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LEGAL ASPECTS IN MANAGING NON-PERFORMING LOANS IN UNSECURED KUR MICRO AT BANK SYARIAH INDONESIA

The kafalah scheme serves as a risk mitigation mechanism widely applied in Islamic financing, particularly for unsecured Micro People's Business Credit (KUR (Kredit Usaha Rakyat) Micro). This scheme involves guarantee institutions that assume responsibility for financing risks, reducing the financial burden on Islamic banks and facilitating access to credit for Micro, Small, and Medium Enterprises (MSMEs). Despite its advantages, challenges remain, particularly in terms of kafalah fees and delays in claim processing, which can impact its overall effectiveness. This study aims to analyze the role of guarantee institutions, the claim process, subrogation rights, and their implications for the financial stability of Islamic banks. Using a descriptive qualitative approach, the study finds that guarantee institutions play a strategic role by covering up to 70 % of financing risks, allowing Islamic banks to extend financing to a broader range of MSMEs. The subrogation rights ensure that debtors remain accountable for their obligations, preserving financial discipline within the system. Furthermore, the findings indicate that the kafalah scheme significantly reduces credit risk for Islamic banks while promoting financial inclusion. However, the study also highlights several challenges, including the complexity of the claim process, administrative inefficiencies, and potential financial burdens on banks due to delays in reimbursements. These factors necessitate a more efficient regulatory framework to enhance the scheme's effectiveness. This research concludes that the kafalah scheme aligns with Maqasid al-Shariah, emphasizing fairness, financial justice, and asset protection, making it a critical tool for sustainable Islamic financing and inclusive economic growth. The study provides policy recommendations to improve the efficiency and accessibility of Islamic banking in addressing MSME financing needs while maintaining financial stability.

Keywords: *Kafalah scheme, Islamic banking, Micro People's Business Credit (KUR), risk mitigation.*

Original article

INTRODUCTION. Indonesia's financial system adopts a dual banking system, which includes a conventional system based on interest and a Shariah-based system rooted in the Qur'an and Sunnah. The conventional system operates by setting interest as a fixed return on loans, which is often considered unjust because of the additional burden imposed on borrowers, regardless of their financial condition (Nurnasrina, Putra, 2018). In contrast, the Shariah system aims to create transactions free from elements of *riba* (usury), with the primary foundation of avoiding injustice and promoting the welfare of all parties involved (Usanti, Shomad, 2022).

The Shariah system offers an alternative approach through the profit-sharing concept, emphasizing fairness by sharing risks and rewards between borrowers and lenders based on mutual agreements. Additionally, Islamic banks employ contracts such as *murabahah* (sale-based) and *ijarah* (leasing) in accordance with Islamic principles (Fahmi, 2015). This approach not only provides an economically fair solution, but also positions Islamic banking as an important tool to support financial inclusion, especially in Muslim-majority countries such as Indonesia.

Previous research on Shariah-based financing has extensively discussed risk management challenges and the effectiveness of implementing Shariah contracts such as *murabahah*, *musyarakah*, and *mudharabah*. A study by Muzariah (2022) revealed that the primary cause of non-performing loans is weak monitoring and inadequate customer feasibility analysis. Meanwhile, research by Astuti and Ilmiah (2022) highlighted the success of the profit-sharing system in mitigating risks for small and medium-sized financing. However, studies focusing on strategies for handling non-performing Micro KUR (Kredit Usaha Rakyat) loans without collateral, especially at PT Bank Syariah Indonesia, remain limited. This study aims to fill this research gap by offering a new contribution through an exploration of BSI's strategic approaches in the local context of the Malang Area.

Enhancing the role of Micro, Small, and Medium Enterprises (MSMEs) is a national priority to support economic growth. The Micro KUR program without collateral serves as one of the government's solutions to provide inclusive financing access for MSMEs. However, the high level of Non-Performing Financing (NPF) in this product presents a significant challenge for Islamic banks. Given the strategic role of BSI as one of the primary distributors of Micro KUR, this research becomes essential in identifying and formulating effective strategies for handling non-performing loans that align with Shariah principles.

The main legal issue in this study is how the mechanism for handling non-performing loans in unsecured Micro People's Business Credit (KUR Micro) can be resolved in accordance with Shariah principles and the prevailing banking regulations in Indonesia. Another issue concerns the extent to which the strategies implemented by PT Bank Syariah Indonesia can ensure the sustainability of MSME financing without compromising the financial stability of the bank. This study also explores how the application of the murabahah contract in the context of KUR Micro can prevent potential misuse and losses for both parties.

This study aims to analyze the mechanisms and strategies for managing non-performing financing in unsecured KUR Micro products at PT Bank Syariah Indonesia, Malang Area. Additionally, it seeks to identify the factors contributing to non-performing loans and evaluate the effectiveness of Shariah-based approaches implemented by BSI in maintaining sustainable financing for MSMEs. The findings of this study are expected to provide practical recommendations and relevant policy insights for the development of the Islamic financing system in Indonesia.

PURPOSE AND OBJECTIVES OF THE RESEARCH. This research aims to analyze the mechanisms and strategies for handling non-performing loans (NPLs) in unsecured Micro People's Business Credit (KUR Micro) at PT Bank Syariah Indonesia (BSI), Malang Area, in accordance with Shariah principles and Indonesia's banking regulations. The study seeks to provide a scientific contribution by evaluating the effectiveness of Islamic financial instruments, particularly the kafalah scheme and murabahah contracts, in mitigating credit risk while ensuring the sustainability of MSME financing. Additionally, this research examines the role of guarantee institutions in covering financing risks and their impact on Islamic banks' financial stability. It also identifies the key factors contributing to non-performing loans in KUR Micro and evaluates the effectiveness of Islamic banking strategies in maintaining sustainable financing. Furthermore, the study assesses the challenges associated with the kafalah scheme, particularly in terms of claim processing and financial risk distribution, which may affect its overall efficiency. By providing a comprehensive analysis, this research aims to develop policy recommendations to enhance the implementation of Shariah-based risk mitigation mechanisms in Islamic banking, ensuring greater financial inclusion and economic stability for MSMEs in Indonesia.

METHODOLOGY. This study employs a socio-legal method, combining normative analysis of legal regulations with empirical studies on their application in society (Irwansyah, 2020). The method aims to understand how laws related to handling non-performing loans in unsecured Micro People's Business Credit (KUR) at Bank Syariah Indonesia are implemented in practice. The normative approach analyzes relevant legal frameworks, including Law No. 21 of 2008 on Islamic Banking, Financial Services Authority (OJK) regulations, and KUR implementation guidelines. This analysis seeks to identify the legal foundations and policies that underpin the operational aspects of Shariah-compliant financing.

Additionally, the empirical approach involves collecting data through interviews with employees of Bank Syariah Indonesia in the Malang Area and MSME beneficiaries of micro KUR (Mahmud Marzuki, 2008). These interviews aim to gather insights into the practices of managing non-performing loans, challenges encountered, and strategies for resolution. Data is also derived from literature reviews, official documents, Bank Syariah Indonesia's annual reports, and academic journals to support the legal analysis conducted.

The data analysis technique employed in this study uses a qualitative descriptive approach (Amiruddin, Asikin, 2016). Primary and secondary data collected are analyzed through processes of reduction, data presentation, and conclusion drawing to provide a systematic understanding of legal issues and Shariah financing practices. This research not only explores law as written norms but also examines its practical functionality in society. Through this approach, the study aspires to offer a comprehensive contribution to understanding strategies for managing non-performing loans in unsecured micro KUR in accordance with Shariah principles in Indonesia.

RESULT AND DISCUSSION

Implementation of the Unsecured Micro People's Business Credit (KUR) Agreement at Bank Syariah Indonesia

The term "credit" originates from the Italian word *credere*, which means trust, referring to the creditor's belief that the debtor will repay the loan along with interest as agreed by both parties. In other words, the creditor trusts that the credit extended will not encounter issues (Beck, Demirgüç-Kunt, Pería, 2011). Essentially, credit is a loan agreement between a bank and a customer, categorized in practice as a replacement loan agreement. This agreement is unique because it involves the bank as the creditor and money as the object of the agreement. One of the products derived from credit agreements is the Micro People's Business Credit (*Kredit Usaha Rakyat* or KUR), which aims to provide working capital or investment financing to individuals, business entities, or productive business groups that lack sufficient collateral (Beck, 2013).

The KUR is regulated under Article 1, paragraph 1 of the Coordinating Minister for Economic Affairs Regulation No. 11 of 2017 concerning Guidelines for the Implementation of the People's Business Kredit[1]. This regulation defines KUR as a credit or financing facility granted to eligible and productive debtors, even if they lack adequate additional collateral. The concept of collateral itself is described in Article 1, paragraph 23 of Law No. 10 of 1998 on Banking, where additional collateral refers to assets provided by the debtor to the bank as a condition for obtaining credit or financing facilities. The primary function of collateral is to protect the bank from credit risk arising from irresponsible debtors and to bind debtors to promptly settle their obligations (Yasar, 2021).

Non-performing loans (NPLs) refer to loans that are not performing or where the debtor fails to meet their obligations as agreed in the credit agreement, such as the payment of interest, principal, or other terms. NPLs can also be interpreted as a deviation between what was agreed upon and what occurs in practice, where there are overdue payments of principal and interest exceeding 270 days (Bollaert, Lopez-de-Silanes, Schwienbacher, 2021). This creates significant risks for banks, particularly when debtors show no intention to repay their debts, thereby threatening the stability of financial operations.

The research findings indicate that PT Bank Syariah Indonesia Tbk. Malang Area operates several branches and sub-branches, including Kantor Cabang (KC) Malang Sutoyo, Kantor Cabang Pembantu (KCP) Malang Singosari, KCP Malang Pakis Kembar, KCP Batu Diponegoro, KCP Malang Turen, KCP Malang Gondanglegi, KC Malang Suprapto, and KCP Malang Pasar Besar. Each branch plays a role in distributing Micro People's Business Credit (KUR) according to Shariah principles while addressing challenges related to non-performing loans (NPLs). With locations spread across Malang City, Malang Regency, and Batu City, the bank has a broad reach to support MSMEs in the region. However, managing non-performing loans remains a critical issue requiring effective strategies that align with the Shariah principles implemented by the bank.

Based on interviews and observations with Mr. Adi Sunariyanto, a member of the Micro Audit Team for Malang Area, it was found that non-performing loans are categorized into five levels of collectibility. Collectibility 1 (current) includes financing with no overdue margin or principal payments, where repayments are made on time or before the due date. Collectibility 2 (under special mention) refers to financing where margin and principal payments are not made on time or do not align with the initial agreement. Collectibility 3 (special mention) describes financing that has experienced repeated delays in margin and principal payments, necessitating claims from guarantee insurance.

Furthermore, Collectibility 4 (doubtful) represents a more severe situation where margin and principal payments have been repeatedly delayed, posing higher risks. The final category, Collectibility 5 (loss), involves loans classified as

[1] Menko Perekonomian. (2017). *Permenko Perekonomian No. 11 Tahun 2017*. http://peraturan.bpk.go.id/Details/136098/permenko-perekonomian-no-11-tahun-2017.

non-performing when there are overdue principal and/or margin payments exceeding 180 days. This classification serves as a critical tool for identifying the level of credit risk and determining appropriate mitigation measures to address the negative impacts on the bank's financial health.

Branch office	KUR Distribution (Million)	number of customers	Customers in Arrears Column 2 (<90 Days)	Customers in Arrears Column 3 (>90 Days)	Number of NPF Customers
KC Malang	Rp38.459	549	**Rp 561 /**	Rp 517 / 7	7
KCP	Rp39.578	566	Rp 1.125 /	Rp 565 / 8	8
KCP	Rp14.720	294	Rp 1.002 /	Rp 1.257 /	18
KCP Batu	Rp35.096	501	Rp 497 / 7	Rp 342 / 5	5
KCP	Rp29.810	426	Rp 285 / 4	Rp 144 / 3	3
KCP	Rp62.170	889	Rp 1.874 /	Rp 1.501 /	2
KC Malang	Rp27.779	397	Rp 86 / 2	Rp 624 / 9	9
KCP	Rp32.444	464	Rp 619 / 9	Rp 87 / 1	1
	Rp.280.056	**4.086**	Rp 6.049 /	Rp 5.037 /	53

In addressing non-performing loans, Bank Syariah Indonesia, Malang Area, as one of the implementers of the People's Business Credit (KUR) program, has adopted various strategic steps to ensure sustainable financing while minimizing risks for the bank. One of the initial steps taken is regular debt collection from customers who are struggling to meet their obligations. This step aims to provide early warnings to debtors regarding their credit status, which may have entered the delinquent category or even become Non-Performing Financing (NPF). This process is carried out consistently and systematically, particularly for customers who still have viable business prospects and demonstrate goodwill in fulfilling their obligations. Debt collection is typically conducted up to four times per month for customers in the "current" category, with the hope of restoring their credit status before the situation worsens. However, not all cases can be resolved through routine collection, necessitating more comprehensive follow-up efforts.

For debtors classified as having more serious credit issues but have not yet reached Collectibility 3 (NPF category), Bank Syariah Indonesia undertakes financing restructuring as an alternative solution. Restructuring is implemented to provide relief to debtors, enabling them to continue their payments without overburdening their financial capacity. This process includes adjusting payment schedules, reducing margin burdens, or even restructuring the principal debt according to the debtor's ability. The goal is to guide the debtor back to a more stable payment trajectory, ensuring that the relationship between the bank and the debtor remains intact. This approach aligns with Shariah principles, emphasizing mutual assistance and fairness in resolving financial difficulties.

Additionally, for unsecured Micro KUR financing, Bank Syariah Indonesia has implemented the kafalah scheme in collaboration with insurance companies as a risk mitigation strategy. In this scheme, government-appointed guarantee companies act as guarantors, while the bank serves as the guarantee recipient and the customer as the guaranteed party. This guarantee covers both new customers and existing customers seeking to expand their financing facilities. The guarantee provided by the guarantee company covers up to 70 % of the KUR plafond based on the outstanding balance. This guarantee remains valid even if the customer's business undergoes changes from its initial operation at the time of KUR application, offering greater flexibility and protection against default risks.

When a debtor fails to fulfill their obligations, particularly if their credit has been categorized as Collectibility 4 (doubtful) according to the regulations of the Financial Services Authority (OJK), the insurance claim process is initiated to cover most of the losses borne by the bank. This claim process is designed to cover the entirety of the principal or margin of the financing disbursed. However, the claim cannot be used as a reserve fund to continue paying the debtor's installments. Once the insurance claim has been paid, the guarantor company gains subrogation rights, allowing it to replace the bank's position in collecting the remaining obligations from the debtor. The debtor is still required to settle the remaining debt without deducting the amount of the claim previously received by the bank. This ensures that the debtor's responsibility toward their obligations remains intact while also facilitating the return of claim funds to the guarantor company.

After the financing claim has been recorded, the bank continues intensive collection efforts with the debtor, and the funds recovered are returned to the guarantor insurance company. This process highlights the synergy between the bank and the guarantor company in mitigating non-performing loan risks while ensuring the sustainability of a fair and sustainable financing system. By adopting a gradual and Shariah-compliant approach, Bank Syariah Indonesia aims to resolve non-performing loans prudently without compromising the interests of debtors or the stability of the banking system.

The Role of Guarantee Institutions in the Kafalah Scheme

The kafalah scheme is a widely adopted risk mitigation mechanism in Shariah-compliant financing, particularly in the context of Micro People's Business Credit (KUR) (Iqbal, Mirakhor, 2011). Within this scheme, guarantee institutions play a critical role as guarantors, providing protection against the risk of default faced by Islamic financial institutions, such as banks. This role is crucial as KUR Micro financing is often extended without requiring additional collateral from borrowers, resulting in higher credit risks compared to financing secured by guarantees (Alam, Seifzadeh, 2020). The kafalah scheme ensures that a significant portion of potential losses arising from borrower defaults is transferred to the guarantee institution. Operationally, the scheme establishes a tripartite relationship between the guarantor (the guarantee institution), the guarantee recipient (the bank), and the guaranteed party (the borrower), thereby creating a structured framework for shared responsibility in managing financing risks (Dusuki, Abdullah, 2007). This scheme is designed in line with Shariah principles, emphasizing fairness and protection, ensuring that financing risks are managed in ways consistent with Islamic values and applicable regulations.

The kafalah scheme has become a key component in supporting the empowerment of the Micro, Small, and Medium Enterprises (MSME) sector, especially through KUR Micro financing. By acting as the primary guarantor of the default risks faced by banks, guarantee institutions play a strategic role in enhancing the operational resilience of Islamic financial institutions (Al Rahahleh, Ishaq Bhatti, Najuna Misman, 2019). Given the characteristics of KUR Micro financing, which lacks collateral requirements, banks face heightened exposure to default risks. The involvement of guarantee institutions mitigates these risks by covering a substantial portion of potential losses, typically up to 70 % of the financing plafond based on the outstanding amount (Abou-El-Sood, El-Ansary, 2017).

In practice, the kafalah scheme formalizes a tripartite relationship underpinned by a kafalah contract, adhering to Shariah principles of justice, transparency, and protection for all involved parties (Mahdzan, Zainudin, Au, 2017). This structure creates an interconnected responsibility for managing financing risks, where the guarantee institution serves as a strategic partner in alleviating the burden of non-performing loans for banks. By guaranteeing a portion of the financing, the kafalah scheme not only facilitates greater financial inclusion for MSMEs but also reinforces the resilience of Islamic financial systems in dealing with default risks while upholding the core principles of Islamic finance.

Moreover, the kafalah scheme not only aims to protect banks from financial losses but also contributes to increasing financial inclusion, particularly for MSMEs lacking additional collateral. With the presence of guarantee institutions, customers can more easily access financing without facing administrative hurdles or collateral requirements, which often act as significant barriers for MSMEs. This scheme also provides banks with the confidence to channel financing to productive sectors with promising prospects, without worrying about the substantial impacts of potential defaults.

In terms of regulation, the kafalah scheme is governed by the government through a clear legal framework, ensuring that its practices align with Shariah standards and national financial policies. Furthermore, guarantee institutions are not only tasked with providing financial protection to banks but are also obligated to process claims transparently and accountably in cases of non-performing loans. Thus, this scheme serves as a crucial instrument in maintaining the stability of the Shariah financing system while supporting inclusive and sustainable economic growth.

The kafalah scheme's guarantee mechanism is designed to manage the financing risks borne by Islamic banks, particularly in the unsecured Micro People's Business Credit (KUR) program. This mechanism is an essential solution given the large number of MSME customers who lack assets for collateral but still require financing to grow their businesses. In this scheme, the guarantee institution acts as the guarantor, providing protection against the risk of customer defaults, while the bank serves as the guarantee recipient, channeling financing to the customer as the guaranteed party. This relationship is established through a kafalah contract, which complies with

Shariah principles, wherein the guarantee institution covers the customer's obligations to the bank under specific conditions, such as inability to repay debts due to business losses or other reasons permitted under Shariah law.

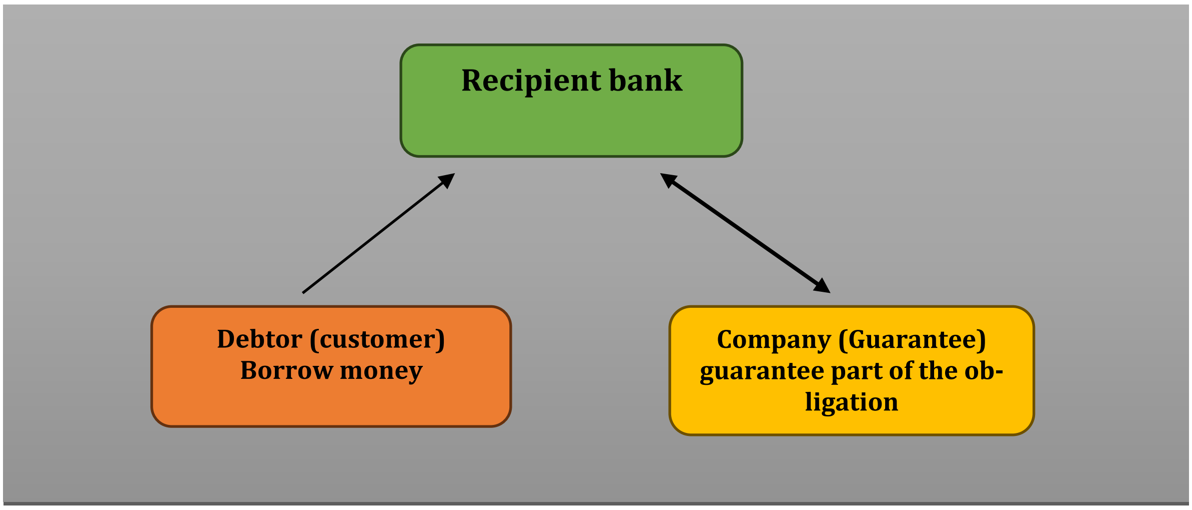
The guarantee institution is responsible for covering a substantial portion of the risks faced by banks, particularly for high-risk customers. According to government regulations, the guarantee institution can cover up to 70 % of the financing plafond based on the outstanding KUR amount, providing significant protection for the bank. This protection incentivizes banks to actively channel financing, especially to productive sectors like MSMEs, which are often considered high-risk. The guarantee applies not only to new customers but also to existing customers seeking to expand their financing facilities. Through this scheme, the guarantee institution serves as a strategic partner that not only reduces the bank's potential losses but also fosters economic growth by promoting more inclusive financing.

The protection provided through the kafalah scheme allows banks to be more flexible in supporting productive customers without being overly burdened by the risk of non-performing loans. On the other hand, the presence of guarantee institutions ensures a sense of security for banks in providing financing to eligible customers who lack additional collateral. This synergy between guarantee institutions, banks, and customers not only supports the sustainability of the Shariah financing system but also strengthens the overall stability of the financial sector (Dusuki, Abdullah, 2007).

The claim process in the kafalah scheme begins when the loans disbursed by the bank fall into specific categories, such as Collectibility 4 (doubtful) or higher. At this stage, the bank, as the guarantee recipient, has the right to submit a claim to the guarantee institution under the stipulated conditions. The primary requirements include evidence of the debtor's failure to meet their obligations, such as overdue reports on principal and margin payments exceeding a certain threshold, as well as complete documentation showing the collection efforts made by the bank. Additionally, the bank must attach other supporting documents, such as the original financing agreement, collectibility reports, and administrative records proving the debtor qualifies for a claim.

Once the claim is submitted, the guarantee institution conducts a thorough verification process to ensure that the claim complies with the regulations and meets all stipulated criteria. This verification involves reviewing the documents submitted by the bank and evaluating the level of risk incurred. If the claim is approved, the guarantee institution disburses payments to the bank to cover a significant portion of the losses, usually up to 70 % of the outstanding financing amount, as agreed in the coverage terms. This process not only mitigates the financial impact on the bank but also ensures the continued functionality of the Shariah financing ecosystem while adhering to principles of accountability and transparency.

However, even after the claim has been paid, the guarantee institution retains the right of subrogation, which allows it to assume the bank's position in collecting the remaining obligations from the debtor (Billah, 2019). In this context, the debtor remains fully responsible for fulfilling their financial obligations to the guarantee institution. This process not only provides protection to the bank as the guarantee recipient but also ensures that the debtor's responsibility for their financial obligations continues, thereby maintaining a balance between risk mitigation and the principles of fairness in Shariah financing (Malik, Ullah, 2019).



Picture 1. Kafalah Scheme Mechanism

Once the guarantee claim is approved by the guarantee institution, the right of subrogation takes effect, legally entitling the guarantee institution to replace the bank's position in collecting the debtor's remaining obligations. This subrogation mechanism ensures that the guarantee institution has full control over the collection process after fulfilling its responsibility to pay the claim to the bank based on the agreed coverage percentage. Even after the claim is paid, the debtor remains fully responsible for settling their remaining obligations to the guarantee institution, without any reduction from the claim value provided to the bank. In other words, subrogation sustains the debtor's responsibility for their obligations, aiming not only to minimize risks borne by the guarantee institution but also to uphold the principle of fairness among all parties involved. Furthermore, the right of subrogation provides a strong legal foundation for the guarantee institution to take further legal action if the debtor continues to default on their obligations, creating a more comprehensive risk mitigation framework in Shariah financing.

In general, the kafalah scheme has proven to be an effective instrument in reducing risks faced by Islamic banks, particularly in unsecured financing such as Micro People's Business Credit (KUR). The primary benefit for banks is the assurance of covering a significant portion of losses when non-performing financing occurs, allowing banks to focus more on financing distribution without the full burden of risk. Additionally, this scheme boosts banks' confidence in supporting high-risk MSME sectors that hold significant potential for driving economic growth. However, the effectiveness of this scheme is not without its limitations. The kafalah fee, borne by the bank, often poses a challenge, especially in low-margin financing. Moreover, delays in the claims or verification process by the guarantee institution can affect the bank's liquidity, particularly if the volume of non-performing financing is substantial. Nonetheless, the kafalah scheme remains a strategic tool for maintaining the stability of the Shariah financing system, fostering a supportive ecosystem among guarantee institutions, banks, and customers to ensure the sustainability of the Shariah-based financial system is optimally preserved.

The kafalah scheme in Shariah financing reflects the implementation of the Maqasid al-Shariahh theory, emphasizing the protection of wealth (*hifz al-mal*) through fair and transparent risk management. In this system, the guarantee institution acts as a key intermediary, ensuring stability between the bank and the customer while fostering a mutually supportive financing ecosystem. The subrogation rights granted to the guarantee institution also illustrate the application of Agency theory in financial management, where the guarantee institution assumes the responsibility for debt collection after the claim is approved. This approach not only upholds the principle of fairness in inter-entity relationships but also strengthens the social function of Shariah finance as a tool for promoting financial inclusion. With this mechanism, the Shariah financing system demonstrates a robust ability to adapt to operational challenges while adhering to Islamic legal values and modern principles of financial risk management.

CONCLUSION

The kafalah scheme in Shariah financing, particularly in unsecured Micro People's Business Credit (KUR), is a strategic mechanism designed to manage financing risks in a fair and sustainable manner. Through a tripartite relationship between customers, banks, and guarantee institutions, this scheme creates an inclusive financing ecosystem where guarantee institutions provide coverage of up to 70 % of the financing plafond. The claim mechanism and subrogation rights implemented in accordance with Shariah principles ensure that the debtor retains responsibility, while banks effectively mitigate their risk of losses.

Evaluations reveal that the kafalah scheme not only supports the financial stability of banks but also promotes the growth of the MSME sector, which serves as the backbone of the national economy. Nevertheless, challenges such as the kafalah fee borne by banks and the time-consuming claims process persist. However, the application of Maqasid al-Shariahh theory and Agency principles within this scheme provides a strong foundation for integrating Shariah-compliant finance with modern economic needs. As such, the kafalah scheme functions not only as a risk mitigation tool but also as a means to enhance financial inclusion and improve societal welfare through equitable and welfare-oriented financing.

REFERENCES

1. Abou-El-Sood, H., & El-Ansary, O. (2017). Asset-liability management in Islamic banks: Evidence from emerging markets. *Pacific Accounting Review, 29*(1), 55–78. https://doi.org/10.1108/PAR-04-2016-0050.

2. Al Rahahleh, N., Ishaq Bhatti, M., & Najuna Misman, F. (2019). Developments in Risk Management in Islamic Finance: A Review. *Journal of Risk and Financial Management, 12*(1). https://doi.org/10.3390/jrfm12010037.

3. Alam, I., & Seifzadeh, P. (2020). Marketing Islamic Financial Services: A Review, Critique, and Agenda for Future Research. *Journal of Risk and Financial Management, 13*(1). https://doi.org/10.3390/jrfm13010012.

4. Amiruddin, & Asikin, Z. (2016). *Pengantar Metode Penelitian Hukum*. PT RajaGrafindo Persada.

5. Astuti, E. P., & Ilmiah, D. (2022). Implementation of Covid-19 Countercyclical Policy in Mitigating Problematic Financing Risks. *Islamic Banking Journal, 3*(2), 115–128. https://doi.org/10.46367/jps.v3i2.783.

6. Beck, T. (2013). Bank Financing for SMEs – Lessons from the Literature. *National Institute Economic Review, 225*, 23–38. https://doi.org/10.1177/002795011322500105.

7. Beck, T., Demirgüç-Kunt, A., & Pería, M. S. M. (2011). Bank Financing for SMEs: Evidence Across Countries and Bank Ownership Types. *Journal of Financial Services Research, 39*(1–2), 35–54. https://doi.org/10.1007/s10693-010-0085-4.

8. Billah, M. M. (2019). *Islamic Insurance Products: Exploring Takaful Principles, Instruments and Structures*. Springer International Publishing. https://doi.org/10.1007/978-3-030-17681-5.

9. Bollaert, H., Lopez-de-Silanes, F., & Schwienbacher, A. (2021). Fintech and access to finance. *Journal of Corporate Finance, 68*. https://doi.org/10.1016/j.jcorpfin.2021.101941.

10. Dusuki, A. W., & Abdullah, N. I. (2007). Maqasid al-Shariahh, Maslahah, and corporate social responsibility. *American Journal of Islamic Social Sciences, 24*(1), 25–45. DOI: https://doi.org/10.35632/ajis.v24i1.415.

11. Fahmi, I. (2015). *Conventional and Shariah Banking Management*. Mitra Wacana Media.

12. Iqbal, Z., & Mirakhor, A. (2011). *An introduction to Islamic finance: Theory and practice* (Vol. 687). John Wiley & Sons.

13. Irwansyah, I. (2020). Legal Research: Choice of Methods & Article Writing Practices. Mirra Buana Media.

14. Mahdzan, N. S., Zainudin, R., & Au, S. F. (2017). The adoption of Islamic banking services in Malaysia. *Journal of Islamic Marketing, 8*(3), 496–512. https://doi.org/10.1108/JIMA-08-2015-0064.

15. Mahmud Marzuki, P. (2008). *Introduction to Legal Science.* Kencana Prenada Media Group.

16. Malik, A., & Ullah, K. (2019). *Introduction to Takaful: Theory and Practice*. Springer Singapore. https://doi.org/10.1007/978-981-32-9016-7.

17. Muzariah, A. S. (2022). Analysis of Determining the Eligibility of Collateral in the Distribution of Murabahah Financing Reviewed from the Risk Management of Islamic Banks (Case Study at BPRS Rahma Syariah Kediri). *WADIAH, 6*(1). https://doi.org/10.30762/wadiah.v6i1.160.

18. Nurnasrina, A. P., & Putra, P. A. (2018). *Islamic bank financing management*. Cahaya Pirdaus.

19. Usanti, T. P., & Shomad, A. (2022). *Islamic banking transactions*. Bumi Aksara.

20. Yasar, B. (2021). The new investment landscape: Equity crowdfunding. *Central Bank Review, 21*(1). https://doi.org/10.1016/j.cbrev.2021.01.001.

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ПРАВОВІ АСПЕКТИ УПРАВЛІННЯ НЕПРАЦЮЮЧИМИ КРЕДИТАМИ В СИСТЕМІ НЕЗАБЕЗПЕЧЕНИХ МІКРОКРЕДИТІВ KUR В ІНДОНЕЗІЙСЬКОМУ БАНКУ «СІАРІЯ»

Схема «кафала» слугує механізмом зниження ризиків, який широко застосовується в ісламському фінансуванні, зокрема для незабезпечених мікрокредитів для бізнесу (KUR). Ця схема передбачає участь гарантійних установ, які беруть на себе відповідальність за фінансові ризики, зменшуючи фінансове навантаження на ісламські банки та полегшуючи доступ до кредитів для мікро-, малих та середніх підприємств (ММСП). Незважаючи на її переваги, залишаються проблеми, зокрема щодо плати за послуги «кафала» та затримки в обробці вимог, що може вплинути на її загальну ефективність. Це дослідження має на меті проаналізувати роль гарантійних установ, процес розгляду претензій, права суброгації та їхній вплив на фінансову стабільність ісламських банків. Використовуючи описовий якісний підхід, дослідження виявило, що гарантійні установи відіграють стратегічну роль, покриваючи до 70 % фінансових ризиків, що дозволяє ісламським банкам надавати фінансування ширшому колу ММСП. Права суброгації гарантують, що боржники залишаються відповідальними за свої зобов'язання, зберігаючи фінансову дисципліну в системі. Крім того, результати дослідження вказують на те, що схема «кафала» значно знижує кредитний ризик для ісламських банків, водночас сприяючи фінансовій інклюзії. Однак дослідження також висвітлює низку проблем, зокрема складність процесу подання заяв, адміністративну неефективність і потенційний фінансовий тягар для банків через затримки з відшкодуванням. Ці фактори вимагають більш ефективної регуляторної бази для підвищення ефективності схеми. Результати дослідження свідчать, що схема «кафала» відповідає принципам шаріату, наголошуючи на чесності, фінансовій справедливості та захисті активів, що робить її критично важливим інструментом для сталого ісламського фінансування та інклюзивного економічного зростання. Дослідження пропонує рекомендації щодо підвищення ефективності та доступності ісламського банкінгу для задоволення потреб ММСП у фінансуванні, зберігаючи при цьому фінансову стабільність.

Ключові слова: *схема «кафала», ісламський банкінг, мікрокредит для бізнесу (KUR), зменшення ризиків.*

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