

Practical Of Syariah Pawn (Rahn) In Fatwa Of National Shariah Board -Indonesia Ulama Council (Case Study At Syariah Indonesia National Bank (Bni))

Windy Indah Yulianda, Dr. Muhammad Syaifullah

Abstract: The background of this research is the combination of qardh and ijarah contracts, and the calculation of the cost of rent place done by syariah bank with equal 2% per month from the loan debt value. This research is a qualitative research, the type of research is fieldresearch as for the method used is descriptive method. Research Sites at BNI Syariah in Pontianak City, West Kalimantan, Indonesia. Data source is primary data, that is data obtained by through interview and observation in BNI Syariah. Secondary data, ie data reports and documents related to research. Teknik and Data Collection Tools, data collection through observation techniques, interviews, documentation and field notes. Data Analysis Techniques, namely reduction, data display and data verification and conclusion. Technique of Data Validity Inspection with member check technique and triangulation. The results of research are 1) the practice of syariah pawn in BNI Syariah can be quite good, based on interview result of the researcher to the resource person. The first thing done by the customers is to come to the sharia bank by bringing the lien of gold, after which the customer fill out the filing form and make the contract to the sharia bank. After all the requirements are submitted to the bank, the bank will realize the submission and the customer will get the financing; 2) Maintenance and storage costs of Marhun are determined based on the loan amount. The determination of tariffs and maintenance fees is determined by the value of the loan as well as the estimated gold. As it is known that in the application of Fatwa DSN MUI No: 25 / DSN-MUI / III / 2002 has not fulfilled the gold mortgage agreement.

Kew Word: Shariah Pawn (Rahn) and Fatwa of National Sharia Board (DSN)-Indonesia Ulama Council (MUI)

1. Introduction

Bank Indonesia as a party in charge of supervision and fostering of commercial banks underneath is of course responsible for what is done by commercial banks, both in terms of profit and from other aspects. Bank Indonesia therefore issued a guideline for the preparation of sharia supervision guidelines and the procedures for reporting the results of supervision for the Sharia supervisory board. This reference is then used as a reference for DPS in conducting sharia supervision on the operational products of Islamic banks (Muhammad, 2011: 2). Banks based on sharia principles or Islamic banks or Islamic banks, such as conventional banks, also serve as an intermediary institution, which directs funds from the community and redistributes those funds to the community in need in the form of financing facilities. The only difference is that Islamic banks do business interests free, but based on sharia principles, the principle of profit and loss sharing principle or PLS principle (Sutan R.S, 1999: 1). Currently, there is still an impression on the community that borrowing to banks is something more proud than other formal institutions. The bank offers pawn products that have easier access, a much shorter process and relatively simple requirements and make it easier for the community to meet the funding needs.

Pawn is believed to provide many benefits for people in need of quick funds. In addition, the gold value that tends to always increase also become the reason people to mortgage in sharia institutions (Adrian S, 2011: v). Sharia banking provides banking services based on sharia principles. The principle of sharia is the principle of Islamic Law in banking activities based on fatwas issued by institutions that have authority in the determination of fatwa in the field of sharia. The legal basis for sharia banks to issue service products based on sharia principles using the DSN MUI fatwa. For the purpose of supervision of syariah financial institutions and sharia banking, DSN MUI creates a guide product line syariah taken from the sources of Islamic law. The definition of rahn itself can be seen in the fatwa of DSN MUI Number 25 / DSN-MUI / III / 2002 dated June 26, 2002 on rahn, which defines rahn as a loan by mortgaging goods as debt guarantees. On the basis of the law of gold pawning based on the fatwa of DSN MUI Number 26 / DSN-MUI / III / 2002 dated March 28, 2002 on Rahn gold, which states that golden rahn is permitted based on rahn principle (M. Fasabeni, 2015). Until now there is still an impression in society, if someone goes to a pawnshop to borrow some money by mortgaging the goods as if the life of the person has suffered. Another case if someone goes to a bank, there will be more prestigious look (Anshori, 2005: 1). Therefore, it is an opportunity for sharia banks to provide financing products in the form of gold mortgage. The practice of Islamic gold pawning has now become a part of products in various sharia banks. One of them is BNI Syariah Pontianak branch that has been run since several years ago and in the implementation of banking operations BNI Syariah is still paying attention to the aspects of sharia with supervised syariah supervisory board (DPS), as well as all BNI Syariah products have been through testing from DPS meet the rules of sharia. According to M. Fasabeni (2015), although the agreement has fulfilled the terms and conditions of gold mortgage as set by the DSN MUI fatwa number 25 / DSN-MUI / III / 2002 on rahn and fatwa DSN MUI number 26 / DSN-MUI

- Windy Indah Yulianda, SE, Sharia Banking Alumni, Faculty of Sharia and Islamic Economics, IAIN Pontianak, Indonesia, Email- windiindah@gmail.com
- Dr. Muhammad Syaifullah, SE.,M.Si, Lecturer of Faculty of Sharia and Islamic Economics of IAIN Pontianak, Indonesia Email-zeliq_ipul@yahoo.com

/ III / 2002 concerning the golden rahn. However, there are provisions that make the sharia banking is not in accordance with the MUI due to the agreement. Calculation of the computation cost of a computed place is equivalent to 2% of the loan value per month. Whereas in the general provision of the 4 fatwa number of DSN MUI number 25 / DSN-MUI / III / 2002 dated June 26, 2002 mentioned that the cost of maintenance and storage of marhun shall not be determined based on the loan amount. For that reason, the calculation of the cost of renting a place made by an Islamic bank by equalizing 2% of the loan debt value per month is contrary to the fatwa of the National Sharia Board of the Indonesian Ulama Council (DSN MUI) on rahn. The results of the initial survey that researchers do, researchers found interest in compliance with the National Sharia Board Fatwa the Indonesian Ulama Council about Rahn and Rahn Gold products arranged by the DSN MUI. First, large maintenance costs based on loan amount. Whereas in general terms number 4 fatwa DSN MUI number 25 / DSN-MUI / III / 2002 "The cost of maintaining and storing Marhun is not determined based on loan value". Moreover, the mortgage of sharia bank is essentially combining two contracts, namely qardh (debt) and ijara (sales service) contract. Customers who pawn their money will get a certain loan in accordance with the calculation of the bank, and then the customer must pay the cost of 'maintenance services' of gold as stipulated by the bank. Though combining the qardh and ijarah covenants contradicts the hadith of the Prophet sallallaahu 'alaihi wa sallam narrated from Amru bin Syu'aib that the Prophet forbade the merger between the contract of sale and the qardh contract (HR Ahmad, this hadad is declared hasan by Tirmizi).

2. Literature Review

Some research related to the research that is done among others 1) Nurharliansyah (2016) under the title "Analysis of the treatment of Pawn Accounting Syariah at PT.Bank Kalbar Syariah "; 2) Heny Hidayati (2016) entitled "Customer Response to Gold Pawn Practices in Perum Pegadaian Siantan Branch"; 3) Jancynthia Nurizki Wardhani, Sunan Fanani (2015) entitled "The suitability of gold pawning products based on the Fatwa of the National Sharia Board of the Indonesian Ulama Council (DSN-MUI) in the syariah bank of surabaya"; 4) Lina Aulia Rahman, Noven Suprayogi (2015) entitled "Analysis of accounting suitability of Islamic mortgage transaction with PSAK and Fatwa DSN MUI (case study of gold pawn practice in sharia pawnshop surabaya)". Comparison between four previous studies with research that researchers do different locations, different research methods and the authors have not found research with the same title as the title of previous research. This research is the development of science from the theories of the book and previous studies.

2.1 Pawn Sharia (Rahn)

Based on the notion of pledge put forward by the experts of Islamic Law above, it can be seen that the pawn (rahn) is to hold the collateral goods belonging to the borrower (rahin) as collateral or loan it receives, and the goods are economic value so that the holding (murtahin) is guaranteed to recover all or part of its debt from the mortgage if the mortgaged party can not repay the debt at the appointed time (Adrian Sutedi,

2011: 22; Khotibul Umam, 2016: 173; and Mardani, 2015: 246).

2.2 Sharia Pawn Law

2.2.1 Sharia Base

The legal basis on which sharia pawn is based is as follows:

1. The Qur'an

Surah Al-Baqarah (2) paragraph 283 which is used as a basis in developing the concept of pledge is as follows:

According to Kholid Syamhudi, in this verse even mentioned "on the way", but still shows the announcement. That is, well on the way. According to Shaykh Wahbah Zuhaili, rahn may be done either in safar state or not safar pursuant to agreement of ulama, except Mujahid and Zhahiri madhhab. This is because the determination of skill in the Sunnah. According to him the mention of "on the way" in this verse explains the general condition on the journey is usually no author. Still according to Shaykh Wahbah Zuhaili, it is not a requirement in the absence of kaatib (author), because of its absolute ability in As Sunnah. As for the argument of the Sunnah, from Aisha Rhadiyallaahu 'Anhaa: "Verily the Prophet SAW bought from a food Jew by debt, and pawned his armor" (Narrated by Bukhari). The scholars have agreed on the permissiveness of rahn when safar (journey), but still disagree about its permissibility if in a state of no safar. Shaykh Wahbah Zuhaili in his book Al-Fiqh Al Islamiy Wa Adillatuhuu said that rahn may be done either in a state of safar or in a state of no safar pursuant to agreement of ulama, except Mujahid and Zhahiriyyah. This is based on the truth as stated in the context of the above hadith. Al-Quran Al-Qashas Verses 26 The verses in Surah Al Baqarah and Al Qasas explain in muamalah muamalah based on ijarah agreement related to pawn sharia where mutual help in terms of rent hire either goods or services are not to blame (Hendi Suhendi, 2002: 107).

2. Hadith of the Prophet Muhammad SAW

Bukhari and others narrated from Aisha said "The Messenger of Allah once gave food from the Jews and he pawned him his armor" (Narrated by Bukhari and Muslim). From Anas ra said, Allah's Messenger (may peace be upon him) mortgaged his armor to a Jew in Medina and took from him grain for his family (Hr Bukhari, Ahmad, Nasa "i and Ibn Majah). From Abi Hurairah ra, the Messenger of Allah said, "When there is cattle mortgaged, then his back may be climbed (by the person receiving the pledge), because he has spent (keeping) it. If the livestock is pawned, then the milk of the swift milk may be drunk (by the one who receives the pledge, because he has incurred the cost of it.) To the person who rises and drinks, then he has to pay (his treatment) (Hr. Jamah except Muslims and Nasai).

1. Hadith of Prophet Muhammad (peace and blessings of Allaah be upon him) alaihi wa sallam

The second legal basis to be made a reference in making the formulation of sharia pawn is the hadith of the Prophet Muhammad SAW'Alaihi Wa salam which among others are disclosed as follows:

a. A'ishah Hadith ra, narrated by Imam Muslim, which means:

"In fact, the Prophet sallallahu 'alaihi wa salam bought food from a Jew by way of debt. And he pawned his clothes. (Hr. Al-Bukhori no.2513 and Muslim No. 1603)

b. Abu Hurairah, may Allah be pleased with him, reported that "lien should not be hidden from the owner who pawns for him the risks and the results". (HR. Asy Syafi'i and Ad-Daruquhni)

c. In another hadith from Abu Hurairah r.a the Prophet sallallahu 'alaihi wa salam, said "does not disappear a hock from the owner, profit and also his loss jura for him (owner)".

d. Likewise, scholars agreed to declare the disarmament of this ar-rahn in the state of safar (traveling) and still disputing his permissibility in a state of no safarkah except Mujahid, Ad-dahah, and David (az-Zahiri). Likewise Ibn Hazm.

2. Ijma 'Ulama

Jumhur scholars agree on the legal status of pawn status. This is based on the story of the Prophet Muhammad. who pawned his armor to get food from a Jew. The scholars also took the indication of the example of Prophet Muhammad SAW. when he turned from the usual transactions to the wealthy companions to a Jew, that it was no more than the attitude of the Holy Prophet. who does not want to incriminate the companions who are usually reluctant to take a change or the price given by the Prophet Muhammad. to them. Asy-Syafii says Allah does not make the law except with the goods with a clear criterion in the handover. If the criteria is not different from the original, then there shall be no decision. Maliki's school of thought, the obligatory lien with the contract. After the contract, the mortgaged person (Rahin) is forced to surrender the guarantee to be held by the one who holds the pledge (murtahin). If it is in the hands of the pledgeholder has the right to use, in contrast to the opinion of Imam Asy Shafi'i who said, the right to use is valid as long as it does not harm or endanger the pledge holders (Khotibul Umam, 2016: 174). In connection with the acquisition of this mortgage agreement, jumhur ulama are also allowed to and they never disagree with this opinion. jumhur ulama is of the opinion that it is prescribed at the time of not traveling or traveling, based on the Prophet's deeds in the above mentioned hadith (Abdul.G.A, 2007: 170).

3. Ijtihad Ulama

The pawn pledges taught in the Qur'an and al-Hadith are further developed by the fuqaha by ijithad, with the scholars' agreement that the mortgage is obtained and the scholars never contrast their abilities as well as the legal basis. However, a deeper review of how pawnshops should be based on legal grounds should be made. Asy-Shafi'i says Allah does not make the law except with the goods of clear criteria in the handover. If the criteria are not different (with the original), then there should be no decision. Mahzab Maliki argues, the obligatory lien with the contract (after the contract) the mortgaged person (rahn) forced to hand over borg (guarantee) to be held by those holding the hock (murtahin). If borg is in the hands of the holder (murtahin) the mortgaged person has the right to use, contrary to the opinion of Imam Ash-Shafi'i who said, the right to exploit is valid as long as it does not harm or harms the holder (Adrian S, 2011: 185).

2.2.2 Positive Law

In article 19 paragraph (1) letter q of Law Number 21 Year 2008 concerning sharia banking, it is said that the business activities of Sharia Commercial Bank are among other

activities which are commonly done in banking and in social sparring as long as it is not contrary to Sharia principles and in accordance with the provisions of the legislation. This provision is according to the opinion of the author to be the legal basis for Islamic banks to provide products based on the covenant rahn. Fatwa DSN MUI which is a positive law because of its existence in point by Law Number 21 Year 2008 about Islamic banking has also arranged Rahn (Khotibul Umam, 2016: 173).

1. Rukun and Terms of Sharia Pawn

a. Rukun Gadai Syariah

Pawn or loan with the guarantee of an object has several pillars, among others:

1. Ar-rahin (who pawned) is a person who has grown up, intelligent, trustworthy, and has goods to be pawned.
2. Al-murtahin (who receives the pledge) is a person, bank or institution trusted by rahin to obtain capital with the guarantee of goods (pawn).
3. Al-marhun (goods pawned) is goods used rahin to be guaranteed in obtaining some funds or debt.
4. Al-marhun bih (debt) is the amount of funds given murtahin to rahin on the basis of the amount of marhun estimate.
5. Sighat (ijab and qabul) is the agreement between rahin and murtahin in pawn transaction.

According to the cleric Hanafiyah rukun rahn is the consent and qabul of rahin and al-murtahin, as in other contracts. However, the contract in rahn will not be perfect before the delivery of goods (H.Rachmad Syafei, 2001: 162).

b. The requirements of the Sharia Pawn are as follows:

1. Rahin and Murtahin

The parties who enter into the covenant of rahn, that is rahin and murtahin must follow the conditions and the ability, that is sensible. Ability also means a person's feasibility to conduct ownership transactions.

2. Shighat

Sighat should not be bound by certain conditions and time to come. For example, a person who pawns his or her property requires a grace period of debt and the debt has not been paid, so that the sponsors can be extended one month of grace period. Unless the condition supports the smoothness of the contract it is permissible.

3. Marhun bih (debt)

- a. Must be a right that must be given or submitted to the owner.
- b. Allow utilization. When something becomes debt can not be used, then it is not legitimate.
- c. Must be quantified or countable. If it can not be measured, then the rahn is invalid.
- d. Marhun (goods)

1. The collateral must have economic value and can be utilized according to the provisions of Islamic Sharia, on the contrary.
2. Collateral that is not valuable and can not be utilized according to Islamic Shari'ah then can not be used as collateral.
3. The collateral must be sold and the value is equal to the size of the debt.
4. The collateral must be clear and certain (must be specified specified).
5. The collateral belongs to the debtor's legitimate.

6. The collateral is not bound by the rights of others. Such collateral, in contrast to collateral in conventional banking practices, credit collateral may belong to others.
7. The collateral must be a complete treasure, not in some places.
8. The collateral may be transferred to other parties, both the material and the benefits (Ismail, 2011: 211).

Menurt Sayyid Sabiq, that the new pawn is considered valid if it meets the four conditions that the person has grown, healthy minded, the mortgaged goods already existed during the pledge and mortgage items that can be handed or held by the pegadai. Goods or objects used as collateral can be in the form of gold, diamonds and other moving objects and can also be securities (letters, land, houses) (M.Ali H, 2013: 256).

1. Fatwa DSN MUI

Fatwa DSN-MUI No.25 / DSN-MUI / III / 2002 decided a fatwa on Rahn. Assign:

First: the Law

That loan by mortgaging goods as collateral for debt in the form of Rahn is permitted in accordance with the following provisions.

Second: General Terms

1. Murtahin (the recipient of goods) has the right to keep Marhun (goods) until all the debt of Rahin (who handed over the goods) is paid off.
2. Marhun and its benefits remain the property of Rahin. In principle, Marhun should not be exploited by Murtahin except with the permission of Rahin, by not reducing the value of Marhun and its utilization is just a substitute for maintenance and maintenance costs.
3. Maintenance and storage of Marhun is essentially an obligation of Rahin, but can also be done by Murtahin, while the cost and maintenance and storage remain the obligation of Rahin.
4. Maintenance and storage costs of Marhun shall not be determined based on the loan amount.
5. Sale of Marhun:
 - a. When it matures, Murtahin must warn Rahin to immediately pay off his debt.
 - b. If the rahin remains unable to pay its debts, then Marhun is forcibly sold verses are executed through auctions according to sharia.
 - c. Marhun's proceeds are used to pay off debt, unpaid storage and maintenance costs and sales costs.
 - d. The excess of the proceeds belongs to Rahin and his shortcomings become Rahin's duty.

Third: Closing Provisions

1. If either party does not fulfill its obligations or if there is a dispute between the two parties, the settlement shall be made through the Sharia Arbitration Board after it has not reached agreement through the deliberation.
2. This fatwa shall come into force on the date of stipulation. If there is any mistake in the future, it will be changed and refined accordingly. (National Sharia Board of MUI National Sharia Board-Indonesian Ulama Council).

The Fatwa DSN NO.26 / DSN / MUI / III / 2002 declared a fatwa on the golden rahn. Assign:

First:

- a. Rahn Gold is permitted on Rahn's principle (see Fatwa DSN number: 25 / DSN-MUI / III / 2002 on Rahn).
- b. Fees and the cost of storing goods (marhun) are borne by the pawns (rahin).
- c. The fare referred to in paragraph 2 shall be based on the expenses that are clearly required.
- d. The cost of storage of goods (marhun) is done based on ljarah agreement.

Second:

This fatwa is valid from the date of stipulation, provided that in the future there is a mistake, it will be modified and refined accordingly.

3. Research Methods

This research is a qualitative research, the type of research is fieldresearch as for the method used is descriptive method. Research Sites, at BNI Syariah in Pontianak City, West Kalimantan, Indonesia. Research data obtained through interview process. Data source is primary data, that is data obtained by through interview and observation in BNI Syariah. Secondary data, ie data reports and documents related to research. Teknik and Data Collection Tools, data collection through observation techniques, interviews, documentation and field notes. While the data collection tool is in the form of interview guides, tape recorders, notebooks and cameras for documentation. Data Analysis Techniques, namely reduction, data display and data verification and conclusion. Data Validity Examination Technique, is to conduct member check technique and triangulation.

4 DISCUSSION

4.1 Practical of Syariah Pawn (Rahn) in Fatwa of National Syariah Board-Indonesia Ulama Council

Practice of gold pledge in BNI Syariah can be quite good, it is stated based on interview result of researcher to some resource persons who work in BNI Syariah Pontianak for questions that refer to Fatwa DSN number: 25 / DSN MUI / III / 2002 about Rahn and Fatwa DSN number : 26 / DSN MUI / III / 2002 on Rahn Gold. First done by the customer is to come to the sharia bank by bringing the lien in the form of gold, after that the customer fill out the filing form and make the contract to the sharia bank. After all requirements are submitted to the bank, the bank will realize the submission and the customer will get the financing. The market with the minimum acceptable gold content is gold red and yellow gold and for maximum financing made is Rp250.000.000, - and this appraisal is done by the appraiser appointed by BNI sharia to handle the product rahn. According to the theory, that gold mortgage financing at BNI Syariah bank includes productive financing, which the bank provides financing as capital after the customer pawns his gold as collateral. The legal basis contained in the fatwa is less well known by the speakers. However, according to them, the practice of pawn in BNI Syariah is in accordance with the theory of sharia banking. They believe that every lien implementation in BNI Syariah is in accordance with the procedures and regulations applicable in Indonesia in general and Sharia Board in particular. So what has become the rule in the implementation of IB Hasanah's Pawn in BNI Syariah in accordance with the fatwa which is based on Al-Quran and Hadith. Another factor that is

believed by them that the implementation of Pawn in accordance with this fatwa is supported by the Sharia Supervisory Board in charge of overseeing all the functions of the Bank both in the product Collection, Fund Distribution and service in BNI Syariah so they are not worried about the system and prohibition the rules in the implementation of the Bank's function especially in the financing of IB Hasanah's gold payable in BNI Syariah. Based on the financing procedures performed BNI Syariah Branch Pontianak can be said that the filing of gold mortgage financing is not found things that are contrary to the provisions of sharia. The contract does not contain the wicked or vanity requirements as the bank requires that the guarantee goods be exploited indefinitely. The maximum amount of guarantee goods and the liquidation value of the mortgaged goods as well as the financing period shall be stipulated in the procedure. Terms and stages of procedures established by BNI Syariah in the application of gold mortgage financing is still in the category allowed by sharia. What the business manager's leaders do to the proposed financing and personal customer memorandum is a precautionary measure to be wary of customer negligence to receive the mandate given by BNI Syariah. So the bank does not bear the loss due to customer negligence. This is in accordance with the word of God An Nisa verse 58: Meaning: "Allah hath commanded you to deliver a message to the righteous to receive it, and (enjoin you) when establishing the law among men so that ye may judge equitably. Verily, Allāh teacheth thee best for you. Allah is the Hearer, the Seer. BNI Syariah action in making a contract agreement with the customer (including negotiation of loan amount, ijara rate, administration fee, and obligation right of customer indicates that the financing contract is done based on the principle of agreement and pleasure between the two sides. This is in accordance with the word of Allah, the letter An-Nisa verse 29, namely: It means: "O ye who believe! Let not one another eat the treasure of your neighbor in a vanity way, save by the way of commerce which applies equally to you. And do not kill yourself; Allah is Most Merciful to you. "In practice, BNI Syariah has its own policy related to the submission form. When the customer will apply for the financing, the bank does not provide a financing application form. However, the purpose of the use of borrowed funds by customers is directly included in the Letter of Evidence of Gold Pawn (SBGE) through an interview conducted by the bank to the customer. BNI Syariah Branch Pontianak has its own reasons, namely for the process of financing proposal becomes more practical, so that it can make the time. Financing repayment transaction, the customer completes the financing within the contract period by paying all the financing obligations in accordance with the agreed contract. Customer goes to Customer Service pawn with receipt of goods. Then the cost of maintenance and maintenance that must be paid by the customer is calculated by Customer Service pledge for the next customer made deposit deposit fee deposit. Furthermore, customers go to the teller to make repayment by bringing deposit payment slip. Then the customer returns to the customer service pawn by showing evidence of repayment from the teller. The evidence is shown to the business manager's leader to take the collateral. With the settlement of obligations by the customer, the guarantee goods are returned to the customer. Based on the explanation, the process undertaken by BNI Syariah branch of Pontianak is still within the permitted limit of sharia. Gold mortgage financing can be given at most

Rp250,000,000.00 with a term of financing of a maximum of 4 months and can be extended 2 times. The restriction is due to gold pledge belonging to the category of micro financing. In addition, such restrictions prevented the veiled investment practices by using gold mortgage products. The gold pawning extension transaction in BNI Syariah Branch Pontianak is done by giving first offer to the customer at maturity. This is done as one of the steps to provide convenience to the customer if when experiencing financial difficulties, namely by giving time leeway. The procedure for extending the financing is basically the same as the new gold mortgage financing process, ie through the process of reassessing the guarantee goods. In addition to paying custody and maintenance fees, customers also have to pay stamp duty and administration by using ijarah contract. This Agreement is required as a new contract. So the financing period begins since the signing of the new contract. In the event of an estimated increase, the cost of care and maintenance of the guarantee goods is adjusted. Based on this implicitly the Fatwa DSN MUI allows customers to request additional financing facilities. It is permissible if the estimate is derived from the customer's guarantee goods concerned by through the process of reconsideration in the process of extending the mortgage of gold. Therefore, rāhin or customers are entitled to the value of the new estimates. Sale of guarantee goods is done in case of wanprestasi from customer side. This happens when the customer does not keep the time specified from the bank. In addition, customers also do not provide certainty will pay off or want to extend the loan. That's because the loan is a right that must be returned to the bank and can be paid off with the mortgaged goods. Sale of guarantee goods in BNI Syariah Branch Pontianak done by giving additional time for 14 days after maturity. During the 14 day span, BNI Syariah carried out cooperative and persuasive action, that is by contacting customers as often as possible. It aims to get information related to customer conditions. In the event of an additional time limit, the customer will not give any decision to pay or extend the contract, then the collateral will be sold through the auction mechanism openly or sold "by hand". By the appraiser in this matter, Customer Service pledge makes a return notice to the customer whose collateral has matured. Notice shall be made within 5 days prior to the date of sale by mail or by telephone. The gold pledge agreement other than based on the covenant of rahn, also akad ijārah. Maintenance fees are paid by customers. Akad ijārah is the cost given to the sharia bank as the party who has kept and keep the collateral until the collateral is returned to the customer. It is allowed according to the shari'a, namely through the Fatwa DSN MUI. In addition, the determination of the ijarah tariff based on the weight of the guarantee goods is related to the level of risk borne by BNI Syariah with the purpose of maintaining customer guarantee goods. In the event of any loss of gold within the scope of bank liability. Gold with a larger weight has a greater risk than the others. Therefore, the consideration of the level of risk is also the basis for setting ijara rates for customers. In general, IB Hasanah's gold pawn practice at BNI Syariah Branch Pontianak has been in accordance with the decree of Fatwa DSN MUI. The model of the financing scheme executed by BNI Syariah Branch of Pontianak has fulfilled the requirements and the golden pawning arrangement.

4.2 Suitability of financing products in BNI Syariah with Fatwa DSN 25 / DSN-MUI / III / 2002 and Fatwa DSN 26 / DSN-MUI / III / 2002 Regarding Sharia Gold Pawn.

From the results of interviews with researchers BNI Syariah Branch Pontianak regarding the implementation of IB Hasanah gold pawn financing obtained data that BNI Syariah is in accordance with the provisions stipulated by the fatwa DSN-MUI Number: 25 / DSN-MUI / III / 2002 and 26 / DSN-MUI / III / 2002 on the pawn of sharia gold, which is based on the following:

Fatwa DSN MUI Number: 25 / DSN-MUI / III / 2002

1. Murtahin (the recipient of goods) has the right to keep Marhun (goods) until all the debt of Rahin (who handed over the goods) is paid off.

In this case, the Bank has the right to withhold the goods being pawned. Stolen goods will be deposited by the bank and not used or utilized by anyone, because the goods become the customer's guarantee of the loan provided by the bank and can be taken by the customer at any time if the customer has returned the loan within the agreed timeframe. If the loan can be repaid, the item will be returned to the customer, but if it is due but the customer can not repay the debt, the bank has the right to auction or sell the goods in lieu of the unpaid loan. Thus, at this stage, the BNI Syariah Branch of Pontianak has complied with the provisions of the DSN MUI Decree Number 25 / DSN-MUI / III / 2002 on Rahn stating that "Murtahin (the recipient of goods) has the right to keep Marhun (goods) until all of Rahin's debt who handed over the goods) paid off."

2. Marhun and its benefits remain the property of Rahin. In principle, Marhun should not be exploited by Murtahin except with the permission of Rahin, by not reducing the value of Marhun and its utilization is just a substitute for maintenance and maintenance costs. The mortgaged goods remain the property of the customer and may not be utilized by any party and will be returned to the customer if within the agreed term the loan can be repaid. Similarly in the process of extension, if the new estimates, greater than the old estimates and new financing are greater than the previous amount of financing from the difference in the estimated increase of the collateral with the total amount of financing (ancillary additional gold financing and additional) a maximum of Rp250,000,000.00 then the demand procedure additional financing is treated the same as the new gold rahn financing by going through the process of reassessing the guarantee goods. Thus, at this stage, the BNI Syariah Branch of Pontianak has complied with the provisions of the DSN MUI Decree Number 25 / DSN-MUI / III / 2002 on Rahn stating that "marhūn and its benefits remain the property of rāhin."

3. Maintenance and storage of Marhun is essentially an obligation of Rahin, but can also be done by Murtahin, while the cost and maintenance and storage remain the obligation of Rahin.

Operational cost of IB Hasanah's gold payable at BNI Syariah is borne by customers who will pawn gold. Operational costs such as paper costs, print out costs and others. The fees to be charged are as follows:

- a. Administration: Rp10.000, -
- b. Stamp Fee: 2 x @ Rp6.000, -
- c. Cash fee: 0.04% of the estimated value per month (calculated per day)

d. Closing fee: Rp15.000, - (paid while taking gold).

Suppose the estimated mortgage is \$ 1,000,000, - then the daycare fee is: $0.04\% \times 10 \text{ days} \times \text{Rp}10,000,000, - = \text{Rp}40,000, -$ (payable on loan repayment or renewal). Administrative costs and stamp duty are paid during the contracting process, while the cost of care and maintenance is paid at maturity. This explains that the BNI Syariah Branch of Pontianak has been in accordance with the provisions of the DSN MUI Decree Number 25 / DSN-MUI / III / 2002 on Rahn stating that "Maintenance and storage of Marhun is essentially an obligation of Rahin, but can be done also by Murtahin, while the cost and maintenance and storage remain the obligation of Rahin. Maintenance and storage costs of Marhun shall not be determined based on the loan amount. The determination of tariffs and maintenance fees is determined by the value of the loan as well as the estimated gold. As it is known that in the application of Fatwa DSN MUI No: 25 / DSN-MUI / III / 2002 has not fulfilled the gold mortgage agreement. Maintenance and storage costs of Marhun shall not be determined based on the loan amount. The market with the minimum acceptable gold content is gold red and yellow gold and for a maximum of Rp250,000,000, and this appraisal is done by the appraiser appointed by BNI Syariah to handle the rahn product. Sharia financial institution is allowed to charge the rental fee according to the contract of ijārah kapada customer with the amount agreed by both parties. Thus, BNI Syariah Branch Pontianak has not fulfilled the gold pawn contract, in accordance with the Fatwa DSN MUI Number 25 / DSN-MUI / III / 2002 concerning rahn which states the amount of "maintenance and storage of marhūn should not be determined based on loan amount."

1. Sales Marhun:

a. When it matures, Murtahin must warn Rahin to immediately pay off his debt. Gold pawn time of BNI Syariah up to 4 months. If the customer has not been able to repay the loan within the period specified in the contract, the customer may apply for the extension of the Islamic mortgage payable by paying the maintenance fee and installment of the financing and signing a new contract in BNI Syariah. The extension applies only to debtors who can not redeem, and the bank must be able to prove the inability of the customer by giving a policy of two extensions for the mortgage of sharia gold. The gold pawning extension transaction in BNI Syariah Branch Pontianak is done by giving first offer to the customer at maturity. This is done as one of the steps to provide convenience to the customer if when experiencing financial difficulties, namely by giving time leeway. The extension of financing is done the same as the treatment of new financing, ie by re-estimating. If there is an estimated increase then the cost of custody adjusts to the new estimates. If the new estimates are larger than the old amount and so is the amount of financing, customers can request additional financing from the difference between the old and new financing. However, when the date is close to the due date but the customer has not paid the loan or applied for the extension, the bank will issue a warning to the customer by contacting the customer through a written message or telephone through contact and customer's address in order to quickly repay the loan before the agreed date.

- b. If the womb remains unable to pay its debts, then Marhun is forcibly sold or executed through an auction based on sharia. If the customer remains unable to repay the loan, then the bank will hold an auction against the guarantee goods. Procedures for sale of collateral goods carried out by BNI Syariah branch of Pontianak have complied with the provisions of Fatwa DSN MUI Number 25 / DSN-MUI / III / 2002, namely Rahn paragraph 5 point a and b stating that, "When maturahin murtahin must warn rāhin for immediately pay off the debt. If rāhin remains unable to pay its debts, then marhūn is forcibly sold or executed through auctions by sharia".
- c. Marhun's proceeds are used to pay off debt, unpaid storage and maintenance costs and sales costs. In the event of auction, the company conducts the auction of goods holder which becomes the guarantee goods if the customer can not pay its obligation until the deadline specified in the contract. The auction is done by the company after notifying the customer before the sale of the mortgaged goods. In the auction provisions, the bank may only conduct a limited auction, which is only selecting some buyers. This is because, the price of the offer to be made by many buyers can harm the womb. The auction or sale is done by the bank as the executor of the mortgage. The auction proceeds will be used for a 1% selling cost of the sale price, borrowing costs, and the rest returned to the womb. The proceeds from the auction of the customer's pawnshop are allocated to the debt and accounts receivable. But if there is an excess of the auction results, the excess will be returned to the customer.
- a. The excess of the proceeds belongs to Rahin and his shortcomings become Rahin's duty. The proceeds from the auction of the customer's pawnshop are allocated to the debt and accounts receivable. But if there is an excess of the auction results, the excess will be returned to the customer. The sale of collateral goods is carried out through the auction mechanism openly or sold under the hands. Related functions are the operational leaders, auction committee, and tellers. The forms used include Financing Proposal Memorandum (MPP), Minutes (BA), and Credit Memorandum (NK). The Head of Operations Section establishes the auction committee. The chief operating officer issues a warranty that has past its due date for re-appraisal. The new assessment results are written on the MPP. The sale of collateral goods is carried out by the auction committee. Sales proceeds are included in the form of Minutes which are then submitted to the teller for data input. If any excess of the proceeds of sale will be returned by way of transfer to customer's account. Thus the provisions on rahn contained in the Fatwa DSN MUI Number 25 / DSN-MUI / III / 2002 paragraph 5 points c and d are also in accordance with the practice of pledge in BNI Syariah. Fatwa DSN MUI Number: 26 / DSN-MUI / III / 2002
- a. Gold paw is permitted on the principle of rahn. The gold assurance on pawn products in Islamic banks is a harmonious and absolute requirement in financing. It is also prescribed in the Qur'an, the letter of Al-Baqarah verse 283: In that verse, the Qur'an commands the people to pay off their debt bills and if necessary ask for a guarantee on the debt. Guarantee for the debt is one way to ensure that the rights of the receivable (bank) will not be lost. In addition it aims to avoid themselves from things "eat the treasures of people in vanity". So the guarantee can serve as a supporter of bank confidence in the ability of customers to pay off the financing in accordance with the promised. In lien processing in BNI Syariah first done by the customer is coming to BNI Syariah by bringing the lien of gold which will become the customer's guarantee to the bank on the loan to be given BNI Syariah. After that the customer fills out the form. After all the requirements are met and submitted to the bank, the bank will realize the submission and the customer will get the financing. The market with the minimum acceptable gold content is gold red and yellow gold and for maximum financing made is Rp250.000.000, - and this appraisal is done by the appraiser appointed by BNI sharia to handle the product rahn. After the contract is done, the customer must sign the contract of rahn and ijarah in the Letter of Evidence Rahn (SBR) or Rahn certificate. Gold Pawn Products has a fatwa foundation that is Fatwa DSN MUI number 26 / DSN-MUI / III / 2002 dated March 28, 2002 about Rahn Gold. In the fatwa it is stated that Rahn Gold applied at least refers to the Fatwa DSN-MUI about Akad Rahn and Ijarah.
- b. Fees and the cost of storing goods (marhun) are borne by the mortgagor (rahn) BNI Syariah provides liabilities to customers, including administrative costs, day care and maintenance, closing and stamp duty. As for the cost of insurance is not charged separately, but storage and maintenance costs are included in the cost of insurance that is the customer's liability. Stamp duty is used for binding on the financing contract, which is the binding of rights and obligations of both parties. So it has a strong basis in the eyes of law in case of disputes between the two parties. Administrative costs and stamp duty are paid during the contracting process, while maintenance and care fees are paid at maturity.
- a. The amount of storage costs is based on the actual expenditure required. Maintenance fees are paid by customers using the ijarah contract. It is allowed according to the shari'a, namely through the Fatwa DSN MUI. In addition, the determination of the rate of ujarah based on the collateral weight is related to the level of risk borne by BNI Syariah with the purpose of maintaining the collateral of the customers. In the event of any loss of gold within the scope of bank liability. Gold with a greater weight has a greater risk compared with others. Therefore, the consideration of the level of risk is also the basis of setting the tariff for the customer care. The daycare fee is 0.04% of the estimated value per month (calculated per day). Suppose that the estimated mortgage amount is Rp10,000,000, - then the daycare fee is: $0.04\% \times 10 \text{ days} \times \text{Rp}10,000,000, - = \text{Rp}40,000, -$ (payable on loan repayment or renewal).
- b. The cost of storage of goods (marhun) is done based on ijarah agreement, that is, the customer must pay the rent or wage fee according to the provisions in the bank. The gold pledge agreement other than based on the covenant of rahn, also akad ijarah. The implementation of the ijarah agreement means that the customer provides a fee as compensation for the deposit service at BNI Syariah which will be paid when the customer repay or extend the loan. In order to avoid usury in ijarah transactions, the cost of savings and

operational services of customers is real, clear and definite, and limited to the things that are absolutely necessary for the occurrence of transactions and no additional costs are not mentioned in the contract. Such operational costs are such as administrative costs (paper and print out), stamp duty, custodial fees, closing costs and maintenance costs based on ijarah agreement. The explanation and provisions of pawning according to sharia still refer to the National Sharia Board Fatwa- Indonesia Ulama Council, Number 25 / DSN-MUI / III / 2002 on Rahn, Fatwa of the National Sharia Board - Indonesia Ulama Council, Number 26 / DSN-MUI / III / 2002 concerning Rahn gold The sharia compliance is further strengthened by the provisions stipulated by Bank Indonesia concerning Sharia Commercial Bank products. sharia compliance BNI Syariah Branch Pontianak in the process of gold mortgage financing include financing transaction transactions, repayment process, extension of financing and sale of collateral goods. Thus, the financing product in BNI Syariah has been in accordance with the decree of Fatwa DSN MUI Indonesia Number 25 / DSN-MUI / III / 2002 on Rahn, Fatwa of National Sharia Board Fatwa- Indonesia Ulama Council Number 26 / DSN-MUI / III / 2002 on Rahn Gold .

Implementation of the Fatwa Indonesia Ulama Council against Financing of Gold Pawn Services

The result of interpretation of data obtained from the BNI Syariah stated that the fatwa of Indonesia Ulama Council DSN-MUI 25-26 / DSN-MUI / IV / 2002 regarding Gold Pawn several points have been applied in the implementation of IB Hasanah Gold Pawn Financing Services and some are not yet executed by BNI Syariah. This can be seen from the comparison of MUI Fatwa on Gold Pawn on the implementation of the financing of gold mortgage services in BNI Syariah as follows: Based on the above table regarding the comparison of Indonesia Ulama Council of DSN-MUI 25-26 / DSN-MUI / III / 2002 regarding Gold Pawn on the implementation of gold mortgage financing in BNI Syariah declared that the fatwa of DSN-MUI 25-26 / DSN-MUI / III / 2002 on gold pawn has been applied only one point that has not been applied in the implementation of IB Hasanah gold pawn services BNI Syariah Branch Pontianak. BNI Syariah party is still required to place the financing in accordance with the corridor considering the Bank is a sharia financial institution that has a legal source or legal basis of Muslims who have been tested the truth of the Koran and Hadith.

5. CONCLUSION

Based on the description that has been mentioned above, the researchers draw conclusions are as

follows:

1. Practice of gold pawn in BNI Syariah can be quite good, it is stated based on interview result of researcher to some resource persons who work in BNI Syariah Branch Pontianak for questions that refer to Fatwa DSN number: 25 / DSN MUI / III / 2002 about Rahn and Fatwa DSN number: 26 / DSN MUI / III / 2002 on Rahn Gold. First done by the customer is to come to the sharia bank by bringing the lien in the form of gold, after that the customer fill out the filing form and make the contract to the sharia

bank. After all requirements are submitted to the bank, the bank will realize the submission and the customer will get the financing.

2. Maintenance and storage costs of Marhun shall not be determined based on the loan amount. The determination of tariffs and maintenance fees is determined by the value of the loan as well as the estimated gold. As it is known that in the application of Fatwa DSN MUI No: 25 / DSN-MUI / III / 2002 has not fulfilled the gold mortgage agreement.

SUGGESTION

1. Researchers suggest that Islamic gold pawn products in BNI Syariah should be reviewed especially in the cost of care and maintenance. Although it has been supported by the fatwa DSN MUI, but researchers feel the provisions applied by BNI Syariah is still not fully sharia. BNI Syariah should only charge custody and maintenance fees to customers based on the estimated gold value only.
2. PT. Bank BNI Syariah branch of Pontianak should:
 - a. Can continue to improve product quality to make it more attractive and innovative as possible so that customers are interested to use it.
 - b. Can continue to pay attention to the problem of determining the financing in order to have a big influence there are customer decisions using iB Hasanah financing products.
3. Related to the provisions of hocking goods, the researcher recommends that certificate or proof of ownership is included in the provisions of the customer's hocking goods. this is important in terms of halal or haram goods that are mortgaged. Wallahu in bissawab
4. Researchers realize that this research still has shortcomings and weakness caused by data obtained only from BNI Syariah branch of Pontianak only, does not reflect the performance of BNI Syariah as a whole. But with this limitation, the researcher hopes to inspire other researchers to do more research continued at the head office of BNI Syariah in Indonesia.

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