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FIQH'S REVIEW OF SHARIA CARD PRACTICES

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ABSTRACT

This research aims to review in depth about sharia cards both in terms offiqh rules and practices. This research uses descriptive analysis methodology combined with literature research strategy. Based onthe research results, it isstatedthat the birth of sharia cards or known as sharia credit cards is a reaction to the utilization of information and technological advances by banks. As an Islamic- flagged product, sharia cards must comply with fiqh regulations in practice. The use ofsharia cardsis basically allowed but there are stillsome conditions that causeit to become haram, in this case it can arise due to operational errors of an institution that violates sharia principles that have been regulated in Islamic law

Keywords: Fiqh, Sharia Banking, Sharia Card

INTRODUCTION

Talking about the advancement of digital technology, especially in the banking sector, the concept of money in it has undergone a significant transformation in a more advanced direction. This transformation effort aims to answer the needs of the community that have not been fully met, so in this case a new facility is presented, namely with a credit card that can be used to achieve this goal. Both banks and financial institutions provide credit cards so that people who use them can make purchases without using cash (Alfian, Mubarok, & Brilliano, 2021). With the presence of credit cards, people do not need to carry a lot of cash, just bring a card. Credit cards also have the size of an Identity Card (KTP) so they are practically taken wherever you want to go. In addition, having a credit card can minimize the occurrence of criminal acts, because if you bring a lot of cash can bring risks or dangers, such as the possibility of theft, robbery or theft.

Credit cards are a popular form of payment because they are considered safer and useful with a wide variety of features. This is especially true in metropolitan areas that have a lot of public spaces and community services, such as hotels, cafes, and so on. As a modern means of payment, to use it, we simply swipe the credit card in a special tool provided to debit the desired transaction value (Fatoni, 2022). Given the rapid flow of development and dynamics of financial institutions, ease of transactions has become a fundamental need to support human activities. The development of credit cards in conventional banking was also followed by the birth of sharia cards as an innovation in Islamic banking. With the emergence of sharia cards that follow sharia principles, it is known as "Bithaqah al-Iqrad" or a better known term, namely "Sharia Card".

The emergence of the Sharia Card is not only useful for gaining market share but also serves as a means of facilitating financial transactions in accordance with Sharia principles, enabling the Muslim community to collaborate and utilize it efficiently. The emergence of the sharia card from an institution that waves the Islamic flag is certainly inseparable from the attention of Islamic jurisprudence, especially in its financial jurisprudence, both concerning its contracts and its operational models in practice. Therefore, based on the above explanation, this writing aims to conduct an in-depth review of the sharia card, both in terms of fiqh legal rules and its practical implementation.

LITERATURE REVIEW

Sharia Card Concept

Credit cards based on language are distinguished from two words, namely bithaqah (card) used for small pieces of paper or other materials that have writing to explain the piece of paper. Meanwhile, the word I'timaniyyah means mutual trust and security. In the business world, the term often refers to loans that have a deferred repayment schedule. In terminology, this is described as a credit card issued by banks and other similar institutions that can be used for its users to purchase certain commodities, products, and services on debt (Kristianti, 2014).

Basically, a sharia card is a product issued by an Islamic bank that has the same role as credit cards provided by conventional banks. However, if in fiqh muamalah sharia card is called Bithaqah I'timan, which provides the right to cash and as a means of payment on credit for the purchase of goods or services to other people who meet certain requirements, of course it must be in accordance with the applicable sharia credit limit requirements. The requirements for the sharia credit limit have certainly been determined and decided by the bank or card issuer manager.

Generally, deposit deposits or other types of savings are not required for sharia card holders. If prospective customers (credit card holders) are not sure of their financial stability, the bank often asks for deposits that must be supported by payslips. This reduces the likelihood of Credit card users cannot make payments, therefore the bank will take money from the customer's savings to cover the balance. This is done by banks to minimize the risk of their customers' ability to pay. Then if the customer is unable to pay the bill, the use of a credit card is automatically considered financing. In this case, the financing process will run in accordance with the financing contract that has been made with the customer (Lisman & Jamilah, 2020).

Rules on Sharia Card Restrictions

Experts in the field of economics and finance agree on credit cards, they state that credit cards are a type of credit (debt) issued by banks to cover the price (pay fees) of goods or services purchased by cardholders from merchants that accept the card or provide cash loans that can be used by cardholders to withdraw cash from ATMs that accept the card. In this case, Daud Bakar, who is a professor at IIUM Malaysia, also has a view on credit cards, he said that debit cards are a more acceptable expression because in Islam they do not recognize credit cards. According to him, credit cards are based on the analogy that if you use the card, it is the same as encouraging or encouraging someone to go into debt, therefore he doubts the sharia contained in it.

Basically, Islam does not encourage someone to be in debt, this alludes to a number of hadiths explained by Bukhari that a person who has debt generally lies and never is faithful to his commitment (promise). Therefore, the Prophet PBUH asked (prayed) so that he would not be in debt (Fathoni, 2022). However, Islam recommends that those who are struggling to pay off their obligations (debts) should be given a penalty in paying them. This is explained in a postulate, Allah says in Surah Al-Baqarah: 280 "And if (the debtor) is in difficulty, then give him a grace period until he has a free time. And if you give alms, it's better for you, if you know."

Therefore, any type of contract used during a credit card transaction still encourages someone to take the risk of debt. This is the reason behind why sharia does not approve credit cards. However, in addition, the legal fatwa issued by the MUI regarding the permissibility of sharia cards is contained in the DSN-MUI fatwa which discusses related to sharia cards. According to DSN MUI, basically sharia cards are allowed according to sharia law as long as they do not operate in the riba system, meaning that interest is imposed if the repayment of obligations to the guarantor has passed the stipulated payment date (arrears).

The sharia card contains provisions (Dhawabith wa Hudud) regarding the limits that must not be violated by its users. Based on the DSN-MUI Fatwa No.54/DSN MUI/2006, there are several provisions that limit the use of sharia cards, including (Rifa'i, 2018):

1. Do not give rise to usury.
2. Not used in transactions involving haram or immoral objects.
3. Not empowering israf (waste), among others by setting spending limits. 4. Does not incur debts that cannot be repaid.
5. The primary cardholder must have the financial ability to settle the payment on time. 6. Card issuers are prohibited from offering facilities that are contrary to sharia.

The issuance of this fatwa is because DSN MUI considers the conditions of security, convenience, and the level of public comfort when transacting or withdrawing cash. Therefore, Islamic banks are considered necessary to offer products such as credit cards, especially in terms of providing cards as a means of payment that can be used for cash purchases and withdrawals, provided that the card issuer first pays the cardholder's outstanding balance. The cardholder is then obliged to pay off the payment in installments at the agreed time. The fact that credit cards currently still have interest rates which means that they are contrary to sharia principles and do not meet the customer's desire for sharia cards is another factor that needs to be considered in this case. For this reason, DSN MUI considers it important to issue a sharia card fatwa whose ability is similar to a credit card to be used as a reference (Fathoni, 2022).

RESEARCH METHOD

The methodology in this study uses descriptive analysis, combined with literature research strategies. Researchers collected data from reading literature references obtained from journals, articles, websites, books, and other sources that support and relate to the information needed in this study. The focus of this study is to study the sharia card and matters related to it. Furthermore, this research will also discuss more deeply related to the practice of sharia cards and contracts related to their use.

RESULTS AND DISCUSSION

Sharia Card Usage Fee

There are several Islamic banks, especially in Indonesia, that have issued sharia cards, such as those issued by Bank Danamon in collaboration with Master Card to issue Dirham Card. Thus, in addition to the limitations stipulated in the sharia card, there are also provisions that can take fees and Ta'widh (fines) in the use of sharia cards, which are as follows (Hardiansyah, 2021):

1. Membership fee and Ta'widh

It is a fee whose payment depends on the agreement, including authorizing the cardholder to use the card in exchange for an extension of the term of its membership. By giving permission to the cardholder to take advantage of the card's features, including the extension of the membership period (ujrah), the card issuer is entitled to receive membership payments (rusum al-'udhwiyah) from the cardholder.

2. Merchant fee

Regarding transactions, when the card is accepted as payment (ujrah) for intermediary services (samsarah), marketing (taswiq), and billing (tahsil al-dayn), the merchant will give the fee to the card issuer. So, the fee is taken from the deduction of the price of the object of purchase of goods or services paid to the card issuer as compensation for actions as an intermediary (samsarah), marketing (taswiq), and billing (tahsil al-dayn).

3. Kafalah Fee

The cardholder can pay a fee to the card issuer for the provision of Kafalah. So, kafalah fees are allowed.

4. Cash withdrawal fee

This is the fee for using the cash withdrawal facility (rusum sahb al-nuqud), as payment for services and use of facilities, the card issuer can collect a cash withdrawal fee (rusum sahb al-nuqud) whose amount does not depend on the withdrawal amount.

5. And all forms of fees listed above must be set in full and permanently at the time of the contract, except for merchant fees.

Ta'widh and Fines on Sharia Card

Ta'widh is the payment of fees (compensation), where this fee is incurred by the card issuer due to the cardholder's failure to pay obligations that have matured. In this situation, the card issuer has the right to charge ta'widh to the cardholder, with the amount of compensation fee determined based on the actual loss that will inevitably occur during the transaction (fixed fee). Therefore, a loss (posible loss) due to the loss of an opportunity or al-furshah al-dhoi'ah is not something that is anticipated to occur.

In contrast to ta'widh, if the late charge is a late charge, the card issuer can apply sanctions (fines) for late payment of obligations. The funds obtained from this fine are fully recognized as funds social (Purnamasari, 2012).

Contract on the Use of Shariah Card

A number of Islamic banks have introduced sharia card product offerings. In practice, banks offer sharia card products to their customers based on the law of agreement or contract. For this reason, in the fiqh survey, there are three contracts that are the basis for the use of sharia cards, qardh (debt), kafalah (guarantee) and ijarah (services). The explanation is as follows:

1. Qardh Contract

Qard is a masdar form of qaradha-yaqridhuhu which means to decide. According to fiqh, Qard means giving someone an item or money to use and the person will hand over the same replacement according to the item he has used (Lisman & Jamilah, 2020). So, a Qardh contract is a loan agreement where an Islamic financial institution lends money to a certain customer, provided that the customer returns the money to the institution within a mutually agreed period of time. This is in accordance with what is listed in the Glossary dictionary

Sharia Finance and Banking, Bank Indonesia explains that Qardh (loan) is an agreement that guarantees the condition that the person receiving the loan is obliged to return the amount of money he received (Alfian, Mubarok, & Brilliano, 2021). This is explained in a postulate, Allah SWT says in Surah al-Baqarah 2: 245. "Whoever wants to lend to Allah, a good loan, Allah will multiply the payment to him by a large amount. And Allah narrowed and opened (sustenance) and to Him you were returned."

An illustration in the case of qardh is, when person A hands over money to person B in the amount of 12,000,000 to be used according to his needs, then he is obliged to return the same amount of 12,000,000. Likewise, if person A submits an item, for example a mobile phone with android specifications, then person A must also receive the return of the phone with the same specifications, namely android instead of IOS. So, this also applies to other requirements that are exactly the same and exact between what is given and what is received (Lisman & Jamilah, 2020).

Then the practice of the Qardh contract in Islamic banking, especially in the practice of Sharia Card, where the Bank gives the customer a certain amount of money that will later be paid or the Bank makes a payment for the customer's obligation to pay for the purchase of goods or services first and then the bank will collect the debt from the customer after the due date. (Sahil, 2020).

2. Kafalah Contract

Sharia cards also have a kafalah contract in them. It is stated that fulan wa kafalatan, meaning fulan is really guaranteed. Revealed by Ibn al-'Arabi the meaning of kafil, dhamin, and dhamin mean exactly the same, namely the person who guarantees. In terms of terminology, a kafalah contract is a guarantee contract given by the insurer (kafil) to a third party to carry out guaranteed obligations (makful'anhu) or a second party. Thus, the purpose of kafalah is to guarantee that the dependents of the person are guaranteed in exercising their mandatory rights both now and in the future (Lisman & Jamilah, 2020). Meanwhile, according to the Indonesia Banker Institute, the kafalah contract in question is a guarantee contract offered by the guarantor (kafil) to a third party to fulfill the obligations received in the event of a default by the insured. Then this is explained in a postulate, Allah SWT says in the letter Yusuf 12:72. "The callers said: We have lost the king's cup, and whoever can return it will get food (as heavy) as a camel's load, and I guarantee against it."

Then the practice of kafalah contracts in sharia cards, namely the bank that issues the card guarantees the merchant that the bank will be obliged to pay for the products or services consumed by the cardholder. Thus, for the guarantee services provided by the card-issuing bank, the cardholder provides a fee to the card-issuing bank. The National Sharia Council allows rewards for kafalah services in the following fatwas (Fatoni, 2022):

1. Fatwa NO: 11/DSN-MUI/IV/200 concerning kafalah which states the general provision of kafalah is that the guarantor can receive a reward (fee) as long as it is not burdensome.
2. Fatwa NO: 54/DSN-MUI/X/2006 related to sharia card states that the contract used in sharia card is kafalah, In this scenario, the card issuer acts as a guarantor (kafil) of the cardholder against the merchant for all payment obligations (dayn) arising from transactions between the cardholder and the merchant as well as cash withdrawals from ATMs and banks other than the card-issuing bank. Therefore, the card issuer may be charged a fee (ujrah kafalah) for the provision of this kafalah.
3. Fatwa NO: 57/DSN-MUI/V/2007 concerning letter of credit (L/C) with the kafalah bil ujrah contract which reads L/C of the kafalah bil ujrah contract is an export and import trade transaction of goods using LKS services based on the kafalah contract, and for these services LKS receives a fee (ujrah).

The three DSN fatwas allow to obtain ujrah (fee) for kafalah services. However, this is still very controversial because there is not a single Madzhab scholar who supports the giving of ujrah.

3. Akad Ijarah

The root of the word Ijarah comes from ijara-ya'juru, which means to be paid for a job and Al ijarah which comes from the word al-ajru means replacement. Thus, Ijarah is a lease agreement made by the owner of the rental object (Ma'jur) with Musta'jir (who rents) to get payment or reward for the rented object. In the dictionary of Islamic finance and banking terms, Ijarah is interpreted as an agreement to transfer the right to use (benefit) a good or service for a certain period of time by paying a certain amount of rental fees, without being followed by a transfer of ownership of the goods themselves (Alfian, Mubarok, & Brilliano, 2021). This is explained in a postulate, Allah says in Surah Ath-thalaq 65:6. ",,,Then if they nurse you (children) for you, give them their wages, and judge among you well; And if you find it difficult then another woman can breastfeed (the child) for her."

The practice of the ijarah contract on a sharia card is when the bank that issues the sharia card gets a fee from the merchant (merchat) for a fee of each cardholder using his card to purchase goods or services. The amount of the fee is usually around 2-5% of the price of the object being sold. Fees can be given as a reward (ujrah) for marketing, billing, and intermediary services, and as long as the product seller does not increase the price of the goods first, this fee is allowed (Lisman & Jamilah, 2020). For example, if Adi buys a jacket for 1,500,000 and pays for it using a sharia card, then the seller will use a special transaction machine by sending transaction data to the bank for the purpose of asking for approval. Furthermore, the bank will take a certain amount (ujrah) of the transaction value of the sharia card holder before paying the seller's account. If the example of ujrah (fee) that has been agreed upon is 3%, the bank will make a payment of 1,4550,000 to the seller's account, then the bank will charge or charge the sharia card user of 1,500,000 rupiah.

Regarding the law of the ability to take fees as in the example case above, this is mentioned in the final decision of Majma' Al Fiqh Al Islami (OIC fiqh division) No:108 (2/12) 2000 which issued a legal decision that allowed the card issuing bank to legally receive fees from merchants. This, it is stated that the card issuing bank can receive fees from merchants who accept payments using sharia cards. In addition, AAOIFI allows this to happen, where financial institutions that issue sharia cards can earn a commission in the form of a percentage of the total cost of products or services from retailers who accept the card. Regarding sharia cards as well, DSN MUI in its fatwa stated that card issuers can receive discounts on transaction object fees or service prices in exchange (ujrah) for intermediaries (samsarah), marketers (taswiq), and billers (tahsin al-dayn) (Fatoni, 2022).

CONCLUSIONS

As modern finance advances, requiring the use of efficient payment methods also has a good level of security. Credit cards are the way out of the answer to these needs. Then in order to avoid usury, especially for the Muslim community, Islamic banks issue a product that has the same function as a credit card, namely a sharia card. In the sharia card there are provisions of restrictions that are regulated in it, this is what limits the sharia card. In addition, there are also provisions that allow taking fees and ta'widh on the use of sharia cards.

The fee that is allowed to be taken in sharia card transactions is ujrah because there is a role of the bank that is the samsarah, so it means that the bank fee comes from the merchant (merchant) not from the cardholder and provided that the seller does not charge this fee to the buyer. Furthermore, late charges are also allowed as long as the late charge funds are entirely used for community (social) funds and banks do not utilize these funds. Then for the Member fee, it is allowed according to Islamic law which stipulates that the services provided are required to be the same as the administrative expenses charged. So, the essence is that sharia cards are allowed, but there are things that make it haram to do, therefore it should be anticipated to avoid mistakes that can make it haram.

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