

IMPLEMENTATION OF RAHN IN SHARIA GOLD FINANCING AT MODERN ISLAMIC FINANCIAL INSTITUTIONS (CASE STUDY IN BANK BRI SYARIAH BRANCH OF PEKANBARU).

Ahmad Maulidizen

Program Doktor Ekonomi Islam, Akademi Pengajian Islam
Universiti Malaya, 50603, Kuala Lumpur, Malaysia
Email: ahmadzen682@gmail.com

ABSTRACT

Islamic Financing Products have started to grow rapidly in the current banking and financial industry at this time. This situation can be seen through the increase of Islamic banking assets for several years, in addition to the inclusion of more institutions offering Islamic products. Sharia Gold Pawn Products is the delivery of marhun (collateral goods) from the rahin (customers using mortgage financing) to the bank as a guarantee of part or all of the debt. This research is field (field research) with data collection method through observation, interview and documentation study in data collection. The author concludes that the application of Rahn's contract on Sharia gold mortgage financing at Bank BRI Syariah has been in accordance with the National Sharia Board Fatwa and there are several things that must be improved so as not to conflict with Sharia principles

Keyword: *Akad Rahn, Sharia Gold Financing, Modern Islamic Financial Institutions*

ABSTRAK

Produk Pembiayaan Secara Islam telah mulai berkembang pesat dalam arus industri perbankan dan keuangan pada masa ini. Keadaan ini diantaranya dapat dilihat melalui pertambahan aset perbankan Islam beberapa tahun, disamping penyertaan lebih banyak institusi yang menawarkan produk secara Islam. Produk Gadai Emas Syariah adalah penyerahan marhun (barang jaminan) dari rahin (nasabah yang menggunakan pembiayaan gadai) kepada bank sebagai jaminan sebagian atau seluruh hutang. Penelitian ini bersifat lapangan (field research) dengan metode pengumpulan data melalui observasi, wawancara dan studi dokumentasi dalam pengumpulan data. Penulis berkesimpulan bahwa penerapan akad *Rahn* pada pembiayaan gadai emas Syariah di Bank BRI Syariah telah sesuai dengan Fatwa Dewan Syariah Nasional dan ada beberapa hal yang harus dilakukan perbaikan agar tidak bertentangan dengan prinsip Syariah.

Keyword: *Akad Rahn, Pembiayaan Emas Syariah, Lembaga Keuangan Islam Modern*

A. PENDAHULUAN

Islam is the way of human life and is created to bring people to happiness in the world and the hereafter (*falāḥ*) through the enforcement of various appeals contained in the Qur'an and Ḥadīth. The rules govern human life in various aspects,¹ ie the field 'ubūdiyah and mu'āmalah.² In addition to the principles of Shariah economy as mentioned above, in Islamic Law has also economic morality, known as the "Golden Five", namely justice, freedom, equality, participation, and accountability. Golden Five is used as general principles underlying the principles of Sharia economy.³ Like the conventional Bank, Sharia Bank also functions as an intermediary institution, which is functioning to collect funds from the community and channel the funds back to the community in need in the form of financing.⁴ The philosophy of Islamic banking financing should meet the aspects of sharia and economic aspects.⁵ The characteristics of the Islamic banking system is to operate on the basis of profit sharing principles that can provide an alternative banking system that is mutually beneficial between the community and the bank, as well as put forward the aspects of fairness in transactions, ethical investment, promote the value of togetherness and fraternity in production, and avoid speculative activities in financial transactions . By providing a variety of diverse banking products and services with a more varied financial scheme.

In sharia economy there are two types of contract, namely Tabarru and Tijarah. Tabarru is a contract that is used for non-commercial transactions, aims for kindness or

¹ This global Qur'anic teaching is in harmony with the dynamic nature of humanity following the changing times. If the majority of the verses of ahkam al-quran are absolute and detailed, man is bound to become bound that will ultimately hamper the development of society. This is the wisdom of the announcement of the verses. See Harun Nasution, *Akal dan Wahyu dalam Islam*. (Jakarta: UI Press, 1986), p. 29; Adiwarmar Karim, *Sejarah Pemikiran Ekonomi Islam*. (Jakarta: PT.Raja Grafindo Persada, 2004), p. 5; J. Michael Taylor, "Islamic Banking The Feasibility of Establishing an Islamic Bank In The United State", *American Business Law Journal*, 40 *Am. Bus. L. J.* 385, (Winter 2003), p.387.

² Nima Mersadi Tabari, "Islamic Finance and The Modern World: The Legal Principles Governing Islamic Finance in International Trade", *Journal Company Law*, Comp. Law. Vol. 31 (8) 2010, p. 249-254; Ahmad Maulidizen, "A Critical Analysis of Islam, Economy, and Finance In The Early 21st Century". *Jurnal Hukum Islam*, Vol. XVI (2): p. 132-151.

³ Muhammad Fadel, "Shari'a: Islamic Law in Contemporary Context" Edited by Abbas Amanat and Frank Griffel, *Journal of Law and Religion*, Vol. XXIV (2009), p. 102; Ahmad Maulidizen dan Mohammad Taqiuddin Bin Mohamad, "Murabahah Sebagai Instrumen Pembiayaan Dalam Keuangan Islam Modern. *Jurnal Ijtima'iyah (Jurnal Pengembangan Masyarakat Islam)*, Vol. 11, No. 1 (2018). p. 303-332.

⁴ Muhammad, *Manajemen Pembiayaan Bank Islam*, (Yogyakarta: Unit Penerbit dan Percetakan AMP YKPN, 2005), p. 17.

⁵ Abdullah Saed, *Bank Islam dan Bunga*, (Yogyakarta: Pustaka Pelajar, 2008), p. 138.

help, and is not permitted to take advantage of any transactions that occur. While the Tijarah agreement is a contract that is used for commercial or business transactions. Therefore, in the Tijarah agreement the parties to the transaction can agree on the profit making, such as murabahah, Salam, mudharabah, and so forth.⁶ In addition to performing its functions as intermediaries between deficit units and surplus units, Islamic banking can perform various banking services to customers and obtain fees from services provided to the Customer.⁷ The Shari'ah Pawn is holding back the material guarantee property of the customer (al-rahin) as collateral for the loan it receives, and the goods are economical, so the bank (al-murtahin) is guaranteed to take back all or part of the debt from the delivered pawn goods, if the mortgaging party can not repay the debt at the specified time.⁸ The practice of such pledge has existed since the time of the Prophet Muhammad and he himself has done it. Pawn has a very high social value and is done voluntarily on the basis of help.⁹ But until now there is still an impression in society, if someone goes to a pawnshop to borrow some money by mortgaging goods, is a disgrace and as if the life of the person has suffered. Another case if we go to a bank, there will be more prestigious look.¹⁰ Therefore, this becomes an opportunity for Islamic banks to provide financing products in the form of gold mortgage. Technically, the mortgage of gold can be done by a separate institution such as Pawnshops Shariah, both as private and government pawn institutions. In sharia banking pawn contracts can be used in two ways: first as a complementary product, ie as an additional contract of other products, such as murabahah financing; and secondly as a separate product.¹¹

The greater the public interest in sharia pawn financing, the sharia banking which is one of the institutions that provide the product must be guarded so that no banker who do deviation against existing system because it can damage the image of syariah banking in the eyes of society. Therefore, it is necessary to supervise the implementation and implementation of this financing product so that people who have used the products are

⁶ Yusak Laksmna, *Account Officer Bank islam*, (Jakarta : PT.Elex Media Komputindo, 2009), p. 9.

⁷ Adiwarmam A.Karim, *Bank Islam Analisis Fiqih dan Keuangan*, Ed.4. Cet-7 (Jakarta : PT. Raja Grafindo Persada, 2010), p. 112.

⁸ Zainuddin Ali, *Hukum Gadai Syariah Cet.1* (Jakarta : Sinar Grafika,2008), p. 3.

⁹ Ahmad Maulidizen, "Aplikasi Gadai Emas Syariah di Bank BRI Syariah Cabang Pekanbaru". *Jurnal Falah* Vol. 1 (1): p. 76-89.

¹⁰ Abdul Ghofur Anshori, *Gadai Syariah di Indonesia : Konsep, Implementasi, dan Institusionalisasi*, Cet. ke-2 (Yogyakarta: Gajah Mada University Press, 2011), p. 1.

¹¹M.Syafi'i Antonio, *Bank islam Dari Teori Ke Praktek*, (Jakarta : Gema Insani Press,2001), p. 130.

more confident with the shariah principles that have been described and for people who have not utilized the financing products become confident and interested in the product.

The Fatwa of the National Sharia Council of the Indonesian Ulema Council No.26 / DSN-MUI / III / 2002 is a guide in Shariah banking in performing its Operations activities from the aspect of funding from the community, channeling funds to the public and other financial services. Implementation of the Fatwa of the National Sharia Council of the Indonesian Ulema Council No.26 / DSN-MUI / III / 2002 for financing by pawnsharia will contribute to the achievement of the growth target of sharia banking because the regulation is a formulation made by sharia economic experts. Based on the above description, the writer is interested to know more deeply about how the implementation of rahn contract in sharia gold mortgage financing in Modern Islamic Financial Institution, the impacts and Fatwa DSN review on the implementation of sharia gold financing products in Modern Islamic Financial Institutions Articles this is included in the field research and library research, to obtain and collect reference materials in the form of documentation relating to the title raised in the writing, then presented with qualitative descriptive method.

B. Discussion

1. The Definition of *Al-Rahn*

In Arabic terms, pledge is termed rahn and can also be called al-habs. Etymologically the meaning of rahn is fixed and long, while al-habsu means the detention of an item with the right so that it can be used as payment of the goods. Meanwhile, according to Sabiq, rahn is making goods that have value of property according to syara 'view as a debt guarantee, so that the person concerned can take some (benefits) of the goods. This understanding is based on the practice that if someone wants to owe to others, he makes his goods either in the form of moving goods or in the form of livestock under the control of the guarantor until the borrower repay the debt.¹²

The understanding of rahn according to Imam Ibn Qudamah in the Book of Al-Mughni is an object that made the trust of a debt to be filled from the price, if the debt can not afford to pay it from the person who is owed. While Imam Abu Zakaria Al-Anshary in his Book Fathul Wahab defines rahn is making objects that are property as a belief of something that can be paid from the property when the debt is not paid. Rahn means

¹² Abdul Ghofur Anshori, *Gadai Syariah di Indonesia : Konsep, Implementasi, dan Institusionalisasi*, Cet. Ke-2 (Yogyakarta: Gajah Mada University Press, 2011), p. 112

making something of value in the opinion of syara as a debt dependent, in the presence of the dependent object wholly or partly of acceptable debt.¹³ Pawn (Rahn) in the form of transactions conducted by a person who needs funds, so pawned his possessions as collateral to the Islamic Bank and to the Islamic bank's permission the person can use the mortgaged goods on condition that they must be maintained properly. Islamic banks will charge the service fees according to the agreement.¹⁴

The definition of existing mortgage in sharia is slightly different from the definition of mortgage that is in positive law, because the notion of pledge in positive law as contained in the Burgerlijk Wetbook (Book of Civil Law) is the right earned by someone owed to a moving goods, which is submitted to him by a person owed or by another person on his behalf and who authorizes the debtor to take the repayment of the goods in advance of other indebted persons, with the exception of the cost of auctioning the goods and which charges should take precedence (Article 1150 of the Civil Code).¹⁵ In contrast to the Criminal Code, the definition of a pledge according to Islamic law is also different from the definition of pledge according to the provisions of customary law, which in the customary law provisions of pledge is to give up the land to receive payment of cash in cash with the provisions of the seller (pawns) the land by redeeming it.

Pawn sharia is the detention of a goods (movable and immovable) belonging to another party (debtor) by a party (bank) with the granting of rights to the bank to take full repayment of the bank's receivables to the debtor.¹⁶ From some of the above understanding we can conclude that the sense of rahn is to hold the property of one of the borrower's property as collateral for the loan it receives. Simply can be explained that rahn is a kind of collateral payable debt.¹⁷ The difference Rahn in Islamic law is done voluntarily on the basis of helping to help without looking for profits, while lien meunurt Civil Law in addition to principled please help also seek profits by attracting interest or lease capital. In Civil litigation law applies only to moves, whereas in Islamic law, rahn applies to all moving and non-moving objects.¹⁸

2. Rukun and Terms of Rahn

¹³ Syafi'i Jafri, *Muamalah*, (Pekanbaru : Suska Press, 2008), p. 73.

¹⁴ Zainuddin Ali, *Hukum Perbankan Syariah*, (Jakarta : Sinar Grafika, 2010), p. 37.

¹⁵ *Ibid*, p. 113.

¹⁶ Muhammad, *Akuntansi Perbankan Syariah*, (Yogyakarta : Trust Media, 2009), p. 155.

¹⁷ *Ibid*

¹⁸ Mawardi, *Lembaga Perekonomian Umat* (Pekanbaru : Suska Press,2008), p.88.

Mohammad Anwar in the book of Islamic Fiqh mentions the rukun and the legal terms of the mortgage agreement are (1) Ijab Qabul (Shigat), this can be done in written or oral form, provided that it contains the intention of a pledge agreement between the parties, (2) transactions (Aqid), the conditions that must be met for the people who transact the pledge namely rahin (giver pawn) and murtahin (receiver of pawn) is adult (baligh), intelligent and of his own desires. (3) The existence of the mortgaged goods (Marhun), the conditions that must be met for goods to be pawned by the rahin (giver of the pawn) is acceptable, beneficial, rahin (mortgagee), obviously, not united with other assets, controlled by a permanent or transferable monk and treasure. (4) Marhun Bih (Debt), according to the Hanafiyah and Shafi'iyah Scholars, the terms of debt which can be used as the basis of mortgage are in the form of debt which can still be utilized, must be prevalent at the time of the contract, and must be clear and known by rahin and murtahin

3. Legal basis of *Rahn*

The likelihood of pawning according to Islam, regulated in the Qur'an, Hadith and Ijtihad as follows:¹⁹

Al-Qur'an

The verses of the Qur'an which can be made in the basis of the law of pawn agreement are Surah Al-Baqarah Verses 282 and 283. This verse explains in the case of muamalah that is not cash, which is done on the way and there is no scribe who will write it, then there should be a liability (assurance) held by the party is owed. Unless both sides trust each other and submit to God, then muamalah it can be done without any dependents. This verse does not stipulate that the guarantee should only be made on the terms of travel, no muamalah with cash and no clerk, but this verse only states that in such circumstances may be made muamalah by using a guarantee. In other circumstances may also use a guarantee in accordance with the hadith narrated Bukhari that the Prophet Muhammad had pawned his armor to the Jews in Medina

Hadith

From Aisha RA said that Rasulullah Saw buys a meal from a Jew and guarantees him his armor" (HR.Bukhari dan Muslim)

From Abu Hurairah r.a Prophet SAW said: "It is not free from the ownership of the mortgage from the owner who pawned it, he benefited and took the risks". (HR.Asy-

¹⁹ *Ibid*, p. 114

Syafi'i, Al-Daraquthi dan Ibn Majah)

The Prophet said: "The mortgaged vehicle (vehicle) may be charged at the cost and the mortgaged livestock may be milked at the expense of the cost. For those using the vehicle and milking shall provide maintenance and maintenance fees". (HR. Jamaah, kecuali Muslim dan An-Nasai)

Ijtihad

With regard to the Acceptance of this pawning agreement, jumhur ulama may also argue that they may never dispute opinions on this matter. Jumhur Ulama is of the opinion that it is prescribed on time neither traveling nor on the go, arguing against the Prophet's actions against the hadith narration of the Jews in Medina. The circumstances of the journey as prescribed in Surah Al-Baqarah: 283, because it sees the custom where it is generally done on the go. Al-Dhahak and the adherents of al-Zahiri madhhab believe that rahn is not prescribed except at the time of traveling, postulate in the verse earlier. But their statement has been refuted by the hadith.

4. Benefit and Risk of Rahn

Rights and Obligations Murtahin (Recipient of Pawn)

The right of Murtahin is :²⁰

- a. Pawnshop holders are entitled to sell marhun if the rahin can not fulfill its obligations at maturity. The proceeds from the sale of the mortgage (marhun) can be used to pay off the loan (marhun bih) and the rest is returned to the rahin
- b. Pawnshop holders are entitled to reimbursement of expenses incurred for the maintenance of marine safety
- c. As long as the loan has not been paid, the mortgagee is entitled to withhold the lien delivered by the pledge giver (customer / rahin)

Obligation of Murtahin (Recipient of Pawn)²¹

- a. The receiver is liable for the loss or decline of the pledge, if it is caused by his negligence.
- b. The receiver of the pledge shall not use the goods of pawning for its own sake.

²⁰ Zainuddin Ali, *Op.Cit*, p. 40

²¹ *Ibid*

- c. The receiver of the pledge shall notify the pawnbroker prior to the auction of the pledge.

Right and Obligation of Rahin (Pawnshop)

The Right to the Pawner is :²²

- a. The mortgagee is entitled to get back the lien, after he has paid the loan
- b. The pawnbroker has the right to sue for damages and loss of lien, if it is due to the negligence of the receiver of the pledge.
- c. The mortgagee is entitled to receive the remaining proceeds from the sale of the mortgage after deducting borrowing costs and other costs.
- d. The pledgee is entitled to re-request the lien if the receiver of the pledge is known to misuse the lien.

Kewajiban *Rahin* (Pemberi Gadai)²³

- a. Pemberi gadai wajib melunasi pinjaman yang telah diterimanya dalam tenggang waktu yang ditentukan, termasuk biaya-biaya yang ditentukan oleh penerima gadai.
- b. Pemberi gadai wajib merelakan penjualan atas barang gadai miliknya, apabila dalam jangka waktu yang telah ditentukan pemberi gadai tidak dapat melunasi pinjamannya.

5. Important Things In Rahn

1. Risk of *Rahn*

The risk that may occur to Rahn when applied in the business world is :²⁴ (1) The risk of unpaid payables liabilities (wanprestasi). In this case, the giver of the pledge has defaulted, either because it can not return the debt or because it is late from the due date. (2) Risk of impairment of goods held or damaged. In this case it is more because the durability of the hold goods is weak or easily damaged.

2. The Confiscation and Activity of the Rahn Auction

According to the provisions of the Shari'a that if the period that has been promised for debt payments has been missed then the debtor is obliged to pay its debts. But if the debtor does

²² *Ibid*, p. 41

²³ *Ibid*

²⁴ M.Syafi'i Antonio, *Op.Cit*, p. 131

not have the will to repay his loan let him give permission to the holder to sell his mortgage goods. And if this permission is not granted by the pawnbroker then the mortgagee may request the help of the judge to force the pawnbroker to pay off his debt or give permission to the pawnbroker to sell the lien.²⁵ If the holder has sold the hockey there is a surplus of what the pawner should pay, then the excess must be given to the pawner. On the other hand, even if the goods have been sold and have not been able to pay off the mortgage debt, then the paw is still obliged to pay the shortage.²⁶

The practice of auction (*muzayadah*) in the simplest form ever done by Prophet Muhammad SAW, when visited by a friend from Ansar circle ask alms kepadanya. Then the Prophet asked: "Is your house there any good?". The friend replied that he had a hiis (worn cloth) that was worn as well as a base and a qi'b (large cup of wood) used for drinking water. Then he told him to take both the goods. When he handed it to the Prophet, he took it and offered it: "Who is interested in buying these two things?" Then someone is bidding both on a dirham price. So He began to increase his offer: "Who would want to add it again with one dirham?" then another bidder said: "I bought it for two dirhams" Then the prophet handed the goods over to him and gave the two dirhams to the Anshar's auction (HR.Abu Dawud, An-Nasai' dan Ibn Majah).²⁷ Ibn Qudamah, Ibn Abdil Bar and others narrated the existence of *ijma* '(agreement) of scholars about the possible sale and purchase by auction even has become a habit that prevailed in the market of Muslims in the past. As Umar Bin Khattab also did it.²⁸

However, to prevent the existence of deviation of sharia and violation of rights, norms, and ethics in auction practice. Syariat Islam provides guidance and general criteria as the main guidance, that is :²⁹ (a) the transaction is committed by a competent party on a voluntary basis ('an taradhin), (b) The object of the auction must be lawful and useful, (c) Full ownership / power in the goods sold, (d) Clarity and transparency of goods auctioned off without any manipulation, (e) The ability to deliver goods to the seller, (f) Clarity and certainty of agreed price without the potential for dispute, (g) Not using collusive and bribery means to win bids

²⁵ Abdul Ghofur Anshori, *Op.Cit*, p. 120

²⁶ *Ibid*,

²⁷ *Ibid*, p. 124

²⁸ *Ibid*, p. 125

²⁹ *Ibid*

Any form of fraudulent engineering to make unauthorized profits in auction practices is categorized by scholars in the practice of najasy (gangster / dirty tricks auction), which is forbidden Prophet Muhammad (HR.Bukhari dan Muslim), or may also be included in the Risywah category if the seller or buyer uses money, facilities or services to win an auction that does not meet the desired criteria.³⁰

3. The end of Ar-Rahn's Agreement

The fiqh cleric states that a contract may be terminated, in the event of any of the following :³¹ (a) The term of the contract expires, if the contract has a grace period, (b) Canceled by the parties in effect, if the contract is binding, (c) In a binding contract, the contract may terminate if; The covenant is fasid, prevailing khiyar requirement, khiyar disgrace, the contract is not executed by a committed party, has achieved the goal of the contract perfectly, and the death of one of the parties intent, but can be passed on by the heirs, thus no party harmed.

6. Applying Rahn to Gold Pawn Financing at Modern Islamic Financial Institutions Fatwa provisions

The provisions on rahn as stated in the DSN Fatwa No.25 / DSN-MUI / III / 2002 on Rahn as follows:

- a. Murtahin (the receiver of the pledge) has the right to hold the marhun (goods) until all the debts of rahin (who deliver the goods) are paid off.
- b. Marhun and its benefits still belong to rahin. In principle, marhun should not be utilized by murtahin unless the permission of the rahin by not reducing the value of marhun and its utilization is just a substitute for maintenance and maintenance costs.
- c. Maintenance and storage of marhun is basically a liability of rahin, but can also be done by murtahin, while the cost and maintenance and storage remains a liability rahin.
- d. Huge maintenance and storage costs may not be specified on the loan amount.
- e. Sales of marhun
 - (1) In case of maturity, the murtahin must warn the womb to immediately repay the debt.

³⁰ *Ibid*,

³¹ Andrian Sutedi, *Op. Cit*, p.173

- (2) If the womb remains unable to pay its debts, then the marhun is forcibly sold / execution by auction according to sharia.
 - (3) The proceeds from the sale of marhun shall be used to settle its debts, unpaid maintenance and storage costs, and sales costs.
 - (4) The excess of the sale proceeds to the possession of the rahin and its deficiency becomes the duty of rahin.
- f. If one party does not fulfill its obligations or if there is a dispute between the two parties, the settlement will be made through the Indonesian Arbitration Board of Muamalah (BAMUI) after the agreement is not reached through the deliberation (now called the National Sharia Arbitration Board / BASYARNAS).

While the provisions on gold mortgage is referring to the Fatwa DSN No.26 / DSN-MUI / III / 2002 About Rahn Gold with the addition as follows

- a. a goods storage cost (marhun) is borne by the pawns (rahin).
- b. The cost as referred to amount is based on the expenditures that are clearly required.
- c. The pawn storage fee (marhun) is based on the Ijarah agreement

While the property used as the object of gold pawn sharia, the gold mortgaged must have a good selling value and can be sufficient to repay the debt of customers to the Bank. And the goods are perfect goods owned by the customer as a pawnbroker, whole, not spread in various places, not related to others, in accordance with the syariah kriteria, not haram or goods obtained forbidden. Then the debt given by the Bank must be a right that must be clearly and specified in terms of both the amount and the plan of return. In general, the object of Islamic mortgage on Sharia Commercial Bank or Sharia Business Unit is gold. The shape can be also a jewelry also rod with a carat size between 16 to 24 carats. Gold is chosen as the object of pledge because gold is considered a fair and reasonable medium, this is because gold has a stable value for a certain period of time.

While the fees charged to customers include:

1. Cost of Administration

Administrative cost is the cost or sacrifice of material issued by the bank in terms of execution of the mortgage agreement with the pawnsheller (rahin). In general, scholars agree that all the costs derived from goods pawned is a dependent pawn. Therefore, the administration fee of the mortgage is charged to the mortgagee. Because the cost of administration is the cost incurred by the bank, the bank knows better in calculating the

administrative cost details. After the bank calculates the total administrative costs, then the customer or the mortgage overrides the administrative costs. But not many or even very rare customers who know the details of the administrative costs. The bank only informs the total administrative cost to be borne by the customer or the pawns without mentioning the details. Openness in informing the administrative cost details is very important in the framework of disclosure relating to *ridha bi ridha*, because the administrative costs are charged to customers or pawns.

National Sharia Council in Fatwa No. 26 / DSN-MUI / III / 2002 states that the costs or fees borne by the mortgage amount are based on the expenditures that are clearly required. That is, the mortgage must know the amount of details and expenditures issued by the bank to implement the mortgage agreement, such as stamp duty, appraisal services, contract form, photo copy, print out, etc. So that also causes the administrative costs to be paid up front. The bank is not allowed to take advantage of the sharia pawn contract because basically shariah contract is a lending-borrow transaction (*qardh*) which is *tabarru* meaning good or help. So it is not permitted to take advantage or benefit from lending and borrowing activities (*qardh*).

2. Maintenance costs

Maintenance or storage expenses are the costs required to maintain the goods of hock during the term on the pledge agreement. In accordance with the opinion of some *jumhur ulama* the cost of maintenance or storage becomes dependent pawn (*rahin*). Because basically the pawns (*rahin*) are still the owner of the hocked goods, so he is responsible for all costs incurred from his lien goods.

The contract used for the application of maintenance or storage costs is an *ijarah* (rent) agreement. This means that the mortgage (*rahin*) rent a place in the bank to store or deposit goods *gadainya*, then the bank set the cost of renting the place. In another sense, the pawns (*rahin*) use bank services to store or maintain their mortgage goods until the term of the mortgage expires. The cost of maintenance / storage or rental fee is allowed by the scholars by referring to the permissibility of the *ijarah* agreement. The cost of maintenance / storage / rental may be the cost of renting the place of SDB (Save Deposit Box), maintenance cost, security cost, and other expenses necessary to maintain or keep the lien. By *ijarah* agreement in the maintenance or storage of bank hocking goods can

obtain a legitimate and lawful income. The Bank shall obtain a fee or wage for services rendered to the mortgagor or payment for the lease paid to the pawner.

The Impact of Rahn's Application on Gold Pawn Finance at Modern Islamic Financial Institutions

Implementation of Islamic gold pawn financing is one form of channeling of funds to the community in the form of lending funds by holding the valuables (gold) owned by customers, but gold mortgage financing can provide benefits to the bank and customers, the impact among others:

1. Modern Islamic Finance Institution
 - a. The opportunity of a bank to obtain a fee from the Ijarah agreement accompanying the award of the Qardh Facility.
 - b. Bank can perform its function by channeling funds to the public
2. Customer
 - a. Customer no need to sell gold to get cash.

In order to meet the urgent need, customers get alternative path to obtain loan funds without having to sell the lien (gold) owned by customers, but only pawn it temporarily in Islamic Bank so that the maturity and the customer has paid its obligations to the Islamic Bank. This means that customers still have the right to own lien (gold) is mortgaged, and customers get 2 benefits, namely get loan funds and lien owned.³²

- b. The pawned banking is guaranteed security

In sharia pawn financing, the mortgaged goods (gold) of customers are insured by the party at Bank Rakyat Indonesia Syariah on Asuransi Beringin Sejahtera Artha Makmur (BSAM). This is done by Bank Rakyat Indonesia Syariah to provide security to the mortgaged goods (gold) of customers and anticipate any risks that will arise, such as loss, theft, robbery, etc.³³

- c. Customer not subject to interest on the loan

In sharia gold mortgage financing customers are not subject to interest on the loan because the Islamic Bank forbids any kind of transaction which is rare and contains MAGHRIB

³² Interview with Ari Setiabudi as a Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017

³³ Interview with Anis Fuad as a Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017

(Maisir, Gharar, and Riba). The customer is only charged for the rented place rented (gold) is calculated not the amount of the customer loan, but based on the type and rust of the mortgaged goods (gold) of the customer.³⁴

d. Customer can extend the contract (refund)

At maturity, customers can not fulfill their obligations, Bank Rakyat Indonesia Syariah provides opportunity and waivers to extend the contract (re-pledge), but must first be re-evaluated with gold price at that time.³⁵

e. price at the time of resale or when the sale is higher than at the time of mortgaged

The price of an item will experience a fructose with two possibilities, ie up and down. While gold is a very liquid item and gold is more likely to experience price increases compared to price declines.³⁶

f. The procedure for disbursement of Islamic gold pawn funds is faster and flexible than other financing.

One function of the Bank is to channel funds to the public in the form of financing. The steps taken by the Bank prior to financing is by analyzing and feasibility studies to customers with the principle of 5C 1S (Capital, Character, Collateral, Condition, Capacity and Sharia).

Analysis of the implementation of Rahn's contract on Gold Pawn Financing at Bank Rakyat Indonesia Syariah Based on the Fatwa Perspective of the National Sharia Council

Based on the DSN Fatwa No.25 / DSN-MUI / III / 2002 on Ar-Rahn and Fatwa DSN No.26 / DSN-MUI / III / 2002 regarding Rahn Gold if associated with the implementation of Gold Pawn at Bank BRI Syariah, the implementation of Gold Pawn in Bank Rakyat Indonesia Syariah has complied with the fatwa. This includes among others:

1. Legal Terms of agreement

³⁴ Interview with Hermiwati as a Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017

³⁵ Interview with Susi as Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017

³⁶ Interview with Shariah Gold Financing Customer at Bank BRI Syariah on December 14, 2017

The DSN fatwa does mention in detail about the harmonious and legal requirements of this gold pawn is that there must be murtahin (receiver of the pledge), rahin (who handed over the goods), and marhun (mortgaged goods). Gold Pawn at Bank Rakyat Indonesia Syariah has fulfilled the legal terms and conditions of gold mortgage in accordance with the Fatwa DSN that is the murtahin (Bank Rakyat Indonesia Syariah), rahin (Customer), and marhun (goods pawned in the form of gold or jewelry gold bar).

More details, Bank Rakyat Indonesia Syariah implements conditions for rahin and marhun. The requirement for such rahin is rahin is Indonesian citizen, individual with minimum age 21 years or has been married, and not registered in problem financing at Bank Indonesia and Bank Rakyat Indonesia Syariah. For the requirements of marhun is in the form of gold jewelry or gold precious metal in the form of bullion (Gold Bar). In addition to such goods, can not be used as collateral goods pawn financing.

Bank Rakyat Indonesia Syariah as murtahin in accordance with the Fatwa DSN, is entitled to hold marhun or goods pawned in the form of gold until the Customer repay its debts. Bank Rakyat Indonesia Syariah only has the right to hold the marhun. This can be seen in the procedure of Gold Pawning at Bank Rakyat Indonesia Syariah where after the completion is estimated, gold is put into the bag and directly stored in a locked cash box. For qabul ijab or mortgage agreement, in the implementation of Bank Rakyat Indonesia Syariah, the agreement is contained in the Sharia Certificate (SGS) where the contract is Load Agreement with Pawn (Akad qardh) and Akad Sewa Tempat (akad ijarah). On the back of the SGS there is a provision on each contract and contains the terms and obligations of each party. For maintenance, in the Fatwa DSN No.25 / DSN-MUI / III / 2002 on Rahn mentioned that the maintenance and storage of marhun is basically a liability of rahin, but can also be done by murtahin. In the practice of Gold Pawn at Bank Rakyat Indonesia Syariah, marhun must be kept and maintained directly by Bank Rakyat Indonesia Syariah. This is done so that there is a guarantee that rahin will pay its debts on time. If on the appointed day that is the due date, the customer can not return the loan money then with the holding of guarantee goods, will facilitate Bank Rakyat Indonesia Syariah in the process of execution / auction.

2. Cost

Fatwa DSN No.26 / DSN-MUI / III / 2002 concerning Rahn Emas mentions that the cost and cost of goods storage is borne by the pawns (rahin). These costs are based on expenses

that are clearly required. This storage fee is based on ijarah agreement. Fatwa DSN No.25 on Rahn mentioned that the cost of maintaining and storing the marhun should not be determined based on the loan amount. In practice, Bank Rakyat Indonesia Syariah implements sharia principles in determining these costs. These costs consist of administrative costs and rent. For administrative costs, the amount ranges from RP.20.000,00 to Rp.100.000,00 based on the weight of Warranty Item and is payable only once at the beginning of the pawn transaction. As for the cost of renting a place, the amount is not based on the amount of the loan, but based on the level of rust in gold, the weight of gold and the mortgage period. The cost of renting this place is issued for expenses that are clearly issued such as maintenance costs, security fees, and insurance costs. With this insurance, customers can feel more secure because if the gold is lost or destroyed, the bank can replace the entire value of lost gold or destroyed it.

3. Procedures for Settlement of Guaranteed Items Maturity

In Section Two Number 5 Fatwa DSN No.25 / DSN-MUI / III / 2002 on Rahn mentioned that murtahin has an obligation to warn rahin to pay off its debts at maturity. In practice in the settlement of matured goods in Bank Rakyat Indonesia Syariah, Bank Rakyat Indonesia Syariah follows the provisions of the DSN Fatwa, namely the Bank is required to contact the Customers who have matured the loan period, at least 4 days before the maturity of his loan term. Prior to the auction, Bank Rakyat Indonesia Syariah provides an opportunity for the Customer to pay off all at once, installments or extend the loan agreement. In the DSN Fatwa, if the rahin still can not pay off its debt, then murtahin can be sold forcibly / executed by auction according to sharia. Marhun proceeds are used to pay off debts, unpaid maintenance and storage costs and sales costs. The excess of the sale proceeds to the possession of the rahin and its deficiency becomes the duty of rahin. What is stipulated in the Fatwa DSN is the same as what is stipulated in the procedure of auction of pawn goods in Bank Rakyat Indonesia Syariah. In the procedure of auction of lien at Bank Rakyat Indonesia Syariah, it is mentioned that the collateral goods that are not paid in full, in installments, or extended the loan period must be settled immediately. The proceeds from the auction are used to repay the principal of the unpaid loan, the rent / ijarah fee, and other expenses (auction fee). Based on this, the auction conducted by Bank Rakyat Indonesia Syariah in accordance with the sharia prinsip set in the Fatwa DSN. In addition, the obligation to notify the auction to the Customer. Customers may arrive at the auction, and

there is still an opportunity for the Customer to redeem the gold before it is auctioned, indicating that Bank Rakyat Indonesia Syariah is trying to make sure that the collateral can be returned to its owner. Auction to the last attempt if the Customer really can not pay the debt.

7. Conclusion

Islamic gold pawn financing at Bank BRI Syariah Branch Pekanbaru is given within 120 days and repayment can be paid at once or in installments. Implementation of sharia gold mortgage financing at Bank BRI Syariah can provide benefits for the parties berakad (Bank and customers), Banks get revenue in the form of fees and customers can meet their needs against something desired. Implementation of sharia pawn financing at Bank BRI Syariah is in accordance with what is stipulated in the Fatwa DSN-MUI.

Bibliography

Al-Qur'an

Al-Hadīth

Abdul Ghofur Anshori. *Gadai Syariah di Indonesia: Konsep, Implementasi, dan Institusionalisasi*. Cet. Ke-2. Yogyakarta: Gajah Mada University Press, 2011.

Abdullah Saed. *Bank Islam dan Bunga*. Yogyakarta: Pustaka Pelajar, 2008.

Adiwarman A.Karim. *Bank Islam Analisis Fiqih dan Keuangan*, Ed.4. Cet-7. Jakarta : PT. Raja Grafindo Persada, 2010.

_____. *Sejarah Pemikiran Ekonomi Islam*. Jakarta: PT.Raja Grafindo Persada, 2004.

Ahmad Maulidizen, "A Critical Analysis of Islam, Economy, and Finance In The Early 21st Century". *Jurnal Hukum Islam*, Vol. XVI (2): 132-151.

_____. "Aplikasi Gadai Emas Syariah di Bank BRI Syariah Cabang Pekanbaru". *Jurnal Falah* Vol. 1 (1): 76-89.

_____ dan Mohammad Taqiuddin Bin Mohamad, "Murabahah Sebagai Instrumen Pembiayaan Dalam Keuangan Islam Modern. *Jurnal Ijtimiyyah (Jurnal Pengembangan Masyarakat Islam)*, Vol. 11, No. 1 (2018). 303-332.

Harun Nasution. *Akal dan Wahyu dalam Islam*. Jakarta: UI Press, 1986.

- J. Michael Taylor, "Islamic Banking The Feasibility of Establishing an Islamic Bank In The United State", *American Business Law Journal*, 40 *Am. Bus. L. J.* 385, (Winter 2003), h. 387.
- M.Syafi'i Antonio. *Bank islam Dari Teori Ke Praktek*. Jakarta : Gema Insani Press,2001.
- Mawardi. *Lembaga Perekonomian Umat*. Pekanbaru : Suska Press,2008
- Muhammad Fadel, "Shari'a: Islamic Law in Contemporary Contex" Edited by Abbas Amanat and Frank Griffel, *Journal of Law and Religion*, Vol. XXIV (2009), h. 102;
- Muhammad. *Akuntansi Perbankan Syariah*. Yogyakarta : Trust Media, 2009.
- _____. *Manajemen Pembiayaan Bank islam*. Yoyakarta: Unit Penerbit dan Percetakan AMP YKPN, 2005.
- Nima Mersadi Tabari, "Islamic Finance and The Modern World: The Legal Principles Governing Islamic Finance in International Trade", *Journal Company Law, Comp. Law*. Vol. 31 (8) 2010, h. 249-254;
- Rifqi Muhammad. *Akuntansi Keuangan Syariah*. Yogyakarta, P3EI Press, 2010.
- Syafi'i Jafri. *Muamalah*. Pekanbaru : Suska Press, 2008.
- Yusak Laksmana. *Account Officer Bank islam*. Jakarta : PT.Elex Media Komputindo, 2009.
- Zainuddin Ali. *Hukum Gadai Syariah*. Cet. 1. Jakarta : Sinar Grafika,2008.

Interview

- Interview with Ari Setiabudi as a Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017
- Interview with Anis Fuad as a Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017
- Interview with Hermiwati as a Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017
- Interview with Susi as a Financing Customer of Sharia Gold Pawn On Bank BRI Syariah on December 14, 2017
- Interview with a Gold Sharpen Financing Customer at Bank BRI Syariah on December 14, 2017