The Concept of Waqf in Sharia Insurance (Analysis Study of Life Insurance Participation in Financing Customers at Bank Sumsel Babel Sharia)

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Abstract

The progress of the growth of the Islamic finance industry has shown significant results in recent years. Sharia insurance is one of the Islamic financial institutions whose development is quite significant following the direction of the development of Islamic banking institutions. Insurance as a sharia financial instrument that is engaged in guaranteeing community economic activities is one of the important instruments to maintain the existence of these economic activities. The substance of sharia-based insurance that can avoid the operational principles of gharar, maysir, and usury is one of the important issues in an effort to increase public interest in implementing sharia-based financial instruments. However, efforts are needed to encourage the growth of sharia insurance, one of which is by establishing cooperation with sharia banks related to guarantees in financing facilities. This is very important, considering that one of the risks of providing financing facilities to banks is the reduction or loss of the customer's ability to meet installment obligations, in other words there will be bad financing or in conventional bank terms known as bad loans. But the problem is, many understand that paying insurance premiums when you become a financing customer is an investment that can be enjoyed when the financing is paid off. Many still expect a return on premiums that have been paid at the beginning and taken at the end of the financing maturity. So this study aims to explain how the actual mechanism for financing customer to become participants in life insurance, is there really a concept of waqf inherent in the management of premium funds paid by customers, and what is the function of premium funds collected by insurance companies.

Key Words: *Sharia Insurance, Financing Customer, Concept of Waqf*

PRELIMINARY

Insurance is one of the important instruments of financial institutions because the ultimate goal is towards the welfare of people's lives.Generally, insurance institutions offer services in the form of protection against the creation of a sense of security and protection, so that people in carrying out their economic life become peaceful and thus can increase their productivity. Insurance also encourages cooperation and mutual assistance among community members by sharing the financial burden suffered by others through insurance.[1] This protection

[1] Syamsul Anwar, *Asuransi Dalam Pandangan Islam* (Yogyakarta: Lemlit UIN Sunan Kalijaga, 2006), p.86.

mechanism is very much needed also in the business world which is full of risks. Rationally, business people will consider reducing the risks they face.

In developing countries where people have limited funds, insurance has proven its role as a provider of funds that is quite successful. Because the purpose of insurance is to prepare for the possible difficulties faced by humans in life. But kThe existence of insurance in the modern era is the forerunner of conventional insurance based on gharar, maysir, and usury'. Several Islamic organizations in Indonesia issued a number of decisions and fatwas related to insurance in the perspective of Islamic law, including the Bahtsul Masail-NU Decree, the Muhammadiyah Tarjih Council Decree, and the MUI Fatwa. The result concludes that Sharia Insurance contains substance about operational principles that avoid gharar, maysir, and usury'. So it is believed that sharia insurance in its implementation seeks to increase the values of worship, including vertical relationships to God and horizontal relationships among humans that are able to balance the life of the world and the hereafter.[2]

In its development in Indonesia itself, financial institutions are entering a new era with many financial institutions implementing systems that are in accordance with sharia principles, this can be seen by the increasing variety of sharia-based business activities in addition to sharia banking businesses that have previously emerged, including sharia insurance institutions. The development of Islamic insurance is also inseparable from the development of Islamic banking. A financing transaction at a sharia bank is said to be in accordance with sharia principles if it has fulfilled five elements, one of which is the provision of Islamic insurance.[3] One of the financing products at Islamic banks that require insurance services is murabaha financing. Based on Islamic banking statistical data, murabahah financing products are the most popular products in Islamic banks.

The increasing interest of the Indonesian people towards financing products in Islamic banks has made the banks look for steps in anticipating all risks that could potentially arise in the future. This is what underlies Islamic banking institutions to further enhance synergies with Islamic insurance institutions.[4] It also becomes sone of the marketing strategies of sharia insurance in marketing its products. The flagship product in sharia insurance is a sharia life insurance product that can cover murabahah financing.

The contract that underlies the sharia life insurance contract in financing in Islamic banks is the tabarru' contract and the tijarah contract (Articles 7 and 8 of PMK No.18/PMK.10/2010). In the tabarru' contract, the participants sincerely deposit the premium funds into the tabarru' fund as a mutual aid fund between participants. As for the wakalah bil ujrah contract, the Insurance Company is authorized by the Participants to manage tabarru' funds using the mudharabah

[2] Azhar Alam and Sukri Hidayati, "Akad Dan Kesesuaian Fitur Wakaf Produk Asuransi Jiwa Syariah," *Equilibrium: Jurnal Ekonomi Syariah* 8, n.1 (2020): 109–128.

[3] Latifa M. Algoud dan Mervyn K. Lewis, *Pebankan Syariah (Prinsip, Praktek, Prospek)*, ed. Burhan Wirasubroto (Jakarta: Serambi, 2001), p.48.

[4] Sugeng Hariadi, "Analisis Pengelolaan Takaful Pembiayaan (Bancassurance) PT. Asuransi Takaful Keluarga Pada Bank BNI Syariah Boulevard Bukit Dharmo Surabaya" (UIN Sunan Ampel, 2017).

principle. The purpose of managing tabarru' funds is to avoid the risk of a deficit if there are many claims from the participants. If in the management of the tabarru' fund there is a surplus of funds, then the insurance participant who has not received the benefit of the claim will get a share of the profits according to the mudharabah principle according to the predetermined ratio. Until pthere is a principle, in sharia life insurance contracts there is no known charred premium system as applied in conventional life insurance.[5] This is what distinguishes the conventional Islamic insurance system. In the sharia insurance system, participants from the beginning have made an effort to help fellow participants.[6]

However, the problem that often occurs is the lack of understanding of the mechanism of participation attached to financing customers in Islamic banks. Many understand that paying insurance premiums when you become a financing customer is an investment that can be enjoyed when the financing is paid off. Many still expect a return on premiums that have been paid at the beginning and taken at the end of the financing maturity. So this study aims to explain how the mechanism of financing customers actually becomes life insurance participants, is it true that there is a waqf concept inherent in the management of premium funds paid by customers, and what is the function of premium funds collected by insurance companies.

THEORETICAL BASIS

A. The Concept of Waqf

Linguistically it can be interpreted that waqf is to hold, stop, or be silent. In the context of waqf associated with materials such as land, animals, and other property, it can be defined that waqf means freezing of property rights for certain benefits.[7] Terminologically, waqf is formulated differently according to the perspective of each fiqh expert.

According to Book III of the Compilation of Islamic Law (KHI), waqf is a legal act of a person, group, or legal entity by separating part of his property and institutionalizing it forever for the purpose of worship or other public purposes in accordance with Islamic teachings.[8] In the Abu Hanifah school of thought, waqf is defined as an effort to hold property in the property of the waqif and to donate benefits such as loans. The Maliki school provides a definition of waqf as the giving of the benefits of something at the time limit of its existence at the same time the waqf remains in the ownership of the waqf. The Syafi'iyah School explains that it is holding back assets that can be utilized and not destroyed when

[5] Muhammad Iqbal, "Pengelolaan Dana Tabarru' Asuransi Jiwa Syariah Dalam Pembiayaan Murabahah Di Bank Sumsel Babel Cabang Syariah Baturaja," *Medina-Te : Jurnal Studi Islam* 13, n.1 (2017): 25–38.

[6] Risma Kartika Mulya Wardhani and Dina Fitrisia Septiarini, "Faktor-Faktor Yang Mempengaruhi Kontribusi Peserta Pada Perusahaan Asuransi Jiwa Syariah Di Indonesia," *Jurnal Ekonomi Syariah Teori dan Terapan* 4, n.10 (2017): 802–816.

[7] Ani Faujiah, "Manajemen Wakaf Dalam Perusahaan Asuransi Syariah," *Lan Tabur* 2, n.1 (2020): 60–73.

[8] Novia Candrawati, "Analisis Terhadap Konsep Manajemen Wakaf Polis Asuransi Syariah (Studi Pada Asuransi Prudential Cabang Kota Semarang)" (UIN Walisongo Semarang, 2019), p.29.

used for various transactions that are transferring rights to be distributed to policy sectors in an effort to get closer to Allah. Meanwhile, in the Hambali School, it is stated that waqf holds the principal and distributes the results to goodness.[9]

Broadly speaking, it can be understood that the concept of waqf really separates the waqf property from the main waqif property and submits it for the purpose of benefit. Its essence is giving charity to invest in the afterlife. There is no investment term that will yield material gains in the world.

B. The Concept of Sharia Insurance

Islamic economists only define the meaning of insurance in general. Musthafa Ahmad az-Zarqa in Dahlan defines insurance as a way or method to protect humans from various hazards (threats) that will occur in their lives, in the course of their life activities or in their economic activities.[10] He argues that the insurance system is a system of ta'awun and tadhamun which aims to cover the loss of events or calamities by a group of the insured to the person affected by the disaster. The reimbursement comes from their premium.

Definitively based on the Fatwa of DSN MUI No.21/DSN-MUI//2001, it is explained that sharia insurance is an effort to protect and help each other among a number of people through investment in the form of assets and/or tabarru' which provides a pattern of returns to face risks or dangers. certain through a sharia contract.[11] Broadly speaking, sharia-based life insurance can be interpreted as a form of sharia insurance which primarily provides services, protection, and assistance in dealing with death and personal accidents by paying premiums through contracts in accordance with sharia principles. The sharia insurance company in this case only acts as an operator in charge of administering membership data, managing risk, and managing tabarru' funds, and paying claims according to the provisions contained in the contract.[12]

The legal basis for Sharia life insurance is stated in Q.S. Al-Maidah verse 2:

وَتَعَاوَنُوا عَلَى ٱلْبِرِّ وَٱلتَّقْوَىٰ ۖ وَلَا تَعَاوَنُوا۟ عَلَى ٱلْإِثْمِ وَٱلْعُدْوَٰنِ ۚ وَٱتَّقُوا۟ ٱللَّهَ ۖ

إِنَّ ٱللَّهَ شَدِيدُ ٱلْعِقَابِ ﴿٢﴾

"... and help you in (doing) goodness and piety, and do not help in sin and transgression. And fear Allah, verily Allah is severe in punishment."

This verse contains the commandment to help fellow human beings in social life. In sharia life insurance, Participants are committed to donating their

[9] Akhmad Rofiki, "Strategi Pengelolaan Wakaf Wasiat Polis Asuransi Syariah" (UIN Sunan Ampel, 2018).

[10] Abdul Aziz Dahlan, *Ensiklopedi Hukum Islam* (Jakarta: Ichtiar Baru van Hoeve, 1996), p.138.

[11] Jalaluddin, "Respon Masyarakat Aceh Terhadap Wakaf Asuransi Jiwa Syariah," *Ekobis* 3, n.1 (2019): 40–54.

[12] Hadi Daeng Mapuna, "Asuransi Jiwa Syariah; Konsep dan Sistem Operasionalnya," *Al-Risalah Jurnal Ilmu Syariah dan Hukum* 19, n.1 (2019): 159–166.

contribution funds to be donated as tabarru' funds to help fellow participants who are affected by disasters. In Q.S. Al-Baqarah verse 240, Allah also says:

وَٱلَّذِينَ يُتَوَفَّوۡنَ مِنكُمۡ وَيَذَرُونَ أَزۡوَٰجٗا وَصِيَّةٗ لِّأَزۡوَٰجِهِم مَّتَٰعًا إِلَى
ٱلۡحَوۡلِ غَيۡرَ إِخۡرَاجٖۚ فَإِنۡ خَرَجۡنَ فَلَا جُنَاحَ عَلَيۡكُمۡ فِي مَا فَعَلۡنَ فِيٓ
أَنفُسِهِنَّ مِن مَّعۡرُوفٖۗ وَٱللَّهُ عَزِيزٌ حَكِيمٞ ٢٤٠

"And those who will die among you and leave their wives, let their wives be a will, (ie) be given a living for up to a year and not be asked to move (from their homes). but if they move (alone), then there is no sin for you (the guardian or heir of the deceased) to let them do what is right for them. and Allah is Mighty, Wise."

In this verse, Allah confirms that husbands are not only obliged to provide a living for their wives and children according to eligibility standards, they are also required to prepare sufficient funds for their wives for a long period of time.In relation to life insurance, humans should try to manage their finances so that all needs can be met. Humans are expected to be able to manage the risks that may occur due to disasters in the future by protecting themselves (life) and their assets resulting from the disaster.

In Positive Law in Indonesia, the insurance business has been clearly regulated in the Article 246 of the Commercial Code (KUHD) and Law Number 2 of 1992 concerning Insurance Business. However, the explanation described in the law is very irrelevant if it is implemented into the practice of sharia insurance.However, it should not be understood that sharia life insurance in the implementation of its operations is irregular because there is no special law that specifically regulates the sharia insurance business. DSN-MUI also issued a fatwa No.21/DSN-MUI/X/2001 concerning General Guidelines for Sharia Insurance, namely sharia insurance as an effort to protect and help each other among a number/parties through investment in the form of assets and/or tabarru' provide a pattern of returns to face certain risks through sharia-compliant contracts.

In essence, what are the basic principles in sharia insurance are also the basic principles in sharia life insurance, namely: the principle of monotheism, the principle of Ta'awun, the principle of justice, the principle of mutual cooperation, the principle of trust, the principle of willingness (Ridho), the principle of prohibition. Riba, the principle of the prohibition of gharar, the principle of the prohibition of maisir.

C. The Concept of Tabarru' Fund

Dana Tabarru' consists of the words dana and tabarru'. In the Indonesian dictionary, the word fund means money that is provided or intentionally collected for a purpose, charity, alms, giving, or gift.. In terms of terms,pilgrimage in Hasanonly gives the meaning of various types of tabarru' including al-wasiat, alwaqaf, and al-gibah. Another word that is closely related to tabarru' is tathawwu' which means the name for what is prescribed as an additional form of what is obligatory.[13] So that the implicit meaning of tabarru' can be something that is mandatory and something that is not mandatory, it can also be a sunnah thing or an addition to things that are obligatory.

*Tabarru'*is one type of goodness that is prescribed by Islam with arguments based on the Qur'an and the Sunnah of the Prophet. Although in the Qur'an the word tabarru' is not found explicitly, it can be implied from several words of Allah, including in Q.S. Al-Baqarah verse 177:

۞ لَّيْسَ ٱلْبِرَّ أَن تُوَلُّوا۟ وُجُوهَكُمْ قِبَلَ ٱلْمَشْرِقِ وَٱلْمَغْرِبِ وَلَٰكِنَّ ٱلْبِرَّ مَنْ
ءَامَنَ بِٱللَّهِ وَٱلْيَوْمِ ٱلْءَاخِرِ وَٱلْمَلَٰٓئِكَةِ وَٱلْكِتَٰبِ وَٱلنَّبِيِّۦنَ وَءَاتَى ٱلْمَالَ عَلَىٰ
حُبِّهِۦ ذَوِى ٱلْقُرْبَىٰ وَٱلْيَتَٰمَىٰ وَٱلْمَسَٰكِينَ وَٱبْنَ ٱلسَّبِيلِ وَٱلسَّآئِلِينَ وَفِى
ٱلرِّقَابِ وَأَقَامَ ٱلصَّلَوٰةَ وَءَاتَى ٱلزَّكَوٰةَ وَٱلْمُوفُونَ بِعَهْدِهِمْ إِذَا عَٰهَدُوا۟ ۖ
وَٱلصَّٰبِرِينَ فِى ٱلْبَأْسَآءِ وَٱلضَّرَّآءِ وَحِينَ ٱلْبَأْسِ ۗ أُو۟لَٰٓئِكَ ٱلَّذِينَ صَدَقُوا۟ ۖ
وَأُو۟لَٰٓئِكَ هُمُ ٱلْمُتَّقُونَ ١٧٧

"It is not a virtue to turn your face towards the east and west, but verily it is a virtue to believe in Allah, the Last Day, angels, books, prophets and to give what he loves to his relatives, orphans, the poor, travelers (who need help) and those who beg; and (liberating) slaves, establishing prayers, and paying zakat; and those who keep their promises when they promise, and those who are patient in adversity, suffering and in war. Those are the righteous (the faith); and they are the righteous."

In terms of insurance, fund management is the way an insurance company works in managing premium funds that have been collected by investing them in other financial institutions as a provision for payment of insurance compensation. In other words, the tabarru' fund was developed with the aim of anticipating the risk of loss that may arise in the future.Each period of tabarru' fund management will result in two possibilities, namely Underwriting Surplus and Underwriting Deficit. Underwriting surplus is when the total funds collected are greater than the total claims and other costs in a period, while the Underwriting deficit is when the total claims and other costs are greater than the funds collected.

Regarding the provisions for profit sharing if there is an underwriting surplus of the Tabarru' Fund, the Company as the manager can determine the choice of distribution according to the agreement with the participants, namely a)

[13] Nurul Ichsan Hasan, *Pengantar Asuransi Syariah* (Jakarta: Gaung Persada, 2014), p.69.

all of it is added to the tabarru' fund; b) part of it is added to the tabarru' fund and part is distributed to the Participant; c) partly added to the Tabarru' Fund, partly distributed to Participants, and partly distributed to the Company (Article 13 Paragraph 1 Regulation of the Minister of Finance No.18/PMK.10/2010). However, if in the management of tabarru' funds there is a fund deficit due to many claims that must be paid, then the company must have the ability to provide loans in the form of qardh to the tabarru' funds by depositing them into the tabarru' account in cash. Meanwhile, the qardh return is made if the tabarru' fund has experienced an underwriting surplus.[14]

This mechanism in the management of tabarru' funds illustrates the actual concept of waqf. With the tabarru' contract, the financing customer actually waqf his assets through the payment of premium funds to be submitted to the insurance company so that it can be managed for the common good.

D. The Concept of Financing

A sharia bank is a bank that carries out its business activities based on sharia principles consisting of Sharia Commercial Banks (BUS) and Sharia People's Financing Banks (BPRS). The effort to establish this system is based on the prohibition in Islamic Shari'a to collect or borrow with interest (riba) and the prohibition on investment for businesses that are categorized as haram, which cannot be guaranteed by the conventional banking system.

Similar to economic activity in sharia insurance, economic activity in sharia banks must implement important elements in product distribution of funds in sharia banks, including financing products. One type of financing that can involve customers to become participants in life insurance is murabahah financing.Murabahah financing is one of the fund distribution service products owned by almost all Islamic banks. The function of fund distribution services in Islamic banking is in accordance with the definition of a bank in general, namely a financial institution that collects funds from the public and distributes them in the form of loans. In simple terms, murabaha financing is defined as financing based on a buying and selling system with an additional profit mechanism based on an agreed margin. Murabaha financing products are superior products that dominate the quantity of financing products in a bank.[15]

This is different from financing with the mudharabah principle which focuses on the customer's business, so that when the mudharabah financing customer dies, the business can still be run by his heirs. So in terms of murabahah financing, the majority of the customers' sources of income rely on the individual activities of the customer while he is still alive. So in this case, it becomes a risk when the murabahah financing customer is not included in life insurance

[14] Abdul Manan, *Hukum Ekonomi Syariah Dalam Perspektif Kewenangan Peradilan Agama* (Jakarta: Kencana, 2012), p.271; Wirdyaningsih, dkk, *Bank Dan Asuransi Islam Di Indonesia* (Jakarta: Kencana, 2005), p.216.

[15] Yenti Afrida, “Analisis Pembiayaan Murabahah Di Perbankan Syariah,” *Jebi (Jurnal Ekonomi Dan Bisnis Islam)* 1, n.2 (2016): 155–166.

participation. By civil law, the heirs will inherit debts from customers so that it will be burdensome, and the bank will experience the potential for bad financing.

So it can be concluded that provisionLife insurance services are activities that must be implemented by every bank in terms of providing financing facilities to the public to overcome the risk of non-performing. Therefore, every financing service that is facilitated by the bank always includes the provision of insurance. Financing based on the sharia system is required to use sharia life insurance services in practice in sharia banks in order to avoid elements that are prohibited in Islamic law, namely the prohibition of activities based on usury (interest), maysir (gambling), and gharar (uncertainty).

RESEARCH METHODOLOGY

Sources of data collection used in this study are primary data and secondary data. Primary data collection is done by observing the mechanism of participation in sharia life insurance for financing customers by analyzing the terms of the financing agreement at Bank Sumsel Babel Sharia Branch and the provisions of the sharia life insurance policy.

The data obtained was then dug up by directly interviewing the Bank and the Insurance Company in order to obtain valid data and clear information related to the problems studied. The secondary data collection is done by means of document studies, namely collecting data from the library in the form of legislation, books/literature, scientific works, and all writings that discuss sharia life insurance.

The data that has been collected is then analyzed using descriptive analysis method, which is a way of analyzing research results that produces data stated by respondents in writing and verbally as well as real behavior, which is researched and studied as a whole.[16] At this stage, the data is concluded and analyzed to conclude the truths that can be used to answer problems in Life Insurance Participation in Financing Customers at Bank Sumsel Babel Sharia, so that it can be illustrated how the actual concept of waqf is implied in the implementation of financing insurance.

RESULTS AND DISCUSSION

A. Life Insurance Participation Mechanism for Financing Customers at Bank Sumsel Babel Sharia

Provision of life insurance in financing facilities at banks is one of the formal requirements so that financing facilities can be provided to prospective financing customers. In this case, the prospective customer is asked to be willing to pay a number of contribution fees to the insurance as a consequence of the financing facility receiving life insurance protection until the financing contract period ends. In other words, someone who wants to become a customer of bank financing must also be a participant in life insurance. In this case, financing life

[16] Mukti Fajar ND dan Yulianto Achmad, *Dualisme Penelitian Hukum Normative Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2009), p.192.

insurance is included in the type of life insurance, the mechanism for which participation is carried out collectively within a certain period.

The Sharia Life Insurance Participation Process is carried out simultaneously with the Murabahah Financing Facility Provision Process. There are 5 (five) stages in the process of granting financing facilities at Bank Sumsel Babel Syariah, namely the signing of the Confirmation Letter of Financing Approval (SP4), the signing of the Financing Agreement, the Process for Disbursing Funds for Financing Facilities, and the Closing Process for Sharia Life Insurance, and the Issuance of Group Life Insurance Policies.[17]

1. Signing of Confirmation Letter of Financing Approval (SP4)

Confirmation Letter of Financing Approval is a Letter of Offer from the bank stating that the application for financing facilities of a prospective customer can be approved with the specified financing conditions, including the cost of sharia life insurance. One of the costs that must be prepared is the cost of closing life insurance. Insurance Closure is a written statement that precedes the issuance of the policy regarding the validity of the insurance agreement. This insurance closing fee is the initial commitment of prospective financing customers to become life insurance participants. Prospective customers are given a period of one month to respond to offers from the bank. If the prospective customer agrees to SP4, then SP4 must be signed by both parties and the process continues to the next stage, namely the signing of the Financing Agreement.

2. Signing of the Financing Agreement

In the Murabahah Financing Agreement, the provisions regarding the Closure of Life Insurance are regulated more clearly. There is a clause that explains that the customer is required to insure his life with the insurance company by specifying the bank as the party entitled to receive the insurance claim payment. As for the closure of life insurance, the bank has the authority to decide which insurance will be used to cover murabahah financing with various considerations. One of the determining factors in choosing an insurance product is that the company that owns the life insurance product must cooperate with the Bank Sumsel Babel Sharia first.

3. Disbursement of Funds for Financing Facilities

In principle, the disbursement of funds from this murabahah financing facility is used to purchase goods that have been previously ordered by the bank. So the disbursed funds are not owned by the debtor, but are only authorized to pay off the payment for goods that have been ordered previously by the bank. The repaid goods then become the property of the financing customer as the buyer. In the practice of murabahah financing at Bank Sumsel Babel Sharia, the funds disbursed by the bank are not only used to pay off the purchase of goods, but are also used to cover other costs for financing customers who are given relief by the

[17] Iqbal, “Pengelolaan Dana Tabarru’ Asuransi Jiwa Syariah Dalam Pembiayaan Murabahah Di Bank Sumsel Babel Cabang Syariah Baturaja.”

bank. One of the costs that must be covered is the cost of closing sharia life insurance.

4. Sharia Life Insurance Closing Process

Insurance Closure is a written statement that precedes the issuance of a policy regarding the validity of the insurance agreement. This written statement is marked by depositing premium funds to the insurance company as proof of the financing customer's commitment to become insurance participants. The closing of Sharia Life Insurance is one of the administrative requirements that must be followed by financing customers. This process is important because it involves the risk of financing facilities provided by the bank. This process is the initial mechanism for the participation of financing debtors where customers deposit contribution funds to the current account of a sharia insurance company determined by the Bank.

5. Issuance of Group Life Insurance Policy

The final process in the provision of Murabahah Financing Facilities at Bank Sumsel Babel Syariah is the Issuance of Group Life Insurance Policies which contain a list of names of participants collectively in one membership period. At the end of each month's book closing, Bank Sumsel Babel Syariah sends an Application for Issuance of a Life Insurance Participant Policy to the insurance company. Application for Policy Issuance is sent collectively by attaching an insurance company current account for the last month period as proof of the insurance closing process for financing customers.

In practice, the process of issuing a policy by an insurance company can take quite a long time, which is approximately 2 (two) months for one membership pool period. Therefore, insurance coverage as initial evidence of insurance participation becomes very important. The function of the Insurance Closure is as a temporary validation document for submitting an application for insurance participants. If in the policy issuance process, it turns out that the customer has experienced an accident or dies, then this proof of Insurance Closure can be used as a condition for submitting a claim even though the policy is still in the process of being issued.

In the researcher's note, there are 2 procedures that tend to be less than optimally prepared by the bank, namely:

a) The length of the issuance process makes customers not immediately know what their rights and obligations are as financing customers who are also insurance participants. So with the lack of information, resulting in a lack of literacy about the concept of sharia life insurance. This is a special note for the bank to make efforts to understand the pre-issuance of the policy.
b) There is no submission of a Group Life Insurance Policy containing the terms, rights, and obligations of the financing customer to each financing customer. This is of course understandable because the participation in financing insurance is carried out collectively in the issued policy and is only handed over to the Bank as the policy holder. However, banks should be more

pro-active by multiplying copies of insurance policies so that financing customers can study their own policies carefully.

B. Implementation of the Tabarru' and Tijaroh Agreements in the Management of Financing Customers' Premium Funds at Bank Sumsel Babel Syariah

Tabarru' Fund Management at an Insurance Company that cooperates with Bank Sumsel Babel Syariah using a wakalah bil ujrah contract for premium funds paid by financing customers. In this case, the insurance company is the representative of the financing customers who have become participants and are given the right to manage premium funds as well as possible in exchange for ujrah for the management services.

The collection of premium funds from financing customers is combined with the collection of premium funds from all Askrida sharia business units in Indonesia. The premium funds collected are then separated into two parts, namely 57.5% as tabarru' funds and 42.5% as wakalah fee (ujrah). The tabarru' fund is a grant that is intended to help realize the benefits of the claims of participants affected by the disaster. While the wakalah fee (ujrah) is used for the company's operational activities. The collection of Contribution Funds that have become tabarru' funds will be invested in various types of investment instruments that are appropriate for the implementation of the tijaroh contract (Iqbal, 2017). This refers to the Regulation of the Minister of Finance Number 11/PMK.010/2011 concerning the Financial Health of Insurance Businesses and Reinsurance Businesses with Sharia Principles. In Article 5 PMK No.11/PMK.010/2011:

1) Deposits with Banks;
2) Sharia Shares;
3) Sukuk or Sharia Bonds;
4) State Sharia Securities;
5) Sharia Securities issued by Bank Indonesia;
6) Sharia Securities issued by a State other than the Republic of Indonesia;
7) Sharia Securities issued by Multinational Institutions of which the Republic of Indonesia is a member or shareholder;
8) Sharia Mutual Funds
9) Sharia Asset Backed Securities issued under the Collective Investment Contract of Sharia Asset Backed Securities;
10) Financing through a mechanism of cooperation with other parties in the form of Sharia Refinancing; and/or
11) Pure gold.

Investment returns play an important role in the income of sharia life insurance companies. Therefore, it is very important for insurance companies to invest in investment instruments that provide the greatest return on investment while taking into account the level of risk of the investment instruments used and must comply with sharia principles. Because all the tabarru' funds collected at the insurance company are funds deposited by the participants to be managed properly.

Tabarru' funds can be invested as long as it does not hinder the payment of claims. Therefore, the investment placement of tabarru' funds in financial institutions is directed to short-term investments, such as short-term deposits. This is intended to make it easier for managers to disburse funds if one day there are participants who will make a claim.

It can be explained that the customer pays a premium or contribution where the premium will be separated into 2 accounts, namely the ujroh account and the tabarru' fund. When the customer pays the premium to the company, the customer already knows the amount of ujroh and tabarru' funds paid. Ujroh funds will be the rights of the company allocated for administrative or management costs. Meanwhile, the tabarru' fund is used for charity funds or mutual aid funds.

Tabarru' funds are invested by insurance companies into several Islamic financial institutions. The proceeds from the investment of tabarru' funds will be divided into two, one part will be given to the Company as manager's ujrah. Another part is combined into the tabarru' fund pool account. The manager can manage and invest the tabarru' fund with the provision that the profit sharing ratio on the investment return is 30% for the manager and 70% is returned to the tabarru' fund pool. Investment returns that have been reduced by the manager's ujrah are not allowed to be converted for other purposes. The results must be returned to the tabarru' fund pool which is used for the benefit of the insurance participants.

If in its management there is an underwriting surplus of the tabarru' fund, it can be allocated into three parts, ie 30% of the surplus is set aside first into the tabarru' fund reserve. In this case, the insurance company must maintain the solvency level of tabarru' funds at a minimum of 30% (thirty percent) of the funds needed to anticipate the risk of loss that may arise as a result of deviations in the management of assets and/or liabilities. Meanwhile, 70% of the remaining surplus will be given 60% to the Company and the remaining 40% will be distributed proportionally to participants who meet the requirements to get the profit sharing of the surplus of tabarru' funds. Meanwhile, if the tabarru' fund experiences an underwriting deficit, the insurance company provides a loan using the Qardhul Hasan contract whose funds come from the Insurance Company. Qardhul Hasan can be returned without any additions because the aim is purely to help participants who are experiencing difficulties. This is in accordance with DSN Fatwa No. 53/DSN-MUI/III/2006 concerning the Tabarru Agreement on Sharia Insurance and Reinsurance point 6 which states that if there is an underwriting deficit on tabarru' funds (tabarru' deficit), the insurance company is obliged to overcome the shortage. in the form of qardh (loans).

C. The Function of the Tabarru' Fund as a Form of the Waqf Concept

Based on PMK No.18/PMK/010/2010 concerning the Implementation of Basic Principles of Conducting Insurance Businesses and Reinsurance Businesses with Sharia Principles, Article 13 paragraph 1 explains that insurance companies are allowed to undertake several alternatives regarding the implementation of the investment returns of sharia insurance tabarru' funds, namely:

1) All added to the Tabarru' Fund;

2) Part of it is added to the Tabarru' Fund and part is distributed to Participants;
3) Some are added to the Tabarru' Fund, some are distributed to Participants, and some are distributed to the Company.

Specific provisions regarding Profit Sharing of the Tabarru' Fund Surplus Incentives based on the Life Insurance Policy of the Insurance Company in cooperation with Bank Sumsel Babel are as follows: (Iqbal, thesis)

1) *Surplus Incentive* will be distributed if there is a surplus on the management of the tabarru fund.
2) *Surplus Incentive* 60% will be given to the Manager and the remaining 40% will be distributed proportionally to each participant with the following conditions:
   a. Participants have never received a claim payment or the submission of a claim is in the process of being equal to or exceeding the contribution that has been paid to the membership fund.
   b. Participants do not cancel the Policy Agreement with the previous insurance company.
   c. Participants extend their participation period.
   d. Participants have paid their due contributions.

The clauses on the Mechanism of Payment of the Tabarru Fund Surplus Incentives that have been agreed in the cooperation clause between the bank and the insurance company are as follows: (iqbal, thesis)

1) Realization of Incentive Funds (Tabarru' Surplus) payments at the end of the insurance closing period will be made if the accumulated value of the incentive funds (tabarru' surplus funds) is above Rp. 25,000, - (twenty five thousand rupiah).
2) If the incentive fund (tabaru fund surplus) at the end of the period, the incentive fund is below Rp. 25,000, - (twenty five thousand rupiah) then the realization of the payment will be postponed until the insurance closing period in the following years.
3) If the incentive fund (tabarru' surplus fund) at the end of the insurance coverage period is accumulated below Rp. 25,000, - (twenty five thousand rupiah), and there is no extension of the insurance coverage, then the participant gives up the incentive fund to be donated as a "benevolence fund".

As for the problem, there is no realization of the distribution of tabarru funds incentives as the phenomenon described earlier can be caused by several factors:

1) Many have increased the murabahah financing limit, but in the process of closing the insurance, they choose insurance that is different from the previous insurance.
2) Incentives below Rp. 25.000,- (twenty five thousand rupiah) at the end of the period of obtaining incentive funds so that the realization of the payment will be postponed until the insurance closing period in the following years.
3) The internal dynamics of bank companies often occur which causes Cooperation Agreements with insurance companies to be vulnerable to being evaluated, so that many insurance companies break up their cooperative relationships with banks.

The conclusion is that the condition in which many financing customers of Bank Sumsel Babel Syariah do not receive incentives for profit sharing from tabarru' funds as sharia life insurance participants, does not mean that the customer's contribution money will be forfeited. The collection of tabarru' funds from participants whose membership period has expired will continue to function as additional benevolence funds for participants for the next period. Because the ultimate goal of investing in tabarru' funds is not merely to seek profit, but also to maintain the balance of tabarru' funds so that there is no underwiting deficit in the next period. Thus, the tabarru' fund will always be shodaqah jariah for them until the end of their lives. This is what is called the concept of waqf in Islamic insurance.

If analyzed more deeply, in principle, tabarru' funds are grant funds that have been intended by participants as benevolent funds so that they cannot be withdrawn by participants. So there is a very contradictory orientation between the tabarru' contract and the tijarah contract on the management of contribution funds that use non-saving elements. Although in fact the combination of these two contracts is clearly stated in the Minister of Finance Regulation No.18/PMK/.010/2010. On the one hand, participants understand that their contribution is a grant that doesn't need to be thought about anymore, so it is called the tabarru' fund. On the other hand, there is a clause in the policy which states that there is a mudharabah system in the management of the tabarru' fund in question, thus enabling participants to get an incentive for a surplus of tabarru' funds. The word surplus incentive seems to contradict the word grant, in other words, participants are willing to give but expect to return. This actually could potentially undermine the participants' goal of helping each other through tabarru' fundraising. Participants who initially only intended to donate, now have hope and hope to get a profit sharing from the management of the tabarru' fund. This is what makes the combination of the tabarru' contract and the tijarah contract in sharia life insurance in murabahah financing seem contradictory. now has hope and hopes to get a profit sharing from the management of the tabarru' fund. This is what makes the combination of the tabarru' contract and the tijarah contract in sharia life insurance in murabahah financing seem contradictory. now has hope and hopes to get a profit sharing from the management of the tabarru' fund. This is what makes the combination of the tabarru' contract and the tijarah contract in sharia life insurance in murabahah financing seem contradictory.

Therefore, banks and insurance companies should formulate new editorials to replace the term “tabarru fund surplus incentives"” in insurance policies to maintain sharia values in their implementation. The term “**appreciation**” can be used as an alternative to the word “**tabarru surplus fund incentives**”, where it can be explained that participants are entitled to an appreciation for their contribution to helping fellow insurance participants until the end of their membership period. Even though the appreciation fund actually comes from the results of the tabarru' fund management.

CONCLUSION

In terms of insurance, fund management is the way an insurance company works in managing premium funds that have been collected by investing them in other financial institutions as a provision for payment of insurance compensation. In other words, the tabarru' fund was developed with the aim of anticipating the risk of loss that may arise in the future.Each period of tabarru' fund management will result in two possibilities, namely an underwriting surplus when the tabarru' fund pool is greater than the total claims in one period, and an underwriting deficit when the total claims are greater than the tabarru' fund pool.

The implementation of surplus underwiting is a concept that differentiates sharia insurance from conventional insurance because the output is profit sharing incentives for customers in accordance with the agreement stated in the insurance policy. However, insurance companies and banks should formulate new editorials to replace incentives with the term appreciation to maintain sharia values in their implementation. Because in the concept of tabarru', actually the concept of waqf does not expect rewards and is purely oriented to the afterlife. So that this term can shift the value of self-interest into the value of sincerity which bears appreciation for financing customers who are loyal and able to take care of themselves to avoid unwanted risks and can have an impact on filing claims.

If the concept of appreciation is carried out properly, it will be an effective marketing strategy for Islamic insurance companies in increasing insurance participation through financing customers at Islamic banks. Where sharia banks as insurance partners will give appreciation to customers who have not submitted a claim until the financing is paid off through a surplus of tabarru' funds provided by sharia insurance.

SUGGESTION

The public is expected to better understand their rights and obligations as insurance participants, not just paying premiums and getting compensation for claims that occur. Because in principle the purpose of sharia life insurance is not only for business purposes, but also as a forum for mutual commitment among participants. So it can be imprinted that the purpose of sharia insurance even though in the context of being a financing customer is as a form of productive waqf in the form of premium funds. Insurance companies are also expected to be more transparent in publishing the Tabaaru Fund Underwriting Surplus/Deficit Report, for example by socializing the provisions of sharia life insurance products to regions and publishing it through local mass media.

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