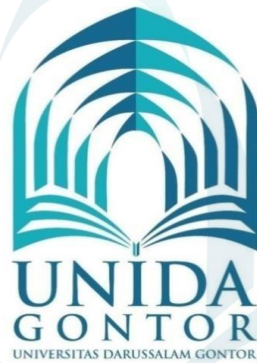


**ANALYSIS OF SHARIAH DISPUTES POTENTIAL
OF HYBRID CONTRACT FINANCING IN
ISLAMIC BANKS**

THESIS

Submitted to the Department of Islamic Economic Law
for the Master Degree



By:

Alvi Salwa Khoiriah

Reg. Number: 442023837026

DEPARTMENT OF ISLAMIC ECONOMICS LAW

POSTGRADUATE PROGRAM

UNIVERSITAS DARUSSALAM GONTOR
UNIVERSITY OF DARUSSALAM GONTOR

PONOROGO-INDONESIA

1446 H/2025 M

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OF HYBRID CONTRACT FINANCING IN
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THESIS

Presented to the Postgraduate Program of the University of Darussalam
Gontor in partial fulfillment of the requirements for completing a Master's
Program in the Department of Islamic Economic Law

By:

Alvi Salwa Khoirah

Reg. Number: 442023937026

Supervisor:

Assoc. Prof. Dr. Akhmad Affandi Mahfudz, M.Ec, CPIF

**DEPARTMENT OF ISLAMIC ECONOMIC LAW
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ABSTRAK

Peneliti, 2025, *Analysis of Shariah Disputes Potential of Hybrid Contract Financing in Islamic Bank*. Pembimbing: Assoc. Prof. Dr. Akhmad Affandi Mahfudz, M.Ec, CPIF

Kata kunci: *Sharia Disputes Potential, Hybrid Contract, Islamic Bank.*

Perbankan syariah di Indonesia setiap tahunnya terus mengalami pertumbuhan dan perkembangan yang ditopang oleh 14 Bank Umum Syariah, 19 Unit Usaha Syariah, dan 173 Bank Pembiayaan Rakyat Syariah. Namun, nilai asset Non-Performing Financing bank Syariah juga terus meningkat setiap tahunnya yang menandakan adanya masalah dalam produk pembiayaan yang dijalankannya. Untuk mengatasi masalah ini, peneliti memaparkan potensi sengketa syariah yang terjadi.

Penelitian ini bertujuan untuk mengkaji dengan mengungkapkan sengketa Syariah pada pembiayaan multiakad yaitu *Ijarah Mutahiyah bi tamlik* IMBT, (*Musyarakat mutanaqishoh* (MMQ), dan *Rahn* dengan standar syariah nasional yaitu fatwa DSN- MUI, Kompilasi Hukum Ekonomi Syariah dan standar syariah internasional yaitu *Accounting and Auditing Organization for Islamic Financial Institutions* (AAOIFI) dan *Islamic Financial Services Board* (IFSB). Penelitian ini berasumsi bahwa sengketa Syariah dapat terjadi pada layanan pembiayaan di bank Syariah, sehingga harus adanya literasi yang baik sebagai antisipasi agar sengketa tersebut tidak terjadi.

Penelitian ini menggunakan metode kualitatif deskriptif dengan pengumpulan data menggunakan dokumentasi kajian literatur dari bahan

hukum primer, sekunder, dan tersier. Sedangkan dalam menganalisis data peneliti menggunakan analisis konten dengan alat analisis atlas.ti.

Hasil dari penelitian ini adalah potensi sengketa Syariah yang dapat terjadi di bank Syariah pada pembiayaan multiakad. Pada akad *Ijarah Mutahiyah bi tamlik* potensi sengketa dapat terjadi seperti penyelesaian diawal, wanprestasi dengan penurunan kemampuan bayar, gagal pembiayaan dengan penjualan asset saat masa kontrak berlangsung, berakhirnya kontrak dengan penjualan asset, asset rusak, pemindahan kepemilikan asset, perubahan akad pembiayaan. Pada akad *Musyarakat mutanaqishoh* potensi sengketa dapat terjadi yaitu wanprestasi dengan adanya penanggungan asuransi, gagal pembiayaan, dan perubahan akad pembiayaan, pemindahan pemilikan. Adapun akad *Rahn* potensi sengketa syariah yang terjadi yaitu wanprestasi dengan jatuh tempo pembayaran dan pemindahan kepemilikan aset.



ABSTRACT

Researcher, 2025, *Analysis of Shariah Disputes Potential of Hybrid Contract Financing in Islamic Bank*. Supervisor: Assoc. Prof. Dr. Akhmad Affandi Mahfudz, M.Ec, CPIF

Keywords: Sharia Disputes Potential, Hybrid Contract, Islamic Bank.

Islamic banking in Indonesia continues to grow and develop yearly, supported by 14 Islamic Commercial Banks, 19 Islamic Business Units, and 173 Islamic Rural Banks. However, the value of Non-Performing Financing (NPF) assets in Islamic banks has also been increasing annually, indicating underlying issues in the financing products offered. To address this problem, this study highlights the potential sharia disputes that may arise.

This research aims to examine and reveal sharia disputes in multi-contract financing, specifically Ijarah Muntahiyah Bittamlik (IMBT), Musharakah Mutanaqisah (MMQ), and Rahn, by referring to national sharia standards such as the DSN-MUI fatwas, the Compilation of Sharia Economic Law (KHES), and international sharia standards set by the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) and the Islamic Financial Services Board (IFSB). This study assumes that Sharia disputes can occur in financing services within Islamic banks, necessitating adequate financial literacy as a preventive measure.

This research employs a qualitative descriptive method, collecting data through literature review documentation from primary, secondary, and tertiary legal sources. Data analysis is conducted using content analysis with the Atlas.ti software.

The findings of this study indicate potential sharia disputes in Islamic banks' multi-contract financing. In IMBT contracts, potential disputes include early settlement issues, breaches of contract due to declining repayment ability, financing failure leading to asset sales during the contract period, contract termination through asset sales, asset damage, ownership transfer, and changes in financing contracts. In MMQ contracts, disputes may arise due to insurance coverage breaches, financing failure, conversion in financing contracts, and ownership transfer. Finally, in Rahn contracts potential sharia disputes include breaches of contract due to payment defaults and ownership transfers upon financing maturity.



OFFICE NOTE

To Honorable:

Director of Postgraduate Program

University of Darussalam Gontor

Assalamualaikum Warahmatullahi wa barakatuh

It is my honor to present this thesis written by:

Name	: Alvi Salwa Khoiriah
Reg. Number	: 442023837026
Department	: Islamic Economic Law
The Tittle	: Analysis of Shariah Disputes Potential of Hybrid Contract Financing in Islamic Banks

I declare that this thesis has been processed and corrected to fulfil the requirement for completing the Postgraduate Degree in the Department of Islamic Economic Law. Therefore, I request that the thesis could be examined soon.

Wassalamualaikum Warahmatullahi wa barakatuh

Ponorogo, January 29th, 2025 M

Rajab 29th, 1446 H

The Supervisor,



Assoc. Prof. Dr. Akhmad Affandi Mahfudz, M.Ec, CPIF

NIDN: 0324127408

Bismillahirrahmanirrahim,

Assalamu 'alaikum Warahmatullah Wabarakatuh.

Hereby, the Postgraduate Program of University of Darussalam Gontor Ponorogo has received a thesis,

Entitled : Analysis of Shariah Disputes Potential of Hybrid Contract Financing in Islamic Bank

Researcher : Alvi Salwa Khoiriah

Reg. Number : 442023837026


Program of Study : Islamic Economic Law

Declaring that she has been accepted as one of the conditions for obtaining a master's degree in Islamic Economic Law.

Wassalamu 'alaikum Warahmatullah Wabarakatuh.

Ponorogo, March 17th, 2025

Director of Postgraduate Program,



Assoc. Prof. Dr. M. Kholid Muslih, M.A.

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LETTER OF LEGITIMATION

The Committee of thesis examination impartial fulfillment of the requirement of the degree of Magister in Islamic Economics Law, having held the thesis examination on:

Day and Date : Saturday, 8 th of February 2025

Venue : Postgraduate Building 105

State the student below

Name : Alvi Salwa Khoiriah

Reg. Number : 44.2023.837.026

Program of Study : Master of Islamic Economics Law

The Title :

“Analysis of Shariah Disputes Potential of Hybrid Contract Financing In Islamic Bank”

Has been successfully defended in front of the Board of Examiners and accepted a part of the requirements for a degree of Magister in Islamic Economics Law.

1. Assoc. Prof. Dr. Akhmad Affandi Makhfudz, M.Ec.

(Chairman)

2. Assoc. Prof. Dr. Khoirul Umam, M.Ec.

(Examiner I)

3. Dr. Yulizar Djamaludin Sanrego, M.Ec.

(Examiner II)

4. Royyan Ramdhani Jayusman, M.A, Ph.D

(Examiner III)

Postgraduate Program

كلية الدراسات العليا

DECLARATION

I here by:

Name : Alvi Salwa Khoiriah

Reg. Number : 442023837026

Degree : Magister

Program of Study : Islamic Economic Law

I declare sincerely that this thesis for a master's degree is original and purely my work and does not belong to other researchers for a different degree. Furthermore, this thesis is not a work published before, except for some parts with their original reference.

Ponorogo, January 19th, 2025

Rajab 19th, 1446

The Researcher,


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Alvi Salwa Khoiriah

NIM. 442023837026

MOTTOES

إِنَّ اللَّهَ لَا يُغَيِّرُ مَا بِقَوْمٍ حَتَّى يُغَيِّرُوا مَا بِأَنْفُسِهِمْ

Indeed, Allah does not change the condition of a people until they change what is within themselves. (Q.S Ar-Ra'd: 11)

هَلْ جَزَاءُ الْإِحْسَانِ إِلَّا الْإِحْسَانُ

Is there any reward for good other than good itself?

فَإِنَّ مَعَ الْعُسْرِ يُسْرًا

So, verily, with hardship comes ease.

وَأُفَوِّضُ أَمْرِي إِلَى اللَّهِ

I entrust my affairs to Allah.

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DEDICATION

Millions and countless thanks to My Lord Almighty,

Allah Subhanahu Wa Ta'ala.

Prayer and greetings for the prophet Muhammad SAW

With the sincerity of my heart, I dedicate this thesis to

My beloved parents,

“Mr. Endang Suherman and Mrs. Ai Khoeriah”

Who instilled a love of effort and gratitude in my conscience and filled me with a love of knowledge. Who taught me life, guided me with patience, loved me infinitely for a long time, cared for me with all affection, gave me the best upbringing, and nourished me with their pure advice.

Therefore, I pray that Allah forgives their sins, elevates them to the highest rank, grants them success in their work, and bestows His mercy upon them.

And for my beloved brothers and sisters A Jauharul Anwar, Ceu Siti Hirma Yuliani, Kaka Siti Aulia Apriliani, and Ahmad Al-Qodril Gina who encourage me to seek knowledge, accompany me, and entertain me always, their presence is a big encouragement in my life to become a better person. May Allah reward and grant them success in their affairs and guide them to goodness at every step.

And I say thank you from a sincere heart to my great supervisor, Assoc. Prof. Dr. Akhmad Affandi Mahfudz, M.Ec, CPIF, has guided, taught, and directed me with patience and sacrifice. And to my beloved teachers and

lectures of the University of Darussalam Gontor, who have motivated me to keep going and rise so that I can struggle and reach this stage.

I wish to convey my heartfelt thanks to my dear friends who have offered me support and guidance and assisted me throughout the process of this final project.



ACKNOWLEDGMENT

In the name of Allah, the beneficent, the merciful, praise be to Allah the Lord of the world, the Owner of the Day of Judgment. Pray and peace upon Prophet Muhammad SAW, his families, companions, and followers.

With the mercy and blessing of Allah SWT, I could complete this thesis of Magister. Therefore, I would like to extend my deep gratitude to those in graduate study at the University of Darussalam Gontor. Besides, I wish to extend my appreciation due to the following:

1. The honor Headmasters of Modern Pesantren Darussalam Gontor, K.H. Hasan Abdullah Sahal, Prof. Dr. K.H Amal Fathullah Zarkasyi, M.A and Drs. K.H. M. Akrim Mariyat, Dipl.A.Ed, who has sincerely given me the most incredible opportunity to dedicate myself to this institution.
2. The Rector of the University of Darussalam Gontor, Prof. Dr. K.H. Hamid Fahmy Zarkasyi, M.A.Ed, M.Phil. and his vices and the whole lecturers of the University of Darussalam Gontor. This simple thesis is an outcome of the long journey process of my study in the hands of the Gifted.
3. The Director Postgraduate Program, Assoc. Prof. Dr. Mohammad Kholid Muslih, M.A
4. The Head of the Magister of Islamic Economics Law Department, Assoc. Prof. Dr. Syamsuri, M.Sh, and all the lecturers of Darussalam Gontor thank you for the priceless knowledge and education to be a real wise economist.
5. My worthy thesis supervisor, Assoc. Prof. Dr. Akhmad Affandi Mahfudz, M.Ec, CPIF, had sincerely taught me not only invaluable new knowledge but also everything, advised and motivated me when I was

drowning in the confusion of doing a thesis project until I had done it perfectly.

6. The invisible mentors in this thesis project for all critics, mentoring about writing mechanisms, and other education I did not find in the other place.
7. So, I would be remiss if I did not thank my classmates and friends at the Postgraduate Dormitory for sharing and discussing.
8. So extraordinary that all my postgraduate friends, my beloved friends all Girls Guardian Generation who have struggled together to complete this master's study always provided a lot of direction and suggestions and were best friends during college in joy and sorrow.

I ask Allah to avenge their deeds, forgive their sins, write success for them, reward them with the best reward and happiness, and help them in their work. May Allah reward them in proportion and bless them for them and bless them, and may this humble thesis be valuable and useful for readers, especially researchers. Finally, the researcher would like to offer her most profound respect and gratitude to all her companions for their support and help completing this thesis. May Allah give great rewards in this world and the hereafter.

Ponorogo, January 30th, 2025

The Researcher,



Alvi Salwa Khoiriah