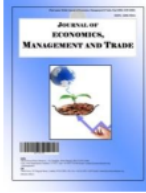


Islamic Perspectives on the Implementation of Wadiah Products at Islamic Banks in Indonesia

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Islamic Perspectives on the Implementation of Wadiah Products at Islamic Banks in Indonesia

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Author's contribution

The sole author designed, analyzed, interpreted and prepared the manuscript.

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ABSTRACT

The aim of this paper is to study the implementation of Wadiah Product at an Islamic Bank in Indonesia. Bank Syariah Mandiri is the first government bank that operates according to the Islamic Syariah system in Indonesia. The Bank Syariah Mandiri provides wadiah products to serve its customers who are concerned with a free interest product in a financial transaction. This study was carried out with a qualitative method, and the data were gathered through in-depth interviews with the bank staff and manager, observation, and written material. The results of this study show that wadiah application in Bank Syariah Mandiri of Palu runs in accordance with the Syariah principles of Islamic Law. The results of this study also show that costumers lack knowledge regarding how to access the wadiah product. Then the Muslim community preferences in wadiah savings products is still relatively small because Muslim society perceived the profit sharing at the Islamic bank is lower compared to similar products from conventional banks. Further study may focus on Islamic banks customers perception of the wadiah product.

Keywords: Islamic banking; wadiah product; wadiah contract; Islamic economic law.

1. INTRODUCTION

In the era of a competitive economy, banks have become institutions that play important roles in

supporting economic development. Banking is a financial institution that is highly trusted by the public as an intermediary in carrying out economic activities. Banking institutions are also

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considered as important instruments in the modern economic system [1]. None a single modern country carries out its economic activities without involving banking institutions. Similarly, Islamic banks have also played crucial roles in economic development in Muslim majority countries.

In Indonesia, Islamic banking has been regulated after issuing the Banking Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 [2]. The regulation stated that banking is everything related to banks, including institutions, business activities, as well as methods and practices process in carrying its business activities. The law differentiates banks based on their business activities into two, namely banks that carry out conventional business activities and banks that carry out business activities based on sharia principles [3]. A bank is a business entity that collects funds from the public in the form of savings and distributes them to the public in credit.

Islamic banking is one of Indonesia's national economic entities, a mainstay in national development [4]. In addition to the financial function and employment, the existence of Islamic banking in Indonesia is also a sociological consequence where most of the population is Muslim. The importance of Islamic banking is directly proportional to the great attention of Islam to the halal aspect (halal element) in every transaction between the customer and the Bank [5].

In the last ten years, the rapid development of Islamic banking, especially after the economic crisis hit Indonesia in 1998, has made Islamic banks become an alternative for Muslim communities in carrying out their economic and business activities [6]. Islamic banking is a financial institution that functioned as an intermediary for parties who want to make halal financial transactions based on Islamic values and teachings. In addition, Islamic banks are commonly called interest-free banking, which is a banking system in operational implementation that does not use a system of interest (riba), speculation (maisir), and uncertainty or ambiguity (gharar).

One of the national Islamic banks operating in Indonesia today is Bank Syariah Mandiri. Bank Syariah Mandiri is the first state-owned Bank to run its business using Islamic sharia principles. The Bank sells many Islamic financial products such as wadiah, mudharabah, musyarakah, and

Murabaha. Wadiah is considered a product that reflects Islamic values because the product does not involve excessive pay-off interest or profit-sharing.

However, the problem with wadiah product less popular than other Islamic bank products because very limited studied has been conducted to provide insight to academia and practitioners. Then there is also limited information towards the wadiah product implementation and how it is sold to Muslim customers. Therefore, the objectives of this study is to provide understanding regarding how the wadiah product is managed and sold to Muslim communities in Indonesia. The use of wadi'ah contracts in a financial transaction is crucial to study in order to provide insight to Muslim customers. The legal basis for wadi'ah savings is the Fatwa of the Sharia Council No. 02/DSN-MUI/IV/2000 and Bank Indonesia Regulation No. 5/19/PBI/2007. In article 3, it is explained that wadi'ah is a transaction of depositing funds or goods from the owner to the depositor of funds or goods with an obligation for the depositing party to return the funds or goods deposited at any time. This study is focused on discussing how the wadiah contracts have complied with Islamic law and teachings in Indonesia.

2. LITERATURE REVIEW

2.1 Definition of Wadiah

The term *Wadiah* comes from *wada'asy sya* which means leaving something. Literally, *al-wadi'ah* can be interpreted as a pure deposit from one party to another, both individuals and legal entities, which must be guarded and returned whenever the custodian wants it [7]. In English, wadiah is called a deposit, which means it is entrusted.

In terms, wadiah means representing the protection of a special property or certain value in a certain way [8]. As quoted by ath-Thayyar, et al., al-Buhuti Mansyur defines wadiah as granting power by a trustee to a person who keeps his property without compensation. According to Parmujianto [9], a wadiah contract is a contract that is mutual help between human beings.

Scholars differ in the definition of wadiah. According to Malikiyah, wadiah has a meaning, like the transfer of the maintenance of something that is owned in an efficacious manner that is legally transferred to the recipient of the deposit

[10]. Meanwhile, according to Hanafiyah, wadiah means like someone perfecting property to another person to be clearly guarded or consumed [11]. According to Syafi'iyah, wadiah is a contract that is carried out to protect something that is entrusted. Meanwhile, Hanabilah defines wadiah as a deposit, a representative in the maintenance of something freely (tabarru).

In banking transactions, the wadi'ahal Amanah principle can usually be applied to the provision of safe deposit box services [12], where customers who need this service will receive storage facilities for their valuables in the form of a safe deposit box with certain initials, store and hold their own keys. The Bank will receive the specified deposit fee and will overall maintain the security of the environment and storage space through administrative procedures for entering and leaving the storage room as well as supervision of the appointed employee.

The disadvantages of the wadiah product, among others, are that the bonus given by the bank is uncertain because it changes every year. Then another disadvantage of the wadiah product is that the benefits that will be obtained are uncertain because the determination is less transparent. Finally, the weakness of the wadiah product is the lack of information about the products. Meanwhile, the advantages of wadiah products include safer deposits. Another advantages of wadiah products are free administration fees and consumers can also get bonuses when there are promotions [13].

2.2 Types of Wadiah

In Islamic banking, wadiah contracts can be classified into two types:

2.2.1 Wadiah yad Amanah

With *wadiah yad Amanah*, the party receiving the deposit may not take advantage of the deposit, so that the person/bank receiving the deposit only functions as a custodian of the goods without using it. According to Ghozali [12], *wadiah yad Amanah* has the following characteristics: a. Assets or goods that are deposited may not be taken to an advantage or used by the recipient of the deposit; b. The recipient of the deposit only functions as a trustee who is on duty and is obliged to take care of the goods that are deposited without being allowed to use it; c. As compensation, the

recipient of the deposit is allowed to charge fees to the person who puts it; d. Considering that the recipient of the deposit cannot use the goods or assets that are deposited, a possible banking application for this type is a safe deposit box.

A safe-deposit box is a deposit service (wadi'ah) where the Bank only provides safekeeping facilities and regulates the administrative system for entering and leaving the facility room. The key is handed over to the customer so that the Bank cannot access the contents of the deposit. The Bank will charge a fee to the customer for the use of the box facility and is at the same time responsible for securing the room and its facilities. Then safekeeping is a safekeeping service (wadi'ah) provided by the Bank in order to secure the customer's documents or other properties in connection with the customer's guarantee for the facilities he gets from the Bank. In general, the Bank will not take a fee for the storage of the properties because this deposit is an integral part that cannot be separated from the rights and obligations of the customer to the Bank.

2.2.2 Wadiah yad adh-damanah

With this type of wadiah contract, the recipient of the deposit can take advantage of the deposit, and for that the person must be responsible for the loss or damage to the deposit [14].

According to [12], *wadiah yad adh-damanah* product has the following characteristics: a. Assets and goods that are deposited may and can be utilized by the recipient of the deposit; b. Because they are used, the goods and assets that are deposited can generate benefits, although there is no obligation for the recipient of the deposit to provide the results of the utilization to the trustee; c. Banking products in accordance with this contract are current accounts and savings accounts; d. Conventional banks provide demand deposit services as compensation which is calculated based on a predetermined percentage. As for Islamic banks, the provision of bonuses (a kind of checking service) may not be stated in the contract or promised in the contract, but is really a one-sided gift as a sign of gratitude from the Bank; e. The amount of bonus is fully under the authority of Islamic bank management; f. Savings products can also use wadiah contracts because in principle, savings are similar to current accounts, namely deposits that can be withdrawn at any time.

2.3 Legal Foundation Wadiah

The legal basis for wadiah has been mentioned in various verses of the Qur'an relating to economic activity. One of the verses of the Qur'an is Surah Al-Baqarah: 283 which means which says, "But if some of you believe in others, then let the one who is trusted fulfill his mandate (debt) and let him fear Allah, his Lord." Then another verse related to wadiah is in QS. An-Nisa: 58 also says "Verily, Allah commands you to convey the message to those who are entitled to receive it, and (orders you) when setting a law between people so that you judge with justice". Furthermore, wadiah activities are also clarified in the hadith of the prophet Muhammad SAW which states: "Place your trust in those who place trust in you, and don't betray those who betray you." (HR. Abu Dawud dan Tirmidzi).

In Indonesia, the practice of wadiah has also been regulated in a number of regulations related to Islamic banking. This wadiah product is applied to all Islamic banking in Indonesia to serve the needs of Muslims, who are the main consumers of Islamic banking. For this reason, the Majelis Ulama Indonesia or Indonesian Ulema Council (MUI) issued a fatwa number 02/DSN-MUI/IV/2000 to regulate the application of wadiah products in Islamic banking. The Dewan Syariah Nasional or National Sharia Council (DSN) regulates the issue of savings in the form of wadiah with the provisions, among others, that they are deposits, deposits can be withdrawn at any time (on-call) or based on an agreement, no compensation is required except in the form of gifts (*athaya*) voluntarily from the Bank [15].

2.4 Pillars and Terms of Wadiah

According to the majority of a cleric, there are four pillars of wadiah, namely as follows: 1. People who leave goods (*muwaddi*); 2. People who are entrusted with goods (*wadi*); 3. Assets that are deposited (*wadiah*); 4. Ijab qabul (*sighah*) [12].

In addition, what needs to be understood is the legal requirements of the wadiah pillars. Hanafiyah scholars require that the two people (points 1 and 2 above) who perform the wadiah contract must be of sound mind. Meanwhile, according to the majority of scholars, the perpetrators of the wadiah agreement must be *baligh*, have common sense, and are capable (able to carry out the transaction). The condition

for the property to be deposited must be in the form of objects that can be deposited and guarded. A deposit of property belongs to an Islamic bank customer, and it must be protected according to the agreement in Islamic law. The customer is convinced that the property can be accessed when it is needed.

Meanwhile, according to the Hanafiyah scholars, there is only one pillar of wadiah, namely *ijab* (give) and *qabul* (accept), while the others are included in the requirements of the pillars of wadiah [16]. The validity of the wadiah agreement must meet the following conditions:

1. The person who performs the contract is mature, sensible, and intelligent (can act legally). Even if a child is intelligent, he or she is not allowed to enter into a wadiah contract, either as the person who leaves the goods or as the person who receives the deposit. The majority of scholars also require people who are committed to being intelligent. Even if you are intelligent and mature, if you are not intelligent, the wadiah law is invalid.
2. The deposited goods must be clear and can be held and controlled. The meaning is that the type or identity of the deposited goods can be known and controlled to be maintained.
3. The recipient of the deposit must take care of the deposited goods properly and maintain it in a safe place as is customary for many people in the form of maintenance.

The fiqh scholars agree that the wadiah contract is binding on both parties [17]. Thus, a person is entrusted with goods by another person and the contract meets the pillars of wadiah, then the party entrusted with the goods is responsible for maintaining the deposited goods [18].

3. METHODOLOGY

This study was conducted in a government branch of the Islamic Bank in Indonesia. The bank is Mandiri Syariah branch in Palu city. The Bank operates based on Islamic principles and sells several Islamic financial products free of interest. This study uses a qualitative approach [19,20] investigating the implementation of wadiah product at Bank Mandiri Syariah Palu. Data were collected through field observation, in-depth interviews with the bank employees and its customers. Written materials from the Bank were

also used to analyze the case [21]. We also interviewed the manager of the Bank. The used different types of data sources were intended for triangulation purposes. As such, the trustworthiness of the data is high and also increased the results validity. Data analysis consists of several procedures, which included reduction and verification techniques with various data sources [22]. The reduced data is then analyzed, reflecting on theoretical concepts used in this study. The results were presented based on thematic issues found in the data [23], which show the insight of the study relating wadiah product implementation in Islamic banking.

4. RESULT AND DISCUSSION

4.1 The Bank Profile

Bank Syariah Mandiri Palu is a subsidiary of Bank Mandiri in Jakarta, Indonesia, the capital city, which was established specifically to serve Islamic economic activities and financial transactions based on Islamic values. Currently, Bank Syariah Mandiri has at least 130 branches offices spread throughout the province. In Central Sulawesi, there are two branch offices of Bank Syariah Mandiri, one in Palu and one in Luwuk. Bank Syariah Mandiri Palu Branch has been established since 2004 and has many employees. Along with the development of the era of Bank Syariah Mandiri, the Palu Office has developed into one of the Islamic banks that carry out their activities using the sharia system. One of the famous products is wadiah. Wadiah products are one of the products that are in great demand by the public because of their safety and convenience.

4.2 Procedures for Safeguarding Goods in Wadiah Contracts

Safeguarding of deposited goods with the wadiah mechanism at Bank Mandiri Syariah Palu is carried out by referring to the sharia banking rules that apply in Indonesia. However, the custody of deposited goods in the form of wadiah also refers to the fatwas of various Islamic scholars which, among other things, refer to the opinion of the Malikiyah Ulama, namely that the custody of goods can be carried out by people in their care such as wives, children, maid or people who are paid to look after the goods. However, it is not allowed to new family or dependents such as a wife who has not been married for a long time, a maid or an employee who has just become an employee.

Then another opinion that becomes a reference for wadiah products is the opinion of the Syafi'iyah scholars, namely that the care of the goods must be carried out by the person who is entrusted with it. He is not allowed to leave the goods to others. In this case, an independent Islamic bank may not entrust its customer's goods to another bank or other third party for violating the agreement. This is based on the fact that the mandate given or the trust given by the custodian is only given to someone who cannot give that trust to others. So when the entrusted person violates the mandate, then he must guarantee the deposited goods.

The principles that Bank Syariah Mandiri references are in accordance with the hadith of the prophet which includes the hadith which says that "*People who are entrusted who do not exceed the limit then there is no guarantee for him*". Then another hadith says, "*There is no guarantee to the person who is entrusted with the trust*". Thus, when the owner asks for the deposited item, and it turns out to be lost, then it becomes the obligation of the entrusted party to guarantee it.

4.3 Practice of Wadiah

The practice of implementing wadiah agreements at Bank Syariah Mandiri is intended for those whose money is only deposited, and the Bank is not entitled to provide profit sharing, which is usually given in *mudharabah* contracts. In the wadiah Amanah product, the Bank is not allowed to invest the money, while in the *wadiah dhamanah* product, the Bank is allowed to invest the money but on the condition that the Bank must guarantee that the money can be returned. Products that use *wadiah dhamanah* contracts are current account products.

If from the money saved under the *wadiah dhamanah* contract, the Bank makes a profit, but the costumer do not have right to get the bonus from the profit. However, usually the Bank gives the benefits from the profit as gifts to customers voluntarily and in Islam this is allowed. When viewed from the scheme above, the goods or assets deposited are invested by the Bank in a business which then from the business, the Bank generates profits that are intended specifically for the Bank. The Bank's decision to give a bonus or not depends on the Bank's own policy.

Wadiah contracts began to be practiced at Bank Syariah Mandiri Palu since the Bank operated for

the first time on November 1, 2000. Especially for Bank Mandiri Syariah Palu, wadiah contracts began to be practiced in 2003. Although the types of savings products at Islamic banks are similar to savings products at conventional banks (giro, savings, time deposits), but in Islamic banks, there are principal differences as described below.

a. Giro or current account

In general, Islamic banks use wadiah contracts in checking accounts. In this context, Islamic banks use *wadiah yad ad-dhamanah* contracts for checking accounts. In principle, demand deposits based on wadiah are not profitable, in fact, it is the customer who should pay the Bank because the person has assigned it to keep their savings safe. However, the Bank can provide some kind of bonus or gift to current account holders. The said bonus or gift must not be agreed in advance because if it is done it will be the same as interest at conventional banks.

b. Savings

Bank Syariah Mandiri applies two types of savings contracts, namely wadiah and mudharabah. Savings that implement a wadiah contract follow the *wadiah yad ad-dhamanah* principle. This type of savings does not benefit like conventional banks because it is in the form of a deposit and can be withdrawn at any time. However, banks are not prohibited from giving some kind of bonus or gift to their savers.

c. Deposit

Bank Syariah Mandiri also applies mudharabah contracts for deposits.

However, because this research is only devoted to discussing wadiah contracts, deposits will not be discussed here.

This study found that wadiah practices and contracts were in line with Islamic teachings or law. At Bank Syariah Mandiri Palu Branch itself (and all Mandiri Syariah Banks), the practice of wadiah is implemented in current accounts and savings products. However, in day-to-day operations, the applicable banking law provisions in Indonesia (positive law) apply.

4.4 Prospects of Wadiah

The practice of wadiah in the entire Islamic banking system has bright prospects in the future. In general, the prospect of Islamic banking is reflected in the submissions made by Indonesia Financial Services Authority (OJK). According to OJK, Islamic banking has total assets of IDR 306.23 trillion as of June 2016 and consists of 12 Sharia Commercial Banks (BUS), 22 Sharia Business Units (UUS) and 165 Bank Pembiayaan Rakyat Syariah or Islamic Financing Banks (BPRS). These assets grew by 11.97 percent in 2016 compared to the same period the previous year (2015). Furthermore, the Islamic banking industry now manages 18.31 million public fund accounts through around 2,157 office networks throughout Indonesia. As for the sharia capital market sector, data as of July 2016 shows that the number of sharia shares reached 325 shares or 61.21 percent of all shares in the capital market with a capitalization value of IDR 3,172.19 trillion (based on the Indonesian Sharia Stock Index). In addition, the current outstanding value of 47 corporate Sukuk is IDR 10.76 trillion or 3.97 percent of the outstanding value or debit balance of the facilities that have been withdrawn by the debtor of all Sukuk and corporate bonds.

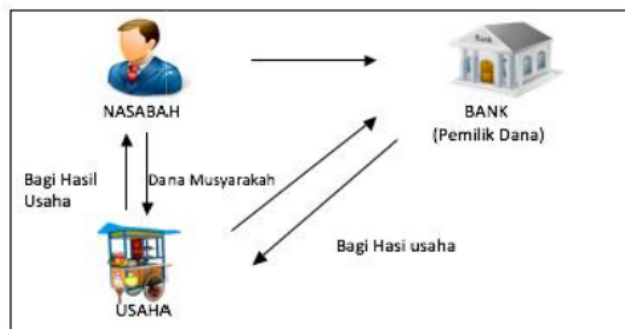


Fig. 1. Wadiah contract mechanism

In addition, there are 109 sharia mutual funds with a total Net Asset Value (NAV) of 9.93 trillion rupiahs or 3.23 percent of the total NAV of mutual funds. Meanwhile, for the Sharia IKNB sector (Islamic Non-Bank Financial Industry). As of June 2016, there were 121 companies conducting business based on sharia, consisting of 56 sharia insurance or reinsurance companies, 40 sharia financing institutions, seven sharia venture capital institutions, six sharia-specific financial services institutions and 12 sharia microfinance institutions.

This study found that there have been no significant obstacles related to the products offered to the public by Bank Syariah Mandiri Palu Branch. Current account products are even in great demand by the public. The problem occurs in savings products, although this cannot be said to be not prospective at all. This may be because the community wants a larger profit-sharing which Islamic banks cannot provide compared to conventional banks that apply an interest fee product.

The problem that seems quite serious is in the socialization aspect. Regarding socialization, there is one element that plays a very important and strategic role. The element in question is the ulama. According to Syafi'i Antonio, the existence and implementation of Islamic banks in Indonesia still needs to be socialized to the public. The socialization is not only for the general public, but also for banking circles and even banking authorities, such as Bank Indonesia.

According to Syafi'i Antonio, the ulama can play at least four roles in socialization—*first*, explaining to the public that Islamic banking is the application of (*tathbiq*) *fiqh mu'amalah maaliyah*. *Second*, to return the community to the nature and nature of the business that previously had followed sharia, especially in agriculture, trade, investment, and plantations. *Third*, straighten out the damaged nature of business, such as the widespread expression of "it is difficult to make money illegally, especially in a lawful manner". *Fourth*, help save the nation's economy through the development of Islamic banking socialization.

The Pusat Komunikasi Ekonomi Syariah or Islamic Economic Communication Center (PKES) also emphasized the importance of socialization. One of the socialization programs being intensified by PKES is through the

Gerakan Ekonomi Syariah or Sharia Economic Movement (GRES), which aims to make sharia economics a lifestyle so that people apply Islamic principles in their daily lives [24].

The importance of this socialization gave birth to a more extreme opinion. It is said, ideally the socialization of Islamic banking is carried out 5 million times a year. The assumption is that there are around 600,000 mosques in Indonesia. If in a year there is only 1 socialization in each mosque, then 600,000 socializations are needed.

According to the Indone OJK, another action that is also necessary and important for Islamic banking is to increase the supply of products. According to the Director of Sharia Banking at OJK, Dhani Gunawan Idhat, Islamic banking in Indonesia also faces the problem of a lack of products, not varied and not yet accessible to the public. He said, Indonesian Islamic banking currently only has 17 products, while Malaysia has reached 45 products.

Another problem in Islamic banking is the lack of public understanding of Islamic banking. According to the researcher, education here is very important, considering that Islamic banks appear in the midst of society when public understanding and acceptance of conventional banks is very well developed [25].

This study also finds that the Muslim community preferences in wadiah savings products is still relatively small because people perceive the benefits—which people call interest, when it should be profit sharing—that Bank Syariah Mandiri offers is small compared to similar products from conventional banks. Therefore, education is very important to introduce and explain in detail to the general public Islamic bank products so that people know the principal differences between Islamic banks and conventional banks. Of course, religious leaders, scholars, academics, and others play a crucial role in relation to education.

This study also found that as far as the role of intermediation related to products offered by Bank Syariah Mandiri Palu Branch is concerned, no significant obstacles were found. However, it should be noted that the problems related to human resources faced by Islamic banking, in general, are also faced by Bank Syariah Mandiri.

The prospect of wadiah in the future is also reflected in data on the current development of

the share of Islamic banking. According to the OJK, the market share of Islamic banking grew to 4.86 percent as of July 2016, or an increase compared to the same period in 2015 of 4.46 percent. The latest development (when this research was conducted), which is also interesting to observe, is the increasing interest of other institutions to cooperate with Islamic banking, for example, cooperation with PT Pertamina (Persero) and the existence of strong support from the Government as emphasized by President Joko Widodo when he received the 2016 Global Islamic Finance Leadership Award at the Global Islamic Finance Award (GIFA), in Jakarta, 29 September 2016, and the preparation of the Arsitektur Keuangan Syariah Indonesia or Indonesian Islamic Financial Architecture Masterplan (AKSI), the Komite Nasional Keuangan Syariah or National Sharia Finance Committee (KNKS), and others.

5. CONCLUSION

This study concluded that the Islamic bank has implemented wadiah product according Islamic values and teachings. However, Muslim costumers lack knowledge regarding how to access the wadiah product. Then the Muslim community preferences in wadiah savings products is still relatively small because Muslim society perceived the profit sharing at the Islamic bank is lower compared to similar products from conventional banks

As far as the product and its application is concerned, this study found that Bank Syariah Mandiri Palu Branch did not face serious problems, except for product socialization and education, which were still minimal, and human resources were still relatively limited.

In terms of theory and scientific development, this research is expected to lay a theoretical foundation for further research on wadiah contracts and their application to Islamic banking in the country. More specifically, the thoughts that have been described in this study clearly and brightly show the progress of Bank Syariah Mandiri Palu Branch in carrying out its intermediary function to assist the Palu community in utilizing a number of Islamic banking products.

Furthermore, this research is expected to encourage all related parties (stakeholders), especially the Central Government and Regional Governments, scholars, academics, and Islamic

banking, especially Bank Syariah Mandiri, to play a bigger and constructive role in improving Muslim welfare.

3 COMPETING INTERESTS

Author has declared that no competing interests exist.

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