

Comparison of Musharakah Mutanaqisah (MMQ) Regulatory Framework in Indonesia, Malaysia, and Brunei: Challenges and Solutions

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ABSTRACT

This study aims to examine the regulatory framework of Musyarakah Mutanaqisah (MMQ) in Indonesia, Malaysia, and Brunei, and compare the implementation and challenges faced in the three countries. MMQ is one of the important Islamic financing products in Islamic banking, where the portion of asset ownership is gradually purchased by customers from banks until full ownership changes hands. This study uses a doctrinal legal approach with legislative, conceptual, and comparative methods to analyze the regulations, fatwas, and policies that govern MMQ. In Indonesia, MMQ regulations are based on the fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and the regulations of the Financial Services Authority (OJK). DSN-MUI Fatwa No. 73/DSN-MUI/XI/2008 and No. 101/DSN-MUI/X/2016 provide detailed guidance on the implementation of MMQ, but challenges such as legal certainty of asset ownership and risk management still need to be overcome. In Malaysia, Bank Negara Malaysia (BNM) through the Sharia Advisory Council (SAC) issues policy documents such as BNM/RH/STD028-7 which govern the MMQ. The integration of MMQ with other contracts such as ijarah and istisna adds complexity to its implementation. Meanwhile, in Brunei, the Brunei Islamic Religious Council (MUIB) issued fatwas and regulations tailored to the local context. The main challenge in Brunei is the lack of public understanding of MMQ and legal documentation issues. The study concludes that although all three countries share the same sharia principles, there are variations in MMQ regulation and implementation. Practical challenges can be overcome by developing more detailed regulations, strengthening risk management systems, and increasing education and socialization to the public. Recommendations for improved regulation and MMQ practices include clearer regulation, increased training for bank staff, and product innovation. Further research is suggested to explore the social and economic impact of MMQ and the potential use of financial technology (fintech) in improving the efficiency and accessibility of MMQ. This research makes an important contribution to understanding and improving MMQ regulations and practices in Indonesia, Malaysia, and Brunei, as well as providing valuable recommendations for regulators and Islamic banking practitioners in the future.

Keywords: Sharia, Sharia, Sharia Advisory Council, Financial Regulation, National Sharia Advisory Council.

Perbandingan Kerangka Regulasi Musyarakah Mutanaqisah(MMQ) di Indonesia, Malaysia, dan Brunei: Tantangan dan Solusi

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ABSTRAK

Penelitian ini bertujuan untuk mengkaji kerangka regulasi Musyarakah Mutanaqisah (MMQ) di Indonesia, Malaysia, dan Brunei, serta membandingkan implementasi dan tantangan yang dihadapi di ketiga negara tersebut. MMQ merupakan salah satu produk pembiayaan syariah yang penting dalam perbankan Islam, di mana porsi kepemilikan aset secara bertahap dibeli oleh nasabah dari bank hingga kepemilikan penuh berpindah tangan. Penelitian ini menggunakan pendekatan hukum doktrinal dengan metode perundang-undangan, konseptual, dan komparatif untuk menganalisis peraturan, fatwa, dan kebijakan yang mengatur MMQ. Di Indonesia, regulasi MMQ didasarkan pada fatwa Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI) dan peraturan Otoritas Jasa Keuangan (OJK). Fatwa DSN-MUI No. 73/DSN-MUI/XI/2008 dan No. 101/DSN-MUI/X/2016 memberikan panduan rinci tentang pelaksanaan MMQ, namun tantangan seperti kepastian hukum kepemilikan aset dan manajemen risiko masih perlu diatasi. Di Malaysia, Bank Negara Malaysia (BNM) melalui Sharia Advisory Council (SAC) mengeluarkan dokumen kebijakan seperti BNM/RH/STD028-7 yang mengatur MMQ. Integrasi MMQ dengan kontrak lain seperti ijarah dan istisna menambah kompleksitas dalam implementasinya. Sementara itu, di Brunei, Majlis Ugama Islam Brunei (MUIB) mengeluarkan fatwa dan peraturan yang disesuaikan dengan konteks lokal. Tantangan utama di Brunei adalah kurangnya pemahaman masyarakat tentang MMQ dan masalah dokumentasi hukum. Penelitian ini menyimpulkan bahwa meskipun ketiga negara memiliki dasar prinsip syariah yang sama, terdapat variasi dalam regulasi dan implementasi MMQ. Tantangan praktis dapat diatasi dengan pengembangan regulasi yang lebih rinci, penguatan sistem manajemen risiko, dan peningkatan edukasi serta sosialisasi kepada masyarakat. Rekomendasi untuk peningkatan regulasi dan praktik MMQ termasuk penyusunan regulasi yang lebih jelas, peningkatan pelatihan bagi staf bank, dan inovasi produk. Penelitian lebih lanjut disarankan untuk mengeksplorasi dampak sosial dan ekonomi MMQ serta potensi penggunaan teknologi finansial (fintech) dalam meningkatkan efisiensi dan aksesibilitas MMQ. Penelitian ini memberikan kontribusi penting dalam memahami dan meningkatkan regulasi serta praktik MMQ di Indonesia, Malaysia, dan Brunei, serta memberikan rekomendasi yang berharga bagi regulator dan praktisi perbankan syariah di masa depan.

Kata Kunci: Regulasi Keuangan, Syariah, Dewan Syariah Nasional, Sharia Advisory Council.

INTRODUCTION

The growth of Islamic banking in recent decades has shown significant improvement, not only in Muslim-majority countries but also internationally. Islamic banking offers a variety of financing products that are based on sharia principles that prohibit *riba* (interest), *gharar* (uncertainty), and *maysir* (speculation). One of the prominent sharia financing products is Musyarakah Mutanaqisah (MMQ). MMQ is a development of a musharakah contract, where the portion of ownership of one partner is gradually purchased by another partner until full ownership is transferred to the partner. The importance of MMQ in the context of Islamic banking cannot be ignored. This product offers fair and transparent financing solutions, both for housing, vehicles, and other assets. In the MMQ scheme, the bank and the customer jointly buy an asset, where the customer gradually buys a portion of the bank's ownership until the asset fully belongs to the customer. This is not only beneficial for customers but also reduces risk for banks. Indonesia, Malaysia, and Brunei are three countries in Southeast Asia that have different regulatory frameworks to regulate MMQ practices. These three countries have a long history of applying sharia principles in their financial systems. Indonesia, with the largest Muslim majority population in the world, has developed a comprehensive regulatory framework through the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and the Financial Services Authority (OJK). Malaysia, as one of the leading Islamic financial centres, has a Sharia Advisory Council (SAC)

that functions under Bank Negara Malaysia (BNM). Meanwhile, Brunei, with a predominantly Muslim population, has the Brunei Islamic Religious Council (MUIB) which is responsible for the regulation and supervision of sharia practices including the MMQ (Arfaizar Et Al., 2023)(Kadir Et Al., 2022)(Anonymous & Rahman, 2021)(Syaputra et al., 2023)

In this study, there are several questions that need to be answered to understand the regulatory framework of MMQ in Indonesia, Malaysia, and Brunei: What is the regulatory framework of MMQ in Indonesia, Malaysia, and Brunei?, What are the differences and similarities in the regulation and implementation of MMQ in the three countries? What is the role of fatwa institutions and sharia supervisors in regulating MMQ in each country? This study has several important significances: 1. Provides in-depth insights into MMQ regulation in three different countries, which can be used as a reference for regulators and practitioners of Islamic banking in other countries. 2. Provide recommendations for improving MMQ regulations and practices based on the findings of the three countries. 3. Identify the practical issues faced in the implementation of the MMQ and provide relevant solutions to address these issues.

Islamic banking has grown rapidly, with global assets estimated at more than \$2 trillion. This growth is driven by increasing demand for financial products that are in line with Islamic principles. MMQ is one of the products that has gained significant attention due to its ability to provide ethical and sustainable financing solutions. MMQ offers benefits for customers who want to own assets gradually without involving usury, which is prohibited in Islam. The scheme also provides legal certainty and transparency in transactions, which are important elements in Islamic finance (Nelly Lestari Et Al., 2022)

Each country has a different approach to regulating MMQ, although all are based on the same sharia principles. Indonesia has adopted various fatwas and regulations issued by DSN-MUI and OJK, which provide detailed guidance on how MMQ should be implemented. Malaysia, through SAC-BNM, has developed a comprehensive policy document to govern the MMQ, including the various contracts that can be used in this scheme. Meanwhile, Brunei through MUIB also regulates MMQ by taking into account the local context and the needs of its people (Hasanuddin Et Al., 2023)

This research is expected to make a significant contribution to understanding and improving the regulatory framework of MMQ in Indonesia, Malaysia, and Brunei. By comparing best practices and identifying the challenges faced, this research can provide valuable recommendations for the development of better Islamic banking in the future. Through in-depth and comparative analysis, this research aims to strengthen the theoretical and practical foundations of MMQ and encourage innovation in Islamic financial products that can meet the needs of Muslim communities globally.

METHODOLOGY

The approach used in this study is a doctrinal legal approach. Doctrinal legal research is a research method that aims to analyze applicable laws and regulations, legal doctrines, and court decisions. This approach is relevant in this study because it aims to understand and analyze the regulatory framework of Musyarakah Mutanaqisah (MMQ) in Indonesia, Malaysia, and Brunei (Syibly et al., 2022)

The approach used includes: Statutory Approach: This approach is used to examine various laws and regulations that govern MMQ in the three countries. By understanding the existing regulations, this study can identify how MMQ regulations are implemented and interpreted in different contexts. Conceptual Approach: This approach is used to understand the basic concepts and principles of sharia that underlie MMQ. This includes an analysis of how principles such as partnership, profit sharing, and the prohibition of usury are applied in MMQ contracts. Comparative Approach: This approach is used to compare the regulatory framework and practices of MMQ in Indonesia, Malaysia, and Brunei. By comparing the three countries, this study can identify differences and similarities in regulations, as well as challenges faced in the implementation of MMQ in each country. (Lau, Wang, et al., 2006) (Lau, Law, et al., 2006)

The methodology of this study is designed to provide a comprehensive analysis of the regulatory framework of MMQ in Indonesia, Malaysia, and Brunei. By using doctrinal legal approaches, legislative, conceptual, and comparative approaches, as well as appropriate data collection and analysis techniques, this research is expected to make a significant contribution to understanding and improving MMQ regulations and practices in the three countries. The results of this research will provide valuable insights for regulators, Islamic banking practitioners, and academics in developing better Islamic financial products in the future.

RESULTS AND DISCUSSION

A. MMQ Regulatory Framework in Indonesia

In Indonesia, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) is an institution authorized to issue fatwas related to Islamic financial products and services. DSN-MUI was established to ensure that the products and services offered by Islamic financial institutions are in accordance with sharia principles. In the context of Musyarakah Mutanaqisah (MMQ), DSN-MUI has issued various fatwas that provide guidance on how this product should be implemented by Islamic banks. DSN-MUI plays an important role in the development of Islamic banking in Indonesia. This institution not only issues fatwas, but also conducts supervision to ensure compliance with the fatwa. The fatwa issued by DSN-MUI is the basis for regulators and practitioners in developing sharia products and services, including MMQ. (Aliyah, 2023a) (Aliyah, 2023b)

Regulations related to MMQ in Indonesia are based on DSN-MUI fatwas and regulations issued by the Financial Services Authority (OJK). Some important fatwas that regulate MMQ include: DSN-MUI Fatwa No. 73/DSN-MUI/XI/2008: This fatwa regulates the basic principles of MMQ, including the ownership sharing mechanism and payment scheme used in MMQ contracts. This fatwa also emphasizes the importance of transparency and fairness in MMQ transactions. DSN-MUI Fatwa No. 101/DSN-MUI/X/2016: This fatwa regulates the use of *ijarah maushufah fi dzimmah* in MMQ financing, which allows the financing of assets that are still in the process of development.

In addition to the DSN-MUI FATWA, OJK also issued regulations regulating the operationalization of MMQ in Islamic banks. Some important regulations from the OJK include: OJK Regulation No. 31/POJK.05/2014: This regulation regulates sharia financing products, including MMQ, and sets operational standards that must be complied with by sharia banks in offering these products. OJK Circular Letter No. 18/SEOJK.05/2016: This circular provides technical guidance on the implementation of MMQ, including financing procedures, risk management, and reporting.

Although regulations and fatwas related to MMQ in Indonesia have been quite comprehensive, there are several practical issues faced in the implementation of this product. Some of these issues include:

Asset Ownership: One of the main issues in MMQ implementation is the status of asset ownership. In the MMQ contract, the ownership of the assets is jointly owned by the bank and the customer. However, in practice, there is often confusion about how these holdings are legally recorded and protected. This is especially important in the case of assets that are still under construction.

Risk Management: MMQ involves risks that must be carefully managed by Islamic banks. These risks include credit risk, market risk, and operational risk. OJK regulations and DSN-MUI fatwas provide guidance on risk management, but their implementation still faces challenges, especially in terms of risk monitoring and reporting.

Sharia Compliance: Compliance with sharia principles is a critical aspect of the implementation of MMQ. Islamic banks must ensure that all aspects of transactions, from contracts to execution, are in accordance with sharia principles. This requires strict supervision and a deep understanding of sharia law by all parties involved.

Education and Socialization: Another challenge is the lack of public understanding and awareness of MMQ products. Islamic banks need to conduct more intensive education and socialization to ensure that customers understand this product and can use it well. This includes explaining the advantages and risks associated with MMQ.

The MMQ regulatory framework in Indonesia has been well developed through DSN-MUI fatwas and OJK regulations. However, there are several practical issues that need to be addressed to improve the implementation of MMQ. By addressing these issues, Islamic banks in Indonesia can offer MMQ products that are more effective and in accordance with sharia principles, so that they can meet the financing needs of the Muslim community in Indonesia. (Riders et al., 2023)

B. MMQ Regulatory Framework in Malaysia

In Malaysia, the highest authority responsible for issuing fatwas and policies related to Islamic financial products is the Sharia Advisory Council (SAC) which operates under the auspices of Bank Negara Malaysia (BNM). SAC-BNM was established under the Central Bank of Malaysia Act 2009 and has the authority to provide guidance, set standards, and issue fatwas that bind all Islamic financial institutions in Malaysia. The role of SAC-BNM is crucial in ensuring that the financial products and services offered by Islamic banks are in accordance with sharia principles (Ahmad et al., 2023)

SAC-BNM not only issues fatwas related to Islamic financial products, but is also involved in the supervision and enforcement of compliance with the fatwa. Thus, SAC-BNM ensures that all Islamic financial institutions in Malaysia follow the standards that have been set and operate in accordance with sharia law. The existence of SAC-BNM provides assurance that products such as Musyarakah Mutanaqisah (MMQ) are implemented with full compliance with sharia (Retnowati & Allhumahira, 2023)

Regulations related to MMQ in Malaysia are based on policy documents issued by BNM, with guidelines and standards set by SAC-BNM. Some of the important policy documents governing MMQ include:

BNM/RH/STD028-7 Policy Document: This policy document regulates the use of musharakah contracts in various forms of financing, including MMQ. This policy includes provisions regarding the division of ownership, payment mechanisms, and risk management in MMQ contracts. It also provides guidance on how MMQ can be integrated with other contracts such as ijarah and istisna to meet more complex asset financing needs.

Resolutions of the Sharia Advisory Council of Bank Negara Malaysia: This book is a collection of resolutions issued by SAC-BNM that cover various aspects of Islamic financial products, including MMQ. This resolution provides detailed guidance on how MMQ should be implemented, including the technical and operational aspects that Islamic banks must comply with. The regulations implemented by BNM through SAC-BNM ensure that MMQ products not only meet sharia standards but are also implemented with transparency and fairness. This is important to build public trust in Islamic financial products and ensure that these products can compete with conventional financial products.

Although the regulations related to MMQ in Malaysia have been well developed, there are several practical issues faced in the implementation of this product. Some of these issues include:

Legal Documentation and Asset Ownership: One of the key issues is complex legal documentation and asset ownership protection. In the MMQ contract, the ownership of the asset is divided between the bank and the customer. However, in practice, transfer of ownership and legal records often face challenges, especially when it comes to properties that are still under development. Clarity in legal documentation is essential to ensure that the client's ownership rights are properly protected.

Risk Management: The implementation of MMQ involves risks that must be carefully managed by Islamic banks. These risks include market risk, operational risk, and credit risk. Islamic banks in Malaysia must have a robust risk management system in place to monitor and manage the risks associated with MMQ. BNM's policy provides guidance on risk management, but its implementation still faces challenges, especially in terms of implementation and monitoring.

Use of Additional Contracts: MMQ is often integrated with other contracts such as ijarah mawsufah fi dzimmah and istisna for financing assets that are still under development. The use of these additional contracts requires a deep understanding of sharia law and technical skills to ensure that all such contracts are in accordance with sharia principles and are properly implemented. This adds complexity in documentation and operational management.

Sharia Compliance and Supervision: Compliance with sharia principles is a critical aspect of the implementation of the MMQ. Islamic banks must ensure that all aspects of transactions, from product offerings to contract execution, are in accordance with sharia principles. SAC-BNM plays an important role in the supervision and enforcement of sharia compliance. However, Islamic banks must also have internal mechanisms in place to ensure this compliance.

The regulatory framework of MMQ in Malaysia has been well developed through BNM's policies and guidance from SAC-BNM. This regulation ensures that MMQ products are in accordance with sharia

principles and implemented with transparency and fairness. However, there are several practical issues that need to be addressed to improve the implementation of MMQ. By addressing these issues, Islamic banks in Malaysia can offer MMQ products that are more effective and in line with the needs of the Muslim community in Malaysia. This research is expected to make a significant contribution in understanding and improving MMQ regulations and practices in Malaysia.

C. MMQ Regulatory Framework in Brunei

In Brunei, the highest authority responsible for issuing fatwas related to Islamic financial products is the Brunei Islamic Religious Council (MUIB). MUIB is an institution authorized to supervise, regulate, and ensure compliance with sharia principles in all aspects of Muslim life in Brunei, including the financial sector. The MUIB plays an important role in providing guidance, setting standards, and issuing fatwas that bind all Islamic financial institutions in the country. MUIB not only issues fatwas, but is also involved in monitoring and enforcing compliance with the fatwa. Thus, MUIB ensures that all Islamic financial institutions in Brunei follow the standards that have been set and operate in accordance with sharia law. The existence of MUIB provides a guarantee that products such as Musyarakah Mutanaqisah (MMQ) are implemented with full compliance with sharia.(Yusuf et al., 2023)

Regulations related to MMQ in Brunei are regulated through various policy documents issued by the MUIB, with guidelines and standards set by the agency. Some of the important regulations that govern MMQ include: MUIB Fatwa on Musyarakah Mutanaqisah: This fatwa regulates the basic principles of MMQ, including the ownership distribution mechanism and payment scheme used in MMQ contracts. This fatwa also emphasizes the importance of transparency and fairness in MMQ transactions. Brunei Islamic Finance Regulations: These regulations include provisions regarding the division of ownership, payment mechanisms, and risk management in MMQ contracts. The regulation also provides guidance on how MMQ can be integrated with other contracts such as ijarah and istisna to meet more complex asset financing needs. The regulations implemented by MUIB ensure that MMQ products not only meet sharia standards but are also implemented with transparency and fairness. This is important to build public trust in Islamic financial products and ensure that these products can compete with conventional financial products.(Salisu et al., 2023)

Although the regulations related to MMQ in Brunei have been well developed, there are several practical issues faced in the implementation of this product. Some of these issues include:

Legal Documentation and Asset Ownership: One of the key issues is complex legal documentation and asset ownership protection. In the MMQ contract, the ownership of the asset is divided between the bank and the customer. However, in practice, transfer of ownership and legal records often face challenges, especially when it comes to properties that are still under development. Clarity in legal documentation is essential to ensure that the client's ownership rights are properly protected.

Risk Management: The implementation of MMQ involves risks that must be carefully managed by Islamic banks. These risks include market risk, operational risk, and credit risk. Islamic banks in Brunei must have a robust risk management system in place to monitor and manage the risks associated with MMQ. MUIB policies provide guidance on risk management, but its implementation still faces challenges, especially in terms of implementation and monitoring.

Use of Additional Contracts: MMQ is often integrated with other contracts such as *ijarah mawsufah fi dzimmah* and *istisna* for financing assets that are still under development. The use of these additional contracts requires a deep understanding of sharia law and technical skills to ensure that all such contracts are in accordance with sharia principles and are properly implemented. This adds complexity in documentation and operational management.

Sharia Compliance and Supervision: Compliance with sharia principles is a critical aspect of the implementation of the MMQ. Islamic banks must ensure that all aspects of transactions, from product offerings to contract execution, are in accordance with sharia principles. MUIB plays an important role in the supervision and enforcement of sharia compliance. However, Islamic banks must also have internal mechanisms in place to ensure this compliance.

The regulatory framework for MMQ in Brunei has been well developed through policies and guidance from MUIB. This regulation ensures that MMQ products are in accordance with sharia principles and implemented with transparency and fairness. However, there are several practical issues that need to be addressed to improve the implementation of MMQ. By addressing these issues, Islamic banks in Brunei can offer MMQ products that are more effective and in line with the needs of the Muslim community in Brunei. This research is expected to make a significant contribution to understanding and improving MMQ regulations and practices in Brunei.

D. Comparison of MMQ Regulations and Practices in Indonesia, Malaysia, and Brunei

1. Similarities and Differences in Regulation

Musyarakah Mutanaqisah (MMQ) as a sharia financial product has been regulated with different regulations in Indonesia, Malaysia, and Brunei. Even so, the three countries have similarities in the application of basic sharia principles such as the prohibition of usury, *gharar*, and *maysir*.

Equation:

- **Sharia Compliance:** The three countries ensure that MMQ products comply with sharia principles through fatwa bodies and authorized sharia supervisors.
- **Ownership and Risk Sharing:** In all cases, asset ownership begins with joint ownership between the bank and the customer, where a portion of the bank's ownership is gradually purchased by the customer until the asset is fully owned by the customer.

Difference:

- **Specific Regulations and Implementation:** Indonesia relies on DSN-MUI fatwas and OJK regulations to govern MMQ, while Malaysia uses BNM's policy document guided by SAC-BNM resolutions. Brunei, through the MUIB, issues fatwas and regulations that are more contextual according to local needs.
- **Use of Additional Contracts:** In Malaysia, MMQ is often combined with contracts such as *ijarah* and *istisna* for the financing of assets that are still under development. While in Indonesia and

Brunei, although the use of additional contracts also exists, the approach may not be as complex as in Malaysia.

2. The Role of Fatwa Institutions and Sharia Supervisors

Indonesia: National Sharia Council of the Indonesian Ulema Council (DSN-MUI): DSN-MUI is the main institution that issues fatwas related to Islamic financial products. The role of DSN-MUI is very crucial in setting sharia standards that must be complied with by all Islamic financial institutions in Indonesia. Financial Services Authority (OJK): OJK plays a role in supervision and enforcement of regulations to ensure that Islamic financial institutions comply with the fatwa issued by DSN-MUI.

Malaysia: Sharia Advisory Council (SAC) of Bank Negara Malaysia (BNM): SAC-BNM has the authority to issue fatwas and policies binding on all Islamic financial institutions in Malaysia. SAC-BNM ensures that Islamic financial products, including MMQ, are implemented in accordance with sharia principles. Bank Negara Malaysia (BNM): BNM through its SAC provides guidance and oversees the implementation of Islamic financial products to ensure sharia compliance and financial system stability.

Brunei: Brunei Islamic Religious Council (MUIB): MUIB is the institution responsible for issuing fatwas and supervising the implementation of Islamic financial products. MUIB ensures that all Islamic financial products offered in Brunei are in accordance with sharia principles. Ministry of Finance and Economy: This ministry supports the supervision and implementation of sharia financial regulations together with MUIB to ensure sustainability and sharia compliance in MMQ products.

3. Challenges and Solutions in MMQ Implementation

Indonesian:

Challenges: Asset Ownership: One of the main issues is legal certainty regarding asset ownership, especially for properties that are under development. Risk Management: Islamic banks must develop an effective risk management system to address the various risks associated with MMQ.

Solution: Clearer Regulation: Drafting more detailed regulations on asset ownership and legal protection. Training and Socialization: Increasing training for bank staff and socialization to the public on the benefits and risks of MMQ.

Malaysia:

Challenge: Contract Complexity: The integration of MMQ with other contracts such as *ijarah* and *istisna* adds complexity in documentation and implementation. Supervision and Compliance: Ensuring comprehensive sharia compliance requires intensive supervision.

Solution: Comprehensive Operational Standards: Develop more detailed operational standards to address additional contract complexity. Strengthening Supervisory Capacity: Strengthening internal and external supervisory capacity to ensure sharia compliance.

Brunei:

Challenges: Socialization and Education: Lack of public understanding of MMQ products and how they can be used effectively. Legal Documentation: Challenges in legal documentation and recording of asset ownership.

Solution: Educational Campaign: Conduct an intensive educational campaign to increase public understanding of MMQ. Regulatory Improvements: Develop clearer and more systematic regulations regarding legal documentation and asset ownership protection.

A comparison of MMQ regulations and practices in Indonesia, Malaysia, and Brunei shows that although the three countries share the same sharia principles, there are variations in the regulation and implementation of these products. Differences in regulatory approaches reflect the local context and the needs of the communities in each country. Practical challenges in the implementation of MMQ can be overcome by developing more detailed regulations, strengthening the risk management system, and increasing education and socialization to the public. This research provides valuable insights for the development and improvement of MMQ practices in all three countries, as well as providing recommendations for regulators and Islamic banking practitioners.

D. Comparison of MMQ Regulations and Practices in Indonesia, Malaysia, and Brunei

1. Similarities and Differences in Regulation

Equation:

The three countries, namely Indonesia, Malaysia, and Brunei, apply the same sharia principles in the regulation of *Musyarakah Mutanaqisah* (MMQ). All Islamic financial products in these countries must comply with the principle of prohibition of *riba*, *gharar*, and *maysir*. In addition, in all cases, MMQ involves joint ownership between the bank and the customer, where a portion of the bank's ownership is gradually purchased by the customer until the asset is fully owned by the customer.

Difference:

However, there are differences in the implementation and specification of the regulations:

Indonesia: MMQ regulations in Indonesia are determined through the fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and the regulations of the Financial Services Authority (OJK). DSN-MUI Fatwa No. 73/DSN-MUI/XI/2008 and Fatwa No. 101/DSN-MUI/X/2016 provide detailed guidance on the implementation of MMQ, including payment mechanisms and asset ownership. OJK issued additional regulations for the operationalization of this product.

Malaysia: In Malaysia, MMQ regulation is governed by a policy document issued by Bank Negara Malaysia (BNM) through the Sharia Advisory Council (SAC). This policy includes documents such as BNM/RH/STD028-7, which regulates the use of *musharakah* contracts in financing. Malaysia also integrated MMQ with additional contracts such as *ijarah mawsufah fi dzimmah* and *istisna*.

Brunei: Brunei regulates the MMQ through a fatwa issued by the Brunei Islamic Religious Council (MUIB). The regulation is tailored to the local context and the needs of the Brunei people, with a focus on clear legal documentation and asset ownership protection.

2. The Role of Fatwa Institutions and Sharia Supervisors

Indonesia: DSN-MUI: This institution is responsible for issuing binding fatwas on Islamic financial products. DSN-MUI ensures that products such as MMQ are in accordance with sharia principles and provide detailed operational guidance for Islamic financial institutions. OJK: As a regulator, OJK oversees the implementation and operationalization of Islamic financial products, including MMQ, to ensure compliance with regulations and DSN-MUI fatwas.

Malaysia:

SAC-BNM: SAC under BNM has the authority to issue fatwas and policies that bind all Islamic financial institutions in Malaysia. SAC ensures that all Islamic financial products and services are in accordance with sharia principles and sets operational standards for MMQ.

BNM: BNM, through its SAC, issued a policy document that provides detailed guidance on the implementation of the MMQ and ensures that Islamic banks comply with the standard.

Brunei:

MUIB: The Brunei Islamic Religious Council is the institution responsible for issuing fatwas and supervising the implementation of Islamic financial products in Brunei. MUIB ensures that MMQ is implemented in accordance with sharia principles and provides relevant operational guidance.

Ministry of Finance and Economy: Support the supervision and implementation of sharia financial regulations together with MUIB to ensure sustainability and sharia compliance in MMQ products.

3. Challenges and Solutions in MMQ Implementation

Indonesian:

Challenges: Asset Ownership: Legal certainty regarding asset ownership is often an issue, especially for properties that are under development. Risk Management: Islamic banks must develop an effective risk management system to address the risks associated with MMQ.

Solution: Clearer Regulation: Develop more detailed regulations on asset ownership and legal protection to address this issue. Training and Socialization: Increasing training for bank staff and socialization to the public on the benefits and risks of MMQ.

Malaysia:

Challenge: Contract Complexity: The integration of MMQ with other contracts such as ijarah and istisna adds complexity in documentation and implementation. Supervision and Compliance: Ensuring comprehensive sharia compliance requires intensive supervision.

Solution: Comprehensive Operational Standards: Develop more detailed operational standards to address additional contract complexity. **Strengthening Supervisory Capacity:** Strengthening internal and external supervisory capacity to ensure sharia compliance.

Brunei:

Challenges: Socialization and Education: Lack of public understanding of MMQ products and how they can be used effectively. **Legal Documentation:** Challenges in legal documentation and recording of asset ownership.

Solution: Educational Campaign: Conduct an intensive educational campaign to increase public understanding of MMQ. **Regulatory Improvements:** Develop clearer and more systematic regulations regarding legal documentation and asset ownership protection.

A comparison of MMQ regulations and practices in Indonesia, Malaysia, and Brunei shows that although the three countries share the same sharia principles, there are variations in the regulation and implementation of these products. Differences in regulatory approaches reflect the local context and the needs of the communities in each country. Practical challenges in the implementation of MMQ can be overcome by developing more detailed regulations, strengthening the risk management system, and increasing education and socialization to the public. This research provides valuable insights for the development and improvement of MMQ practices in all three countries, as well as providing recommendations for regulators and Islamic banking practitioners.

CONCLUSION

This study has examined the regulatory framework of Musyarakah Mutanaqisah (MMQ) in three countries, namely Indonesia, Malaysia, and Brunei. The following is a summary of the main findings and conclusions regarding the effectiveness of the MMQ regulatory framework in the three countries: Indonesia has a comprehensive regulatory framework through fatwas issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and regulations regulated by the Financial Services Authority (OJK). DSN-MUI Fatwa No. 73/DSN-MUI/XI/2008 and No. 101/DSN-MUI/X/2016 provide clear guidance on the implementation of MMQ. Challenges faced include legal certainty regarding asset ownership and risk management in the implementation of MMQ.

Regulatory Framework in Malaysia: Malaysia regulates the MMQ through a policy document issued by Bank Negara Malaysia (BNM) with guidance from the Sharia Advisory Council (SAC). Documents such as BNM/RH/STD028-7 set operational standards for MMQ and its integration with additional contracts such as *ijarah* and *istisna*. The main challenges are the complexity of additional contracts and the need for intensive supervision to ensure sharia compliance.

Regulatory Framework in Brunei: Brunei regulates the MMQ through a fatwa issued by the Brunei Islamic Religious Council (MUIB). These regulations are tailored to the local context and provide clear guidance on legal documentation and asset ownership. The main challenge in Brunei is the lack of public understanding of MMQ and legal documentation issues.

The regulatory framework of MMQ in Indonesia, Malaysia, and Brunei has been well developed and has a strong foundation in sharia principles. However, each country faces unique challenges that

affect the effectiveness of MMQ implementation. Regulations in Indonesia and Malaysia are more detailed and structured compared to Brunei, which still needs improvement in several aspects of operations and socialization to the public. Overall, MMQ regulations in these three countries are effective in ensuring sharia compliance, although there is still room for improvement in terms of risk management and public education.

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