

# Restructuring Policy of Shariah Financing Towards UMKM Affected by Covid-19: Maqashid Syariah Perspective

Dwi Fidhayanti<sup>1,\*</sup>, Risma Nur Arifah<sup>2</sup>, Lutfi Ardhani<sup>3</sup>

<sup>1</sup> Sharia Faculty, UIN Maulana Malik Ibrahim Malang, Indonesia

<sup>2</sup> Sharia Faculty, UIN Maulana Malik Ibrahim Malang, Indonesia

<sup>3</sup> Faculty of Economics, UIN Maulana Malik Ibrahim Malang, Indonesia

\*Corresponding author. Email: [fidha13@uin-malang.ac.id](mailto:fidha13@uin-malang.ac.id)

## ABSTRACT

One of the efforts that can be made to improve the UMKM class is to provide easy access to capital through Islamic banking institutions. However, currently, UMKM in Indonesia are facing a crisis due to the Covid-19 pandemic and also the economic recession. This study aims to determine the Sharia Banking Financing Restructuring Policy Against UMKM Affected by the Covid-19 Pandemic and Islamic Maqashid Study of Sharia Banking Financing Restructuring Policies on UMKM Affected by the Covid-19 Pandemic. The type of research used in this research is normative juridical research. The approach used is in the form of a statutory approach (statue approach) and a conceptual approach (conceptual approach). Legal materials obtained through literature study are then analyzed by means of descriptive qualitative. The Research Results Show that Restructuring does not mean eliminating the debtor's obligations, but there are new adjustments in paying debt instalments. The restructuring policy of UMKM has the aim of providing legal protection in an effort to maintain economic stability and the health of banks in Indonesia during the Covid-19 pandemic. These efforts contain wisdom and good causes (al-'illah), namely saving banks and UMKM. Meanwhile, its maqashid, namely avoiding economic downturns. From al-'illah, it can be seen that the existence of maqashid sharia, which aims to maintain economic stability and bank health because the essence of the maqhasid concept is to realize goodness.

**Keywords:** restructuring policy, shariah financing, maqashid shariah

## 1. INTRODUCTION

Based on data from the Cooperative Department in the Data Development Report for Micro, Small, Medium Enterprises (UMKM) and Large Enterprises (UB), in 2017-2018, the number of UMKM in Indonesia was increase 1,271,440 with details of Micro Enterprises amounting to 1,271,440, small businesses a number of 26,043 and Medium Enterprises 2,075 [1]. UMKM can absorb a workforce of 117 million workers or 97% of the absorption capacity of the business world. UMKM also contributed 61.1% to the national economy (PDB), and the remaining 38.9% was contributed by a large entrepreneur whose total was only 5,550 or 0.01% of the total entrepreneur. The relatively high growth of UMKM is a consideration for Government policies to increase the UMKM class: from micro to small, from small to medium, and from medium to large.

One of the efforts that can be made to improve the UMKM class is to provide easy access to capital through Islamic banking institutions. Compared to conventional banking institutions, Islamic banking institutions have at least three advantages. First, although the equivalent rate is between 10% -13% in Islamic banking, it is not different from conventional banking. However, the value offered by Islamic banking is more certain because it is not affected by fluctuations in interest rates. Second, financing in Islamic banking uses a profit-sharing agreement so that it does not burden both parties, both banks and entrepreneur. Third, Islamic banking provides assistance through management, technology, and spiritual approaches to the entrepreneur [2].

Sharia banking also establishes partnership programs with non-bankable businesses, linkage programs with microfinance institutions as an effort to expand funding services. Thus, the development of financing in Islamic banking in an effort to develop UMKM can increase and have an impact on increasing

the UMKM class: from micro to small, from small to medium, and from medium to large.

However, at this time, these efforts are hampered because UMKM in Indonesia is facing a crisis due to the Covid-19 pandemic and also the economic recession. National entrepreneur, Sandiaga Salahuddin Uno, said that the two crises caused losses to business actors, including UMKM. The Statistics Indonesia (BPS) conducted a survey of 34,599 business respondents consisting of Usaha Menengah Besar (UMB), Usaha Menengah Kecil (UMK) and Agriculture affected by the coronavirus pandemic or Covid-19 during 10-26 July 2020. The result is that more than 80% of respondents admit to having decreased their income due to the Covid-19 virus pandemic. 84% of Usaha Menengah Kecil and 82% of Usaha Menengah Besar have experienced a decline in income since the pandemic occurred. There are three business sectors most affected by the Covid-19 pandemic, namely: the accommodation, food and beverage sector; other service sectors; as well as the transportation and warehousing sectors [3].

The decline in UMKM income has a direct and indirect effect on the performance and capacity of debtors in financing in Islamic banking. This has the potential to disrupt banking performance and financial system stability, thereby affecting economic growth. Therefore, to encourage optimization of the banking intermediation function, maintain financial system stability, and support economic growth, economic stimulus policies are needed, one of which is through Peraturan Otoritas Jasa Keuangan Nomor 11/POJK.03/2020 tentang Stimulus Perekonomian Nasional sebagai Kebijakan *Counter-cyclical* Dampak Penyebaran *Coronavirus Disease* 2019.

This government regulation through the OJK Regulation has provided rescue for UMKM because it can minimize the impact of the spread of Covid-19 on their business. The existence of a policy of restructuring or credit relaxation is an affirmative opportunity for UMKM to avoid bad credit and even bankruptcy. However, the implementation of this policy still faces several challenges, such as (1) the absence of clear criteria regarding UMKM which are categorized as affected debtors; and (2) the realization of the restructuring application which is very dependent on the ability of the financial institution concerned.

The government's goal of minimizing the impact of the Covid-19 Pandemic on UMKM may not be easy to achieve due to unexpected problems in the implementation process. As it is known, the existence of regulations on financing restructuring is an effort to create benefits for UMKM entrepreneur. Maqashid

shari'ah which leads to benefit, is the final achievement of Islamic law. Maqashid sharia theory is used as an analytical tool in this study to provide a different colour of integration and Islamic views. The purpose of this study is to determine the Restructuring Policy of Shariah Financing toward UMKM Affected by Covid-19: Maqashid Shariah Perspective.

## 2. RESEARCH METHOD

The type of research used in this research is normative juridical research. The approach used is in the form of a statutory approach and a conceptual approach.[4] The legal materials used include: first, the primary legal material is in the form of binding legal material and usually takes the form of regulation; second, secondary legal materials consist of books, articles, and scientific journals related to the theme, namely Restructuring Policy of Shariah Financing toward UMKM Affected by Covid-19: Maqashid Shariah Perspective. Legal materials were collected using a literature study and then analyzed using a qualitative descriptive method.

## 3. RESTRUCTURING POLICY OF SHARIAH FINANCING TOWARD UMKM AFFECTED BY COVID-19: LEGAL PROTECTION PERSPECTIVE

Banking institutions are one of the institutions that have a strategic role in national development in Indonesia, as financial institutions, banks are defined as all entities that through their activities in the financial field put funds from the community and channel them from the community [5].

Law No. 7 of 1992 on Banking as amended by Law No. 10/1998 on Banking. The formulation of the bank is contained in Article 1 paragraph 2 which states that *the bank is a business entity that raises funds from the community in the form of deposits and distributes to the public in the form of credit and or other forms with the aim of improving the living standards of the people.*

The above article reads, the bank as a financial institution relies heavily on public funds held in the bank, so that the customer is willing to keep the funds to the bank in question, the customer must have confidence that the bank will pay back the funds held in the bank at the time the funds are withdrawn by the customer. In fact, customers only utilizing banking services should be given knowledge about the security of the funds they keep [6].

The relationship between the bank and the customer is not like a regular contractual relationship, but in that relationship there is an obligation for the bank to protect the customer's data, providing security over consumer protection as the responsibility carried by both parties [7].

Therefore, it is natural that the interests of the customer in question obtain legal protection, as the protection stipulated by the law to the bank. There is no denying that there has been a *political will* from the government to protect the interests of bank customers, especially money-depositing customers.

The distribution of funds from the community, credit or financing is the main activity in banking activities. Credit is the driving wheel of the banking industry, where banks are entitled to the borrower's customer's achievements not only to pay off their debts but to be accompanied by interest in accordance with the agreed [8].

Credit banking has micro, small and medium credit segments as a credit growth effort in banking [9]. The development of Micro, Small and Medium Enterprises (UMKM) in Indonesia is progressing very rapidly, growth mainly occurs in terms of quantity in line with the development of digital technology. According to the percentage of Kemenkop-UKM [10] from year to year reached the figure of 10% to 15% against the total UMKM operating. Bank Indonesia data, [11] UMKM contributed 64% of Indonesia's Gross Domestic Product (GDP) in 2019, not only that, UMKM also accounted for 95% of the country's workforce absorption.

Based on the above facts, that UMKM are the backbone that contributes the most to economic growth in Indonesia. The development of potential Micro, Small, and Medium Enterprises (UMKM) in Indonesia is inseparable from banking support in lending to UMKM. Every year credit to UMKM is growing and in general growth is higher than total banking credit.

UMKM loans are loans to micro, small and medium enterprise debtors that meet the definitions and criteria of micro, small and medium enterprises as stipulated in Law No. 20 of 2008 on UMKM. Under the law, UMKM are productive businesses that meet business criteria with certain limits on net worth and annual sales proceeds.

In Indonesia, history shows that UMKM become the concrete embodiment of a people's economy that rests on its own activities, is diverse and is a business group capable of being a savior when the economy is hit by a crisis [12].

One of the crises in the field of economy in 2020 is covid-19, an infectious disease caused by coronavirus. The virus has been outbreak in Wuhan, China since December 2019. With the spread very quickly, so today Covid-19 has become a pandemic that occurs all over the world.

The impact is strongly felt by a country, Indonesia, which is the field of economics. The slowdown in economic activity affecting the opinion of the country, one of which affects micro-enterprises that are widely spread in Indonesia. This pandemic led to a decrease in performance in terms of consumption and purchasing power that could hinder production and trade, layoffs and the threat of stalled credit payments.

Data shows that, UMKM turnover in the non-culinary sector decreased by 30-35%, the result of the sale of products that rely on face-to-face meetings between sellers and buyers physically limited to online buying and selling activities. Meanwhile, according to the Ministry of SMEs about 37,000 UMKM have reported that about 56% reported a decrease in sales, 22% reported problems with financing aspects, 15% reported problems with the distribution of goods and 4% reported a decline in raw materials.

Seeing such huge economic difficulties that caused the financial services industry to remain unstable in various sectors, banks, capital markets and financing companies, the government issued stimulus policy measures to help small and medium-sized micro-enterprises (UMKM). The policy takes the form of credit restructuring, interest subsidies and underwriting of working capital.[13]

This is strengthened by The Financial Services Authority Regulation (POJK) No. 11/POJK.03/2020 which among others states that credit restructuring or financing is carried out on credit or financing provided before and after debtors are affected by the spread of covid-19, including UMKM debtors.

Law No. 24/2007 on disaster management, explaining the responsibility of the government due to disasters that occur throughout the territory of the Unitary State of the Republic of Indonesia. One of the objectives of disaster management is to provide protection to the community from disaster threats, one of the efforts made is the determination of disaster management policy.

Sutan Remy Sjahdeini,[14] said Bank Syariah has a further role, namely as a financial advisor, for customers. The point is, that with so many kinds of products and services offered by Sharia Bank, the bank should be able to choose which product is best for the customer. This is not unwarranted, because, by providing a type of financing that corresponds to the

characteristics of the customer's business, or the customer's source of income, also impacts the lack of risk level, on the financing that has been provided.

As a business institution, Sharia Bank does not mean to be free from all risks, for businesses run. Looking at Bank Syariah from a business point of view, it should position that Bank Shari'ah is a profit institution, not a social institution or non-profit. Although in general, the purpose of the existence of Sharia Bank, is not merely profit seeking profit. Furthermore, the existence of Sharia Bank is as a will or media, in order to serve Allah SWT, that is, conduct economic activities in accordance with islamic sharia rules. This point of view is used, so that Sharia Bank can be managed professionally, and have a measurable vision and mission, and great ideals [15].

In accordance with Bank Indonesia Regulation (PBI), No.13/23/PBI/2011, dated November 2, 2011 on the Implementation of Risk Management for Sharia Commercial Banks, that Sharia Bank has the risk of being exposed to as many as 10 (ten) types of risks, among others: 1) Financing Risk; 2) Market Risk; 3) Liquidity Risk; 4) Operational Risk; 5) Legal Risk; 6) Reputational Risk; 7) Risk Strategy; 8) Compliance Risk; 9) Risk Of Yield and 10) Investment Risk.

Banking as a financial intermediary institution that serves as a *surplus of funds* and *lack of funds* performs its role as *intermediary system*. In addition to through Financial Services Authority Regulation (POJK) Number 11/POJK.03/2020 on Financial Services Authority Regulation on National Economic Stimulus as Countercyclical Policy Impact of Corona Virus Disease Spread 2019, Furthermore, the government also issued Regulation of Substitute Undang-Undang (PERPU) No. 1 of 2020 on State Financial Policy and Financial System Stability for the Handling of Coronavirus Disease Pandemic 2019 (Covid-19) and/or in order to deal with threats that harm the national economy and/or financial stability.

Indonesia has the goal of protecting all Indonesians and all Indonesian spills, as stated in the 1945 NRI Constitution [16]. The Constitution aims to realize the protection of the rights of every member of Indonesian society [17].

The legal protections in this paper are focused on aspects of economic law, especially with concerns about the existence of small and medium-sized businesses. From the philosophical aspect of the law, the purpose of protection to small business is to be a form of economic justice through equalization of trying opportunities.

In accordance with the function of *social control engineering*, the above regulations are a legal umbrella

for UMKM. *Social control engineering* is the role of law to conduct social engineering by formulating fair regulations for interested parties and the public in the form of legislation.[18] *Social control*, in fact, is the role of law that is performed by all citizens with the help of law enforcement agencies aimed at minimizing the negative impact of any social movement [19].

Responsive law is a law that reflects justice and meets people's expectations of every problem faced that is growing.[20] Article 1 paragraph 3 of the NRI Constitution 1945 states that Indonesia is a legal country, this means all forms of legal action must be based on the law. The realization of a just and prosperous society both spiritual and material based on Pancasila is the main goal that the Indonesian nation wants to achieve [21].

The protection of the law to the public is in principle the same as consumer protection, so the interest of a legal protection for consumers is the interest of all Indonesians.[22] In an effort to provide legal protection for UMKM affected by covid-19, OJK provides special treatment of credit or restructured financing affected by covid-19.

There are two methods of settlement of non-performing loans, *first, credit rescue*; *second, credit settlement*. What is meant by the rescue of non-performing loans is the re-negotiation between the Bank as the creditor and the Customer as the Debtor, while the settlement of non-performing loans is settlement through a legal institution. Those charged with legal institutions in this case are the PUPN State Receivables Committee and the Directorate General of Receivables and State Auctions (DJPLN), judicial institutions and through arbitration or alternative dispute resolution bodies.

There are three things that can be done for the rescue, namely *rescheduling* by making changes to some terms of the credit agreement that are related to the repayment schedule or credit term, including changes in the installment amount.

The next is *reconditioning* by making changes to some or all of the terms of the agreement without providing additional credit and without converting participation. Then the last is restructuring by changing the credit terms in the form of additional credit or by converting participation without *rescheduling* and *reconditioning*.

Indeed, one of the objectives of debt restructuring is to target micro, small and medium enterprises (UMKM) who are part of the communities affected by the pandemic. Nevertheless, the restructuring contained in The Financial Services Authority Regulation (POJK) No. 11/POJK.03/2020 on The

Regulation of the Financial Services Authority on National Economic Stimulus as a Countercyclical Policy on the Impact of The Spread of Corona Virus Disease 2019 does not mean eliminating the debtor's obligations, unless there are new adjustments in paying debt repayments, with some schemes, among others, lower interest rates, extended term, reduction of principal arrears, reduction of interest arrears, addition of credit facilities or financing and conversion of credit or financing into temporary capital investment. The above scheme, submitted to each bank taking into account the condition of the bank and the debtor's condition.

#### **4. RESTRUCTURING POLICY OF SHARIAH FINANCING TOWARD UMKM AFFECTED BY COVID-19: MAQASHID SYARIAH PERSPECTIVE**

All forms of muamalah that have no provision stipulated in *Nass* and have not been discussed in classical literature need to be done *istinbat* law taking into account the principle of *maqashid sharia*. *Sharia maqashid* is the main reference and benchmark for maintaining social balance in society which is the main purpose of Islamic sharia.[23] Knowledge of *Maqashid sharia* is a must for a Muslim because it is the main consideration in evaluating the value of benefits and benefits of muamalah activities.

*Sharia maqashid* is reviewed from the point of view of *lughawi* (language) is a compound word consisting of two words, namely *al-maqasid* (امقازد) and *as-syariah* (الشريعة). The root of the word *maqasid* is *qasada yaqsidu* (قزذ-يقزذ) which means to, mean to, *maqashid* is a plural form of *maqshid/maqshad* (مقشد) meaning intent, will or purpose.[24] Meanwhile, *sharia* (شريعة) in Arabic means the road to the water source. The path to this water source can also be said as a way towards the main source of life that is God's sharia. Thus, sharia *maqashid* contains the meaning of purpose and secret that Sharia laid out (Allah) from every law revealed by Him.

Basically *the maqashid theory* had been *introverted* by Muslim scholars before Imam Syatibi (d. 790 H/1388 AD), but he was then able to 'communicate' the theory in such a *well-designed* form that he was considered one of the comprehensive basic slings of *maqashid science* until it was dubbed the Father *maqashid sharia* with his famous book *al-Muwafaqat*.

UMKM activities that cooperate with banks in financing in Sharia banking are part of the *fiqh muamalah* which examines human interaction related to financial activities. The pattern of relationship

between UMKM businesses and banks is growing and progressing every year. Things that were unthinkable in ancient times, come true today. The sharia *maqashid* that gave birth to *maslahah* became one of the models of approach in *ijtihad* and its importance in *fiqh muamalah*. So Islamic law theorists make the knowledge of *maslahah* as one of the criteria for *mujtahids* who do *ijtihad* [25].

The activities of UMKM businesses are not only banking-related activities, but also the activities of UMKM businesses in carrying out business activities. However, UMKM activities in running the business became disrupted by the covid-19 pandemic that occurred since March 2020. To solve the problem, the government issued a policy, namely Regulation of the Financial Services Authority (POJK) Number 11/POJK.03/2020 on National Economic Stimulus as a *Countercyclical* Policy on the Impact of Corona Virus Disease 2019.

The policy seeks to stabilize the economy. In the *sharia maqashid* review the policy aims to provide opportunities for UMKM and banking businesses. *Maslahah* is the essence of sharia (*siyasa shar'iyah*) policies as well as policies in the economy. *Maslahah 'ammah* (general benefit) is the foundation of *muamalah*, which is the benefit framed *shar'iy*, not just profit motive and material rentability.

Problems in the economy are in desperate need of this method of reasoning. In conclusion, *maqasid asy-shari'ah* and *maslahah* with *istislahiyah* method have a very important position in *fiqh muamalah* especially in *mu'amalah maliyah* (economic interaction). With *maslahah*, Islamic sharia has relevance to the context of its times and being sharia is always up to date greeting all the problems of human life with the light of its enlightening teachings. Through *maslahah* will realize prosperity and welfare and purity of devotion to God. The abandonment of the people will drive to the abandonment of the human need to continue living in the world and even to achieve happiness in the hereafter.

The restructuring policy became part of the sharia law to protect property (*hifdz al-mal*). Protecting UMKM and Banking businesses so that the impact of covid-19 is not too high due to government policy to limit the spread of covid-19 by social distancing and reducing the operating hours of a business in the form of a shop.

Doing business by simultaneously preventing the spread and transmission of covid-19 can be categorized as said by Allah SWT:

*"O you who believe! Obey Allah and obey the Messenger, and Ulil Amri among you."* (QS. An-Nisa': 59).

To find out maqashid in the financing restructuring policy can use the inductive method (*istiqlah*) by examining all known laws of *kausanya* (*al-'illah*). Comply with government regulations by doing social distancing, which is to avoid and reduce the spread of covid-19 virus. From *al-'illah* this can be known the Islamic maqashid, which is aimed at providing a sense of security for the community. This concept of maqasid is to realize good while avoiding ugliness or rejecting benefits and attracting *madharat*.

## 5. CONCLUSIONS

One of the policies provided for UMKM in Indonesia in improving its class is through ease of access to capital through Sharia banking institutions. This is done so that UMKM can restrukturisasi which is one of the solutions to be able to survive the covid-19 pandemic and economic recession.

Restructuring carried out by UMKM in Indonesia is not done by eliminating obligations from debtors, but rather by making new adjustments in paying debt repayments. This new adjustment has an impact with the smaller amount of debt installments that debtors have to cover.

This UMKM restructuring policy aims to provide legal protection in an effort to maintain economic stability and banking health in Indonesia during the Covid-19 pandemic and to keep UMKM afloat through the ongoing economic recession.

The effort contains wisdom and good reason (*al-'illah*), namely saving in banks and UMKM. His maqashid, meanwhile, is to avoid an economic downturn. From *al-'illah*, it can be seen that the existence of sharia maqashid, which aims to maintain economic stability and health of the bank because the essence of the concept of maqashid is to realize goodness.

## AUTHORS' CONTRIBUTIONS

This article consists of three authors who are the first author, as a Conception or design of the work on the issue of Islamic banking law, the development of UMKM in Indonesia during the Covid 19 period. The second author, doing data collection, data analysis and interpretation and drafting the article. The third author, conducts critical revision of the article and Final approval of the version to be published.

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