile, Asfi Manzilati stated that, customers who want a mudharabah financing agreement must meet the general terms and conditions before entering into a mudharabah cooperation which is known as incentive compatible constraints. This is used to ensure the capabilities (character and capacity) of prospective clients. Customers are required to comply with the ICC which consists of character and monitoring. Monitoring is a crucial element in the cooperation contract enforcement process. Monitoring can be started before the mudharabah collaboration is carried out as a tool to test one's character and also as a lesson for prospective colleagues to obtain information about customers (Riyadi, 2014)

Fatwa No. 07/DSN-MUI/IV/2000

Islamic Financial Institutions (LKS) may request collateral from a mudharib, this is also contained in the fatwa. On the financing of mudharabah fatwa no. 07/DSN-MUI/IV/2000 states that "Basically, in mudharabah financing there is no collateral, but so that mudharib does not commit fraud, Islamic financial institutions may request collateral from mudharib or third parties. The collateral can only be disbursed if the mudharib is proven to have violated the things that have been mutually agreed upon in the contract (*Fatwa Dewan Syariah Nasional No 07.DSN-MUI/iv/2000 Tentang Pembiayaan Mudharabah*, 2000).

RESEARCH METHODOLOGY

This type of research uses a descriptive qualitative approach, referred to as descriptive because it aims to describe an actual event or situation and is called qualitative because the main data source of this research is in the form of speech or writing from some of the observed informants.

RESULTS AND DISCUSSION

Mudharabah Financing at PT. BPRS Lantabur Tebuireng Jombang

Mudharabah is defined as a cooperation in terms of business between a bank that has funds as shahibul maal and a customer or a second party (mudharib) who will receive the capital and use it to run a business, so the capital is entirely from the bank. Furthermore, the profit sharing will be shared based on the agreement between the two, while if there is a loss it will be borne by the owner of the capital. If viewed based on the definition of mudharabah according to Suparuddin Siregar, PT BPRS Lantabur is in accordance with this opinion.

Based on the data obtained from the interviews above, it is stated that in BPRS Lantabur the full capital will be given by the bank to finance a business. Such as statements from employees and customers at BPRS Lantabur that the capital will be given in accordance with the ceiling desired by the customer as a mudharib candidate after an analysis has been carried out and is declared eligible to be financed. For profit sharing based on the agreement of the BPRS and also the business management and if there is a financial loss that is not the fault of the mudharib, it will be borne by the BPRS.

Mudharabah financing set at PT. BPRS Lantabur Tebuireng Jombang is a type of mudharabah mutlaqah, namely cooperation between shahibul maal and mudharib without any restrictions on the type of business being carried out, provided that the business is considered good in accordance with the Shari'a and can provide benefits. After several processes have been fulfilled, the BPRS Lantabur will immediately provide the funds to the mudharib so that the capital can be immediately used to run its business. In accordance with the agreement, the customer as the capital manager must also submit the profit sharing to the BPRS as the fund provider. The profit sharing is also adjusted according to the agreement between the two parties, namely 50%: 50% or 60%: 40%.

Application of Incentive Compatible Constraints at PT. BPRS Lantabur Tebuireng Jombang

Mudharabah is a form of cooperation between banks (shahibul maal) and customers (mudharib) with profit sharing in accordance with the initial agreement.

Much or little mudharabah profit for the bank is caused by the ratio distribution system itself. Therefore this policy must be considered with the interests of customers and banks. BPRS Lantabur Tebuireng Jombang also knows that mudharabah financing is a financing contract that has a very high risk, so banks must be careful in providing capital to customers who apply for such financing.

Mudharabah financing at BPRS Lantabur can be given to individuals or business entities that are deemed eligible for financing. For this reason, prospective partners must go through several processes before the mudharabah financing is approved, which include: Administration, survey and analysis. In addition, BPRS Lantabur also stipulates conditions for customers when they want to do mudharabah financing. These conditions are known as Incentive Compatible Constraints. It can

This is done in order to overcome information asymmetry and moral hazard, which is a situation where Shahibul Maal does not know the information known to Mudharib. So that with the implementation of the ICC, deviations from the mudharabah cooperation can be minimized and the profits obtained will also be maximized.

Based on the theory that has been explained by Presley and Session regarding the aspects of incentive compatible constraints, which include higher stake in net worth and or collateral, low operating risk, lower fraction unobservable cash flow and lower fraction of non-contractable cost, it has been fully implemented. by PT BPRS Lantabur Tebuireng Jombang, but the implementation has not been maximized. This can be seen from the implementation of mudharabah financing at BPRS Lantabur which can prevent customers from committing fraud. However, according to the results of interviews obtained, it is known that there are still customers who have committed fraud in reporting the results of their financial statements. However, this can be prevented by the BPRS Lantabur by analyzing the financial statements of the mudharib.

Implementation of Incentive Compatible Constraints on Mudharabah Financing at BPRS Lantabur Tebuireng Judging from Fatwa No.07/DSN-MUI/IV/2000

The following is an analysis of the implementation of Incentive Compatible Constraints in terms of Fatwa No. 07/DSN-MUI/IV/2000 regarding mudharabah:

1. Higher stake of net worth or collateral (stipulates that the capital portion of greater mudharib and/or using collateral).

When a customer applies for mudharabah financing, there are special conditions that must be given by the customer to PT. BPRS Lantabur Tebuireng Jombang in the form of collateral. As explained by Mr. Ahmad as a mudharabah financing customer and also an explanation from the bank that when you want mudharabah financing you must include a guarantee. The collateral can be in the form of movable or immovable objects such as land certificates, vehicles, houses or others, the value of which must be at least 20% above the capital provided by the bank to mudharib.

2. Lower operating risk (setting conditions for mudharib to run a business with low operating risk).

As explained by Mr. Jahid as the head of marketing and product development at BPRS Lantabur Tebuireng Jombang, the bank also provides guidance to mudharib so that they can use these operational costs sparingly with the intention of not wasting the money, so that operational costs will be more affordable. If the mudharib can minimize its operating costs, then the profits for both parties will also be greater because operational costs can be minimized. If it is reviewed based on Fatwa No.07/DSN-MUI/IV/2000 regarding lower operating risk (stipulating conditions for mudharib to run a business with low operating risk), it is in accordance with the fatwa regarding financing provisions, Number 4 which states that

In determining the lower operating risk, the bank gives the mudharib the freedom to manage the money in accordance with the agreement and the Shari'a but has no right to interfere. However, it can provide guidance to mudharib, for BPRS Lantabur to provide guidance on lower operating risk where the bank fosters so that customers can minimize operating risk in order to obtain maximum profit. However, if the customer cannot minimize operating funds as experienced by one of the mudharabah customers, namely Mr. Ahmad, then the bank will also be fully responsible after the analysis is carried out.

3. lower fraction of unobservable cash flow (set to mudharib running a business with transparent cash flow).

In this application, it can be done by conducting random monitoring, periodic monitoring and by examining audited financial statements. Based on the data obtained above, the application of the lower fraction of unobservable cash flow at PT. BPRS Lantabur Tebuireng, which is carried out with regular monitoring held 1-4 times in a month. In addition, the bank also always monitors the customer's financial statements, but in this case it is still often found difficulties in checking the financial statements because the financial statements have not been presented in a coherent and good manner by the mudharib so that the bank must take a long time and also have difficulty in checking the report. .

Regarding the aspect of the lower fraction of unobservable cash flow (determining that mudharib run a business with transparent cash flows) at BPRS Lantabur when viewed based on Fatwa No.07/DSN-MUI/IV/2000, it is in accordance with the fatwa dealing with financing provisions, namely Number 4

4. lower fraction of non-controllable cost (set to mudharib running a business with low uncontrollable costs).

Determining that mudharib do business with low uncontrolled costs can be done through revenue sharing and also establish profit loss sharing. Based on the data that has been obtained that at BPRS Lantabur the determination for mudharib to do business with low uncontrolled costs is to determine the distribution of the ratio using profit loss sharing with the profit percentage according to the agreement.

Regulations regarding profit sharing for mudharabah must be based on the agreement of both parties and must be stated in the form of a percentage which has also been explained in the fatwa regarding the pillars and terms of financing Number 4 point B,

Based on the results of the data that has been collected, then processed and analyzed based on the theoretical basis that has been described in previous chapters, the following conclusions can be drawn:

1. Mudharabah financing at PT. BPRS Lantabur Teuireng Jombang has been around since September 2017, which aims to support customers who want to develop their business but have limited capital so that BPRS Lantabur wants to provide assistance for their business. The type of financing applied is mudharabah mutlaqah where the BPRS does not provide specialization to customers to do business as long as the business is in accordance with the Shari'a and can provide benefits. However, because mudharabah is

a high-risk product, mudharabah financing at BPRS Lantabur has the least number of customers compared to other financing products. This is because banks must be really selective in determining customers whose businesses are eligible to be financed. As for the profit-sharing system, it is determined based on the agreement of both parties when carrying out the contract.

2. Application of Incentive Compatible Constraints at PT. BPRS Lantabur Tebuireng Jombang has been able to run but its implementation is still not optimal. The following proves that BPRS Lantabur has implemented Incentive Compatible Constraints, namely: Higher stake in net worth and or collateral is required to be greater than 20% of the requested capital, low operating risk is carried out with guidance from the BPRS so that mudharib can run their business by always saving costs, lower fraction unobservable cash flow is carried out by monitoring the customer's business and required to submit reports audited financial statements, and the application of the lower fraction of non-controllable cost which is implemented through the distribution of ratios using the profit loss sharing method, namely the distribution of profits after deducting costs.

3. Application of Incentive Compatible Constraints at BPRS Lantabur when reviewed based on Fatwa No. 07/DSN-MUI/IV/2000 can be said to have been appropriate because in implementing the ICC the Lantabur BPRS was very careful not to deviate from the fatwa provisions. This can be seen from the implementation of Higher stake of net worth and or collateral in accordance with fatwa regarding mudharabah financing number 7, application of lower operating risk and application of lower fraction of non-subsorvable cash flow in accordance with fatwa number 4, application of lower fraction of non-controllable costs that are in accordance with the provisions of the fatwa regarding the benefits of mudharabah in number 4 point B.

CONCLUSION

Mudharabah financing at PT. BPRS Lantabur Teuireng Jombang has been around since September 2013, which aims to support customers who want to expand their business but have limited capital so that BPRS Lantabur wants to provide assistance for their business. The type of financing applied is mudharabah mutlaqah where the BPRS does not provide specialization to customers to do business as long as the business is in accordance with the Shari'a and can provide benefits. As for the profit-sharing system, it is determined based on the agreement of both parties when carrying out the contract.

Application of Incentive Compatible Constraints at PT. BPRS Lantabur is carried out through 4 aspects, namely: Higher stake in net worth and or collateral is required to be greater than 20% of the requested capital, low operating risk is carried out with guidance from BPRS so that mudharib can run their business by always saving costs, lower fraction unobservable cash flow This is done by monitoring the customer's business and is required to submit audited financial statements, and the application of the lower fraction of non-controllable cost which is implemented through the distribution of ratios using the profit loss sharing method, namely profit sharing after deducting costs.

Application of Incentive Compatible Constraints at BPRS Lantabur when reviewed based on Fatwa No. 07/DSN-MUI/IV/2000 can be said to have been appropriate because in implementing the ICC the Lantabur BPRS was very careful not to deviate from the fatwa provisions. This can be seen from the implementation of Higher stake of net worth and or collateral in accordance with fatwa regarding mudharabah financing number 7, application of lower operating risk and application of lower fraction of non-subsorvable cash flow in accordance with fatwa number 4, application of lower fraction of non-controllable costs that are in accordance with the provisions of the fatwa regarding the benefits of mudharabah in number 4 point B.

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