

Policy on Implementation of Bank Indonesia Circular Letter No. 14/7/Dpbs of 2012 concerning Regulation of Qardh Backed by Gold at Bank Syariah Mandiri KFO Imam Bonjol Medan (Pre Merger of PT Bank Syariah Indonesia)

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Abstract

Bank Indonesia Circular Letter No.14/7/DPbS dated February 29, 2012 regarding Qardh Backed by Gold Products for Sharia Banks and Sharia Business Units explains the guidelines and operating limits for sharia gold pawn/rahn products in Indonesia. With the issuance of this circular, every Islamic bank including Bank Syariah Mandiri KFO Imam Bonjol Medan must be able to implement policies in accordance with the provisions of Bank Indonesia. This study aims to determine and explain how the implementation of gold-backed qardh products at Bank Syariah Mandiri KFO Imam Bonjol Medan after the issuance of Bank Indonesia Circular Letter No. 14/7/DPbS. This study also aims to determine the impact of potential risks that arise on gold-backed qardh products after the issuance of Bank Indonesia Circular Letter No. 14/7/DPbS. This research is a qualitative descriptive analysis research conducted at Bank Syariah Mandiri KFO Imam Bonjol Medan which is located at Jl. Imam Bonjol, No. 7. Medan City. Based on the results obtained in this study, it can be seen that in general, the implementation policies applied by Bank Syariah Mandiri KFO Imam Bonjol Medan are in accordance with the rules contained in Bank Indonesia Circular Letter No. 14/7/DPbS. Such as determining the category of use, use of contracts, delivery of information, amount and term of financing, and FTV. However, there are two aspects that are still not appropriate, including the status of gold ownership and the imposition of fees that are not in accordance with the rules set by Bank Indonesia. In addition, it is also known that in gold-backed qardh products there are several types of risks contained in them, including: market risk, credit risk, liquidity risk and operational risk.

Keywords

policy implementation;
Islamic banks; gold-
backed qardh products



I. Introduction

Islamic banks in Indonesia were born in 1992. Sharia banking is a banking system whose implementation is based on Islamic law. The formation of this system is based on the prohibition in Islam to lend or collect loans by charging interest on loans, as well as the prohibition to invest in businesses categorized as forbidden (haram) (Marimin, et al., 2015).

The development of Islamic banks has become a benchmark for the success of the existence of a sharia economy that is growing and developing rapidly (Zainal, et al., 2019). Currently, Islamic banks are one of the fastest growing industrial sectors in Indonesia. This is supported by the total number of Islamic banking assets and the number of offices that continue to grow rapidly in 2017 to 2020 for both Islamic Commercial Banks (BUS) and Sharia Business Units (UUS).

Table 1. Development of Islamic Banks in Indonesia

Information	2017	2018	2019	2020
Sharia Commercial Bank				
Total Assets (in billion Rupiah)	288,027	316,691	350,364	397,073
Number of Offices	1.825	1.875	1,919	2.034
Sharia Business Unit				
Total Assets (in billion Rupiah)	136,154	160,636	174,200	196,875
Number of Sharia Business Units Offices	344	354	381	392

Source: Sharia Banking Statistics, OJK (2021)

Based on the table above, it can be seen an overview of the development of Islamic Banks in Indonesia during 2017 to 2020. The total assets owned by Islamic Commercial Banks and Sharia Business Units during 2017 to 2020 continued to experience a significant increase. Likewise, the number of offices for Islamic Commercial Banks and Sharia Business Units which for the past 4 years has experienced a rapid increase in volume. According to Rahmati et al (2018) behind the rapid development of Islamic banks there is a phenomenon of neglecting its operational principles, namely profit sharing.

PT. Bank Syariah Mandiri is one of the banking industries that adheres to the sharia system whose current market share is quite large. This can be seen from the number of branches of Bank Syariah Mandiri which is now compared to its inception (1999). One of the Bank Syariah Mandiri offices in Medan City is the Imam Bonjol Functional Operational Office (KFO). Bank Syariah Mandiri currently has many products, both fund-raising products such as savings, current accounts, and deposits, as well as financing products as will be discussed in this study, namely gold pawn financing.

Islamic banking acts as a financial intermediary institution between economic units that have excess funds and other units that experience shortages of funds. Therefore, to carry out the intermediation function, Islamic banking institutions will carry out business activities in the form of raising funds, distributing funds, and providing various financial transaction services to the public. In some of the business activities carried out by the bank, there is a banking product about pawning or rahn. The definition of sharia pawn or Rahn which has the meaning of holding one of the borrower's property (rahn) as collateral for a loan received from the borrower or murtahin (Fadllan, 2014). In practice, not everyone has the confidence to provide loans or debts to other parties. To build a trust, it is necessary to have a guarantee that can be used as a guide.

Pawn transactions are allowed to be carried out at Islamic banks with collateral in the form of gold. Currently, almost all Islamic banks promote the gold pawn service product, although the gold pawn product can be said to be new in sharia banking services, but this product gets a good response from the community so that every year it develops. Pawn gold is a financing product on the basis of a guarantee in the form of gold as an alternative to obtain financing quickly (Soemitra, 2017). This gold pawn is a financing product which according to the community is safer in borrowing funds from the bank because so far the community, especially the lower middle class, are afraid to borrow funds from the bank because their guarantee is a house ownership certificate. However, with the gold pawn, people feel safer in borrowing funds from Islamic banks. A simple, easy and practical funding scheme for emergency cash needs with gold jewelry and gold as collateral (Maulidizen, 2016).

The Islamic financing product that is characteristic and distinguishes it from conventional bank products is the gold pawn. Gold is a product that is not affected by inflation, because gold is the result of the earth's resources whose existence is limited and cannot be renewed. Gold is a product that can increase in price every year. The increase in gold prices can reach up to 160% in five years or 30% annually (Kholifah, 2013).

The application of sharia gold pawn products has been regulated in the fatwa of the MUI National Sharia Council number 79/DSNMUI/III/2011. Based on the fatwa, it was revealed that pawning/rahn gold is a product based on a qardh contract which is a complementary product in Islamic bank products. However, what is happening now is that the pawn/rahn product has become the flagship product of Islamic banks. This phenomenon is of particular concern because it eliminates the main function of Islamic banking as an intermediary institution.

As seen from Bank Indonesia data, during 2011, the distribution of funds in the form of qardh receivables to Islamic banks experienced a very high increase of 295.17% which was dominated by an increase in the qardh (pawn) of gold (Muharrami, 2016). To respond and anticipate this impact, Bank Indonesia issued a Circular Letter of Bank Indonesia No. 14/7/DPbS dated February 29, 2012 regarding Qardh Products with Gold Backed for Sharia Banks and Sharia Business Units.

II. Review of Literature

2.1 Public Policy Theory

Dye (1981) explains that policy is everything the State does or does not do. This understanding was later developed and updated by scientists working in the field of public policy as an improvement because if this meaning is applied, the scope of this study becomes very broad, in addition to the study which only focuses on the State as the subject of study.

Policy implementation is a series of activities after a policy is formulated. Without an implementation, a policy that has been formulated will be in vain. Therefore, policy implementation has an important position in public policy. Policy implementation is a function of three variables, namely: (1) the characteristics of the problem, (2) the program management structure which is reflected in the various regulations that operationalize the policy and (3) factors outside the regulations. An implementation will be effective if the implementing bureaucracy complies with what is outlined by the regulations (Implementation Instructions, and Technical Guidelines). Therefore this model is often referred to as the Top Down Model.

2.2 Syariah Banking

According to Kasmir (2013) banking began to be known in the days of mainland Europe and then spread to parts of West Asia through trade. So the presence of banking is not far from the development of trade, because the wider the trade, the more recognized the banking world. Financial institutions or better known as banking are institutions whose activities are related to finance where the assets they have are in the form of valuable money. Banks have activities where the main activity is to accept deposits in the form of demand deposits, savings, and deposits (Kasmir, 2013).

According to OJK, the theoretical concept of Islamic banking first appeared in the 1940s, with the idea of banking based on profit sharing. Islamic banking in Indonesia itself began in 1990, then the Indonesian Ulema Council (MUI) formed a working group to establish an Islamic bank in Indonesia. According to Muhamad (2017) Islamic banking is a

financial institution that operates not relying on interest that contains usury and its operations are developed based on the Al-Quran and Hadith.

Islamic banks are financial institutions that are needed by the community in conducting financial transactions and other banking transactions. Transactions that can be offered by banks differ from one bank to another. Some Islamic banks offer all banking products, some Islamic banks offer certain products and so on. Islamic bank products and services that can be provided to the public depend on the type of bank (Ismail, 2011).

The Indonesian Banking Booklet (2011) explains that the business activities of Islamic banks generally consist of collecting funds in the form of deposits, investing, distributing profit-sharing financing, distributing financing based on murabahah contracts, salam contracts, istishna' contracts, or qardh contracts, distributing financing leasing movable or immovable property, taking over debts, conducting debit card and financing card business, buying securities, receiving payments from bills on securities, making safekeeping for the benefit of other parties, providing a place to store goods and securities, transferring money, perform functions as a trustee, provide letter of credit or bank guarantee facilities, carry out other activities that are commonly carried out in the banking sector and in the social sector as long as they do not conflict with sharia principles and in accordance with the provisions of laws and regulations, conduct foreign exchange activities, carry out capital participation activities in Sharia Commercial Banks or financial institutions conducting sharia business activities, conduct temporary capital participation activities to overcome the consequences of financing failures based on sharia principles, act as founders and administrators of pension funds based on sharia principles, carry out activities in the capital market, organize activities or bank products based on sharia principles, issue, offer, and trade long-term securities short and long term, as well as providing products or conducting other sharia commercial bank business activities based on sharia principles.

2.3 Financing

Financing is an activity of Islamic banks in channeling funds to parties other than banks, or to individuals based on sharia principles (Hermansyah, 2013). The distribution of funds in the form of financing is based on the trust given by the owner of the funds to the users of the funds. The owner of the fund trusts the recipient of the funds, that the funds in the form of financing provided will definitely be paid off. The recipient of the financing has the trust of the financier, so that the recipient of the financing is obliged to return the financing that has been received in accordance with the period agreed in the financing contract (Ismail, 2011).

Financing in sharia banking or in technical terms productive assets, according to Bank Indonesia regulations, is investment in Islamic Bank funds both in rupiah and foreign currencies in the form of financing, receivables, qardh, sharia securities, placements, equity participation, temporary equity participation, commitments and contingencies in administrative accounts and Bank Indonesia wadiah certificates (Fajri, et al., 2018).

2.4 Gold Backed Qardh Products

As part of the financial services industry, basically Islamic Banks and Sharia Business Units have main functions that are no different from conventional banks with different principles, characteristics, mechanisms and types of products (Humaira, 2014). In accordance with Bank Indonesia Regulation Number 10/17/PBI/2008 concerning Islamic Bank Products and Sharia Business Units concerning Qardh. Qardh is a contract for distribution of funds by a Sharia Bank or Sharia Business Unit to a customer as a debt

receivable with the stipulation that the customer is required to return the funds to the Sharia Bank or Sharia Business Unit at the agreed time. In the financing system at Islamic banks, there is what is known as gold pawn financing, which is a bank product that provides financing facilities to customers using the qardh principle with collateral in the form of precious metals or jewelry in the type of gold the customer is concerned with binding on a pawn.

In Sharia Banks and UUS, the sharia gold pawn product is also called gold-backed qardh because the product uses a qardh contract with collateral in the form of gold tied to a rahn contract, where the gold that is pledged as collateral is stored and maintained by the Islamic Bank and UUS for a certain period of time with pay the cost of storage and maintenance of gold as an object of rahn which is bound by an ijarah contract. Qardh in Islamic banking is a loan agreement from a bank to a customer accompanied by the assignment of tasks so that the bank maintains the collateral submitted to the bank. Meanwhile, the gold that is pledged as collateral in the bank is subject to maintenance fees for the rental of bank facilities that generate ujroh for the bank which is included in non-operating income.

The purpose of providing this product is to finance the need for short-term funds or additional short-term working capital for groups of customers and Micro and Small Businesses as referred to in Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises, and is not intended for investment purposes.

Every financing in banking is bound by a contract. In financing the gold-backed qardh, it is tied into three contracts which are made into one, namely Qardh, Rahn and Ijarah:

1. Qardh contract

Is the gift of property to another person that can be collected or requested back or in other words lend without expecting anything in return. In classical fiqh literature, qardh is categorized in tathawwui aqd or mutual aid contracts and not commercial transactions. This contract is used for binding loan funds provided by Sharia Banks or UUS to customers;

2. Rahn contract

Rahn means holding one of the borrower's property as collateral for the loan he received. The seized goods have economic value. Thus, the holding parties obtain guarantees to be able to take back all or part of their receivables. In simple terms, it can be explained that rahn is a kind of guarantee of debt or pawn. for binding gold as collateral for loan funds; and

3. Ijarah contract,

Ijarah means wages, rent, services or remuneration. In terms of ijarah, it can be interpreted as a contract for the transfer of usufructuary rights (benefits) of an item or service within a certain time with the payment of wages (ujrah), without being followed by the transfer of ownership of the goods themselves. This contract is used to bind the use of gold storage and maintenance services as collateral for loan funds.

The bank acts as a provider of funds to provide loans (qardh) to customers based on an agreement. Banks are prohibited for any reason from requesting loan repayments exceeding the nominal amount according to the contract (Sergio, et al., (2015). In addition, banks are also prohibited from charging any fees for financing distribution on a qardh basis, except for administrative costs within reasonable limits. While on the customer side, the refund of the amount of financing on the basis of qardh, must be made by the customer at the agreed time. In the event that the customer is classified as capable but does not return part or all of his obligations at the agreed time, the bank can impose sanctions according to sharia in the context of fostering customer.

2.5 Bank Indonesia Circular Letter No. 14/7/DPbS

The issuance of this circular is intended to provide a reference for Islamic banking in implementing the Gold Backed Qardh product, which is the implementation of Bank Indonesia Regulation No. 10/17/BPI/2008 concerning Islamic Bank Products and Sharia Business Units. This provision applies to Sharia Commercial Banks, Sharia Business Units, and Sharia Rural Banks (BPRS).

III. Research Methods

This research was conducted at Bank Syariah Mandiri Operational Functional Office (KFO) Imam Bonjol Medan which is located at Jl. Imam Bonjol, No. 7. Medan City. The research was conducted from November 2020 to December 2020.

The form of research used in this research is descriptive qualitative analysis. Sukmadinata (2011) explains that descriptive qualitative research is intended to describe and describe existing phenomena, both natural and human engineered, which pay more attention to the characteristics, quality, and interrelationships between activities. Sugiono (2017) adds that qualitative research as a research method based on the philosophy of postpositivism, is used to examine the condition of natural objects, where the researcher is the key instrument, the data collection technique is triangulation, the data analysis is inductive or qualitative, and the results of qualitative research are more emphasize meaning rather than generalization.

Based on the information from several experts above, it can be concluded that descriptive qualitative research is a series of activities to obtain data that is as it is without being under certain conditions, the results of which emphasize meaning. The researcher uses a qualitative descriptive research method because this study aims to describe the implementation of gold-backed qardh at Bank Syariah Mandiri KFO Imam Bonjol Medan after the issuance of Bank Indonesia Circular No. 14/7/DPbS.

IV. Discussion

Based on its implementation, currently Bank Syariah Mandiri KFO Imam Bonjol always provides information related to gold-backed qardh products to customers. Bank Syariah Mandiri KFO Imam Bonjol considers that the customer has the full right to obtain an explanation regarding the features of this gold-backed qardh product, both in the form of the customer's rights and obligations, the benefits to be obtained, the risks that may be faced, and details of the costs of the qardh-backed product gold at Bank Syariah Mandiri KFO Imam Bonjol. This is in accordance with the provisions of SEBI No. 14/7/DPbS, to be precise the second part number 8 which states that each Islamic Bank is required to explain orally or in writing (transparently) to customers regarding product characteristics (such as features, risks, benefits, costs, requirements, and settlement if there is a dispute) as well as the rights and obligations of the customer, including in the event of the execution of gold collateral.

The amount of financing that can be provided by Bank Syariah Mandiri KFO Imam Bonjol in sharia gold pawn transactions is a maximum of Rp. 250,000,000,- per customer with a maximum period of four months and can be extended twice. Regarding the maximum amount of financing provided by Bank Syariah Mandiri KFO Imam Bonjol, this is in accordance with what is described in the provisions of the third part number 4 SEBI No. 14/7/DPbS. The provision explains that the Gold Backed Qardh financing can be given a maximum of Rp. 250,000,000,- for each customer, with a maximum financing period of

four months and can be extended twice a maximum. In this case, Bank Syariah Mandiri KFO Imam Bonjol also does not distinguish between ordinary customers and micro and small business (UMK) customers. Therefore, Bank Syariah Mandiri KFO Imam Bonjol can provide a maximum financing of Rp. 250,000,000,- to customers who use it for consumptive or productive purposes (such as UMK customers). While the provisions in SEBI No. 14/7/DPbS explained that there is a difference between customers who use gold pawn products as regular customers and MSE customers. This is explained in the third part of number 5 SEBI No. 14/7/DPbS that especially for MSE customers can be provided with Gold Backed Qardh financing of a maximum of Rp. 50,000,000,- with a maximum period of one year with monthly installments and cannot be extended.

Along with the rapid growth of gold-backed qardh products, of course, there are also risks inherent and faced in this product. The risks contained in gold-backed qardh products include:

1. Market Risk

Market risk itself is strongly influenced by changes in currency exchange rates or fluctuations in gold prices. The erratic fluctuations in the price of gold have caused Bank Syariah Mandiri KFO Imam Bonjol to be careful in carrying out gold pawning products. This risk can arise due to fluctuations in the price of gold, which at the time of filing for financing the price of gold is high and at the time of the auction the price of gold decreases. The form of risk mitigation carried out by Bank Syariah Mandiri KFO Imam Bonjol is to carry out insurance for collateral goods, then the bank also implements a hedging system by setting FTV at 80% for jewelry and 80% for precious metals. This method is proven to be effective if there is a fluctuation in the price of gold, there is still some left to cover it.

2. Credit Risk

Credit risk is the risk faced by Islamic banks when customers fail to fulfill their obligations and the decline in gold prices has the potential to delay the redemption of gold by customers by debtors. Credit risk in pawning/rahn gold is predicted to have a large enough impact compared to other risks inherent in pawn transactions/rahn gold on bank performance. From the customer's review of the pawn/rahn gold, the possibility (probability) of default at maturity is very likely to occur. The results of interviews with Bank Syariah Mandiri KFO Imam Bonjol show that if there is no credit risk, the bank will act by giving the customer the option to pay off the loan every 15 days for 4 months or pay off immediately in the 4th month. However, if it has occurred, the Bank Syariah Mandiri KFO Imam Bonjol will contact the relevant customer on the 25th, if on the 31st the customer has not been able to complete his obligations, the bank will confirm with the related party to then sell the collateral belonging to the customer. There are 2 options offered by Bank Syariah Mandiri KFO Imam Bonjol before the auction process, namely the first option for the collateral belonging to the customer in question to be immediately sold, then the second option, namely if at maturity the gold price increases, the bank will offer an increase in principal through a contract with the condition that the customer must come directly to the office. Considering that it is allowed to re-pawn up to 2 times within a 4 month financing period. The losses arising from this credit risk are usually relatively small, because the value of the collateral used as collateral by customers is higher in number than the financing provided by Bank Syariah Mandiri to customers. This is one of the advantages of the implementation of the Gold Basic Price (HDE) standard applied by Bank Syariah Mandiri.

3. Liquidity Risk

This liquidity risk has a considerable impact because one of the sources of gold pawn financing is usually taken from third party funds. Bank Syariah Mandiri KFO Imam Bonjol must be careful in managing this gold pawn product, the available liquidity must be sufficient, it must not be too small so that it interferes with daily operational needs. The form of risk mitigation carried out by Bank Syariah Mandiri KFO Imam Bonjol against this risk is by conducting auctions or selling collateral belonging to customers to increase bank liquidity.

4. Operational Risk

The problem of operational risk is inseparable from human resources (HR), internal processes, systems and infrastructure, as well as external events which from these risk sources cause events that have a negative impact on bank operations. The problems that have an impact on operational risk are internal fraud, external fraud, labor practices and work environment safety, customer protection, business products and applications, damage to physical assets, disruption of business activities and system failures, process and execution errors. This risk arises due to negligence, misjudgment or error in checking the authenticity of the collateral in the form of gold. According to the results of an interview with Bank Syariah Mandiri KFO Imam Bonjol, the form of mitigation carried out by Bank Syariah Mandiri KFO Imam Bonjol for this risk is by routinely providing training to pawning managers and pawning staff and implementing a dual control system, which means that every time there is fraud or fraud, especially fraud that occurs from the bank's internal party, it is directly connected to the North Sumatra KCP.

V. Conclusion

Policy on the implementation of Bank Indonesia Circular Letter No. 14/7/DPbS in 2012 at Bank Syariah Mandiri KFO Imam Bonjol showed that in general the policies implemented by Bank Syariah Mandiri KFO Imam Bonjol were in accordance with the rules contained in Bank Indonesia Circular Letter No. 14/7/DPbS regarding the Qardh Gold Backed product. Such as determining the category of using gold-backed qardh products, using contracts in gold-backed qardh products, delivering information on gold-backed qardh products, the amount and period of financing for gold-backed qardh products, and determining Financing To Value (FTV). However, there are two aspects that are still not appropriate, including the status of gold ownership and the imposition of fees that are not in accordance with the rules set by Bank Indonesia.

In the gold-backed qardh product at Bank Syariah Mandiri KFO Imam Bonjol there are several types of risks contained therein, including: market risk, credit risk, liquidity risk and operational risk. Of all these risks, it is proven that Bank Syariah Mandiri KFO Imam Bonjol has implemented mitigation to reduce the risks that may be faced. In addition, Bank Syariah Mandiri KFO Imam Bonjol has also carried out appropriate risk management by conducting risk identification, risk assessment, risk anticipation, and risk monitoring.

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