

# The Application of Wadiah Contract on Islamic Banking Savings Products through Branchless Banking (Conformity Analysis on Fatwa DSN-MUI And POJK)

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**Abstract**— The purpose of Branchless Banking is to facilitate customer who do not have enough understanding about banking knowledge and still hesitate about the transaction done by the agent. Wadiah agreement is a contract used by Islamic banks in savings products in the form of depositing funds between the owner of the fund and the recipient of the deposit that is trusted to safeguard the funds. The purpose of this study is to analyze suitability Fatwa DSN-MUI and POJK on the practice of Branchless Banking savings in Islamic banking, especially BRI Syariah Malang. While the data sources used are primary and secondary sources. Data collection methods with interviews and documentation. Data processing methods use edit, analysis, and conclusions. The results showed that BRI Syariah Malang was in accordance with the provisions of the Fatwa DSN-MUI Number: 02 / DSN-MUI / IV / 2000 concerning savings. However, it is still not in accordance with the Regulation of the Financial Services Authority (POJK) Number 19 / POJK.03 / 2014 concerning Officeless Financial Services in the Context of Inclusive Finance. Inconsistencies occur are 1) Article 5 paragraph 2 letter h: closing of accounts, 2) Article 5 paragraph 7: savings customers get Automated Teller Machine (ATM) facilities.

**Keywords**—Wadiah, Islamic banks, Financial Services,

## I. INTRODUCTION

The way students get knowledge is not only obtained The existence of financial institutions has an important role in the economic development of a country. Bank is a place to transact between one person and another. With the existence of sharia-labelled financial institutions can encourage people to conduct muamalah transactions in Islamic banks. Over time, Islamic banking began to develop the Islamic banking industry because it had an adequate legal basis and accelerated its growth even faster, with the enactment of Article 1 of Law No. 21 of 2008 concerning Islamic banking[1].

The more widespread economic activities in the banking sector and the many different aspects of Islamic principles in conventional banks, there arises sharia banking which is developed based on sharia or Islamic law. And at this time Islamic banks are a starting point for the development of Islamic economics. Islamic banks have a goal to support the implementation of national development in order to improve justice, togetherness, and equal distribution of people's welfare[2].

With the existence of sharia-labeled financial institutions can encourage people to conduct muamalah transactions in accordance with Islamic law. So the scholars were motivated to establish Islamic banking in Indonesia. Because banking activities carried out in conventional banking are not in accordance with Islamic sharia due to the practice of usury and practices that are not appropriate, based on the word of Allah SWT (Al-Baqarah verse 275): "Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein."

Therefore, Islamic banking has several products or services, one of which is in the form of raising funds. Islamic banking fund collection products listed in Article 19 of Law No. 21 of 2008 concerning Sharia Banking, namely wadiah savings, mudharabah savings, wadiah demand deposits, and mudharabah deposits. Savings are deposits where withdrawals can only be made according to certain conditions agreed upon, but cannot be withdrawn by check, demand deposit, or other equivalent equipment[3]. Furthermore, wadiah is one of the Islamic bank products which means safekeeping of funds between the owner of the fund and the recipient of the deposit that is trusted to safeguard the funds. In the principle of wadiah, money or funds from customers are only deposited in the bank. The customer's funds must be able to be taken back at any time and the bank is obliged to provide it[4].

Of the several products contained in the Financial Services Authority Regulation, not only for Islamic banks, but all financial institutions that obtain permission from the Financial Services Authority. Because the services contained in Islamic banks are very diverse. But having to compete in terms of improving information technology,

Islamic banking followed the program created by the Financial Services Authority in 2014.

This research emerged because of the program issued by the Financial Services Authority in 2014, namely Branchless Banking. With the existence of this program, it is expected that the public will be easier to make transactions. So that people do not need to save money at home if the bank is reached far away. Therefore, it is enough to come to the agent who has obtained permission from the organizing bank. Transactions made only on savings products that use the wadiah contract and the transaction does not use a special account number, only using a mobile number. So that the proof of the transaction or mutation from the customer will be sent via the cell phone owned by the customer.

Based on the description above, then according to the authors it is necessary to describe and analyze suitability the application of wadiah contract on Islamic banking savings products through branchless banking on regulations the DSN-MUI Fatwa Number: 02 / DSN-MUI / IV / 2000 and the Regulation of the Financial Services Authority (POJK) Number 19 / POJK.03 / 2014 concerning Officeless Financial Services in the Context of Inclusive Finance. As for the object of this research is BRI Syariah Malang.

## II. METHOD

Information needed from field data is the activity of wadiah savings transactions through Branchless Banking at the BRI Syariah Malang Branch. This research approach uses the statue approach and conceptual approach[5]. The legal reality unearthed by researchers is that the application of wadiah savings through Branchless Banking then correlates the facts that occur in the field with DSN-MUI fatwa regulation No. 02 / DSN-MUI / IV / 2000 and the Regulation of the Financial Services Authority (POJK) Number 19 / POJK.03 / 2014.

Types and sources of primary data: interviews with (1) Account Officer Section, (2) Funding Officer Section, (3) Legal Section. Secondary data sources: study documents from several related book literature. For primary data collection techniques carried out by researchers is to conduct interviews directly with the type of free guided interview. To collect secondary data, the technique carried out by researchers is by collecting some literature on books, journals and information from websites that are relevant and relevant to the discussion variables, namely wadiah savings and Branchless Banking. After the data is processed with the process mentioned above, then the researcher performs data processing.

Avoiding the occurrence of many errors and facilitating understanding, the researchers in the preparation of the research made several efforts including the following: (1) editing, researchers conducted research again on the information that has been obtained both from the field information and related literature document information. In carrying out data collection researchers conducted interviews with voice recorders. So that researchers can roll back to check information to obtain accurate data. Re-research is also conducted on information and literature related documents,

books, journals, regulations and websites that provide the latest information. (2) classifying is the grouping of information obtained from the field either from key informants or supporting informants, grouping information from the document literature that discusses wadiah savings to facilitate data processing to be presented in an information.

(3) verifying or re-checking, namely checking the data that has been obtained to find out the validity of the data, information from the informant can be done by replaying the voice recording during the interview. (4) analyzing, that is analyzing the data that has been collected from the collection process through interviews then analyzed using the rules contained in the DSN-MUI Fatwa Number 02 / DSN-MUI / IV / 2000 and the Regulation of the Financial Services Authority (POJK) Number 19 / POJK.03 / 2014. (5) concluding, drawing conclusions from the words obtained after being analyzed to obtain answers to the reader for the anxiety of what is presented in the background of the problem. After the data obtained from the field was analyzed with DSN-MUI Fatwa regulation Number 02 / DSN-MUI / IV / 2000 and the Regulation of the Financial Services Authority (POJK) Number 19 / POJK.03 / 2014. Then a new result or information was obtained. then the overall results of the discussion are listed in the conclusions.

## III. RESULT AND DISCUSSION

### **Wadiah Savings Practices Through Branchless Banking at BRI Syariah Malang**

Savings service is an activity provided by a bank to its customers to conduct transactions with banks selected by customers. Savings services in Islamic banks have a variety of products. At the BRI Syariah Malang using savings services, namely "Tabungan Ku" which uses wadiah contracts and Hajj Savings using mudharabah contracts. so if the customer uses the wadiah, the food does not know the flow of money that has been transferred, only has the right to receive back the money in full and its additions, which is called a bonus or athoya[6]. In improving services, the Financial Services Authority issued a Branchless Banking program in 2014. The program is intended for bank financial institutions or other financial institutions that have been approved by the Financial Services Authority. In the beginning, only conventional banks implemented this program, but with these issues, Islamic banks also joined the Branchless Banking program. The "Laku Pandai" program or the called Branchless Banking has been applied by several financial institutions, namely banks. Branchless Banking is the activity of providing banking services and or other financial services that are carried out not through the office network, but through collaboration with other parties and need to be supported by the use of information technology facilities[7].

This program was issued by the Financial Services Authority (OJK) in its regulation that POJK No. 19 of 2014 concerning Officeless Financial Services in the Context of Inclusive Finance. Every financial institution approved by the Financial Services Authority must provide the name of the program. BRI Syariah Malang provides Branchless Banking product name, BRISSMART. BRISSMART is a program from the Financial Services Authority that provides convenience to small businesses for bank cash services without going through an office network, so we do not need

to go far to the bank, but simply by visiting an agent that has cooperated with the Branchless Banking institution.

Agents are parties who collaborate with Branchless Banking organizers who are the arm of the bank to provide banking services to the public in the context of financial inclusion as agreed. Banks should provide promotion and socialization facilities in the form of booklets, brochures, or leaflets to provide an explanation of cooperation between banks and agents, so that people are expected to be more interested saving at Islamic banks[8]. The mention of an agent in BRI Syariah Branchless Banking is a friend of BRIS. Agents registered in Branchless Banking consist of legal entities and individuals. Agents registered at BRI Syariah Malang Branch consist of BMT, Foundation. And the biggest agent is BMT Al Kamil and Sidogiri. While individual agents, there is only one agent that has been registered at the BRI Syariah Malang Branch. So that the agent does not need to come to the bank and is considered to be a customer from the bank because the transaction he is doing is passing through the Malang Branch BRI Syariah agent. Following is the agent banking branchless:

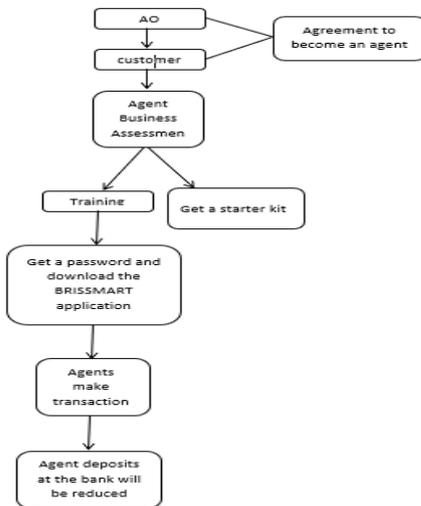


Figure 1. Branchless Banking Agent Process  
(Source: Based on interviews, 2017)

To become a BRI Syariah Malang agent must go through several processes determined by the BRI Syariah Malang Branch, namely customers who wish to become BRI Syariah agents already have several small businesses such as micro that have been financed by banks to become customers. Of the customers who own the business, the customer will be offered to become an agent. In terms of the BRI Syariah agent area, it is widespread, because BRI's customers are not only in the city but also in the regency, but for BRI Syariah Malang only in the city area. The part assigned to look for BRI Syariah Malang agents is the AO (Account Officer) section.

After the AO has obtained the agent, the agent is given training. The training was in the form of directives to be carried out by agents as long as he carried out his duties as a BRI Syariah Malang agent. All forms of agreement between the Bank and the agent are made at the beginning when conducting the training. In the training, BRIS friends will be given a starter kit equipped with brochures and guides that will be carried out by BRIS friends. Conditions to

become an agent are: (1) Agents must be registered as local residents and have a main source of income. The business owned by the agent is very important, because the business will be used as collateral when it violates the cooperation agreement with the smart practice bank. (2) The agent must be a customer of at least 2 years and can be trusted by the bank. (3) The agent must have a main business with a fixed location. (4) have a sum of money on a savings account. The goal is from the existence of transactions between agents and savings customers, the agent's savings account will automatically decrease.

The agent deposit reduction process is carried out when a BRIS friend's customer makes a transaction with the agent, the agent's deposit will automatically decrease. Terms must have a deposit is a very important requirement, because if the agent does not have a deposit at the bank, then he cannot make the transaction to his customer. The advantage of the agent was that the agent got the results from the withdrawal because of his services to become a BRISSMART agent.

The placement of BRISSMART agents is in the market, home or the shop they have. Agents that are in the market, such as food, whether in the market or in the market plasma. To be an agent there are several conditions. One of them he has to open a savings account at the BRI Syariah Malang Branch, then the agents have to deposit too, because in using bank services such as saving and withdrawal. Products in the BRI Syariah Malang Branch include savings, credit, and micro insurance, but the products used in BRISSMART have no credit products only savings products, because it is actually useful to facilitate banking services without having to come to the bank and Islamic banks this has just implemented the program. So that not all direct agents can make savings, credit and micro insurance transactions. Savings used through Branchless Banking, namely savings characterized by BSA (Basic Savings Account). Characteristic savings BSA has a product name, namely BRI Syariah Savings which is a savings product with the Wadiah contract that has features that are fast, cheap, easy and everywhere[9].

BRISSMART uses the wadiah yad dhammanah contract. Where the process of this contract is the funds deposited with the bank, then the bank will manage the money deposited by the capital owner to those who need funds. But if at any time the owner of the capital asks for the money back, then the bank must be ready to return the funds requested by the owner of the capital. In the future there is no one to add the contract in Branchless Banking. The reason for the BRI Syariah Malang Branch is only to use the wadiah agreement that is ad-dhammanah is because the bank does not have a sufficient save deposit box.

Wadiah yad dhammanah has characteristics, namely: (1) assets and goods entrusted may and can be used by those who receive the deposit. (2) because it is utilized, the goods and assets entrusted can certainly produce benefits. Even so, there is no obligation for the recipient of the deposit to give the utilization result to the participant. (3) banking products in accordance with this agreement. are demand deposits and savings. (4) conventional banks provide demand deposits as compensation calculated based on a predetermined percentage. As for Islamic banks, the bonus cannot be mentioned in the contract or promised in the contract, but it is truly a one-sided gift as a sign of gratitude

from the bank. (5) savings products can also use the wadiah contract because in principle savings are similar to demand deposits, namely deposits that can be taken at any time. The difference is that savings cannot be withdrawn by checks or other equivalent tools[10].

All transactions provided by Branchless Banking have been applied at the BRI Syariah Malang Branch. The agent is given full authority by the bank to open accounts for customers who wish to conduct financial transactions without going through the bank's office network. But later he must attach the conditions to become a Malang Branch BRI Syariah agent that is to submit ID cards and fill out the application provided from the BRI Syariah Malang Branch. So that the agent does not need to come to the bank and is considered to be a customer from the bank because the transaction he is doing is passing through the Malang Branch BRI Syariah agent.

Products in the BRI Syariah Malang Branch include savings, credit, and micro insurance, but the products used in BRISSMART have no credit products only savings products, because it is actually useful to facilitate banking services without having to come to the bank and Islamic banks this has just implemented the program. So that not all direct agents can make savings, credit and micro insurance transactions.

Agents can also get the facilities available, namely that they can make transactions by accessing through the applications that have been provided, then there are certain codes. This application can also be used to check balances or mutations, and other transactions. The number of transactions is limited, ie no more than 1 million. But customers who make transactions at BRIS friends, then he does not get ATM facilities. So that for cash withdrawals or other transactions customers come to BRIS friends.

### **Review of DSN-MUI Fatwa on Savings through Branchless Banking**

Fatwa DSN-MUI Number 02 / DSN-MUI / IV / 2000 concerning saving decides first (1) Savings that are not justified in sharia, namely savings based on interest calculation, (2) Savings that are justified, namely savings based on Mudharabah principles and Wadiah. In connection with the contents of the fatwa in the first point and based on the results of the research obtained through the interview method with the informants, it can be seen that the savings in BRI Syariah is a savings that is justified by sharia, namely the savings that are avoided from the practice of interest. Given that BRI Syariah is an Islamic bank whose transactions are carried out in accordance with the sharia. Transactions through Branchless Banking are with savings products that use a wadiah contract. Malang Branch BRI Syariah does not use mudharabah contract because the product cannot be done through Branchless Banking, but is done through a bank office, such as Hajj savings.

Third, the general provisions of savings are based on wadiah, namely (1) deposits, (2) deposits can be taken at any time (on call) or based on agreement, (3) there is no compensation required, except in the form of gift ('athaya) voluntary from the bank. In practice, savings made through Branchless Banking are only in the form of savings that are in the form of wadiah, namely in the form of deposit of funds between the owner of the funds and the recipient of the deposit entrusted to keep the funds deposited. So that the

savings are savings. When a customer makes a transaction, the funds deposited with the agent will be kept by the agent, but not necessarily the money is saved, but will be used for other transactions such as the purchase or payment. But if at any time the savings customer wants to take it, then the agent must prepare funds from the fund owner. In carrying out savings transactions, deposits at the agent can be taken whenever the owner of the fund wants it.

So there is no agreement between the owner of the funds and the recipient of the deposit to make an agreement. Furthermore, in the withdrawal of funds by the fund owner there is no compensation given, except from the provider bank giving a voluntary nature. The amount of bonus award is entirely the authority of Islamic bank management because in principle in this contract the emphasis is on deposit. Funds taken by savings customers cannot be made with an ATM, because at the BRI Syariah Branch Malang does not provide ATM facilities to savings customers. So that savings customers who want to take back their funds can only be done through an agent. contract agreement can be cancelled at any time. So, the funds deposited can be taken at any time by those who entrust funds. There is an element of request for help from the depositor, while providing assistance is the right of the recipient of the deposit, namely the bank. So the entrusted recipient has the right to reject the deposit request submitted by the fund owner.

From the provisions mentioned above, that BRI Syariah Malang in savings contained in Branchless Banking is in accordance with the provisions of No: 02 / DSN-MUI / IV / 2000 fatwa concerning savings. In the fatwa, there are other than the wadiah contract, namely the mudharabah agreement. However, the mudharabah agreement is not used in Branchless Banking or Laku Pandai. The contract is only used on Regular Savings only. Because regular savings can only be done through a bank office.

### **Review of POJK on Savings through Branchless Banking**

Overall Branchless Banking products of BRI Syariah Malang are in accordance with the provisions of the POJK, but there are two things that are still incompatible, namely 1) Article 5 paragraph 2 letter h: closing of accounts, 2) Article 5 paragraph 7: savings customers get Automated Teller Machine (ATM) facilities.

One of the service activities namely account closure can be done through Branchless Banking. But in practice, account closure cannot be done through Branchless Banking. So that it can only be done through a bank office. Article 19 paragraph 2 concerning service activities in the form of account closure can be done through Branchless Banking not yet realized. In practice, the Laku Pandai holding bank, the Malang Syariah Branch, did not close the account through an agent. So that the closing of the account can only be done through the bank office.

Whereas Article 5 paragraph 7 has not yet been realized, because the customers of BRIS friends are not provided with ATM facilities, even though the OJK regulation exists that customers can be facilitated by ATMs with customer approval. However, the practice at the BRI Branch of Malang Branch of customers from the agent is not provided with ATM facilities. In the case of transactions, customers of the BRI Branch of Malang Sharia are not provided with an ATM (Automated Teller Machine) facility. Regarding this matter, explained in article 5 paragraph (7),

namely: "Banks can only issue Automated Teller Machines (ATMs) or debit cards to savings customers with BSA Basic Saving Account characteristics based on requests from customers".

Based on the explanation of this paragraph, it is not suitable with the practice of BRIS friends, namely the customers are not provided with ATM facilities. Only agents are provided with ATM facilities, so that if you want to withdraw cash or deposit, only agents can be done

Table 2. Validity of Wadiah Based Savings Services in terms of the Financial Services Authority Regulation (POJK) No. 19 of 2014

POJK No. 19 Tahun 2014	Compatibility	
	Compatible	Incompatible
Article 4: Branchless Banking Products	√	
Article 5 paragraph 2 letter a-g	√	
Article 5 paragraph 2 letter h: Account closure		√
Article 5 paragraph 7: Savings customers get ATM facilities		√
Article 16 paragraph 2: Agents can be legal entities and / or individuals	√	
Article 19 paragraph 4: Agent classification	√	
Article 22 paragraph 1 letter g: Monitor and supervise agent activities directly, both periodically and incidentally	√	

Source: Interview and documentation, 2017

**IV. CONCLUSION**

The conclusion of the results of this study is that the Branchless Banking Program uses a third party as an arm, that is, the agent. The partnership through Branchless Banking uses a wadiah contract, yad dahmmanah, which is in the form of depositing funds that are entrusted only to trustees who can be trusted. Savings customers who make savings transactions only need to provide a cell phone number, so that a mutation or proof of balance will be sent via the cell phone of the savings customer. So there is no

need to use a special account number such as through a bank office. However, customers who make transactions at the Malang Branch BRI Syariah agent do not get ATM facilities. So that for cash withdrawals or other transactions customers come to BRIS friends.

BRI Syariah Malang was in accordance with the provisions of the Fatwa DSN-MUI Number: 02 / DSN-MUI / IV / 2000 concerning savings. For advice, the regulations made by the Financial Services Authority include all Branchless Banking service activities. It's just that there needs to be a detailed discussion about the rights and obligations of the parties concerned. Regarding sanctions for violations of the cooperation agreement, it should be clearly stated in the regulations, although in BRI Syariah Malang already has its own sanctions for agents who violate the agreement.

**REFERENCES**

- [1] R. Latumaerissa, Julis. *Bank dan Lembaga Keuangan Lain*. Jakarta: Salemba Empat. 2011
- [2] Susanto, Burhanuddin. *Aspek Hukum Lembaga Keuangan Syariah*. Yogyakarta: Graha Ilmu. 2010.
- [3] Kasmir. 2005. *Bank dan Lembaga Keuangan Lainnya*. Jakarta: PT Raja Grafindo Persada. 2005
- [4] Purnamasari, Irma Devita dan Suswinarno. *Panduan Lengkap Hukum Praktis Populer Kiat-Kiat Cerdas, Murah, dan Bijak Memahami Masalah Akad Syariah*. Bandung: Penerbit Kaifa, 2011.
- [5] Ali, Zainuddin. *Metode Penelitian Hukum*. Jakarta: Sinar Grafika. 2017
- [6] Badri, Muhammad Arifin Bin. *Riba dan Tinjauan Kritis Perbankan Syari'ah*. Bogor: Pustaka Darul Ilmi. 2009
- [7] Peraturan Otoritas Jasa Keuangan No. 19 Tahun 2014 tentang Layanan Keuangan Tanpa Kantor dalam Rangka Keuangan Inklusif (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 350). 2014
- [8] Sarah, Hidayati. *Impacy of Branchless Banking on Financial Performance of PT Bank Muamalat Indonesia*. Jurnal Muzara'ah. 2015
- [9] Buku Pintar BRISSMART. *Sarana Menghadirkan Bank Terdekat*. Malang: BRIS Malang. 2017
- [10] Aisyah, Siti. *Penghimpuna Dana Masyarakat dengan Akad Wadi'ah dan Penerapannya pada Perbankan Syariah*. Jurnal Syari'ah, Vol. 5, No.1, April. 2016