

## ANALYSIS OF MUDHARABAH AGREEMENTS FIQH PERSPECTIVE ON BMT UGT NUSANTARA

Nurul Iaili<sup>1)\*</sup>, Rosa Nurmala<sup>1)</sup>

*Universitas Muhammadiyah Surabaya, Indonesia<sup>1)</sup>*

*Email: nurmalarosa6@gmail.com\**

### Article History

Received: 15 June 2024

Accepted: 29 June 2024

Published: 13 August 2024

### Abstract

Islamic Banks as intermediary institutions that operate based on Sharia principles must adjust all their products in accordance with the provisions of Islamic jurisprudence (fiqh) to ensure that every activity conducted by the bank is correct and does not violate Sharia regulations. Once an Islamic bank has aligned all aspects of its activities with Sharia provisions, it can conduct its banking operations correctly and appropriately, including engaging in cooperative agreements with customers. One of the contracts used in Islamic banking is the mudharabah contract. This research aims to assess the application of the mudharabah contract at BMT UGT NUSANTARA from a fiqh perspective. The research approach is descriptive-analysis, a qualitative method that guides researchers to explore and thoroughly examine the situation under study. Data collection techniques include observation and interviews. The expected outcome of this study is to provide a comprehensive overview of the application of the mudharabah contract in Islamic banking from a fiqh perspective based on field research.

**Keywords:** BMT UGT Nusantara, Fiqh Perspective, Mudharabah Contract.

### A. INTRODUCTION

As the development of sharia business in Indonesia rapidly progresses, the opportunities faced by sharia business practitioners in developing community resources involve socializing the mechanisms, transactions, and operations in this business sector (Indriana et al., 2022). This enables existing sharia businesses to develop optimally. This presents a challenge for sharia business in Indonesia. Given that the majority of Indonesia's population is Muslim, community participation is highly necessary. Generally, it can be said that sharia aims for economic activities that are halal, including the products involved, the methods of acquisition, and the ways they are used (Abdalloh, I., 2019). Allah created humans as social beings who interact and need each other. Some have surplus wealth but lack the time and skills to manage and develop it, while others have skills or abilities but lack capital. The collaboration of these two types of individuals is expected to complement each other and facilitate the development of both wealth and abilities. This is why Islam permits partnerships in business, such as mudharabah (Nuryakin et al., 2024).

Financial institutions were not clearly known in Islamic history. However, principles of exchange and lending were already present and widely practiced during the time of the Prophet Muhammad SAW, even before that (Agustin, 2022). It is undeniable that the advancement of economic development and trade has influenced the emergence of institutions playing roles in financial transactions (Sihombing, 2023). Traders and entrepreneurs could no longer manage their finances independently. The concept of financial organizations or institutions was actually known even before the Prophet Muhammad was

appointed as a Messenger. The baitul maal (house of funds) institution, the first business and social institution established by the Prophet, functioned as a storage place (Huda, N., 2022).

Financial institutions have played a significant role in the development and growth of modern industrial society (Shabira et al., 2022). Large-scale production with investment needs requiring substantial capital would be impossible without financial institutions. These institutions serve as a cornerstone for entrepreneurs to obtain additional capital through financing mechanisms and as a foundation for investment through savings mechanisms. Consequently, financial institutions have played a crucial role in distributing economic resources among the public, even though they do not fully represent the broader public's interests (Aspinall & Brenschot, 2019).

Research shows that formal financial institutions, both banking and non-banking, operating in rural areas generally fail to reach lower-middle-income segments (Hidayatullah, M., 2024). This inability is primarily due to the use of risk and operational costs, as well as the identification of businesses and monitoring of credit-worthy business uses. This inability of financial institutions leads to a gap in the financial market segment in rural areas. As a result, seventy to ninety percent of this gap is filled by informal financial institutions, including moneylenders, who charge high-interest rates (Hasriyanti & Syarif, 2022).

To address such issues, an institution capable of bridging this gap is necessary. The tangible solution is to increase the operation of profit-sharing-based financial institutions, such as Sharia Commercial Banks, Sharia Rural Banks, and Baitul Maal wa Tamwil (BMT). Before the existence of Islamic financial institutions, the community was already familiar with credit unions, which remain a primary source for many people seeking loans. Additionally, there are insurance companies offering various types tailored to users' needs, including life, health, vehicle, and property insurance (Hasibuan et al., 2023).

As the implementation of Islamic Economics progresses, so does the growth of Islamic financial institutions, one of which is Baitul Maal Wat Tamwil (BMT). According to (Sudjan & Rizkison, 2020) Baitul Maal Wat Tamwil (BMT) is a community economic institution aimed at supporting the economic activities of the lower and small people, operated based on Islamic principles. This effort becomes an integral part of BMT as an institution supporting the economic activities of small communities based on Islam. Its primary goal is to help and alleviate the economic problems faced by fellow Muslims to achieve welfare.

As Allah states in Surah Al-Maidah, verse 2:

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ ۗ وَاتَّقُوا اللَّهَ ۖ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ

*Meaning: "... and help you in (doing) virtue and piety, and do not help in committing sins and transgressions. And fear Allah, verily Allah is severe in punishment."* (Q.S. Al-Maidah: 2)

This verse explains that as human beings, we must help each other, such as conducting business transactions in a manner that aligns with Islamic principles, emphasizing cooperation without burdening any party.

The Baitul Maal institution serves as a financial, religious, and social institution first introduced by Prophet Muhammad (SAW). This institution addresses both the financial needs of the state and society. Its funding sources include public and social funds, such as zakat, various fines and mandatory funds, as well as zakat collected and distributed for public benefit. In modern times, this institution has produced many innovative ideas. Baitul Maal is not only considered a religious and social institution but also functions as a finance department, treasury, taxation department, public works, and other related functions. However, the expression and practice of Baitul Maal in Indonesia are known as Baitul Maal Wat Tamwil (BMT), and it plays a very different role in society. In marketing some of its products, BMT UGT Nusantara uses several contracts, such as mudharabah, musyarakah, and others. However, in most of its products, BMT UGT Nusantara primarily uses the

mudharabah contract. Nowadays, mudharabah is not only practiced between individuals who collaborate but is also implemented between individuals and institutions, or between institutions, as seen in Islamic financial institutions, such as Islamic banking, Islamic insurance, and others. In Islamic financial institutions, such as Islamic banking, the mudharabah agreement has been expanded to include three parties: depositors as shahib al-mal, the bank as an agent/arranger functioning as an intermediary, and entrepreneurs as mudharib needing funds (Hermawan, 2023).

Mudharabah is currently a primary vehicle for Islamic financial institutions to mobilize public funds and provide various facilities, such as financing for entrepreneurs. Mudharabah, based on the profit and loss sharing principle, is a suitable alternative for Islamic financial institutions to avoid the interest system, which some scholars consider equivalent to the prohibited riba. From the background explanation above, the issue to be discussed is how mudharabah is applied in fiqh literature and Islamic banking.

*Mudharabah* is an agreement of a partnership type, where the first party (shahibul maal) provides the capital, and the second party (mudharib) is responsible for managing the business (Siddiq et al., 2022). Profits from the business are shared according to the pre-agreed profit-sharing ratio, while if losses occur, the shahibul maal will bear the loss as it pertains to the invested capital, and the mudharib will lose their labor and managerial efforts. Mudharabah, also known as qiradh, means "cutting off" in this case, the owner of the money decides to hand over the capital to be traded in the form of goods and to share the profit with the second party involved in the qiradh contract.

According to sharia terminology, mudharabah is a contract or agreement concerning a certain amount of money to be managed by an amil (entrepreneur) in trade, with profits shared between the two parties according to predetermined conditions, whether equally or with one party receiving more. Mudharabah is a partnership practice recognized by Islam that existed during the pre-Islamic era. Among those who engaged in mudharabah was the Prophet Muhammad (SAW). Before he became a Prophet, he engaged in mudharabah with his future wife, Khadijah, conducting trade between Mecca and Sham (Syria). Through mudharabah, the Prophet Muhammad earned substantial profits. He continued trading until just before Allah appointed him as a Prophet (Wirosa, 2005).

The principle used in *mudharabah* is profit-sharing, which positions Islamic banks as investment banking or entrepreneurs, meaning they place customers' funds into profitable industries. With the profit-sharing principle (revenue sharing), the income of Islamic banks is highly influenced by the profitability of their financed customers. Unlike conventional banks, the profit of Islamic banks does not depend on interest income from debtors, since, regardless of the profit earned by the debtor, conventional banks recognize income as a percentage of interest set at the beginning of the credit agreement. Theoretically, the operations of Islamic banks are more related to the real sector compared to the monetary sector, in this case, the interest rate of SBI (Bank Indonesia Certificates). The concept of mudharabah is based on the verse from the Qur'an, Surah Al-Maidah, verse 1:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ ۗ أُحِلَّتْ لَكُمْ بَهِيمَةُ الْأَنْعَامِ إِلَّا مَا يُتْلَىٰ عَلَيْكُمْ غَيْرَ مُجْلَىٰ الصَّيْدِ وَأَنْتُمْ حُرْمٌ ۗ إِنَّ اللَّهَ يَحْكُمُ مَا يُرِيدُ

*O you who believe, fulfill these covenants...*” (QS. Al Maidah:1)

The steps taken by Islamic banking in its operations are truly in accordance with the teachings of Islam and, in fact, align with the principles agreed upon by all religions. Besides being able to avoid the negative impacts of interest implementation, Islamic banks with profit-sharing systems are considered to allocate resources and funds efficiently. This ability to allocate resources efficiently is the main capital to face market competition and earn profits. The Government Regulation further explains that "the principle of profit-sharing in this regulation refers to profit-sharing based on Sharia principles." The purpose of

implementing these Sharia regulations is to preserve religion (hafidhuddin), protect life (hifdhun nafs), safeguard the intellect (hifdh al aqli), ensure the continuity of offspring (hifdhun nasl), and protect wealth (hifdzul maal).

Therefore, Islamic banks need to delve deeper into the Sharia laws from a fiqh perspective, derived from the major schools of thought, which explain the various practices carried out in Islamic banking activities. Islamic banks must operate purely according to Sharia principles. Fiqh literature explains the theory of contracts applied in Islamic banking. A contract is a bond that occurs between two parties, where one expresses an offer (ijab) and the other expresses acceptance (qabul), which then results in legal consequences, namely the emergence of rights and obligations between the two parties. Ijab and qabul are acts performed by both parties, showing their willingness to enter into the contract.

The pillars of the contract are Al-‘Aqidain (the contracting parties), Mahallul ‘aqd (the object of the contract), Sighat al-‘aqd (offer and acceptance), and the conditions of the contract are that both the capital provider and the manager (mudharib) must be competent to give authority and carry out the agency. The capital must be in cash, and fiqh scholars require three things in ijab and qabul to have legal consequences, namely: first, Jala’ul ma’na, where the purpose contained in the statement is clear, so the type of contract desired can be understood; second, Tawafuq, which is the agreement between offer and acceptance; third, Jazmul Iradataini, where both offer and acceptance show the parties' definite intentions without doubt or coercion (Zulfadli, 2017).

Mutual agreement is a consequence of the principle of an-taradhin minkum (mutual consent). Both parties must willingly agree to bind themselves in the mudharabah contract. The capital owner agrees to contribute funds, while the entrepreneur agrees to contribute work. However, in modern banking practices, profit-sharing negotiations between capital owners (investors or depositors) and Islamic banks only occur for large depositors/investors, as they have relatively high bargaining power. For small depositors, negotiations usually do not happen (Iswanto, B., 2020).

In fiqh literature, one of the requirements of Sighah Al-Aqd is that there must be agreement between offer and acceptance, or in other words, there must be a mutual negotiation between both parties. Based on the above explanation, the author is interested in conducting a study titled **"ANALYSIS OF MUDHARABAH CONTRACTS FROM A FIQH PERSPECTIVE AT BMT UGT NUSANTARA"** regardless of the size of the customer's (debtor's) profits, conventional banks still recognize income as a percentage of interest charged at the beginning of the credit agreement. In theory, the operational activities of Islamic banks are more related to the real sector compared to the monetary sector, such as the SBI interest rate. The concept of mudharabah is based on the first verse of the Qur'an, Surah Al-Maidah:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ ۖ أُحْلِلْتُ لَكُمْ بِهِمَّةُ الْأَنْعَامِ ۖ إِلَّا مَا يَنْتَلَىٰ عَلَيْكُمْ غَيْرَ مُحْلِي الصَّيْدِ وَأَنْتُمْ حُرْمٌ ۗ إِنَّ اللَّهَ يَحْكُمُ مَا يُرِيدُ

*"O you who believe, fulfill these promises..." (QS. AlMaidah:1)*

The steps taken by Islamic banking in its operations are fully in accordance with the teachings of Islam, and indeed all religions agree with these Sharia principles. In addition to being able to avoid the negative impacts of interest implementation, Islamic banks with a profit-sharing system are considered to allocate resources and funds efficiently. This ability to allocate resources efficiently is the main capital for facing market competition and generating profits. The Government Regulation further explains that "what is meant by the principle of profit-sharing in this regulation is the principle of profit-sharing based on Sharia." The purpose of implementing this Sharia provision is to preserve religion (hafidhuddin), protect

life (hifdh al nafs), safeguard the intellect (hifdh al aqli), ensure the continuity of lineage (hifdhun nasl), and protect wealth (hifdzul maal).

Therefore, Islamic banks need to delve deeper into Sharia laws from the perspective of fiqh, derived from the teachings of the various Islamic jurisprudential schools, which explain the various actions carried out in conducting Islamic banking activities. This ensures that Islamic banks genuinely operate according to Sharia principles. Fiqh literature explains the theory regarding contracts applied in Islamic banking. A contract is a binding agreement between two parties, where one party makes an offer (ijab) and the other party accepts (qabul), resulting in legal consequences, namely the emergence of rights and obligations between the two parties. Ijab and qabul are actions performed by both parties indicating their mutual willingness to enter into the contract (Suardi & Eriyanto, 2020).

The pillars of the contract are Al-‘Aqidain (the contracting parties), Mahallul ‘aqd (the subject matter of the contract), Sighat al-‘aqd (offer and acceptance), and the conditions of the contract are: ‘Aqid, the parties involved, whether the owner of the capital or the manager (mudharib), must be competent to give authority and carry out the wakalah (agency). The capital must be in the form of cash, and fiqh scholars stipulate three conditions for ijab and qabul to have legal effect: first, Jala’ul ma’na, which means the intent contained in the statement must be clear, so the type of contract intended is understood; second, Tawafud, meaning there must be conformity between the offer and acceptance; third, Jazmul Iradataini, meaning the offer and acceptance must show the parties' definite intention, without hesitation or compulsion (Wahab, 2019).

Mutual agreement is a consequence of the principle of an-taradin minkum (mutual consent). Both parties must mutually agree to bind themselves in the mudharabah contract. The capital owner agrees to contribute the funds, while the business executor agrees to contribute the work. However, in modern banking practice, profit-sharing negotiations between the capital owner (investor or depositor) and the Islamic bank only occur for large depositors/investors because they have relatively high bargaining power. For small depositors, negotiations usually do not occur. However, in fiqh literature, one of the conditions of Sighat Al-Aqd is that there must be conformity between the offer and acceptance, meaning there must be mutual agreement through negotiation between both parties. Based on the above explanation, the author is interested in conducting a study titled **"ANALYSIS OF MUDHARABAH CONTRACTS FROM A FIQH PERSPECTIVE AT BMT UGT NUSANTARA."**

The main issues to be discussed in this research are: 1. How is the mudharabah contract implemented at BMT UGT Nusantara, and is the implementation of the mudharabah contract at BMT UGT Nusantara in accordance with the fiqh perspective? 2. How are the contracts structured in transactions at BMT UGT Nusantara? Based on the main issues outlined above, the objectives of this research are: To understand the implementation of the mudharabah contract at BMT UGT Nusantara. To assess the compliance of the mudharabah contract implementation at BMT UGT Nusantara with the fiqh perspective. To examine the contracts involved in transactions at BMT UGT Nusantara.

## **B. LITERATURE REVIEW**

### **Islamic Business**

Islamic business refers to an economic activity that operates based on Islamic sharia principles. In Islamic business, all transactions and practices must comply with Islamic law, avoiding riba (interest), gharar (excessive uncertainty), and maysir (gambling). The main objective of Islamic business is to achieve halal (permissible) profits and contribute to the welfare of society (Sundari et al., 2023). Key indicators of Islamic business include:

#### 1. Compliance with sharia law

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Publisher: Perkumpulan Ilmuwan Administrasi Negara Indonesia

P-ISSN: 1412 -9736

E-ISSN: 2828-545X

2. Halal products and services
3. Sharia-compliant financial structure
4. Islamic business ethics
5. Openness and transparency

### **Islamic Bank**

Islamic banks are financial institutions that offer a variety of financial products and services in accordance with Islamic law, including financing, savings, and investments, without involving *riba* (interest), *gharar* (excessive uncertainty), and *maysir* (gambling). Despite this, Islamic banks often face competition from well-established conventional banks with larger resources and a general lack of public understanding about Islamic banking. Overall, Islamic banks play a crucial role in the financial system by providing an ethical and sustainable alternative for society (Husaini & Mariani, 2023). Key indicators of Islamic banks include:

1. Customer satisfaction
2. Innovation in Islamic products
3. Social and environmental responsibility
4. Sharia risk management
5. Sharia compliance structure
6. Sharia-compliant products and services
7. Sharia compliance

### **C. RESEARCH METHODOLOGY**

Method refers to the process, principles, and procedures for solving a problem, while research is the careful, diligent, and thorough examination of a phenomenon to enhance human knowledge. Therefore, research methodology can be defined as the process, principles, and procedures used to solve problems encountered in conducting research (Soerjono S, 1986). According to Sutrisno Hadi, research is an effort to discover, develop, and test the validity of knowledge, conducted using scientific methods (Sutrisno H, 2000).

Thus, the purpose of research is to obtain data that has been scientifically validated. To achieve scientific truth, there are two historical modes of thinking: rational and empirical thinking. Therefore, to find a scientific method, both rational and empirical approaches are combined. Rationalism provides a logical framework, while empiricism offers a framework for proof or testing to ensure validity (Ronny H, 1990). The type of research used by the author is qualitative research. Qualitative research involves data in the form of words or verbal statements, as opposed to numerical data. This qualitative research is descriptive-analytical in nature. Descriptive research guides the researcher to explore and or capture a situation thoroughly, broadly, and deeply (Sugiono, 2013). Descriptive research aims to provide a systematic, factual depiction of an event or phenomenon with accurate organization. The goal of descriptive research is to create a systematic, actual, and accurate description of facts, characteristics, and relationships among phenomena (Sugiono, 2013).

The aim of this research is to obtain a comprehensive field view of the application of *mudharabah* contracts according to *fiqh* literature in Islamic banking. The techniques and tools used for data collection in this research include observation, interviews, and documentation. Observation is a method of data collection involving direct observation of an object over a certain period, with systematic recording of specific observed elements (Sugiono, 2013). The duration and frequency of observations depend on the type of data being collected. Interviews involve verbal question-and-answer sessions between two or more people directly (Sugiono, 2013). Structured interviews follow a pre-prepared list of questions, while unstructured interviews are conducted without a predefined set of questions, allowing the material to evolve based on the responses and the ongoing situation. In this

study, interviews are conducted with competent Islamic banking personnel, including managers, marketing staff, customer service representatives, and tellers. Documentation involves collecting and studying data from books and documents related to the research topic available at the Islamic pawnshop.

Data analysis is the process of systematically searching and organizing data obtained from interviews, field notes, and documentation. This involves categorizing, breaking down into units, synthesizing, arranging into patterns, selecting important elements for study, and drawing conclusions that are comprehensible to both the researcher and others (Sugiono, 2013). Data analysis in this research is conducted qualitatively with a descriptive method. Descriptive means to narrate and describe things as they are, according to the research issues. From these results, conclusions are drawn as answers to the research problems raised.

#### **D. RESULTS AND DISCUSSION**

In this case, the author will explain the application of the mudharabah contract at BMT UGT Nusantara. Based on the research conducted at BMT UGT Nusantara, the application of the mudharabah contract uses the mudharabah muthlaqah contract. The mudharabah muthlaqah contract is a type of mudharabah where the capital provider gives capital to the manager without any restrictions (qaid). In this contract, there are no stipulations or restrictions regarding the business location, type of business, goods used for the business, or other provisions. One of the applications of the mudharabah contract at BMT UGT Nusantara is found in their lending products, such as BSM savings, Mabrur savings, Investa Cendekia savings, planned savings, and deposits. Here, the author will outline the terms and conditions for opening accounts based on the mudharabah contract at BMT UGT Nusantara, as follows:

##### **1. Account Holder**

- a. The account holder is an individual who owns a personal account at the bank.
- b. The account holder must submit a photocopy of their ID card/driver's license/passport or according to the bank's applicable regulations.
- c. The bank will record all transactions, whether cash withdrawals or deposits, as well as checks and any payments made by the bank on behalf of or for the account holder's benefit.

##### **2. Deposits and Withdrawals**

- a. Every deposit into the account must be accompanied by a slip or other application signed by the depositor and/or in another manner specified and accepted by the bank in accordance with applicable regulations.
- b. The bank will provide a deposit receipt in a form determined by the bank; however, if the deposit cannot be verified or if there is a discrepancy in the account, the bank's calculations will be considered accurate.
- c. Withdrawals can be made in cash using a combined withdrawal slip, except for checking accounts where withdrawals use checks or book transfers or slips, or other means as specified by the bank, and can be conducted through the bank.
- d. The bank has the right to delay or temporarily halt transactions suspected of involving assets derived from criminal activities or suspected of using fraudulent documents.
- e. The bank has the right to refuse withdrawal from the account if there are insufficient funds in the account and/or for other reasons in accordance with applicable regulations.

##### **3. Profit Sharing**

- a. The account holder will receive profit sharing according to the agreement made between the bank and the account holder, which will be provided at the end of each month or as per the bank's regulations.

- b. If deemed necessary, the bank may change and establish a new profit-sharing rate, which will be announced at the bank's outlets and will take effect on the 1st of the following month. If there is no written response from the account holder within 10 calendar days from the announcement date, the account holder will be considered to have agreed to the change and the new profit-sharing rate.
  - c. Taxes on the profit sharing received by the account holder are the responsibility of the account holder.
  - d. The amount of profit sharing depends on the bank's revenue.
4. Termination of Savings Account
- a. The bank has the right to terminate the relationship with the account holder if the data is incomplete or invalid, through written notice according to the bank's regulations.
  - b. If the account holder decides to close the account, the bank will charge an administrative fee or as per the bank's applicable regulations

Based on the above terms and conditions, it can be concluded that the implementation of the mudharabah contract at BMT UGT Nusantara is in accordance with the provisions of fiqh perspective, as all the terms and conditions for opening a mudharabah savings account at BMT UGT Nusantara comply with the requirements, pillars, and provisions of the mudharabah contract according to fiqh perspective. In opening a mudharabah savings account, the customer must submit a photocopy of their ID card (KTP), driver's license (SIM), or passport. This indicates that the customer is legally competent and meets the conditions of `aqid. The object of the mudharabah savings account is cash, which is clear in form and owned by the customer, fulfilling the conditions of mahallul `aqd. Ijab and qabul occur after the customer and the bank have mutually agreed and consented, with no elements of coercion between the parties. This ijab and qabul are documented in a letter signed by both parties. In the implementation of the mudharabah contract between the customer and the bank for mudharabah savings, profit-sharing is applied according to the ratio agreed upon by both parties.

## E. CONCLUSION

The implementation of mudharabah contracts at BMT UGT Nusantara has been carried out in accordance with fiqh perspectives and theories. In the terms and conditions for opening a mudharabah savings account, customers are required to provide a photocopy of their ID card/driver's license/passport to the bank. This demonstrates that the customers are legally competent and understand the contract they are entering into, fulfilling the conditions of 'aqd. The object used is cash owned by the customers, meeting the conditions of mahallul aqd. The bank explains the contract terms and asks customers to sign a letter as evidence of agreement between both parties. However, in profit-sharing ratios under the mudharabah contract, there are specific provisions to obtain special ratios and negotiate the profit-sharing ratio. This occurs in mudharabah deposit products.

Based on the discussions and conclusions presented by the author, suggestions that may be beneficial for readers and future researchers are provided. The author suggests the following: For BMT UGT Nusantara, create specific guidelines regarding the contracts used in each transaction at BPRS in detail so that customers better understand the transaction contracts. For customers, do not hesitate to inquire about any aspects of the contract to the bank to enhance understanding of the Sharia banking contracts, ensuring clarity and transparency between both parties. For future researchers, it is recommended to conduct similar research on other Islamic financial institutions to understand the implementation carried out in other Islamic financial institutions.

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