

# Jurnal 6 Al-Iktisab

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# **Fiqh Review on The Use of Sharia Credit Card Based on Fatwa DSN MUI No: 54/ DSN-MUI/X/2006**

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## **Abstract**

*This study describes the fiqh review in the use of Islamic credit cards. In general, the opinions of leading scholars state that credit card transactions can be categorized in the kafalah, wakalah, hawalah, qardh, and ijarah agreements. These contracts are legally permissible and their use is adjusted to the transaction. In this study using a type of qualitative research with a literature study method approach. The results of this study explain that Islamic credit cards should be able to maintain the principle of utility in their using. This is based on the perspective of the principle of maslahah, which not only sees direct benefits or worldly benefits, but also sees benefits for the hereafter. So that there is a balance between the world and the hereafter in the fortified by ad-dharurat al-khams, namely preserving religion, soul, reason, descent, and wealth.*

**Keywords:** Sharia Credit Card, Maslahah, Balance

## **Introduction**

**I**n its development, cash in the form of paper and metal caused problems in the implementation of the payment system, especially for transactions in large amounts, because in addition to the difficulty of carrying large amounts of money there were

also risks that might lead to robbery. This gave rise to a non-cash payment system. The development of non-cash payments began to develop electronic payment products in the form of electronic money because its characteristics are different from other forms of electronic payments, because this electronic money product does not require authorization and is not directly related to customer accounts at bank.<sup>1</sup>

Islamic economic system is an economic system based on Islamic *sharia*. *Sharia* is a guideline that holds the human life in getting closer to Allah SWT. Al-Quran and Sunnah as the foundation of Muslims have a universal reach and power.<sup>2</sup> One proof, can be seen from the text of the Al-Quran and Sunnah which is always right on target to be implied in actual life, such as its reach and power in the field of the economy of the people.<sup>3</sup>

As growth and development of Islamic banking, it is growing also the innovation of banking products. One innovation is the product of Islamic banking Islamic credit card. This is supported by the issuing of DSN MUI fatwa on the permissibility of Islamic credit card. Basis used in the issuance of Islamic credit card is Fatwa DSN No: 54/DSN-MUI/X/2006 regarding *sharia* card.<sup>4</sup> In this fatwa, what is meant by *sharia* card is a card that functions as a credit card, the legal relationship between the parties based on *sharia* principles as stipulated in the fatwa.

In this modern, effective and efficient payment instruments are really needed in buying and selling transactions, people who want to shop no longer need to carry large amounts of money but just carry a credit card.<sup>5</sup> In 1946, the first credit card was issued by a bank called Flatbush National Bank in Brooklyn. The use of a card called Charg-It was introduced by John Biggins, a banker. When customers use it for purchases in stores, bills will be forwarded to the bank. Bank then pays to shop and receive payment from the customer. Worldwide transactions without cash began to become

5

<sup>1</sup>Septi Wulan Sari, "Perkembangan dan Pemikiran Uang dari Masa ke Masa," *Jurnal An-Nisbah*, Vol. 03 No. 01, 2016, 40.

<sup>2</sup>Suhrawardi K. Lubis, *Hukum Ekonomi Islam* (Jakarta: Sinar Grafika, 2004), 1.

<sup>3</sup>Hengki Firmanda, "Syari'ah Card (Kartu Kredit Syariah) Ditinjau dari Asas Utilitas dan Masalah," *Jurnal Ilmu Hukum*, Vol. 4 No. 2, 2014, 254.

<sup>4</sup>Dewan Syariah Nasional Majelis ulama Indonesia, *Himpunan Fatwa DSN-MUI Jilid 2* (Jakarta: CV Gaung Persada, 2006).

<sup>5</sup>Indah Nuhyatia, "Kajian Fiqh dan Perkembangan Kartu Kredit Syariah (Syariah Card) di Indonesia," *Economic: Jurnal Ekonomi dan Hukum Islam*, Vol. 5 No. 1, 2015, 23.

a trend since the discovery of credit cards or smart cards. As the economic and cultural development of society began to abandon the habit of using cashless society. Credit cards are cards issued by banks or other financial institutions that are given to customers to be used as a means of payment and cash withdrawal.<sup>6</sup>

From the problems above, the National Sharia Council the Indonesian Ulama Council (DSN-MUI) made a fatwa regarding the use of credit cards in accordance with *sharia*. With this paper it is expected to be able to find out the *fiqh* review on the use of *sharia* credit cards in *sharia* view based on the National Sharia Council the Indonesian Ulama Council (DSN-MUI) Fatwa No: 54/DSN-MUI/X/2006.

## Research Methods

The research method used in this study is to use the literature study method, where in the research conducted is by reading and doing various things, especially studying various existing literature. The literature in question is a source which has a relationship with research problems. By understanding the literature, will be able to understand the purpose of the problem you want to solve.<sup>7</sup> The research approach is carried out by referring to several concepts regarding *sharia* credit cards which form the basis of research.

## Sharia Credit Card

Modern lifestyle that is very practical in conducting a transaction encourages banks to provide a variety of product services to facilitate customers in making transactions. No exception to the issuance of *sharia* credit card products which of course the aim is to facilitate customers in carrying out transactions at merchants that provide payment receipt using *sharia* credit cards.<sup>8</sup>

This is supported by the issuance of the National Sharia Council the Indonesian Ulama Council (DSN-MUI) fatwa regarding the permissibility of Islamic credit cards. The basis used in the issuance of *sharia* credit cards is Fatwa DSN No: 54/DSN-MUI/X/2006 concerning

<sup>6</sup>Muhammad Masrur, "*Diskursus Uang dalam Kitab Ihya' Ulumuddin Karya al-Ghazali*," *Jurnal Penelitian*, Vol. 14 No. 1, 2017, 93.

<sup>7</sup>Sugiyono, *Metode Penelitian Bisnis* (Bandung: Alfabeta, 2014), 399.

<sup>8</sup>Munir Fuady, *Hukum Tentang Pembiayaan* (Bandung: Citra Aditya Bakti, 2002), 174.

<sup>1</sup> *sharia* cards. In this fatwa, what is meant by *sharia* card is a card that functions as a credit card, the legal relationship between the parties based on *sharia* principles as stipulated in the fatwa.<sup>9</sup> However, in practice, there arises a variety of problems that are feared to deviate from the principles of *sharia* and the provisions of *sharia*. Islamic banks are certainly not allowed to take advantage of debt/credit given to cardholders. Therefore, in this card several contracts are used so that customers can obtain credit while the bank also benefits.<sup>10</sup> The contract is:

1. *Kafalah*, in this case the card issuer is the guarantor for the card holder against the merchant for all payment obligations arising from transactions between the card holder and the merchant, and or cash withdrawals from other than the bank or ATM of the card issuing bank. Based on *kafalah*, the card issuer can receive a fee (*ujrah kafalah*).
2. *Qardh*, in this case the card issuer is a lender (*muqridh*) to the card holder (*muqtaridh*) through cash withdrawals from the bank or ATM of the card issuing bank.
3. *Ijarah*, in this case the card issuer is a payment system service provider and services to the card holder. For this *ijarah*, cardholders are subject to a membership fee. So in this contract it appears that there are two contracts that provide opportunities to benefit the bank, namely *kafalah* and *ijarah*.

Whereas for *qard*, banks do not take profits. However, the issuance of *sharia* credit cards must pay attention to the following points in order to avoid the adverse effects,<sup>11</sup> that is: (a) Does not cause usury; (b) Not used for transactions that are not in accordance with *sharia*; (c) Does not encourage excessive expenditure (*israf*), by among others setting a maximum ceiling for spending; (d) The main card holder must have the financial ability to pay off on time; (e) Does not provide facilities that are in conflict with *sharia*.

The concept of lending and borrowing, the concept of lending and borrowing used by the *sharia* bank is a *qardh* contract. The substance of the *qard* is to provide bank loans to card holders for

<sup>9</sup>*Ibid*, 176.

<sup>10</sup>Fitri Anis Wardani, "Kartu Kredit Syariah dalam Tinjauan Islam," *Iqtishodia Jurnal Ekonomi Syariah*, Vol. 1 No. 2, 2016, 33.

<sup>11</sup>Ahmad Ifham Sholihin, *Ini Lho Bank Syariah* (Jakarta: PT Gramedia Pustaka Utama, 2015), 290.

urgent needs or as a bailout, not for loans that are consumptive and returned in accordance with the amount without compensation. Whereas in practice it is far different, because the main target of the issuance of *sharia* cards is to be used for consumptive needs of its customers, even *sharia* cards are included in consumptive retail.<sup>12</sup> Furthermore, it is stated that the use of the *qardh* contract must not be rewarded, it is true that in its implementation indirectly the *sharia* bank does not receive rewards from its *qard* contract.

However, card holders weighted with a fee of facilities or services caused. There is an indication of the dredging of the customer's assets which was originally a loan-borrowing agreement, then because the loan-borrowing concept is not justified using rewards, the Islamic banks accumulate rewards for services rendered. Therefore, when calculated on borrowing in *sharia* card, services that is paid by the cardholder, including large.<sup>13</sup>

Control and supervision efforts, it is necessary to control the contract that is used on the *sharia* card whether pre-contract, contract period or after the contract. In addition, control efforts must also be made on the use of the card, so as not to deviate far from the ethics of human consumption.<sup>14</sup> Then, control is also needed to agencies related to *sharia* card, so that these institutions are in accordance with the *sharia* corridor. In practice, *sharia* new card can be controlled only in the realm of card issuing bank only *shariah* ie, where the controls carried out by the Syariah Supervisory Board (DPS). Supervision should be carried out in all lines so that users of *sharia* cards feel comfortable with their *sharia*.

As mentioned in the previous discussion, where basically *sharia* cards open wide to violations of human consumption ethics, such as card holders can use *sharia* cards as freely as possible whether it is for their real needs or for the desires they want for the sake of prestige.<sup>15</sup> So when the *sharia* card holder is more concerned with the desire for its prestigious interests, it will have an impact on excessive consumption (*israf*).

11

<sup>12</sup>Nazaruddin AW, "Credit Card pada Institusi Keuangan Syariah dalam Kajian Fiqh Iqtishad," *Jurnal Media Syariah*, Vol. 8, 2007, 173.

<sup>13</sup>*Ibid*, 171-188.

<sup>14</sup>Muhammad Syafi'i Antonio, *Bank Syari'ah: dari Teori ke Praktik* (Jakarta: Gema Insani Press, 2001), 168.

<sup>15</sup>*Ibid*, 169.

## The Sharia Credit Card Concept

Understanding credit cards (*bithaqah al-i'timan*), the usual term used by economists and banking practitioners regarding credit cards is *bithoqah al i'timaniyah* which is a translation from Arabic and in English credit cards.<sup>16</sup> Etymologically the definition of a credit card is taken from the word card in language used for small pieces of paper or from other materials, on which written explanations relating to the piece of paper. While the word *i'timan* is linguistically meaning it is a condition of security and mutual trust. The word cards has several meanings including known meanings, namely credit cards, small plastic cards issued by an banking or building society, allowing the holder to make purchases on credit. When viewed in terms of credit, this card is issued to obtain cash and loan facilities.<sup>17</sup>

The terminology of a credit card is a type of payment instrument in cash, which at any time can be exchanged whatever we want wherever there is a branch that can accept credit cards from banks, or companies that issue them.<sup>18</sup> Another more detailed definition of this credit card is plastic money issued by an institution that allows the card holder to obtain credit for the transactions made and the payment can be made in installments by paying an interest or at the same time specified. Another source mentioned in the sense of a credit card a card issued by the bank and the like which can be used by the carrier to buy all purposes of goods and certain services in debt.<sup>19</sup>

## The Concept of Money in Islam

The concept of money in Islam is very different from the concept of money in conventional economics in Islamic economics explained in detail and it is very clear that money is money not capital, and money is a flow concept and capital is a stock concept.<sup>20</sup> Historically in the Islamic economic civilization, money has the stability characteristics more indicated by gold and silver namely the

<sup>16</sup> Abdul Wahab Ibrahim Abu Sulaiman, *Banking Card Syari'ah: Kartu Debit dan Kredit dalam Perspektif Fiqih* (Jakarta: Raja Grafindo Persada, 2006), 2.

<sup>17</sup> *Ibid*, 4.

<sup>18</sup> Abdullah al-Muslih and Shalah ash-Shahwi, *Fikih Ekonomi Keuangan Islam* (Jakarta: Darul Haq, 2004), 304.

<sup>19</sup> Gemala Dewi, et. al., *Hukum Perikatan Islam di Indonesia* (Jakarta: Kencana, 2006), 208.

<sup>20</sup> Yahya Muchis, et. al., "Teori Bagi Hasil (Profit and Loss Sharing) dan Perbankan Syariah dalam Ekonomi Syariah," *Jurnal Dinamika Ekonomi Pembangunan*. Vol. 1 No. 1, 2011, 65.

dinar and dirham.<sup>21</sup> Gold and silver coins were made by Persians. The first use of coins by Muslims who imitated the silver dirham of King Sassanian Yezdigird III in the caliphate of Usman bin Affan.<sup>22</sup>

The use of dinars and dirhams is often mentioned in several Hadiths and even in the Qur'an. Allah SWT has mentioning these two precious metals in terms of explaining some of the mechanisms *muamalah*. Rasulullah SAW, verbally also agreed to its users but not to the extent obliging. But he still advocated the dinar and dirham money to be used in every transaction, because both of these money refer to high stability.<sup>23</sup> For Islam the means of exchange of dirhams and dinars is of enormous importance in a business transaction. By using both of them avoids someone from usury transactions, because usury transactions using goods with existing goods are not worth the value and cannot be delivered properly.<sup>24</sup>

Dinar and dirham is a measure of the fair value and exchange and can anticipate the injustice caused by the currency system. Al-Ghazali clearly refused the presence of currencies other than dinars and dirhams. Because currencies other than these two currencies are highly fluctuating<sup>25</sup> and it can be used by humans is not responsible for the profit to disrupt the stability of the currency.

### Sharia Credit Card Fiqh Rules

The rules of *fiqh muamalah* are considered relevant to Islamic credit cards

الأصل في المعاملات الإباحة إلا أن يدل الدليل على جريمها<sup>5</sup>

"The original law in all forms of *muamalah* is permissible unless there is an argument forbidding it"

The purpose of this rule is that in every *muamalah* a transaction, especially *sharia* credit cards basically allowed, because there are special provisions that have been regulated by the DSN MUI fatwa,

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<sup>21</sup>Ali Sakti, *Analisis Teoritis Ekonomi Islam: Jawaban atas Kekacauan Ekonomi Modern* ..., 280.

<sup>22</sup>Mohm. Ma'sum Billah, *Dinar Emas Mata Uang Islam*, Terj. Yusuf Hidayat (Malaysia: t.p., 2010), 7.

<sup>23</sup>Juliana, "Uang dalam Pandangan Islam," *Jurnal Amwaluna*, Vol. 1 No. 2, 2017, 219.

<sup>24</sup>Soritua Ahmad Ramdani Harahap, "Pemikiran Imam al-Ghazali Tentang Fungsi Uang," *Jurnal Laa Maisyir*, Vol. 6 No. 1, 2019, 10.

<sup>25</sup>Abu Hamid al-Ghazali, *Ihya Ulum al-Din* (Bayrut: Dar al-Ma'rifah, 1995), 71-76.

so that the laws such as debt receivables, lending and borrowing, leasing, guarantees, representatives, etc. others, except those which are expressly forbidden such as causing deception, gambling, and usury.<sup>26</sup>

### المشقة تجلب التيسر

“Difficulties that can attract convenience.”

The purpose of this rule is the concept of a credit card is in debt, where a consumer who wants to buy goods or services but does not have cash, and to meet their needs prospective consumers need another party who can provide bailouts or collateral for purchase, and the market needs a guarantor for buying and selling activities, therefore banking services are needed for the transaction which will then be paid by the consumer at the specified deadline.<sup>27</sup> Credit cards make it easy for consumers and producers in trading.

### الحاجة جنزل منزلة الضرورة

“This requirement can occupy emergency positions.”

The purpose of this *fiqh* principle is that basically in a sale and purchase agreement, it is only permissible/deemed valid if the terms and conditions have been fulfilled, among which is that the object of the sale and purchase agreement has been realized and there is a means of payment, and is good to do at that moment by both parties, without an emergency reason or an urgent need, may not be provided with relief from deviations from the law. But for the sake of fluency/ease of life or to eliminate difficulties given relief in the sale-purchase agreement, it is considered legitimate to buy or sell even though it is done in debt or by borrowing from other parties and the existence of a guarantor.

### الثابت بالعرف كالثابت بالشر

“Something that applies based on customs is the same as something that applies based on sharia as long as it does not conflict with sharia.”

The purpose of this *fiqh* principle in the implementation of *sharia* credit cards is useful habits and does not conflict with *sharia*

<sup>26</sup>Fitri Anis Wardani, “Kartu Kredit Syariah dalam Tinjauan Islam,” *Iqtishodia Jurnal Ekonomi Syariah*, Vol. 1 No. 2, 2016, 38.

<sup>27</sup>Fitri Anis Wardani, “Kartu Kredit Syariah dalam Tinjauan Islam,” ..., 40.

in *muamalah* such as in buying and selling, leasing, and borrowing, is a legal basis, so that if disputes occur in between them the solution must be returned to the custom or *urf* that applies.<sup>28</sup>

درءالمفاسد مقدم على جلب المصالح

"Preventing damage must take precedence over taking benefit."

The intent of this rule is to their *fiqh* Islamic credit card in an effort to prevent damage with the use of a credit card based system of usury therefore becomes important how to create a free credit card usury/interest, with the concept of mutual help.

### Provisions on Sharia Credit Cards

In<sup>1</sup>the National Sharia Council Fatwa Council Indonesian Ulema Council (DSN-MUI) No: 54/DSN-MUI/X/2006 concerning *sharia* cards, there are several considerations and provisions regarding the use of *sharia* credit cards as follows:<sup>29</sup>

1. Economic activities that are increasingly global and complex require a practical instrument to carry out transactions, therefore the ease of transactions is a necessity of the people who need to be responded positively.
2. The existing credit card is running and operating not in accordance with Islamic law because it uses the principle of interest.
3. Need for a replacement instrument from conventional credit cards that is not principled interest as an alternative product that is safe and appealing.
4. The provisions in the Islamic credit card.

### Conclusion

The basis used in the issue of *sharia* credit cards is Fatwa DSN No: 54/DSN-MUI/X/2006 concerning *sharia* cards. The fatwa explained that the Islamic credit card is a card that functions as a credit card, the legal relationship between the parties based on *sharia* principles as stipulated in the fatwa. The existence of this fatwa is expected to be the basis of

<sup>28</sup>Indah Nuhyatia, "Kajian Fiqh dan Perkembangan Kartu Kredit Syariah (Syariah Card) di Indonesia," *Economic: Jurnal Ekonomi dan Hukum Islam*, Vol. 5 No. 1, 2015, 38.

<sup>29</sup>*Ibid*, 40.

Muslims to continue to be able the transactions in accordance with *sharia*. Credit cards offered by conventional banks clearly do not pay attention to sharia elements in them, making Muslim consumers confused to make transactions in this modern era. However, the existence of Islamic credit cards is not necessarily free from the bondage of usury, but tries to stay away from usury. Islamic banking must continue to work hard to maintain and control, regulations and rules of *sharia* credit cards are truly based on *sharia* so that Muslims can calmly transaction. Thus, to maintain the five points, the application of Islamic credit cards needs to pay attention to several important aspects including the basic substance of Islamic credit cards as a financing product, using the contract and its implementation concept, understanding the concept of lending or borrowing, understanding standard measures of human consumption ethics along with their risks and constraints, institutions related to *sharia* credit cards, and surveillance efforts related to *sharia* credit cards to conform to *sharia* aspects.

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PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10

PAGE 11

PAGE 12