

# **TAWARRUQ PRACTICE FOR LIQUIDITY MANAGEMENT IN ISLAMIC MONEY MARKET IN INDONESIA AND MALAYSIA**

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**Abstrak:** *Perkembangan perbankan dan keuangan Islam di pasar global dalam dua dekade terakhir telah mengangkat beberapa isu terutama isu kurangnya produk untuk pengelolaan likuiditas. Permintaan yang tinggi bagi perbankan dan keuangan syariah itu berdampak tinggi pada inovasi produk dan jasa. Karena bisnis perbankan hanya terkait dengan pendanaan dan pembiayaan, maka masalah surplus dan defisit harus ditutupi dengan produk yang bias mengelola masalah likuiditas. Tujuan utama dari artikel ini adalah untuk meninjau konsep Tawarruq yang menjadi instrumen pasar uang syariah di Indonesia dan Malaysia dan dipraktikkan oleh lembaga keuangan syariah untuk mengelola likuiditas. Pada tahun 2011, Jakarta Future Exchange telah meluncurkan satu instrumen untuk bank syariah sebagai instrumen pengelola likuiditas yaitu Komoditi Syariah. Produk ini memiliki beberapa fitur perbedaan dengan Bursa Suq Al-Sila' Malaysia yang diluncurkan pada tahun 2009, namun mereka menggunakan akad Islam yang sama, yaitu komoditi murabahah atau dikenal sebagai Tawarruq. Hasil dari kajian ini adalah ada beberapa isu syariah potensial yang mempengaruhi ketaatan produk. Artikel ini mencoba untuk menempatkan beberapa masalah syariah dalam struktur yang harus dipertimbangkan untuk struktur syariah masa depan dalam menggunakan manajemen risiko di industri perbankan syariah. Oleh karena itu, bank syariah, bursa saham syariah dan lembaga keuangan syariah lainnya yang menawarkan jasa keuangan syariah*

*dapat mempertimbangkan keprihatinan parameter syariah dalam menerapkan konsep Tawarruq di setiap produk dan jasa yang ditawarkan.*

**Abstract:** *The fast development of Islamic banking and finance in the global market in the last two decades has been raised some issues especially the issue of lack of the product for liquidity management. High demand for Islamic banking and finance it impact high innovation of products and services. Since the business of banking merely related to funding and financing that is also relevant to Islamic banking and intermediary institution, the issue of surplus position and deficit position it has to covered by the product that manage this liquidity issues. The main purpose of this paper is to review the tawarruq that being practiced as Islamic money market instrument in Indonesia and Malaysia that used by Islamic financial institution for liquidity management. In 2011, Jakarta Future Exchange has launched one instrument for Islamic bank as liquidity management instrument namely Komoditi Syariah. This product has some features differences with Bursa Suq Al-Sila Malaysia which launced in 2009, nevertheless they are using the same Islamic contract that is commodity murabahah or known as tawarruq. This paper found that there are some shariah potential issues that affect the compliancy of the product. The paper tries to put some shariah issues in the structures that should be taken into consideration for future shariah structure in liquidity risk management in Islamic banking industries. Therefore, Islamic bank, Islamic stock exchange institutions and other Islamic financial that offer Islamic financial services may take into concern what are shariah parameters in apppling tawarruq structure in any product and services in Islamic bank.*

**Kata kunci:** *Liquidity Management, Tawarruq, Komoditi Syariah, Bursa Suq Al-Sila*

## **Introduction**

The fast development of Islamic banking and finance worldwide in the last two decades has been raised some issues especially the issue of lack of the product for liquidity management. High demand for Islamic banking and finance it impact high innovation of products and services. Since the business of banking merely related to funding and financing that is also relevant to Islamic banking and intermediary institution, the issue of surplus position and deficit position it has to covered by the product that manage this liquidity issues. Otherwise, Islamic bank cannot satisfy the interest of funding unit and financing if the bank in the deficit position, or to satisfy the interest of liability side in distributing the satisfied profit if the bank in the surplus position. So that the main function where Islamic bank as rahmatan lil' alamin (bless for the universe) is achieved (Al-Anbiya':107).

It has to be noted that the establishment of Islamic banking in the first place aim to link all products and services in Islamic banking to real sector. Hence the main issue in conventional system is that there are huge fund allocated into derivative market where nothing to do with the real sector even it is used to generate profit out of speculation that is involve the element of maysir (gambling) (Bacha, 2007; Al-Suwailem, 2006). It is well known that gambling is unlawful from Islamic perspective (Al-Baqarah: 219). At the same time, the issue of interest-based system that used in conventional banking it violate Islamic legal rule and it will lead into monetary system unstable (Bacha, 2007).

The importance of the liquidity management in Islamic banking has attract the concern of IFSB to issue paper on “Technical Note on Issues in Strengthening Liquidity Management of Institutions Offering Islamic Financial Services: The Development of Islamic Money Markets”. The Technical Note states several issues that has to be taken into consideration pertaining to liquidity management (Hassan, 2011):

1. The lack instrument on liquidity management in Islamic Financial services.
2. There are some different sharia opinion on Islamic money market instruments that brings into different in the way of structuring the instrument in many jurisdictions.
3. In many circumstances state that Islamic money market instrument is prohibited to be tradable. Therefore Islamic money market instrument still not gain the popularity in managing liquidity in Islamic financial institutions. Eventhough if it is tradable, in term of quantity and number of issuance still out of real demand in the market.
4. Although there are some instruments in Islamic capital market such as sukuk, with a variety of issueance, acceptance and tradability, but in the real practice in many jurisdictions, these securities not bought and hold, and even not traded. The lack of issuance cause the worriness of the securities holder one they sale these securities, they cannot buy the same securities with the same return.

At the same time, many Islamic contracts that used in Islamic money market in the current jurisdiction are either bay al inah or tawarruq model. According to some Islamic scholars, these contracts are the only contracts that

can solve the current Islamic financial instrument issues until found other ideal contracts that could cater the lack of this instrument. Currently, Indonesia and Malaysia has been launched the product to manage the liquidity for Islamic Bank where Indonesia, Jakarta Future Exchange has lauched called 'Komoditi Syariah' under tawarruq model, where Malaysia, Bursam Malaysia also launched called 'Bursa Suq al Sila' which is tawarruq as well with different featur and uniqness.

The aim of this paper actually is to investigate how tawarruq model being used for managing the liquidity in Islamic Bank in Indonesia and Malaysia. Hence these two countries has different regulatory framework on sharia where Indonesia regulated mostly by Dewan Syariah Nasional Majelis Ulama Indonesia (National Sharia Board – Indonesian Council of Ulama), where Malaysia regulated by Sharia Advisory Council of Securities Commission.

### **Definition and The Urgency of Liquidity Management**

Basel Committee on Banking Supervision defines liquidity management (BCBS, 2000) as: "ability to fund increases in assets and meet obligations as they come due." Reserve Bank of Australia defines liquidity management as: "Activities within a financial institution to ensure that holdings of liquid assets (e.g. cash, bank deposits and other financial assets) are sufficient to meet its obligations as they fall due, including unexpected transactions. Bank of Jamaica has define the same description which is: "The availability of funds, assurance that funds will be available, to honour all cash outflow commitments (both on-and off-balance sheet) as they fall due" (Bank of Jamaica, 1996).

In fact, all definitions although has different interpretation, generally it will point out into two basic things that are the ability to satisfy all liability side on the balance sheet at the times due and the ability disburse the financing on the asset side. In this case, Basel Committee has been defined with comprehensive definitions that covered two aspects, asset and liability.

Generally, liquidity management in Islamic Financial Institutions is something importance. The main task of this institution is to ensure the availabality of liquidity once it in demand and not too much liquid at the same time to satisfy the investors' expectation on return in investment. In practice, there are two reasons behind of too much liquidity in financial institutions:

1. Due to the failure of the bank to seek the suitable asset or project to be financed so that too much liquidity available.
2. Due to unexistence of some mechanism that allow to disburse liquidity to other banks or to accept liquidity injection from other banks (or central bank). This condition led the bank forced to save too much liquidity in order to meet the demand of future liquidity, or forced to live with too much liquidity due to unexistence of mechanism to disburse the liquidity to deficit bank.

These two issues will imply bad performance to the bank. Therefore, liquidity management, available mechanism, and the viable instruments is very importance to ensure the enlightenment of liquidity management. This issue is the same happen either in Islamic bank or converntional bank with the same interest, although the mechanism and the instrument flow used are different.

### **Development of Liquidity Management Instuments in Indonesia, Malaysia and Other Countries**

Development of Islamic banking in Indonesia during 2012 has been achieved to 40% that implies the asset growth increases and the demand to more sophisticated product in the market. Many Islamic banks asking for new instrument to satisfy the need in liquidity management to solve surplus and deficit position. In Indonesia, to seek the solution of lack instrument in Islamic money market, Bank Indonesia conduct many time so called as Focus Group Discussion and seminar to evaluate to what extent the existing product has been covered the need of Islamic banking industries. At the other hand, although Malaysia has been issued many products and instruments in Islamic money market, the current products still felt lack to some players.

From Focus Group Discussion that I have been attended; the current product to satisfy the liquidity problem in Islamic Banking industry in Indonesia mostly is REPO Syariah. This product normally offered in the short time period, from 1 month up to 3 month and it is tradable based on discounted value. From sharia perspective, this product has gained many critisizm from public, as it is duplication from repo in the conventional bank.

Another product that has been endorsed by National Sharia Board Indonesia Council of Ulama to cater the issue of liquidity management is Fatwa

DSN-MUI No. 78 year 2010. This Fatwa allowed transaction of Islamic money market using Mudharabah and Musharakah Inter Bank Money Market, in this fatwa the other contract that can be used in the agreement is the contract of wa'd (promise) either promise to sell back or to buy back the securities. This element actually just to ensure that the bank could generate the agreed return at the first place and to minimize the risk of rate of return. From the Group Discussion that held by Bank Indonesia, Bank Indonesia has been offered the new instrument called as reverse Repo with Sukuk as the underlying asset.

At the other hand, the potential of aqad that can be used in Islamic banking in Indonesia still many, for example the combination of bay' wafa' and ijarah, tawarruq and so on. In addition, Indonesian Islamic banking industries still need more instruments to fill up the empty instrument in Islamic money market such as for hedging mechanism such as (*hedging*) baik itu, *Islamic Swap*, *Islamic Currency Swap*, *Islamic Cross Currency Swap*, *Islamic Derivative (Islamic Forward, Islamic Futures dan Islamic Option)* (Dusuki, 2009; Coyle, 2000). Although this products still debatable among the scholars, it can be minimized through putting some guidelines and sharia parameters to avoid speculation. Jakarta Future Exchange as been presented this future potential instrument last year that can be used by Islamic banking industry.

One of the requirement put in the hedging instrument by OIC muslim scholars is that, the transaction it has to be aim pure hedging purposes not speculation and the transaction should be real transaction not fictitious contract, third it has to be real transfer of ownership of the underlying asset and so on (Al-Suwailem, 2006). Some scholars even put 12 sharia parameters in order to avoid speculative transaction in this instrument. The other potential instrument for Islamic banking industry in Indonesia is sharia securitization to manage the liquidity of the bank.

Another well-known instrument for liquidity management is Sovereign Sukuk Indonesia based on Ijarah structure. This instrument firstly issued in 2002 by Indosat, in 2008, regulation on sukuk has been endorsed by DPR (parliament) to convince the investor to invest in Indonesia. Uniqly, Indonesian sukuk is available also for retail investor where every single sukuk securities sold at Rp 5 million.

Lastly, in 2011, Jakarta Future Exchange has been launched softly the

product for liquidity management for Islamic bank in Indonesia called as Komoditi Syariah, where the underlying asset for this instrument is commodities such as cacao, coffee, coal and so on. The structure used in this product is murabaha, although from the structure it is actually tawarruq concept. Although DSN MUI has been prohibited the use of tawarruq in the banking industry, they confine this model can be used only for liquidity management inter bank money market.

### **Development of liquidity management instrument in Malaysia**

Malaysia as an advanced Islamic finance industry in Asia, in term of Islamic money market instrument has been launched many products to satisfy the demand of liquidity management for Islamic banks as compare to Indonesia. At the year 1994 Malaysia had introduced *Islamic Interbank Money Market* (IIMM) to cater the problem of liquidity deficit and liquidity surplus, followed by 1996 Malaysia had implemented Monetary Interbank Investment Issue (MII), in 1999 Malaysia introduced ***Bai Al-Inah Funding*** (*last resort funding facility* by BNM to safeguard deficit Islamic bank, in 2000 launched Bank Negara Negotiable Notes (BNNN) based on the contract of Bai al-Inah, in the year 2001 again introduced Government Investment Issue (GII) – which actually based on the contract of Bai al-Inah. In the year of 2002 **wadiah acceptance** had been introduced, and BNM issued the guidelines on Notes that cover the concept of Sell and Buy Back Agreement (SBBA), in the year of 2004 Malaysia introduced the first Malaysian Islamic Treasury Bills (MITB), in 2005 issued the first **Profit-Based GII**, in the year 2006 first issuance of Sukuk Bank Negara Malaysia Ijarah (SBNMI) which is based on the contract of ijarah, in the last 2009-2010 Bursa Malaysia has been introduced the first concept that used tawarruq concept called as Bursa Suq Al-Sila' where the underlying asset is commodity of CPO (Bank Negara Malaysia).

From the history of development Islamic money market instruments in Malaysia above, we can see that Malaysia keep on developing new product to satisfy Islamic finance industry. At the other hand, Malaysia has sharia and Islamic finance expert whose work out each product and understand sharia and finance at the same time so that development of Islamic finance had showed up well development from time to time.

Although from these development, the issue of bay al inah has always

become hot issues to be discussed among the academician and sharia scholars since this contract has different opinion among classic shariah scholars.

### **Contemporary issues in liquidity management instruments in Islamic Bank**

Generally, there are many instruments that permitted to use for liquidity management in Islamic financial institutions over the world.

**Table 1: Instruments for Liquidity Management**

<b>INSTRUMENT</b>	<b>THE COUNTRY</b>
Kommoditi Murabahah (interbank murabahah)	Bahrain, Saudi Arabia, Qatar, Malaysia, Pakistan, Kuwait, UAE, UK, etc
Interbank Mudharabah	Malaysia, Indonesia, Bangladesh etc.
Qurud Mutabadalah	Saudi Arabia, Kuwait etc
Interbank Wakalah	Bahrain, Kuwait, Pakistan etc
The issuance of many types of sukuk such as sukuk ijarah, salam, murabahah (the same that issued by corporate, sovereign - as monetary policy-)	Malaysia, Bahrain, UAE, Saudi Arabia, Pakistan, Indonesia, Qatar, Bahrain
The issuance of short term securities such as Islamic Treasury Bill, BNNN, GII, Wadiah placement, Central Bank Ijarah Certificate, Rahn Lending Facility, Short term Shariah financing facility (FPJPS), Islamic Certificate of Deposit (untuk monetary policy dan holding of required and excess reserves)	Malaysia, Indonesia, Sudan, Brunei, UAE
Musharakah Certificates	Sudan
Government Investment Certificates that use many contracts such as ijarah, salam, mudharabah	Sudan

Government Participation Papers (Musharakah)	Iran
Government Islamic Investment Bond (Mudharabah)	Bangladesh
Islamic REPO	Bahrain, UAE, Malaysia

Source: Technical Note IFSB, Author

The illustration above shows the main instruments used by various jurisdiction in liquidity management of Islamic financial institutions in a particular jurisdiction.

Several observations should be made on the instrument of these instruments. Among them are:

1. Nonexistence of perfect liquidity management mechanisms in most jurisdiction. Except some jurisdiction, liquidity management mechanisms require a broader expansion mechanism. In some jurisdiction, it applies only to the Monetary Policy instruments and holding reserves only. In any case, the return is very much less than that if it is done in the interbank money market (interbank moneymarket). On some occasions, it does not bring any returns. Such things, of course, will give effect to the bank's ROE.
2. Lack of instruments that can be used for liquidity management. This caused some banks had to hold (hold) surplus on liquidity. This will also affect the performance of the bank
3. Acceptance of differences in fiqh with respect to the instrument. This resulted in a highly significant difference between the operation of the bank. In some instances, some take the view juridical Jurisprudence very interesting to be discussed. For example, the grant of Shariah Short term financing facility (FPJPS) by Bank Indonesia, which must be secured (guaranteed) by the bank that received financing facility to put the liquid collateral (liquid) and high quality, and its value must be equal to the amount of financing facility.
4. The limitations of ability these instruments to achieve liquidity instrument features that understood from a conventional part. For example, the use wakalah has some problems of its own. Wakalah agreement is between the

instruments used in liquidity management. It is used in the interbank market to enable transmission of bank liquidity from surplus to deficit banks. Generally, this wakalah can occur in two situations, ie:

- a) Restricted wakalah that occurred based on off balance sheet.
- b) Unrestricted wakalah that occurred based on on balancesheet

In the use of restricted wakalah, an agent will invest the capital (proceeds) received from the principal in the assets that have been agreed and the investment risk is transferred to the principal. In the use of unrestricted wakalah, agents will mix together capital resources and other capital that invested in assets that are contained in the balance sheet.

In the agency system based on wakalah bi al-istithmar, often the agent will get a certain fee on its management on investments, as well as will get the entire fee if the profit is more than the indication given by the agent (above the indicative rate).

Although both are feasible, but unrestricted wakalah have greater potential to be used in the interbank market, for several reasons, including the need not occur determination all assets to be invested (asset tagging) and also it is done on balance sheet. This makes the practice very close to the conventional money market instruments. However there are some problems that need some further observations on the practice of this instrument. Among the issues that need further discussion are:

- a) Credit risk. This is because according to wakalah, profit rates given are only indicative. The agent is not responsible if the event of loss of capital is not caused by ta'addi and taqdir from him. This matter is contrary to the practice in the interbank market where giving back capital and interest is required to be a liability. These are some basic things that arise in the case of The Investment Dar (TID) v. Blom Bank. Although the matter has been resolved, but this issue has caused rating agencies (rating agency) has put some additional risks in this wakalah experience, which will lead to the higher pricing. This issue of course will make use of wakalah in interbank market more expensive than it should be.
- b) The issue of the accounting treatment on off balance sheet and balance sheet

- c) In terms of operations, concerning the operation of the asset (asset pool of handling) in a restricted wakalah. This leads to difficulty in the implementation of the state of assets (disclosure) that will be used.
- d) Intrusion fund and bankruptcy. In the unrestricted wakalah, received the money by the principal will be combined with money belonging to the agent. In the event of bankruptcy, the principal money is mixed with agent's money. In some countries, in this situation (based on the accounting treatment), the principal capital money will likely also considered as assets belonging to the agent included in the Liquidated Assets belonging to the agent.
- e) Determination of indicative profit rate (indicative rate of return). This is in contrast with the concept of inter-bank market where the profit rate is fixed.

In general, the question of the use of the underlying mudharabah contract as also having the same issues match. However, the advantage of wakalah and mudharabah is its tradability - in certain jurisdiction, which may not be found in other instruments.

5. Tradability of these instruments. Some of these instruments is by its nature cannot be sold. An example is commodity murabaha. Debt resulting from the sale and purchase of commodities cannot be sold in accordance with the view of most contemporary scholars. Even the instrument that can be tradable for trading on these instruments is limited.
6. In terms of the use of the instrument, the instrument uses the Commodity Murabahah is the major instrument. The use of commodity murabaha in liquidity management in the various instruments whether the instrument is an instrument between banks, short-term financing instrument or instruments used by the regulator as an Monetary Policy instrument. Even the use of Islamic instruments Repo (Murabahah collateralized Repo) also uses commodity murabaha.

### **New Proposed Product and Aqad Issues**

To support the advancement of Islamic banking, the new products are expected to continue to emerge due to high market demand. DSN-MUI as an independent

institution fatwa issuer in the Islamic finance industry in Indonesia is expected to continue to give positive responses in accordance with the progress of Islamic banking continues to improve. Although Indonesia still lags behind the developed countries originator of Islamic banking, but there was great hope that the DSN-MUI and Bank Indonesia are very careful in making a product in order to avoid controversial aqad from sharia point of view. From the aspect of the population, the Islamic financial market in Indonesia is still very tempting for cultivation because of more than 240 million people. Therefore, naturally neighboring countries and the State originator Islamic banking is very tempted by the Indonesian market that promises huge high profits if managed properly Islamic finance.

One of the hot topics recently is the adoption DSN-MUI Fatwa No. 82 on sharia commodity exchanges. Where the product is expected to be a pioneer in the development of products in the stock market for liquidity management in Islamic banking. So the demands that have been long buried eventually passed as well. The fatwa is based on the demand very much of the Islamic banking industry, especially for the management of their liquidity risk management. Where until recently Islamic banks are in fact its market share is still relatively small, it is very difficult to find liquidity to meet cash needs to meet demand in the Liability. So many times they have to 'beg' for their parent to inject funds in and even may have also had to acquire funding from conventional banks despite the Islamic contract.

DSN-MUI Fatwa No. 82 This is an excellent solution for indusrti Islamic banking in the management of their liquidity management. So when there is excess funds or lack of funds, they do not need to worry because it has provided Islamic Commodity Exchange which provides a platform for them to transact. On the other hand, Islamic commodity exchange is expected to provide cost efficiency is not inferior to conventional products, if not, the inauguration of the fatwa No.. 82 This and the creation of Islamic commodity products by Indonesia Stock Exchange will be wasted due to slack enthusiasts. This request came directly from the practitioner when the fatwa was first promoted at the Mandarin Hotel on August 7, 2011.

There are three main contracts that use to practice in Islamic money market especially in liquidity management instrument which are:

## 1. Commodity Murabahah

The concept of commodity murabaha basically already widely practiced by countries that use Islamic banking system. Malaysia, for example, they have been used this concept to respond to the needs of their local and international markets. The outsiders market so they can refer to this concept of commodity murabaha as a globally accepted product. At last, in 2010, Bursa Malaysia launched a product that is anticipated by the market, namely Bursa Suq Al-Sila ‘. This product is expected to be an attractive instrument in the Islamic finance industry in managing their risk issue, especially the problem of liquidity ([www.bursamalaysia.com](http://www.bursamalaysia.com)). To the extent that these products have been approved by AAOIFI and declares that this product is Shariah compliant. Not only AAOIFI, the product has been received well by the Middle East market which in fact is very strict in terms of sharia.

Therefore, the practice of Bursa Suq Al-Sila ‘could become a learning material for sharia Commodity Exchange in applying transactions to Islamic banking industry. Although in there is a issue in this product where there is high demand in the last year to push Bursa Malaysia to sell the assets (CPO) in the market more than the available inventory stocks in Bursa Malaysia, but it is not authorized by the Shariah Advisory Council to avoid selling something that does not exist. Thus in general this paper wish to compare Bursa Suq Al-Sila Malaysia with Indonesia Commodity Sharia.

## 2. Tawarruq

Basically, the applied concept in the Islamic Commodity Exchange is Akad Tawarruq (Al-Hunaiti, 2009). Where the surplus bank would get an order from the deficit bank to buy the goods, so the surplus bank will purchase particular commodities from the market by using al-bay’ agreement in cash basis, and then sell it to the deficit bank by way of murabaha with deffered or installment payments. Then deficit bank will sell these commodities to commodity markets in order to obtain cash (Mihajat, 2010).

This Tawarruq contract commonly known in the Middle East Islamic banking industry that they can practice not only for liquidity management but also targeting individual customer for consumptive purposes (Al-Suwaelim, 2008). However, Tawarruq practice in the Middle East countries get a lot of condemnation because the transaction flow has been set up by the bank, or known

as organized Tawarruq (Hassan, 2009). What's worse, from the research that has been done in Europe especially in the UK applied the concept of tawarruq by using the asset such China Metal that is actually worthless. However, this china metal is very high precious metal since it is used for Tawarruq transaction (Al-Suwaelim, 2008; Bouheraoua, 2009).

From the data gathered that only 2.7% of the assets used in commodity murabaha or Tawarruq it goes to end user. The remaining 97.3% is used for derivatives transactions and speculation purposes by speculators. Therefore, it would be haram for Islamic banks for the purpose of speculation and generate profit as much as possible from this transaction. To avoid this from happening, the need for laying the regulation such as sharia parameters (al-dhawabith) so that the product of commodity murabaha sharia does not violate the principles of Sharia (Al-Suwaelim, 2006).

From the aspect of Islamic Jurisprudence, in fact many scholars explain various concepts of Tawarruq. Where not all Tawarruq forbidden, there are some point agreed upon scholars that tawarruq is shariah compliant. Tawarruq has been divided into two categories among the contemporary scholars (al-Hadad, 2003; Uthmani, 2009; Khayat, 2006), the first is Tawarruq munazzhom or called as organized Tawarruq (Fahmi et al, 2008), the second is Tawarruq fiqhi or haqiqi. The first is the concept of Tawarruq is Tawarruq contract that is widely used by Islamic banks in Europe and Middle East. This is due to Islamic banks take part in determining the sales line. Islamic banks determine who is the broker for the purposes of purchase and to whom the buyer (customer) will resells the goods (Al-Zuhaili, 2006). This contract just 'a sister' of bay al-inah that prohibited in sharia, beside in tawarruq just adds up a third party as a partner of the bank.

The second concept of Tawarruq is where Islamic bank really buy it from the market, and sell it to customer who need without no-frills to sell it to any party. So that the customer is free and have the right to decide to whom he wants to sell the asset. Since the ownership has been transferred from Islamic bank to the customer, the customer has full of right regarding to the asset. So there is no haram ghairu syar'iyah therein that causes the product is not shariah compliance. If this concept that has been set up by Islamic bank for whatever product it is, either for personal financing or for liquidity management such as Bursa Suq al-Sila and Komoditi Syariah, then it already called as shariah compliant product.

### 3. Bay' Al-Inah

Bay 'al-inah is a contract in which the deficit unit needs funds, then selling the asset that he owned to the surplus unit by way of cash and the surplus unit will resell the asset to the deficit units by way of deferred or installments (Shabir, 2009). The goal is the same as Tawarruq, where the deficit unit requires cash. It may be the asset used is the asset of deficit unit, or owned by the surplus unit in this case is the asset of Islamic bank (Dabu, 2008).

Although Islamic banking industry in Indonesia not using bay 'al-inah and creating every new product shariah compliant. However, there are emerging proposals from practitioners for the passage of the controversial contract. at the other hand, Malaysia has gradually left the contract because it has been criticized from many scholars.

#### **Resolution of DSN-MUI And Fatwa No. 82/DSN-MUI/VIII/2011**

In the Fatwa No 82/DSN-MUI/VIII/2011 has been described that Komoditi Syariah (Commodity Murabahah in other countries such as Malaysia) has been approved by DSN-MUI where Jakarta Future Exchange (JFX) as the organizer of this commodity trading exchanges. JFX act as an intermediary among the parties that have a commodity with the Islamic banking that want to trade in this exchange market market. This commodity exchange trading will be applied based on computerized system and online system by the members of Islamic Commodity Exchange. The Islamic bank should become a member in the first place before doing commodity trading among the Islamic banks (Repubika, 2011).

There is some Islamic contract agreement that is used in the implementation of the fatwa No. 82, first is al-bay' (sale and purchase), where participant will purchase the commodity from commercial supplier and supplier will meet the demand in accordance with expected commodity and sold to commercial participant (surplus unit) in cash. Secondly, murabaha, where participant (surplus unit) will commercially sell the commodity as requested by deficit participant by way of murabahah in which capital plus expected margin on deferred basis or installments. Third, bay' musawamah where supplier represented by JFX sell commercially the commodity of deficit unit without any obligation to inform

the participants how much cost and margin. Fourth, wakalah contract, in which JFX will sell assets if necessary on behalf of deficit unit to sell it into a different supplier from the initial supplier. Fifth, muqorodhoh contract, where one supplier of the commodity can barter the asset (commodity) with supplier 2, supplier 3 and vice versa. The goal is to ensure that assets are not returned to the same person.

Out of the five contracts described in the DSN-MUI fatwa No 82, there is still one more contract has to be considered, namely Al-Wa'du (promise). In commodity agreement whereby once consumer of commodity wants the actual commodity from commercial participant either to hold the assets or to sell in the future or to sell it to other than the supplier of the sharia commodity exchange, the issue whereby the consumer of commodity wants to cancel the contract agreement with the commercial participant that will lead the commercial participant into the risk of the commodity price. Therefore, consumers have to promise to buy the commodity purchased by commercial participants. Otherwise, the consumer of commodity wants to cancel the transaction at the same time the commodity have been purchased by the commercial participant, so that the will incur the losses from the transaction (Hasan, 2008). There will be problems there, it could be the price of commodity purchased by commercial participants would goes down, the question is, who will bear the losses from these cancelation of transactions? Therefore, there must be a contract of Al-Wa'du (promise to buy the commodity) there so that consumer will purchase the commodity from commercial participants (Hasan, 2008).

### ***Tawarruq Scheme for Liquidity Management In Islamic Money Market in Indonesia and Malaysia***

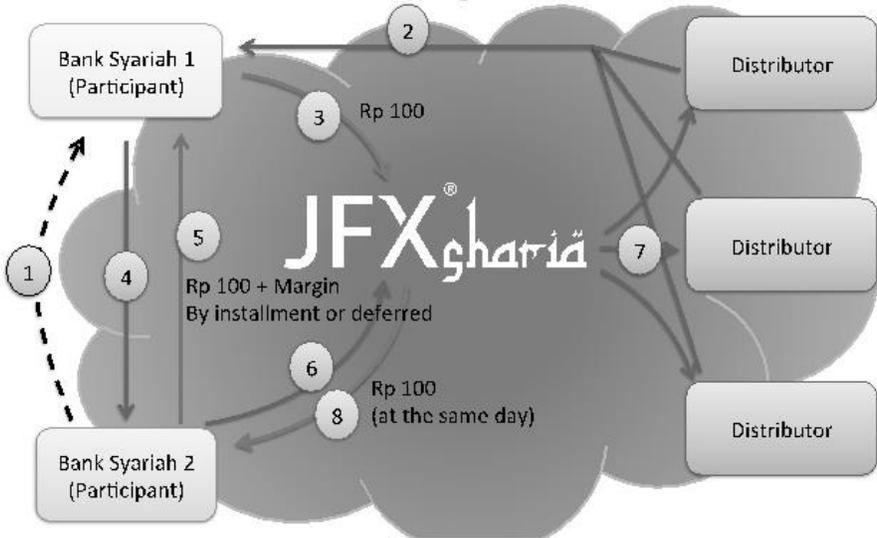
Commodity Murabahah technically is trading of commodities using the contract of tawarruq, ie a purchaser buys a commodity from a seller in on deferred basis and sells the commodity to another buyer, and the payment is made on the spot basis. Normally deferred payment (which will be given to the first seller) is higher than the spot payment (which will accept) from the second buyer. In effect, he will get cash and the same time has the liability to make payment to the first seller on deferred basis.

Not be the goal of this paper is to discuss the legal sharia issues in using

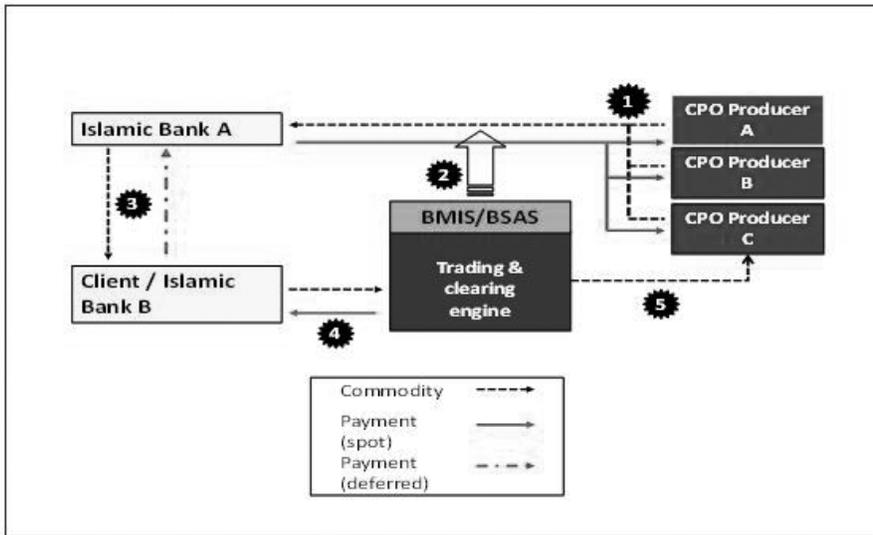
tawarruq and contemporary polemics in Islamic finance. Since the discussion has been discussed in the working paper that presented at the Forum of Majma ‘al-Fiqh al-Islami al-Dawli 19<sup>th</sup> at Sharjah on 30 April 2009 and resolution banning tawarruq as practiced by Islamic financial institutions today. However, the focus of this paper is to discuss the standardized platform that being used by Islamic financial institutions. So far, there are three platform that are:

- a) Bursa Suq Al-Sila ‘(BSAS). It is the first initiative of instrument for liquidity management for Islamic bank. It was born as a result of the cooperation of the MIFC, Bank Negara Malaysia, the Securities Suruhunjaya, Bursa Malaysia and the Islamic financial institutions in Malaysia as an attempt to establish a platform of liquidity management using murabaha contract and tawarruq. It was officially launched on 17 August 2009. Generally BSAS serve as platform to trade commodities transactions. It was developed to facilitate the transaction, provided the financial liquidity management facilities and structuring financial products such as deposits, financing, investing and hedging for the Islamic finance industry. The model of Bursa Suq al-Sila has been approved by Shariah Advisory Council of Securities Commission on 5<sup>th</sup> February 2008 and Shariah Advisory Council of Bank Negara Malaysia on 30<sup>th</sup> July 2008. For the time being, Bursa Suq Al-Sila has been used by more than 32 participants from Malaysia, Saudi Arabia, Kuwait, United Arab Emirates and Singapore.
- b) The latest establishment of such a platform was also performed in Bahrain by Bait Al Bursa, one of the divisions in the Bahrain Financial Exchange (BFX) with the establishment of e-Tayseer. It was approved by Islamic Ratings Intelligence Partners (RI). However, as far as the author knowledge, this platform has yet to operate again.
- c) In Indonesia, the latest product that launched by Bursa Berjangka Jakarta for liquidity management for islamic bank namely is Komoditi Syariah. This instrument although saying murabahah, in the whole structured of product is using tawarruq concept. This instrument was soft launched in at September 2011, and officially launhced at February 2012. This product has been approved as well by Sharia National Board – Indonesian Council of Ulama by issuing Fatwa No 82 2011, as sharia compliance product.

# Islamic Interbank Money Market



Komoditi Syariah Jakarta Future Exchange.  
Source: Mihajat (2012)



Bursa Suq al-Sila' Malaysia

Both of the above diagrams describe the structure of commodity murabaha platform or transaction flow in Indonesia and Malaysia. Generally, there is no striking resemblance between the two of these structures. Besides, there are some differences in both these structures. Among of them are:

- 1) When suppliers sell to Islamic Bank A (surplus bank), in the structure of Bursa Suq Al-Sila ‘, the supplier will sell directly to the bank. In the structure of Komoditi Syariah, JFX (BJJ) will act as the representative of the purchaser to buy a particular commodity that available from distributor (cacao, CPO or coal).
- 2) When the Islamic Bank B (deficit banks) sells back (in the event of sale), in the structure of Bursa Suq Al-Sila ‘, the bank will sell to Bursa Suq Al-Sila’. In this regard, Bursa Malaysia acts as a market maker. This is to protect the risk of bank. What will happen once the bank wants to sell it into the market but no one wants to buy, the bank will suffer the commodity price risk.

While in the structure of Komoditi Syariah, the bank will delegate to Jakarta Future Exchange to sell it to another distributor, which is not the same distributor where the bank A bought, this is to avoid the organized tawarruq that crtisized among the contemporary scholars. The question that may arise here is the risk has to be borned by Bank B if nobody wants to buy. From sharia point of view, we cannot force any distributor to purchase any commodities that have been sold, and if this happens, it will lead to Shariah issues.

- 3) In Bursa Suq Al-Sila ‘, if the client is not a banking institution, then he has no right to sell directly to the Bursa Suq Al-Sila’. Instead they had to delegate to institutions that are members of the Exchange. This is a common practice in any Exchange. Even in the purchase of all, an individual or institution will not be allowed to directly buy shares of bursa. Otherwise he must buy it through institutions (brokers etc.) that are members of the exchange. This is does not apply everywhere that each individual is allowed to deal directly with the stock market. Bank B could sell directly without the need to delegate the stock exchange to Bank A, if the bank A is a member of the Exchange.

In the structure of Komoditi Syariah, representation is not a financial institution. Instead representation is JFX to sell it back to other distributor. This means that if Bank A makes financing to its customers (deficit bank), then the customers will delegate JFX to sell the commodity to the distributor.

This may lead to some practical difficulties. How many of bank that provides financing facilities where all banks are doing the same thing at the same time. Of course, this led to a change in the way work of an exchange.

Seeing the breadth of use of this commodity murabaha, it should be given some warning to all parties involved in the structuring and the adoption of commodity murabaha that some Shariah negligence will occurred. This is based on the author's experience in monitoring this transaction. Among the foremost are:

- a) The suitability of a commodity as assets
- b) Meet the requirements of commodities including existence, halal, sure and certain.
- c) Possible overlapping of the ownership over the goods in the event of sale. Need for guidelines and appropriate supervision.
- d) Sequential transaction and no attachment to each transaction
- e) Ability to deliver the commodity. In some practices, not provided the possibility for the occurrence of submission. Even in certain situations, it is stated that the seller and the buyer agrees that the sale and purchase made only to provide transaction facilities and they did not wish to take delivery or exchange of goods.
- f) Ownership. Sellers who will sell shall have the goods, or become his legal representative to sell on behalf of the seller. It would be happening, when the representation of sells asked about the commodity and the representative failed to show a letter of attorney. Even when it is asked to the principal, he denied ever giving representation to sell to someone else.

Selling the actual available stock of commodities. This is to avoid selling something that do not own by the stock exchange institution that is banned by Prophet (pbuh). While high demand occurred to trade the commodities among the participant over the limit of the commodities, the stock exchange cannot trade it out of the available stock in the store, as such have been violate the shariah regulation.

Although the structure in liquidity management for Islamic banks exposed to some shariah issues, by having good shariah regulatory framework in each country will eliminate the possible shariah issues in the practice. In Indonesia,

with the presence of fatwa DSN-MUI No. 82/DSN-MUI/VIII/2011 is expected to be a new step for Islamic banks to spread their wings even wider and to achieve the target 20% market share in 2020 but still in the defined corridors by shariah. Therefore, the need for further researchs and Fatwa to be issued is something urgent and demanded by the market to further develop Islamic banking to overcome the stiff competition with conventional bank.

## **Conclusion**

The paper concerned tries to discuss briefly about the liquidity management of Islamic financial institutions that using *tawarruq* concept in Indonesia and Malaysia. The conclusion that can be made is good liquidity management requirements is crucial in ensuring the well-being of the Islamic financial institutions. Proper liquidation rate (not too liquid or less liquid) is important to ensure that Islamic financial institutions ability to meet their liabilities, and would not interfere with the ability to win funding should return. Although there are many issues that still exist, the need to create a good liquidity management requires the cooperation and hard work of all stakeholders in Islamic finance, not only in ensuring Shariah compliance of all operations, structure and instruments used, but also to ensure the viability the instruments to be used. Impelementation of commodity *murabahah* model as a case study in this paper only as an example to illustrate the need for instruments that not only complies with Shariah (that of course is a priority) but also viable for use for managing liquidity in Islamic financial institutions.

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