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Commodity Murabahah Contract in Microcredit Financing

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Abstract

Microcredit financing has play a vital role in development of household income in urban area. In Malaysia, one of the institution which offering microcredit scheme for small entrepreneur is Amanah Ikhtiar Malaysia known as AIM. This type of microcredit financing has been offered to the women only. Before they can acquire the financing, they should be a member of AIM with regarding to the term and condition stipulated by the management of AIM. Nowadays, AIM has been applied an Islamic contract known as Commodity Murabahah. Thias article is focus on the application of Commodity Murabahah in microcredit which practiced by the members of AIM (sahabat). The sources of data and information for the article is getting from the interview with the management of AIM and related documents. Hopefully, the findings will giving the prudent understanding about performing Commodity Murabahah contract and make AIM as foremost institutional which offering Shariah Compliant financing.

Keywords: Microcredit Financing, Amanah Ikhtiar Malaysia, Commodity Murabahah Contract, Halal Financing.

Introduction

Microcredit financing is one of the product for small entrepreneurs to enhance the living standards for entrepreneurs in their business. From year 1987 until 2013, AIM applied al-qard al-hasan contract in their microcredit financing. These contract imposed 10% services charges per year for every single financing. The said charges in term of percentage cause the service charges varied and different from the total amount of financing. The charges growing parallel with amount of financing. Basically, the increase in the amount of repayment of financing under al-qard al-hasan contract is impermissible by majority of Shariah Scholars (Tahir, 2014).

However, the actual management charges in the form of fixed amounts for al-qard al-hasan are certified by the resolution of worldwide scholar's conference under the Shariah Accounting and Auditing Organization (AAIOFI) for Islamic Financial Institution. The actual managing fee should not involve direct cost such as employee salaries, leasing rental, and other liabilities for an institution. The implementation of managing fee does not meet these guidelines can be categorized as 'riba' according to Islamic perspective (Rahman, 2010).

This article discusses about Commodity Murabahah and its application contracts in AIM financing. The contract is more appropriate nowadays as the AIM participants (sahabat) only need funding capital to start and expand various planned business projects.

Commodity Murabahah Contract

Bank Negara Malaysia (BNM) has introduced Commodity Murabahah Contract in March 2007. It is an instrument that existed in the Islamic financial market which manages their short term investment. It is a transaction based on commodity using the raw oil pump as the based asset. In early 2007, BNM has signed a master agreement Murabahah Commodity with aids banking institution in Malaysia. Murabahah commodity is a formed of commodity based business which is accepted by the whole world, to facilitate the management of liquidity and investment (BNM, 2007).

Commodity murabahah contract or better known as *tawarruq* refers to the buying and selling of commodity based on suspended payment called murabahah (where the price of the commodity cost added to profit (margin) from seller to buyer. Then, the commodity will be sold by cash to third party (but not to original seller) to get the cash. Usually this contract is used in a structured product deposit financing, management of asset and risk (BR, 2017).

This commodity *murabahah* or *tawarruq* is an alternative contract to the *bay' al-inah* which was applied in personal financing at previous banking institutions in Malaysia. Given that *bay' al-inah* raises controversy among Islamic scholars, the banking institutions have replaced it with *tawarruq*. Therefore, Islamic financial institutions and banks should avoid the *bay' al-inah* transactions because of the issue of tricks that exist within them and should replace them with other contracts such as *mudharabah*, *musyarakah* or *tawarruq* (Ali, 2008).

In the contract of *tawarruq*, the involved commodity need to fulfill the certain criteria so that the needs of syariah can be obeyed in the following business. Normally, the financial institution Islamic banking uses the services of the Murabahah Commodity Exchange Market or known as Bursa *Suq al-sila'* (BSAS). BSAS's role is as a sharia commodity trading platform based on electronic websites. In this BSAS structure, the seller is required to have a commodity first before making a transaction. BSAS was introduced in collaboration between BNM, the Securities Commission, Bursa Malaysia and participants of the Islamic finance industry (Mahyudin, 2015).

Among the mazhab which require the concept of *tawarruq* is mazhab Syafie, mazhab Hanafi and mazhab Hambali. The necessity of using this *tawarruq* contract can be explained by the word of Allah SWT which means:

“....Allah SWT has justified the sale and forbidden usury”

(*al-Baqarah*, 2:275)

Generally, the ulama view the above verse showing that *tawarruq* is justified because it is part of the buying and selling activities.

The fiqh method outlines that *al-asl fil mu'amalat al-ibahah* which means the origin of the muamalah law is a must, unless there is a proposition that prohibits it. On the other hand, things pertaining to worship are prohibited until there is a nasal law that requires it. Al-Jawziyyah (1977), explains that in the aspect of worship, even though humans are commanded to worship Allah SWT but they are forbidden to worship unless there is a commandment to do so. In contrast to muamalah because all forms of muamalah are allowed by Allah without having to look for proofs of necessity, but what to look for is its proposition. While there is no argument forbidding it, then the muamalah is a must (al-Jawziyyah, 1997).

However, Yusuf (1998) emphasized that the principle of *al-asl fil mu'amalat al-ibahah* cannot be applied to existing financial instruments today. The status of conventional financial instruments is illegal unless it has been studied and proved to be sharia-compliant. This is because today's conventional monetary instrument is the result of a capitalist-based capitalist creation. All conventional financial instruments introduced in the market are merely profit-oriented without regard to halal and haram from the shariah point of view. Therefore, every such instrument should be reviewed in advance to determine whether it complies with Shariah requirements or otherwise (Yusof, 2015).

AIM Commodity *Murabahah* Contract Application

Commodity *murabahah* contracts (*tawarruq*) are fully applied to AIM microcredit financing products beginning in 2014. It is the best contract so far in the effort to make AIM an institution that offers halal financing products. This contract is suitable to be used in the financing of companions as it requires cash to be used for various forms of business.

Tawarruq refers to muamalah transactions involving two levels of transactions. In the first stage, the transaction involves the purchase of a credit (payment on a token) basis between buyer AIM (party 1) and commodity seller AIM (party 2). The AIM party should purchase the commodity from the original commodity supplier (supplier A) at BSAS. In the second stage, AIM companions delegate AIM to resell the commodity in cash to supplier B (3rd party) at BSAS.

When buying a commodity on credit, AIM companions do not intend to use or utilize the commodity, but only want to resell it for cash. First-stage transaction were formerly known as commodity *murabahah* because sales were made based on the concept of profit margin over the original price to be paid in installments by AIM companions. In the second stage, there is a concept of *wakalah* and sale of AIM as a representative in the transaction of cash sale with third party.

This product based on the concept of *tawarruq* (*murabahah* commodity) is applied in most Islamic financial institutions. AIM financing mechanisms based on commodity murabahah contracts are implemented as follows:

- i. AIM purchases commodities from commodity suppliers (A) by cash in the commodity market at BSAS.
- ii. AIM sells the commodity to AIM companions on credit at a cost plus profit margin.
- iii. AIM companions appoint AIM as a representative to resell the commodity to commodity suppliers (B), (C) or (D) in cash in the commodity market at BSAS.
- iv. Cash sales to commodity suppliers (B), (C) or (D) will enable the customers to get the cash amount of the loan, while the residual sales from AIM to AIM companions will create financial obligations payable by the companions within the agreed period.

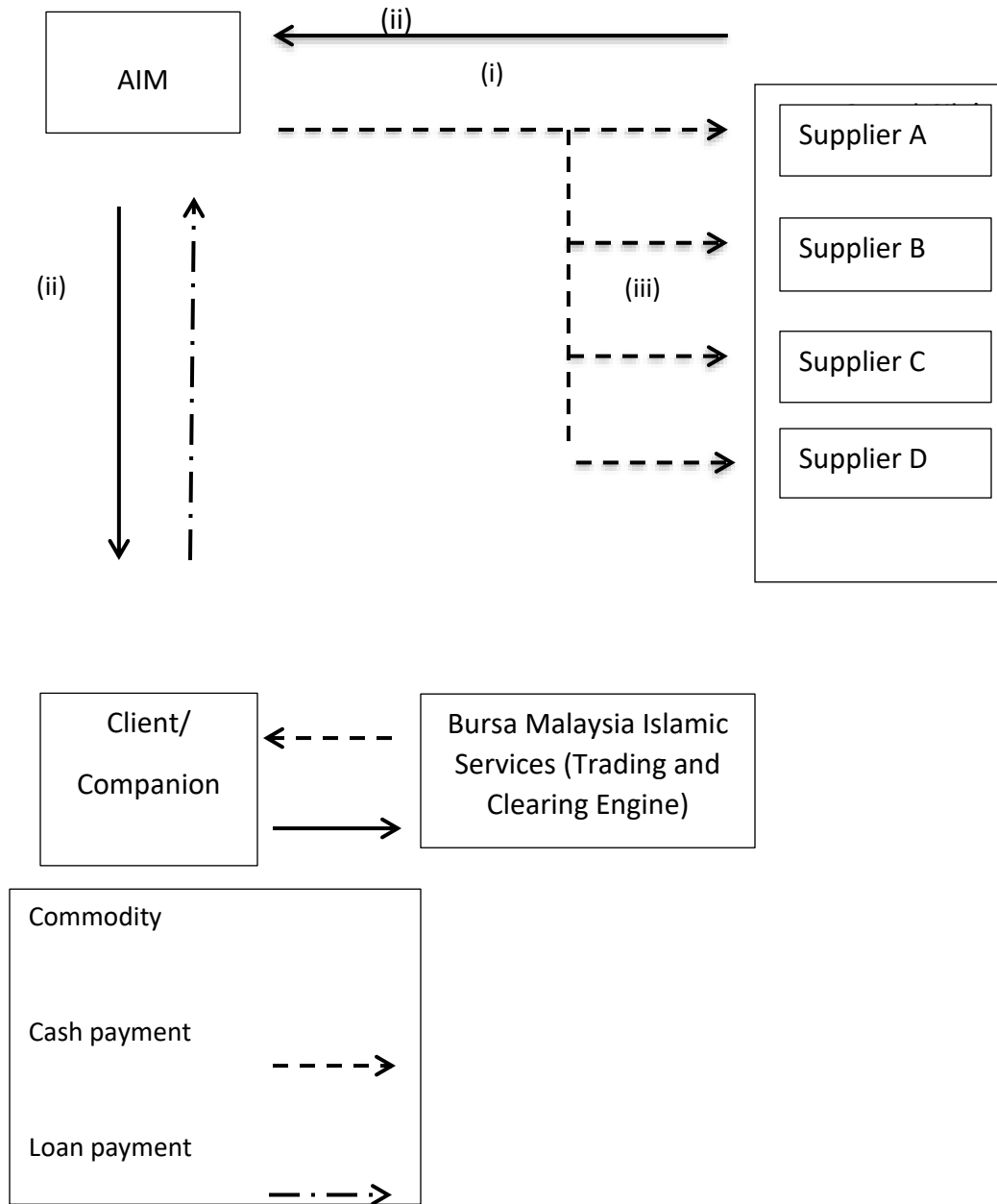


Chart 1 illustrates the mechanism of implementing commodity murabahah contracts in AIM financing.

Chart 1: Commodity murabahah contract mechanism in AIM financing

AIM implemented a *tawarruq* contract as the Shariah Advisory Council (MPS), Bank Negara Malaysia has decided that a product based on *tawarruq* concept is allowed. In implementing this *tawarruq* concept, AIM has chosen Bursa Suq al-Sila '(BSAS) as a market that supplies commodities. BSAS provides a full electronic web-based syariah commodity trading platform, formerly known as *Commodity Murabahah House (CMH)*. It is an international commodity platform that facilitates commodity-based investment and financing transactions under the

principles of *tawarruq*, *murabahah* and *musawamah*. The AIM's preferred commodities are crude palm oil (CPO) which has a clear specification in ringgit value.

The use of CPO as a backup asset is viewed as qualifying for goods for sale transactions because it exists and can be identified (in substance), available before sale, and its quality can be determined based on the specification set in terms of essence, standards and values. In addition, CPOs sold are free from bonding terms and the CPO can be sent to buyers.

Implementation of this commodity *murabahah* contract according to the principles and requirements of *murabahah* in accordance with syariah in terms of parties, goods, pricing and *sighah* (*ijab* and *qabul*). The participating parties, the seller and the buyer, must be sane, matured and able to think wisely. Both are not barred from contracting for bankruptcy and not for coercion. Sellers and buyers may be individuals or organizations.

The goods or subjects of the contract must exist during the contract and are in the possession of the seller. It must also be in the hands of the seller of origin and halal according to syarak. The items should also be useful and valuable according to syarak. It should also be free from any collateral, the subject is clear and identifiable based on address, specification and picture.

In determining the price of goods, it must use the known currency and the payment time of the sale price should be determined at the time of the contract. The sale price must be stated in a definite amount, which includes costs and profits. *Sighah* between the seller and the buyer must use clear, real, fixed and unconditional sentences. It also can not be tied to a period of time. Acceptance must also be in line with the offer and implemented in the same event.

In the implementation of this *tawarruq*, *wakalah* contract is an important element. *Wakalah* is a contract of appointment of an agent in which an individual appoints another to act on his behalf. In other words, *wakalah* means to empower others to take care of certain things under their authority. In Islamic financing, *wakalah* contracts can be applied in two situations. First, the financier is appointed by the customer to act as a customer agent. Secondly, financiers appoint customers as financiers.

In the process of obtaining the AIM financing amount, AIM companions are required to fill out four forms: (1) Financing Application Form, (2) Commodity Purchase Application Form and Appointment of Representative to Waiver (*Wakalah* 1), (3) Appointment Form for Sales of Commodities (*Wakalah* 2) and (4) *Murabahah* Contract Form. Once all the forms are completed, the AIM will process the companion application form. Those who are successful in obtaining financing will be informed at the Central meeting according to their respective AIM branches.

Conclusion

Commodity *Murabahah* contract is an alternative contract to *al-qard al-hasan* contract as the execution of management charges in the form of a percentage of total financing is not allowed in the contract of *al-qard al-hasan*. The Commodity *Murabahah* contract is more appropriate as it uses the concept of profit margins in permissible financing contracts in Islam. It surely enhances

the confidence among AIM companions because as a Muslim user, the ultimate choice is a halal financing contract on the side of Islam.

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