



APPLICATION OF FINANCIAL DERIVATIVES FROM THE PERSPECTIVE OF MASLAHAH AS A SYARIAH INVESTMENT AT BANK SYARIAH INDONESIA (BSI) MAIN BRANCH MAKASSAR

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ABSTRACT

Maslahah is the main concept in the application of Financial Derivatives in Islamic banking according to Islamic principles without containing elements of maysir, gharar and usury. The purpose of this study is to identify derivative instruments in Bank Syariah Indonesia in order to explore their application and determine the impact of maslahah. This study uses a qualitative research method with an Ethnography method approach. Data sources from direct actors at BSI and the Sharia Supervisory Board. The results of the study show that Bank Syariah Indonesia operates based on sharia principles, which prohibit certain financial activities that contain maysir, gharar and usury. The application of financial derivatives in Islamic Banks has an impact related to the concept of maslahah (benefit), namely Effective Risk Management, Increased Liquidity, Investment Diversification, Product Innovation, transparency and compliance. The application of Islamic Financial Derivatives in Indonesian Islamic banks aims to offset potential losses in one investment through Islamic hedging. On the other hand, the Sharia Supervisory Board supervises and ensures sharia compliance in hedging. The implications of this study are expected that the application of derivatives must ensure fair profit and loss sharing between the parties involved in the transaction in accordance with sharia principles and contribute to the welfare of the wider community. In addition, the use of sharia derivatives needs to be based on ethical principles and sharia principles and pay attention to considerations of maslahah and mafsadah (benefits and losses) in every activity in sharia financial derivatives.

Keywords: Financial derivatives; maslahah; islamic hedging

1. INTRODUCTION

Maslahah is the most important concept in the development of Islamic economics. Scholars throughout history have always placed maslahah as the main principle in sharia. The implementation of maslahah in the economy can be seen in the activities of economic activities that are always developing.

The theory of maslahah comes from the theory of Islamic law whose orientation emphasizes the element of maslahah or benefit for humans rather than merely questioning normative issues. This theory does not merely look at the sound of the legal text (the sound of the verses of the Qur'an and Hadith) or written laws, but rather emphasizes the principles of rejecting harm in order to maintain the goals of sharia. Maslahah is a concept that is used as the main consideration by scholars in resolving contemporary Islamic legal problems because the principle contained in maslahah is the maintenance of objective legal goals (*maqashid al-syari'ah*). According to al-Ghazali, maslahah must be based on the text of sharia and not on reason alone (Kudaedah, 2020).

The relationship between *maqashid sharia* and maslahah is very closely related, because the purpose of *maqashid sharia* itself is to achieve maslahah. Maslahah is the most important concept in economic development (Ishak, 2014). Economics guides a person in setting priorities and policy choices by identifying potential costs and benefits. In each priority and policy choice, there is an opportunity cost that must be traded off by policy makers. In Islamic economics, the principle that is prioritized is the characteristics of decision making, not only for individuals but also to encourage the economic activities of the community (Qoyum et al., 2021).

According to the doctrine of Islamic economics, Islamic finance is a normative discipline and is mainly driven by prohibitions based on three main pillars, namely the prohibition of usury, *gharar* (excessive uncertainty) and *maysir* (gambling). The majority of conventional financial instruments are rejected using these three prohibitions. The use of derivative instruments within the framework of market risk management in Islamic finance is permitted (Ayoub & Nabilou, 2019). Kamali found relevant evidence that derivative financial instruments are relevant to sharia (Kamali, 1999).

Theoretically, Islamic investment promises three main benefits, namely spiritual, financial and social benefits. Realizing sharia investment in the sense of the three main benefits requires serious efforts. Sharia capital market instruments are part of sharia instruments. Islamization of financial institutions and instruments in the modern era has emerged not only to meet the needs of Muslims for financial activities but also as a medium to realize the higher goals of Islam, namely *maqāṣid al-syar'ah* in economic and financial activities (Soemitra, 2016).

Many Muslims are still hesitant to invest. They are worried that the management of their funds will not be in accordance with Islamic law, contain usury, and be placed in securities whose companies operate in sectors that are not recommended by religion. Based on these considerations, sharia investment was launched to accommodate the needs of Muslims.

This new investment, as a result of the shock to the American capital market known as the Black October event that occurred in 1929 as The Great Depression which caused the destruction of the world economy, gave birth to a product called a derivative instrument. This derivative

instrument is a financial instrument that is a derivative asset of its main instrument (underlying asset) either from stocks or bonds (Sayyid, 2015).

Derivative transactions themselves are actually a form of financial instrument used to reduce the risk that arises due to price movements. This avoids speculation (*maysir*) which places money on something that is not yet clear in the hope of short-term profits. This derivative transaction is an investment that places part of the savings in an instrument that contains risk in the hope of long-term value appreciation (Harahap, 2020).

One of the investment vehicles that comply with sharia principles is Islamic Financial Derivatives (ISDs), which are the main financial risk management tools for people using derivatives to transfer risk to other parties while at the same time accepting different risks or paying premiums to transfer the risk (Victor, 2008). In addition, derivatives can also be used by managers to manage profits (Zeng, 2014).

The presence of Bank Syariah Indonesia (BSI), which is a bank resulting from the merger of three entities owned by the State-Owned Bank Association (Himbara), is expected to accelerate the growth of the sharia economy and finance, as well as become a lever for the national sharia banking ecosystem (BSI, 2021).

2. METHODS

This research method is qualitative descriptive research. Suryabrata, states that descriptive research is a thought that is carried out to describe (descriptive) systematically, factually and accurately about situations or events (Suryabrata, 2012). Descriptive methods can also be interpreted as fact-finding with proper interpretation. While qualitative research is research that reveals a phenomenon through non-statistical language descriptions and also emphasizes the analysis process (Metro, 2013).

This type of research is field research. Field research is a qualitative data collection method with the aim of understanding, observing, and interacting with people in their natural settings. The goal is to understand the subject of behavior in a particular setting to identify different instruments in the setting that can interact with the research subject (Voxco, 2021).

Primary data sources are data obtained and excavated directly by the first source or research subject. The primary data source in this study is the research subject (informant) itself which is related to derivative transactions at Bank Syariah Indonesia, Makassar Branch. Specifically, the primary data sources in this study amounted to 4 people, namely: Member of the Sharia Supervisory Board/DPS BSI Pusat Jakarta, rea Manager BSI for South Sulawesi and West Sulawesi, Marketing Executive Priority Banking BSI Area 1 Makassar and Priority Banking Manager BSI Area 1 Makassar who have the authority to supervise the performance of the Indonesia Stock Exchange in this case regarding the products and activities of the Sharia Money Market and Capital Market in implementing sharia principles.

Data collection techniques in this study were interviews, documentation and observation. The data analysis process was carried out by inductive thinking, namely drawing conclusions starting from specific statements/facts based on observations in the field/empirical experiences

compiled, processed and studied then to draw meaning in the form of general statements/conclusions (Sugiyono, 2015). Testing the validity of the data includes credibility tests (internal validity), transferability (external validity), dependability (reliability), and confirmability (objectivity) (Sugiyono, 2015).

3. RESULTS AND DISCUSSION

A. Islamic Financial Derivatives Instruments at Bank Syariah Indonesia

Bank BSI was formed as a result of the merger of the three largest state-owned sharia banks: Bank BNI Syariah, Bank Mandiri Syariah, and Bank BRI Syariah. The establishment of this sharia banking was a proposal from the Minister of BUMN, Erick Thohir, which was officially inaugurated by the President of the Republic of Indonesia, H. Joko Widodo at the State Palace. The Financial Services Authority (OJK) officially issued a merger permit for the three sharia banking businesses on January 27, 2021 through letter Number SR-3/PB.1/2021. The banking industry in Indonesia recorded a new history with the merger of these 3 sharia banks that Indonesia can become a center for sharia economics and finance.

Sharia banks operate based on sharia principles, which prohibit certain financial activities such as charging or paying interest (riba) and involving excessive uncertainty (gharar). As a result, sharia banks use financial instruments that comply with these principles.

According to one of the members of the Sharia Supervisory Board/Central DPS H. Oni Sahrani explained that:

All derivative products should be based on the MUI Fatwa (dhi. Sharia Supervisory Board), where the Fatwa is the agreement of the Ulama. As we know, our Legal Basis in implementing Sharia in general is 3, namely the Al-Quran, Hadith & Ijtihad of the scholars, namely the Agreement of the Ulama (which considers current conditions). At BSI itself, the management of Derivative products is not directly managed but through a third party such as Wealth Management/Investment Manager.¹

At Bank Syariah Indonesia (BSI) itself, the management of Derivative products is not directly managed but through a third party, namely Wealth Management/Investment Manager. Here are some derivative financial instruments used by Bank Syariah Indonesia, including: BSI Mutual Funds, Cash Waqf Linked Retail Sukuk (Retail Waqf Sukuk), Mandiri Syariah Money Market (MPUS), Bahana Likuid Syariah (BLS), Manulife Dana Kas Syariah (MDKS), Mandiri Investa Dana Syariah (MIDSYA), Bahana MES Syariah Fund (MES), Manulife Syariah Sukuk Indonesia (MSSI), Bahana MES Syariah Fund Class I (BMES I), Bahana USD Nadhira Sukuk, Mandiri Investa Syariah Berimbang (MISB), Equity Mutual Funds including Mandiri Investa Atraktif Syariah (MITRAS), BNP Paribas

¹ H. Oni Sahrani (47 years old), Interview, Member of the Sharia Supervisory Board/DPS BSI Pusat Jakarta, September 12, 2023

Pesona Syariah (BPPS), Bahana Icon Syariah (ICON Syariah), Manulife Syariah Sektor Amanah Class A (MSSA).²

According to Andi Esse, Marketing Executive Priority Banking BSI Area 1 Makassar, that:

"More New-B is dominant in mutual funds, hedging and arbitrage for options are not yet. The term if it is named up to the level of stocks, the highest end is in the highest stock mutual funds. For foreign currency products, it has only started in the last 2 months in the form of foreign currency mutual funds".³

Derivative instruments at Bank Syariah Indonesia have several special characteristics that ensure their compliance with the principles of sharia finance. Derivative instruments are used for risk management, and in the context of sharia banks, these instruments must comply with sharia principles, namely the prohibition of usury (interest) and speculation that is not in accordance with sharia.

Agussalim said that:

Derivative instruments already exist but the choices are still limited, not many, only a few products, because not all of them move within the sharia corridor, and both products are not as competitive as conventional products.⁴

Derivative instruments used by Bank Syariah Indonesia include: Mudarabah, Musharakah, Wakalah, Sukuk Syariah and Musyarakah Mutanaqisah Agreement.

The Islamic financial derivative instruments applied to Bank Syariah Indonesia are in accordance with sharia principles. This is reinforced by the statement of H. Oni Syahroni who revealed that:

The BSI Sharia Supervisory Board has just (+/- 2 months previously) conducted an internal audit at BSI Makassar. The results of the examination and conclusion that all BSI products, thank God, are still in accordance with sharia principles.⁵

In addition, Indonesian Muslims need capital market and money market instruments that are in line with sharia principles. DSN-MUI Fatwa Number 40/DSN-MUI/X/2003 explains that the capital market and all its mechanisms, especially issuers, types of securities traded and trading mechanisms are considered to be in accordance with sharia if they have met sharia principles. Sharia securities include sharia stocks, sharia bonds, sharia mutual funds, sharia asset-backed collective investment contracts (KIK EBA), and other securities in accordance with sharia principles.

The implementation of transactions must be carried out according to the principle of caution and it is not allowed to carry out speculation and manipulation that contains elements of dharar, ghara, usury, maisir, risywah, sin and injustice, as the word of Allah SWT explained in QS. al-Baqarah / 2: 278-279, namely:

² Nugroho Agung Dewanto (45 years old), Interview, Area Manager BSI for South Sulawesi and West Sulawesi, September 7, 2023

³ Andi Esse (36 years old), Interview, Marketing Executive Priority Banking BSI Area 1 Makassar, September 11, 2023

⁴ Agussalim (45 years old), Interview, Priority Banking Manager BSI Area 1 Makassar, September 7, 2023

⁵ H. Oni Sahroni (47 years old), Interview, Member of the Sharia Supervisory Board/DPS Pusat Jakarta, September 12, 2023

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ
فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ وَإِن تُبْتِغُوا فَلَئِمَّ رِءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

Translation:

If you do not do this, know that there will be a (terrible) war from Allah and His Messenger. However, if you repent, you are entitled to the principal of your wealth. You have not done wrong (harm) and you have not been wronged (harmed).

O you who believe, fear Allah and leave behind the remainder of usury (which has not been collected) if you are believers (Kementerian Agama, 2012).

Sharia compliance in Islamic financial derivative instruments requires a written statement issued by DSN-MUI which is based on Islamic teachings through fatwas related to this matter.

B. Implementation of Islamic Financial Derivatives Bank Syariah Indonesia

Bank Syariah Indonesia, like other Islamic financial institutions, implements financial derivatives that comply with Islamic financial principles. Financial derivatives are financial instruments whose value depends on an underlying asset or index, and they can be used for hedging and arbitrage. In the context of Indonesian Islamic banks, the implementation of derivatives must comply with Islamic principles, namely the prohibition of riba (interest), the prohibition of speculation that is not in accordance with Islamic law, and the principle of profit and loss sharing. Implementation of financial derivatives in Bank Syariah Indonesia:

1. Hedging

Hedging in Islamic financial derivatives involves the use of Islamic derivative instruments that comply with Islamic law to manage risk in a manner that is consistent with Islamic financial principles. Hedging is a risk management strategy that aims to offset potential losses in one investment by taking an offsetting position in another investment, thereby effectively reducing or mitigating the risk associated with the underlying asset. In Islamic finance, hedging is permitted as long as it meets Islamic principles.

To hedge, Bank Syariah Indonesia uses sharia-compliant derivative instruments. These instruments must not contain elements of riba (usury), maysir (gambling), or gharar (excessive uncertainty) which are prohibited in Islamic finance. The main purpose of hedging in Islamic finance is to reduce the risk associated with the underlying asset. Ownership of the underlying asset is generally required for hedging. This means that the institution that hedges must own the underlying asset or actually have exposure to the asset.

This is in accordance with important principles regarding what is right and what is not right which are based on the Qur'an and the Hadith of the Prophet Muhammad SAW. The principles in question are the prohibition of riba, speculation and a series of prohibited activities, namely uncertainty (gharar), gambling (maysir), ignorance (jahl) (Najeeb, 2011). These principles must be followed in all economic transactions, including the capital market (Bacha, 1999).

The National Sharia Council (DSN)-MUI Indonesia ensures that transaction and investment activities in the Indonesian sharia capital market do not involve the elements mentioned above.

Hedging is permissible as long as it is not used for speculative purposes or to create excessive uncertainty (gharar). The purpose behind hedging activities should be risk management, not generating profits through speculation.

2. Arbitrage

Arbitrage is a trading strategy that exploits price differences between two or more markets or financial instruments to make a profit. The goal of arbitrage is to take advantage of temporary price imbalances or mispricing in the market. In arbitrage, an investor or trader looks for opportunities to buy an asset or contract at a lower price in one market and sell it at a higher price in another market, thereby making a risk-free profit.

Arbitrage plays a vital role in maintaining the efficiency of financial markets. When a trader or investor exploits price differences, they help smooth out prices and eliminate arbitrage opportunities. While the concept of arbitrage sounds promising, its practice often requires speed, good market access, and powerful software. Additionally, arbitrage strategies are often executed by highly experienced traders or sophisticated trading algorithms.

The implementation of Islamic financial derivatives in Bank Syariah Indonesia in principle has differences with conventional banks as expressed by Nugroho Agung Dewanto, that: The first three basic principles of the difference between Sharia and conventional are that the Sharia principle is not only our regulator OJK/BI but there is also the MUI which approves whether or not we can run Sharia banking and whether or not we can sell Sharia products, the MUI fatwa is the reference. Second, blessings, where funds collected from the community, both savings deposits and Giro, are distributed to halal financing that cannot be arbitrary, we definitely see it there because we have a moral responsibility to protect customer funds from bad things, the third is the full benefit in principle we also pay taxes but before the tax is issued we are required to pay zakat, that's the difference. That's the critical point. Why are we told by management to get more profit, because it is set aside for tax, before the tax is paid we first pay zakat 2.5% of the 10% tax so that the remaining 7% tax is paid based on it.⁶

Bank Syariah Indonesia also has a sharia committee tasked with ensuring that all derivative transactions comply with sharia principles. Transparency and reports in accordance with sharia principles must also be provided to customers and sharia regulatory authorities

Hedging transactions in Islamic financial derivatives are transactions (contracts) that aim to hedge (al-tahawwuth/hedging), which are intended to reduce the risks that arise or are expected to arise due to price fluctuations (exchange rates).

3. Islamic Hedging (al-Tahawwuth al-Islami)

Some sharia hedging (al-Tahawwuth al-Islami/Islamic Hedging) include:

- a. Forward agreement (al-Muwa'adat li 'aqd al-sharf al-fawri fi al-mustaqba)

⁶ Nugroho Agung Dewanto (45 years old), Interview, Area Manager BSI for South Sulawesi and West Sulawesi, September 10, 2023

al-Muwa'adat li 'aqd al-sharf al-fawri fi al-mustaqba, namely a transaction (agreement) to mutually promise to transact foreign currency on the spot in a certain amount in the future with an exchange rate or exchange rate calculation agreed upon at that time.

b. Spot Transaction (Spot Foreign Currency Transaction)

Spot Transaction is a transaction of buying and selling foreign currency for delivery at that time or settlement no later than two days or according to custom.

c. Simple hedging transaction ('aqd al-Tahawwuth al-Basith).

Aqd al-Tahawwuth al-Basith is a hedging transaction with a forward agreement scheme followed by a spot transaction at maturity and the settlement is in the form of currency handover.

d. Complex Hedging Transactions ('aqd al-Tahawwuth al-Murakkab)

'Aqd al-Tahawwuth al-Murakkab is a hedging transaction with a scheme in the form of a series of spot transactions and forward agreements followed by a spot transaction at maturity and the settlement is in the form of a cash handover.

e. Hedging transactions through the sharia commodity exchange ('aqd al-Tahawwuth fi Suq al-Sil'ah)

'Aqd al-Tahawwuth fi Suq al-Sil'ah is a hedging transaction with a scheme in the form of a series of commodity buying and selling transactions (sil'ah) in rupiah currency followed by commodity buying and selling (sil'ah) in foreign currency and the settlement in the form of currency handover at maturity in the sharia commodity market, which is reinforced by a letter of control over the agreed commodity (SPAKT) issued by the sharia commodity exchange as proof of ownership and control of the sharia commodity.

Sharia hedging transactions (al-Tahawwuth al-Islami/Islamic Hedging) in Islamic financial derivatives Bank Syariah Indonesia based on real needs (al-hajah al-massah) may be carried out on the condition that they follow the provisions or principles of sharia or there are limitations:

- a. Sharia Hedging Transactions may not be carried out for speculative purposes (profit);
- b. Sharia Hedging Transactions may only be carried out if there is a real need to reduce the risk of future exchange rates against foreign currencies that cannot be avoided;
- c. The right to implement muwa'adah in the hedging mechanism may not be traded;
- d. Hedging transactions can only be carried out to reduce the risk of exposure to risks faced by Islamic financial institutions including Bank Syariah Indonesia due to the unbalanced position of assets and liabilities in foreign currencies, and obligations or bills in foreign currencies arising from activities in accordance with Islamic principles and applicable laws and regulations in the form of: (a) trade in goods and services domestically and abroad, (b) investments in the form of direct investment, loans, capital and other investments domestically and abroad;

- e. Sharia hedging transaction actors include Islamic Financial Institutions (LKS), Conventional financial institutions only as recipients of hedging from LKS, Bank Indonesia, business institutions that do not conflict with Islamic principles, and other parties whose activities are in accordance with applicable laws and regulations;
- f. The exchange rate or calculation of the exchange rate must be agreed upon at the time of mutual promise (muwa'adah);
- g. Settlement of hedging transactions, in the form of handover of currency at maturity is carried out in full (full commitment). Settlement of transactions by means of muqashshah (netting) is only permitted in the event of a transaction extension (roll-over), transaction acceleration (roll-back), or transaction cancellation caused by changes in the hedging object.

Allah swt. says in QS al-Nisa/4: 29.

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

Translation:

O you who believe, do not consume one another's property unjustly, except in the form of business based on mutual consent between you (Kementerian Agama, 2012).

If in a sharia hedging transaction there is a dispute or disagreement, then the settlement of the dispute between the two parties can be done through deliberation and consensus. If deliberation and consensus are not reached, then the settlement of the dispute is done through a dispute resolution institution based on sharia in accordance with applicable laws and regulations.

C. The Impact of Islamic Financial Derivatives on Bank Syariah Indonesia

The implementation of Islamic financial derivatives in Bank Syariah Indonesia can provide several positive impacts in order to advance the Islamic financial industry, while also considering the principles of Islamic finance. This impact is related to the concept of *maslahah* (benefit) in the context of Islamic finance. Several positive impacts that occur through the implementation of Islamic financial derivatives include: Effective Risk Management, Increased Liquidity, Investment Diversification, Product Innovation, Transparency and Compliance.

Derivative products at BSI can be said to be *halal* and free from *gharar* elements, which is strengthened by the statement of H. Oni Sahroni who said that:

God willing, Islamic banks are on the track. Every fatwa that is a reference for products is based on collective *ijtihad* of DSN MUI and international fatwa authorities. Every deficiency that commonly occurs in other fields continues to be monitored and corrected so that it complies with sharia, so that it continues to do good deeds.⁷

⁷ H. Oni Sahroni (47 years old), Interview, Member of the Sharia Supervisory Board/DPS Pusat Jakarta, September 10, 2023

All Islamic financial derivatives must strictly comply with the principles of Shariah, which include the prohibition of *riba* (usury or interest), *gharar* (excessive uncertainty), *maysir* (gambling), and unethical activities. Islamic financial derivatives must be based on real and tangible assets or services and must not involve speculative or haram (forbidden) elements. Compliance is ensured through the involvement of scholars or Shariah boards who review and certify that derivative contracts comply with Islamic principles. They issue Shariah compliance certificates. In addition, Islamic financial derivatives must have appropriate legal documentation and contracts and be designed to be Shariah compliant and are expected to be used for risk management and not for excessive speculation, as speculation is discouraged in Islamic finance.

By following the guidelines set by the Shariah committee, the implementation of Islamic financial derivatives can help Islamic banks to comply with the principles of Islamic finance in their activities. This is important to maintain customer trust and maintain the reputation of Islamic banks.

Although some people still doubt that some BSI products are not fully sharia-compliant, there are several things in the development of BSI products to ensure that:

First, in general, the concept of sharia banking products is based on the DSN MUI fatwa issued after a long study in a focus group discussion conducted by the DSN MUI (sharia aspect), DSAS (sharia accounting aspect), regulators, practitioners, and the Supreme Court. With this collective *ijtihad*, it is hoped that each fatwa will be correct and free from errors.

Second, based on the collective *ijtihad* of international fatwa authorities such as the AAOIFI International Sharia Standard in Bahrain, the OKI Fiqh Institute in Jeddah, and the Rabithah Alam Islami Fiqh Institute in Mecca which are references for fatwa authorities in the world. This institution brings together experts in *muamalah*, such as Sheikh Nidzam Yaqub (Bahrain), Sheikh Abdu Sattar Abu Gudah (Saudi), Sheikh Abdurrahman Athram (Saudi), Sheikh Ali al-Gari (Saudi), Sheikh Husein Hamid Hasan (Egypt), and many other international scholars.

Third, in general, the DSN MUI *ijtihad* method is the same as the *ijtihad* of the International Fatwa Institution as outlined by the expert scholars of *ushul*, by ensuring that each fatwa has a basis, be it the Qur'an, *hadith*, *ijma*, *urf tujjar*, *maslahat* by studying classical references such as the book of interpretation of verses of *ahkam*, *hadith muamalah* explanation, *fiqh muqaran*, *aqdiyah wa nawazil*, decisions of international fatwa authorities. If the DSN fatwa is adopted as a regulation, it becomes binding. Fourth, among the DSN MUI fatwas are: a) Sharia banks may charge late fines from their customers in *murabahah* contracts on the condition that the perpetrator is a capable customer who delays payment. The fine is allocated as a social fund, as per DSN MUI Fatwa No.17/DSN-MUI/IX/2000 and the international sharia standard AAOIFI on *Murabahah*. And as the *hadith* of the Prophet SAW: "Delaying debt payments made by a capable person is an injustice." (HR Jama'ah).

b) If a transaction occurs with a price and goods, then the handover is valid, either by receiving the physical or non-physical, even though the physical has not been received, but can use it. Al-Khatib explained, "When Islamic law requires handover in every transaction without explaining the mechanism, then the reference is the tradition of market players." (Al-Khatib, Mughnil Muhtaj, 2/72).

Fifth, in practice, this Islamic bank is not perfect for various reasons, including limitations in regulations, taxes, operations, HR, customers. In general, these shortcomings are minor, and not comparable to the total products that are in accordance with sharia.

This positive impact can only be realized if the implementation of Islamic financial derivatives is carried out carefully and complies with the principles of Islamic finance. Indonesian Islamic banks must supervise and ensure the conformity of all derivative activities with Islamic teachings. In addition, they must maintain transparency and provide adequate reports to all relevant parties.

Basically, Bank Syariah Indonesia is trying to achieve 3 main things in implementing its financial derivatives, namely financial, social and spiritual, as stated by Nugroho Agung Dewanto, BSI Area Manager for South Sulawesi and West Sulawesi, namely:⁸

For social matters, namely forming a community of fostered customer groups such as fostered villages in Barru in the form of millennial ponds, fostered villages for goat farmers in Padi Valley Moncongloe Gowa, and others.

For spiritual matters, BSI has built several mosques such as in Bakaehuni which are funded by all stakeholders, employees, customers. Also the construction of the Cipali, Cipulir, Bromo Toll Mosques. Everyone has their own personal views, but for us, working and worshiping are suitable at BSI because here we not only think about the world but also the afterlife. While Financial is a profit-sharing system for customers and zakat management.

There is also mobile banking. BSI has 3 mobile banking friends, first: can pay zakat, infaq sadaqah and wakaf. While spiritually in BSI mobile banking there are facilities for information on the nearest mosque, prayer schedules, while other functions are the same as conventional bank products, Often colleagues from conventional banks insinuate during meetings with banking circles that BSI should not always sell religion in its products by prioritizing its Islam. But that is indeed the case because Sharia Banks carry out one of the functions of preaching for sharia banking.

In addition to the positive impacts, there are also potential risks that must be calculated and managed carefully in the application of sharia financial derivatives, especially those related to sharia issues. Therefore, the use of sharia derivatives needs to be based on ethical principles and sharia principles and pay attention to considerations of *maslahah* and *mafsadah* (benefits and disadvantages) in every activity in sharia financial derivatives.

Islam gives its people the freedom to carry out various transactions that provide benefits as long as they do not contain harm or potential damage. It is undeniable that Islamic hedging can support the smooth running of modern era business. As a risk management instrument, Islamic hedging actually aims to minimize uncertainty or *gharar* which is detrimental. In Islamic jurisprudence, sharia hedging transactions (*al-Tahawwuth al-islami*/Islamic hedging) are justified as long as they are carried out as a form of risk anticipation and to obtain consumer certainty and

⁸ Nugroho Agung Dewanto (45 years old), interview, BSI Area Manager for South Sulawesi and West Sulawesi, September 10, 2023

fair prices for both parties. In addition, hedging transactions based on sharia principles are needed to support the development of the sharia financial industry.

REFERENCES

- Ayoub, S., & Nabilou, H. (2019). Derivatives in Islamic Finance: Examining the Market Risk Management Framework (Book Review). *Banking & Finance Law Review*, 32(1), 203–207.
- Bacha, O. I. (1999). Derivative Instruments and Islamic Finance: Some Thoughts for a Reconsideration Derivative Instruments And Islamic Finance: Some Thoughts For A Reconsideration. *International Journal of Islamic Financial Services*, 1(1), 1–34.
- BSI. (2021). BSI, Bank Hasil Merger Untuk Perkuat Ekosistem Ekonomi Syariah - Berita dan Economic & Market Insight. Bank Syariah Indonesia (BSI). <https://www.bankbsi.co.id/news-update/berita/bsi-bank-hasil-merger-untuk-perkuat-ekosistem-ekonomi-syariah>
- Harahap, M. I. (2020). Pasar Uang dan Pasar Modal Syariah. In Marliyah (Ed.), *Diktat Repositori UINSU* (p. 104). Fakultas Ekonomi dan Bisnis Islam UIN Sumatera Utara.
- Ishak, K. (2014). Maqashid Syariah Dan Masalahah Dalam Ekonomi Dan Bisnis Syariah. *IQTISHADUNA: Jurnal Ilmiah Ekonomi Kita*, 3(1), 659–673. <https://ejournal.stiesyariahbangkalis.ac.id/index.php/iqtishaduna/article/view/44>
- Kamali, M. H. (1999). Prospects for an islamic derivatives market in Malaysia. *Thunderbird International Business Review*, 41(4–5), 523–540. <https://doi.org/10.1002/TIE.4270410413>
- Kementerian Agama. (2012). *Alquran dan Terjemahnya*. Syamil Qur'an.
- Kudaedah, N. A. (2020). Masalahah menurut Konsep Al-Ghazali. *DIKTUM: Jurnal Syariah Dan Hukum*, 18(1), 118–128. <https://doi.org/10.35905/DIKTUM.V18I1.663>
- Metro, P. I. (2013). *Metodologi Penelitian*. Rajawali Pers.
- Najeeb, S. F. (2011). Islamic Capital Markets: An Exploratory Study on Investor Rationality. *SSRN Electronic Journal*, 1–21. [https://doi.org/Najeeb, Syed Faiq, Islamic Capital Markets: An Exploratory Study on Investor Rationality \(August 16, 2011\). Available at SSRN: https://ssrn.com/abstract=1910660 or http://dx.doi.org/10.2139/ssrn.1910660](https://doi.org/Najeeb, Syed Faiq, Islamic Capital Markets: An Exploratory Study on Investor Rationality (August 16, 2011). Available at SSRN: https://ssrn.com/abstract=1910660 or http://dx.doi.org/10.2139/ssrn.1910660)
- Qoyum, A., Nurhalim, A., Fitriady, Pusparini, M. D., Nurizal, I., Haikal, M., & Ali, K. M. (2021). Sejarah Pemikiran Ekonomi Islam. In A. Sakti, S. E. Hidayat, & S. Samidi (Eds.), *Departemen Ekonomi dan Keuangan Syariah - Bank Indonesia*. Departemen Ekonomi dan Keuangan Syariah - Bank Indonesia. <https://doi.org/10.36769/asy.v16i1.221>
- Sayyid, A. (2015). Investasi Sekuritas Derivatif di Pasar Modal Indonesia. *At-Taradhi: Jurnal Studi Ekonomi*, 5(2). <https://doi.org/10.18592/TARADHI.V5I2.224>
- Soemitra, A. (2016). Higher Objectives of Islamic Investment Products: Islamizing Indonesian Capital Market. *Studia Islamika*, 23(2), 237–269. <https://doi.org/10.15408/SDI.V23I2.2408>
- Sugiyono. (2015). *Metode Penelitian: Kualitatif, Kuantitatif Dan R&D*. Alfabeta.
- Suryabrata, S. (2012). *Metodologi Penelitian*. Rajawali Pers.
- Victor, A. (2008). Perlakuan Pajak Penghasilan atas Transaksi Derivatif Berbentuk Warrant. In *Inside Tax* (8 Juni 200, p. 60). Danny Darussalam Tax Center, PT. Dimensi Internasional Tax.

- Voxco. (2021). Field Research: Definition, Examples & Methodology- Voxco. Voxco. <https://www.voxco.com/blog/field-research/>
- Zeng, T. (2014). Derivative financial instruments, tax aggressiveness and firm market value. *Journal of Financial Economic Policy*, 6(4), 376–390. <https://doi.org/10.1108/JFEP-02-2014-0013/FULL/XML>