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Analysis of Financial Technology Product Contracts Peer to Peer Lending Syariah Platform Ammana.id

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ABSTRACT

Ammana.id in obtaining funds from lenders uses a representative contract with wages (wakalah bil ujah) in transactions between them and the lender. That way, Ammana.id is considered to have accepted a dependent or representative from the borrower, so they are entitled to profit (ujrah). Meanwhile, between lenders and sharia cooperatives, a profit-sharing

contract (musharaka) is established. Ammana.id cooperates with BMT, KSPPS, BPRS, Sharia Venture Institutions as microfinance institutions that distribute loan funds. The law of wakalah with the presence and absence of wages is valid, because the Prophet Muhammad SAW once sent his employees to collect zakat and give them wages. The next contract is the Musyarakah contract which is between Ammana.id and the fund distributor. With a musharaka contract, the owner of the capital and the distributor of the funds both deposit capital in nominal terms according to the ability and agreement of the parties in the musharaka. This study formulates the problem (1) What is the form of the Ammana.id platform p2p lending sharia product contract? and (2) how is the Ammana.id platform sharia p2p lending product law in terms of islamic law? Ammana.id is present as a Sharia P2P (Peer to Peer) lending company with a non-direct funding system, where MSME actors are required to become part/members of micro sharia finance partners registered with Ammana.id which function as a curation institution for MSME business feasibility. which will be co-funded with lenders/funders through a crowdfunding/co-funding scheme through fintech applications

Keywords: *Financial Technology, Musyarakar, P2P Lending Syariah, Wakala, Peer to Peer Lending*

INTRODUCTION

The development of peer-to-peer (P2P) lending financial technology (hereinafter referred to as fintech P2P lending) in development in Indonesia has increased. This is evidenced by the increasing number of P2P lending companies in Indonesia. In the Fintech Lending Statistics report for the March 2019 period, the accumulated loan amount reached Rp. 33,200,470,348,514, up 46.48% compared to last year's accumulation of Rp. 22,666,069,500,288. Despite experiencing a decrease in the percentage in the 90-day success rate (TKB90) -1.19%, the increase in the number of borrower

account transactions in March 2019 increased by 58.57% compared to the number of borrower account transactions at the end of 2018 or 22,725,309 borrower accounts.¹

Companies that are engaged in fintech and run sharia P2P Lending services are sharia financial institutions because, in their activities, both collection and distribution of funds provide and impose rewards or the basis of sharia principles, namely buying and selling and profit-sharing, by Kasmir (2012) description of Islamic financial institutions. So related to the collection and financing carried out by the company following the provisions of sharia.²

To date, the Financial Services Authority (OJK) has recorded that 106 p2p lending fintech companies have been registered. Even so, there are 738 illegal or unregistered fintechs with the OJK, including 211 websites and 527 applications on Android that are blocked by the Ministry of Communication and Information of the Republic of Indonesia (Kominfo).³

With the increasing positive trend of fintech p2p lending in Indonesia, it is directly proportional to the increase in the number of fintech sharia in Indonesia. 37 sharia fintech companies are members of the Indonesian Sharia Fintech Association (AFSI). One of them is Ammana, a sharia-based p2p lending fintech startup. With his vision of "making halal a part of the lifestyle for everyone."

See progress in tech p2p lending, in particular, Sharia fintech p2p lending in Indonesia, which is very high, has aroused the author's interest to research one of the Sharia fintech companies, namely Ammana. The Ammana product is a Sharia-only p2p lending that brings together SME owners who need business loans with borrowers. The purpose of writing this article is to find out whether the form of sharia p2p lending products

¹ "Statistik Fintech Lending Periode Maret 2019," accessed February 20, 2022, <https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/fintech/Pages/Statistik-Fintech-Lending-Periode-Maret-2019.aspx>.

² Kasmir, *Bank & Lembaga Keuangan Lainnya* (Jakarta: PT Raja Grafindo Persada, 2012).

³ "Penyelenggara Fintech Terdaftar Di OJK per 1 Februari 2019," accessed February 20, 2022, <https://www.ojk.go.id/id/berita-dan-kegiatan/publikasi/Pages/Penyelenggara-Fintech-Terdaftar-di-OJK-per-Februari-2019.aspx>.

is by the sharia concept by examining the substance and mechanism of sharia p2p lending products. and the potential risks that arise in sharia p2p lending products It is hoped that this article will help the community, especially Muslims in Indonesia regarding the spiritual rights of sharia p2p lending products from Ammana and know more about the impact on better management of investment in sharia p2p lending.

METHOD

The research method used in this study is a qualitative method with the type of research being document study. Qualitative research is researching whose data is expressed in verbal form and analyzed without using statistical techniques.⁴ Qualitative research aims to understand a social phenomenon where the research will emphasize the description of the phenomenon under study by describing it. on several variables so that it is hoped that there will be a clearer and deeper understanding and further discover new knowledge. Document/text study is a study that focuses on the interpretation of written material based on context.⁵ This research is based on secondary data, namely where the data obtained in this study are not directly obtained by the research maker.⁶ Furthermore, the author performs technical content analysis on everything from the data. Content analysis is an analytical method that is made by concluding based on an objective and systematic analysis of the special characteristics of an object.⁷ This research takes data directly from the website of the Sharia fintech company, namely PT Ammana Fintech Syariah (Ammana.id)

⁴ Sangaji Mamang and Sopiah, *Metodologi Penelitian : Pendekatan Praktis Dalam Penelitian* (Yogyakarta: Penerbit Andi, 2010).

⁵ Mudjia Rahardjo, "Jenis Dan Metode Penelitian Kualitatif," June 1, 2010, <https://www.uin-malang.ac.id/r/100601/jenis-dan-metode-penelitian-kualitatif.html>.

⁶ Purwanto, *Metode Penelitian Kuantitatif*. (Yogyakarta: Pustaka Pelajar, 2008).

⁷ OR Holsti and Addison-Wesley, "Content Analysis for the Social Sciences and Humanities," *Ci.Nii.Ac.Jp*, accessed February 20, 2022, <https://ci.nii.ac.jp/naid/10007743499/>.

RESULTS & DISCUSSION

I. CONTRACT CONSTRUCTION IN AMMAN.ID P2P LENDING SHARIA PRODUCTS

Ammana was the first pioneer in sharia fintech in Indonesia. With the existence of OJK regulation number 77/POJK.01/2016 containing special rules regarding p2p lending, Lutfi Adhiansyah has been excited to establish Ammana since July 2017 with Supriyono Soekarno and Randy Bimantoro. Fintech companies raise funds by inviting investors or lenders to work together in partnership (joint financing) to invest through this company. This is part of crowdfunding activities, which are carried out by fintech companies in Indonesia.⁸

By collecting funds from other parties, these financial institutions can channel them through financing either by executing or channeling patterns. The executing pattern is the distribution of MSME loans or financing to MSME debtors carried out by certain financial institutions and the channeling pattern is the distribution of MSME loans or financing to MSME debtors through certain financial institutions (BI, 2013). Furthermore, Dapta (2012), although explaining in the linked program, the executing and channeling pattern of sharia financing through partner institutions using sharia contracts only acts as an agent/guardian and is entitled to receive *ujrah/fees*.⁹

⁸ Wijayanti T, "Pelaksanaan Pemberian Kredit Berbasis Teknologi Informasi Oleh Fintech Kepada Pelaku UKM." (Universitas Muhammadiyah Surakarta, 2018), <http://eprints.ums.ac.id/66263/16/naskah publikasi REV.pdf>.

⁹ Febri Antika Sonya Harum Dapta, "Perbedaan Pola Channeling Dan Executing Pada Pembiayaan Linkage Program Di Bank Syariah Mandiri Cabang Salatiga," *Muqtasid: Jurnal Ekonomi Dan Perbankan Syariah* 3, no. 2 (2012): 251, <https://doi.org/10.18326/muqtasid.v3i2.251-276>.

Amanah in getting funds from lenders uses representative contracts with wages (*wakalah bil ujah*) in transactions between them and the lender. In this way, Ammana is considered to have accepted a dependent or representative from the borrower, so that they are entitled to benefit (*ujrah*). Meanwhile, between lenders and sharia cooperatives, a profit-sharing contract (*musharaka*) is established. Ammana cooperates with BMT, KSPPS, BPRS, Sharia Venture Institutions as microfinance institutions that distribute loan funds. Akad or al-'aqad is an engagement, agreement, and consensus. The *ijab* (statement of making a bond) and *qabul* (statement of acceptance of the bond) are by the will of the Shari'a which affects the object of the engagement.¹⁰ This means that in the contract each party is bound to carry out their respective obligations that have been agreed upon in advance. So, when one or both parties bound in the contract cannot fulfill their obligations, then one or both parties accept the sanctions that have been agreed upon in the contract.¹¹

According to Hashbi Ash-Shiddieqy, *wakalah* is a contract of transfer of power in which a person appoints another person as his successor in acting.¹² The law of *wakalah* with the presence and absence of wages is valid because the Prophet Muhammad SAW once sent his employees to collect zakat and give them wages.¹³

Wakalah with wages, if it has been agreed, the contract becomes customary and binding so that the person giving the representative is the same as the paid person, meaning that he must carry out what has been represented to him. Therefore, the representative is entitled to receive wages as soon as possible once the *Wakalah* is completed.

¹⁰ Muhammad, *Model-Model Akad Pembiayaan Di Bank Syariah* (Yogyakarta: UII Press Yogyakarta, 2009).

¹¹ Muhammad, *Manajemen Bank Syariah* (Yogyakarta: Unit Penerbit dan Pencetakan Sekolah Tinggi Ilmu Manajemen YKPN, 2011).

¹² Indah Nuhyatia, "Sekolah Tinggi Agama Islam Darul Ulum Banyuwangi," *Jurnal Ekonomi Dan Hukum Islam* 3, no. 2 (2013): 94–116.

¹³ Wahbah Az-Zuhaili and Abdul Hayyie Al-Kattani, *Fiqh Islwa Wa Adilatuh* (Jakarta: Gema Insani, 2011).

The second contract is the contract *Musharakah* where between the Ammana and the channeling of funds in this case BMT, KSPPS, BPRS, Sharia Venture Institutions. With a *musharaka* contract, the owner of the capital and the distributor of the funds both deposit capital in nominal terms according to the ability and agreement of the parties in the *musharaka*.

II. WAKALAH BIL UJRAH CONTRACT IN AMMANA.ID

Wakalah etymologically is protection, guarantee, dependent, giving power. And also the wakalah contract can be interpreted as the delegation of power by a person as the first party to another person as the second party in matters being represented (in this case the second party) only carries out something to the extent of the power or authority granted by the first party, but if that power has been carried out as required, then all risks and responsibilities for carrying out the order are fully borne by the first party or the authorizing party.¹⁴

a. Definition and Scope of Wakalah

Wakalah it can also be interpreted as protection (*al-hifzh*), sufficiency (*al-kifayah*), dependents (*al-dhamah*), or delegation (*al-tafwidh*), which is also interpreted as giving power or representing. There are also other meanings of Wakalah, namely:

1. Wakalah or wikalah which means submission, delegation, or giving a mandate.
2. Wakalah is the delegation of power by a person as the first party to another as the second party in matters being represented (in this case

¹⁴ Abdul Wahab Ibrahim Abu Sulaiman and Aidil Novia, *Banking Cards Syariah : Kartu Kredit Dan Debit Dalam Perspektif Fiqih* (Jakarta: Raja Grafindo Persada, 2006).

the second party) only carries out something to the extent of the power or authority granted by the first party, but if the power has been exercised as required, then all risks and responsibilities for carrying out the order will be fully borne by the first party or the authorizing party.

Another understanding of wakalah comes from wazan wakala-yakuli-waklan which means to hand over or represent affairs while wakalah is the work of representatives.¹⁵

Al-wakalah according to the terms of the scholars defined, namely, among others:

1. According to the Syafi'ah scholars, wakalah is an expression that implies the delegation of something by someone to another person so that the other person performs an activity that has been authorized on behalf of the person giving the power of attorney.
2. According to Malikiyah scholars, wakalah is the act of someone representing himself to another person to carry out activities that are his right, which activity is not associated with the granting of power of attorney after the power of attorney dies because if the activity is tied up after the power of attorney dies, it is in the form of a will.
3. According to Hanafiyah scholars, wakalah is someone who occupies another person's self in management.
4. According to Hambali scholars, wakalah is a request for a person's replacement in which there is a substitute for God's rights and human rights.
5. According to the classical fiqh scholar Al-Dhimyati, wakalah is someone who leaves his affairs to others in which there is a replacement.
6. According to Imam Taqy, wakalah is someone who gives up his property to be managed by someone else during his life.

¹⁵ Tim Kashiko, *Kamus Lengkap : Arab - Indonesia* (Surabaya: Kashiko, 2000).

7. According to Hashbi Ash Shiddieqy, wakalah is a contract of transfer of power, in which a person appoints another person as his successor in acting.
8. According to Sayyid Sabiq, wakalah is the delegation of power by one person to another in matters that may be represented.

From the above definition, it can be concluded that what is meant by wakalah is the submission of someone to another person to do something where the representative is valid as long as the representative is still alive.¹⁶ Wisdom is prescribed, wakalah is a duty as long as it is the responsibility of a person's affairs who sometimes cannot carry on the task because of the old age that arises in the giver of the power of attorney with other causes and matters or illness so that it is unavoidable that he is unable to do so. act to perfect this responsibility, he is forced to represent himself for his benefit and goodness. The law of wakalah is in the syara', it must be based on the Qur'an and Sunnah.

b. Type of Wakalah

1. Al-wakalah al-Mutlaqah, that is to represent absolutely, without time limit and for all matters. In positive law, it is often known as broad power of attorney, which is usually used to represent all the needs of the power giver and usually only for administrative actions.
2. Al-Wakalah al-Muqayyadah, namely the appointment of representatives to act on behalf of certain affairs. In positive law, this is known as a special power of attorney and is usually only for one legal action. This special power is usually intended for certain legal actions related to ownership of an item, making peace, or other actions that can only be carried out by the owner of the item.
3. Al-Wakalah al-Amamah, namely the representation that is wider than al-muqayyadah but simpler than al-mutlaqah. Usually, this power is for the day-to-day actions of the administrator. In the practice of

¹⁶ Hendi Suhendi, *Fiqh Muamalah*, 9th ed. (Jakarta: Rajawali Press, 2014).

Islamic banking, wakalah is often used as a complement to the transaction of a contract or as a bridge over the limitations or obstacles of the implementation of a contract.¹⁷

c. Legal Basis of Wakalah Bil Ujrah Contract

1. Al-Qur'an,

- a) Qs. Al-Maidah (5):1, "O you who believe, fulfill these contracts. Cattle are forbidden to you, except for those that will be read to you (that is) by not preventing hunting while we are doing things. Verily, Allah sets the laws according to His will".
- b) Qs. Al-Hasyr (59): 18, "O you who believe, fear Allah and let every soul pay attention to what he has prepared for tomorrow and fear Allah, knowing what you do."
- c) Qs. Yunus (12): 55, "Make me a treasurer (Egypt). Verily, I am an intelligent and experienced person."
- d) Surah An-Nisa (4): 58, "Indeed, Allah commands you to convey the message to those who are entitled to receive it and when you determine the law among humans, do it fairly. Verily, Allah has taught you the best. Verily, Allah is All-Hearing, All-Seeing."
- e) Qs. Al-Maidah (5):2, "Cooperate with you in matters of righteousness and piety, and do not cooperate in matters that are sinful and that can cause enmity"

2. Hadith

It was narrated from Busr Bin Said'id that Ibn Sa'diy Al-Maliki said, Umar hired me to take alms (zakat). After I gave zakat to him, Umar ordered that I be rewarded (fee). I said I work only because of Allah. Umar replied, take what you give, I used to work like you at the time of the apostle, then he rewarded me, I also said what you said. Then

¹⁷ Irma Devita, Purnamasari and Suswinarno, *Akad Syariah* (Bandung: PT Mizan Pustaka, 2011).

the Messenger of Allah said to me, "When you are given something without asking for food, take it and give charity.

d. Pillars and Terms of Wakalah

To achieve a valid contract, the contract must meet the pillars and conditions of the contract itself. Likewise, with this wakalah contract. The pillars and conditions for wakalah are as follows:¹⁸

1. The person who represents, the condition is that he is the owner of the goods or under his control and can act on the property, otherwise, the wakalah is void. Small children who can distinguish between good and bad may represent actions that are beneficial to the mahdhah, such as representatives to receive grants, alms, and wills. But if it is for an act that is dharar mahdhah, such as talaq, then the act is void.
2. People who represent, the conditions are mature and reasonable. According to Hanafiyah, a child who can distinguish between good and bad is legitimate to be a representative.
3. Something that is represented, the condition is that something is known. Apart from that, you can also accept replacements. The point is that it can be delegated to someone else to do it.
4. Shighat, namely lafadz represents. Shighat is pronounced by the representative as a symbol of his pleasure to represent, and the representative accepts it.

Based on the Fatwa of the National Sharia Council Number 10/DSN-MUI/IV/2000, it is stipulated that the implementation of wakalah must fulfill the following conditions:¹⁹

1. Requirements for a representative (representative)
 - a) The legal owner can act on something that is represented.

¹⁸ Suhendi, *Fiqh Muamalah*.

¹⁹ Purnamasari and Suswinarno, *Akad Syariah*.

- b) Mumayyiz people or children (can distinguish between right and wrong things) within certain limits, namely in things that are beneficial to them, such as representing to receive alms, and so on.
2. Representative (representative) requirements
 - a) Able to act in the eyes of the law.
 - b) Can carry out the tasks assigned to him.
 - c) A representative is a person who is given a mandate.
 3. Things that can be represented using the wakalah principle are, among others:
 - d) A thing (certain legal action) that is known by the person who represents it. So, in giving the power of attorney, the recipient of the power of attorney must understand the intent or legal action authorized by the power of attorney.
 - e) Does not conflict with Islamic law. The granting of such power may not be for a purpose that is contrary to Islamic law. For example, the power to carry out a false transaction (evil).
 - f) Can be represented according to Islamic law.

III. ELECTRONIC CONTRACT IN AMMANA.ID

Electronic contract or electronic contract according to UU ITE No.II/2008 Article 18 is an electronic transaction that is poured into an electronic contract that binds the parties. This electronic contract arises when there is acceptance by the financier of the offer of the recipient of financing through the provider's platform. The electronic contract listed in the form of a standard contract is an agreement determined by one party, in this case, the organizer, which includes several standard clauses regarding the content of the contract such as the type of contract, the form of the contract, the method of making the contract and other clauses deemed necessary to

be contained. MUI fatwa No.117/DSN-MUI/II/2018 regarding information technology-based financing services based on sharia principles.²⁰

The stages of the emergence of a contract agreement for a transaction at PT. Ammana Fintek Syariah are based on Syariah Principles which are mentioned several mechanisms in community-based financing services before the contract agreement of a transaction appears, namely as follows:

- 1) Recipients of financing who have been registered as members of MSMEs or Sharia Financial Institutions which then cooperate with PT. Ammana Fintek Syariah.
- 2) Recipients of financing who need financing then apply for financing to PT. Ammana Fintek Syariah.
- 3) After the financing application, PT. Ammana Fintek Syariah. then offer it to potential providers or users of financing by the required capital needs.
- 4) If the financier has approved the offer, a wakalah bi al-ujrah agreement will be made between the financier and PT. Ammana Fintek Syariah which will then provide financing to the financing recipient. In this case the muwakkil is the financier and the representative is PT. Ammana Fintek Syariah.
- 5) PT. Ammana Fintek Syariah. as a representative of the financier, will then enter into a contract with the partner receiving the financing by the agreed contract (with sale and purchase contracts, *ijarah*, *musharaka*, *mudharabah*, and other contracts by sharia principles).
- 6) After the contract occurs, the recipient of the financing will pay the principal and return in the form of expected margin/profit, *ujrah*/wages, or profit-sharing) which has been agreed by PT. Ammana Fintek Syariah. through MSMEs or financial institutions in collaboration with PT. Ammana Sharia Fintech.

²⁰ Sri Maulida, Ahmadi Hasan, and Masyitah Umar, "Implementasi Akad Pembiayaan Qard Dan Wakalah Bil Ujrah Pada Platform Fintech Lending Syariah Ditinjau Berdasarkan Peraturan Otoritas Jasa Keuangan (OJK) Dan Fatwa DSN-MUI," *Al-Tijary, Jurnal Ekonomi Dan Bisnis Islam* 5, no. 2 (2020): 175–89.

- 7) Periodically, the organizer is obliged to submit the principal and yield (margin or *ujrah*) to the financier/user, all of which have been listed and agreed upon in detail in the electronic contract.

An electronic contract will be considered valid and valid if it includes a digital signature from the organizer and financier as one of the requirements to guarantee its validity and authentication according to the applicable laws and regulations.

The contract was used at Ammana.id is in the form of a musharaka contract, namely a financing collaboration that occurs between a financier and a partner to raise capital (Rasul Mal) to finance a business object. In this contract, the financier is also known as the passive financier, and the partner is called the active financier.

The second contract, namely the mudharabah contract, is a collaboration between the financier and partners, where the financier will include all of his capital from the needs of a business object to be financed and the distribution of profit-sharing ratios according to mutual agreement. The community-based financing contract mechanism is a model for the services offered by PT. Ammana by involving four legal subjects, namely:

- 1) The organizer, in this case, is PT Ammana a provider of information technology-based financing services
- 2) Financing provider
- 3) Partners, namely certain business communities that have collaborated with the organizers, in this case, PT Ammana has collaborated with more than 30 BMTs or cooperatives and waqf institutions
- 4) Business actors or prospective financing recipients who have joined partners.

Contracts used in community-based financing services:

1. Wakalah Bil Ujroh Contract or Representative Contract with Wages
According to DSN-MUI Fatwa No. 117/2018 Wakalah bil ujrah contract is made between Ammana and the financier. The wakalah contract

according to the new scholars is considered valid if it fulfills the following conditions:

- a. The Representative (*Al-Muwakkil*)
- b. People who receive power (*Al-Wakil*)
- c. The case being represented
- d. Statement of agreement (*ijab-qabul*)

Ammana.id as the beneficiary (*wakil*) accepts responsibility or receives power of attorney from the financier as the person who represents (*muwakil*). To channel funds to recipients of financing, so that the financing they issue reaches the recipients of financing. organizers and financiers enter into *wakalah bil ujah* contracts, so that from representing them, Ammana is entitled to benefit (*ujrah*) for the provision of services, such as IT services or virtual account procurement services.

2. Musyarakah Contract in the Regulation of the Chairman of the Capital Market and Financial Institutions Supervisory Agency (Bapepam LK) Number: PER-03/BI/2007 concerning the activities of financing companies based on sharia principles, it is explained that what is meant by *musyarakah* are funds obtained by financing companies through cooperation agreements with other parties. for certain businesses where each party contributes funds provided that the profits are shared according to the agreement as stated in the contract or proportionally; while the risk is shared proportionally. Regarding the distribution of profits and losses generated, it is regulated in Fatwa Number 08 of 2000 concerning *Musyarakah Financing*, i.e. every profit is distributed proportionally or based on an agreement at the beginning of the contract and the profit-sharing system (*ratio*) must be clearly stated in the deed of agreement and may propose if the profit exceeds a certain amount, the excess or percentage is given to him. Then the provision regarding losses is that losses are divided between the parties proportionally according to their respective shares in the capital.

IV. FUNDING SCHEME WITH *MUDARABAH* AGREEMENT IN AMMANA

In this section, the author will explain the funding scheme with a mudharabah contract. Ammana's lenders and partners use mudharabah contracts to fund financing to customers. Profits from the financing will be shared between Ammana's partners and lenders. The lender (represented by Ammana) and Ammana's partner collaborated to use a mudharabah contract to provide funding to the recipient of the financing. Furthermore, Ammana partners enter into a financing agreement with the recipient of the financing. Below are the details of the funding scheme in Ammana:²¹

1. Prospective recipients of financing apply for financing to Ammana partners. Mitra Ammana conducts an assessment to see the feasibility of financing.
2. After it has been declared that the financing is feasible, then the Ammana partner submits the financing to Ammana. Ammana conducted an assessment of the financing to see its feasibility. After it has been declared that the financing is feasible, then Ammana advertises the financing on the Ammana mobile application.
3. The lender chooses the financing to be given funding. The lender approves the mudarabah agreement/contract between the lender and the Ammana partner through the Ammana mobile application (c.1). Ammana becomes the representative of the funder to carry out the contract (c.2).
4. Mitra Ammana enters into a contract with the recipient of the financing. There are various kinds of contracts, such as Murabaha, mudharabah, musharaka, etc.
5. Ammana transfers financing funds to the beneficiary's account.

²¹ Muhammad Miraj Rafif, "Implementasi Akad Mudarabah Pada Pembiayaan Daring Di PT Ammana Fintek Syariah Perspektif Kepatuhan Syariah.," *Diss. Universitas Islam Indonesia*, 2020, <https://dspace.uui.ac.id/handle/123456789/19953>.

6. The recipient of the financing transfers the profit sharing and principal financing to Ammana every month.
7. Ammana submits profit sharing to funders by the agreed ratio. The principal of the financing is returned to the lender after the financing has been completed.

Next, the author will discuss in detail the mudarabah contract between the lender and Ammana's partner. To find out more clearly about the financing with the mudarabah contract applied by Ammana, it is as follows:

a. Contract Subject

The subject of the mudharabah contract consists of two, namely the financier as the investor and the Ammana partner as the capital manager. However, Ammana is a platform that brings together lenders and partners, Ammana acts as an intermediary between the two. The donor has a wakalah contract with Ammana so that Ammana becomes the representative of the funder. Ammana carries out various legal actions with Ammana's partners on behalf of the funder, however, for signing the contract, the funder does so personally (not represented) through the Ammana application. Therefore, in this contract Ammana is a witness.

Everyone who already has an Identity Card (KTP) can become a funder at Ammana. According to the informant, to be eligible, it is necessary to fulfill two conditions, namely passing verification and having a minimum of Rp. 500,000. According to the author, just to register as a lender, you don't have to deposit Rp. 500,000, but lenders need Rp. 500,000 if you want to fund. Micro sharia financial institutions that want to become Ammana partners need to meet 5 requirements, namely:

- 1) Have assets of at least 2.5 billion
- 2) Has been established for at least 2 years
- 3) There has been a RAT and it has been reported for at least one year
- 4) Get a rating from Ammana of at least 70 or 3 stars
- 5) Get a score from Ammana at least level C

b. Contract Object

The object of the funder's mudharabah agreement with Ammana's partners is member financing (MSMEs) of Ammana's partners. The minimum funding ceiling in Ammana is Rp. 10,000,000 and a maximum period of 2 years. In the contract document (related to the object of the contract) there is clear information about the capital included by the lender, the financing period, the profit-sharing between the funder and Ammana's partners in the form of profit projections. However, not all MSME financing can get funding from Ammana. 2 types of requirements must be met, namely the applicant's requirements and the applicant's business requirements are as follows:

Applicant requirements:

- 1) Indonesian citizen
- 2) Have a job (employee or professional or entrepreneur) and income
- 3) Age 21 years old/married and not past the age of 60 when the financing is paid off
- 4) Physically & mentally healthy
- 5) Not a political party administrator
- 6) Not currently litigating in court or the prosecutor's office or the police
- 7) Only have 2 loans (not including credit cards)
- 8) Has no non-performing loans (col. 2, with DPD 30 days)
- 9) Have a guarantee (can be in the form of fixed assets, fiduciary, avalist / joint responsibility, etc.)
- 10) Have the required documents

Business requirements:

- 1) The business has been running for at least 2 years
- 2) Halal productive business

After all the requirements are completed, Ammana will score the financing. Financing will be approved if you get a minimum score of level C (moderate risk). The amount of the ceiling given for funding is also seen from the results of the scoring recommendation and is usually not up to 100%. It depends on the applicant's RPC and the guarantee.

c. Capital

Ammana provides a policy for funding each financing of a minimum of Rp. 500,000/unit. Funds provided by lenders must be in the form of rupiah and submitted by transfer through a virtual account. The funder submits the funds as stated in the contract document. Funds will be returned to the lender after the agreement ends or at the maturity of the mudarabah contract

d. Profit-sharing

Ammana implements a profit-sharing ratio policy which is an agreement between Ammana and Ammana's partners. The profit-sharing ratio is taken from the profits obtained from financing with a profit-sharing system. Ammana also does not distinguish the profit-sharing ratio between high-risk and non-high-risk businesses (such as agriculture), however, for high-risk businesses, Ammana will ask for additional guarantees from Ammana's partners. Below is an example of the calculation practice.

e. Advantages and Disadvantages

Mitra Ammana is obliged to provide funders for profit sharing by the ratio that has been agreed in the contract. If the Ammana partner returns the principal sooner than the maturity of the funding, it does not mean that the return will eliminate or reduce the share of the agreed profit until the financing period expires.

If you experience a loss, it will be borne by the lender, unless it is legally proven that the loss is not due to the fault of Ammana's partner or the applicant. However, if a loss occurs as a result of negligence, miss management, or the Ammana partner's or applicant's intent, then the Ammana partner or applicant will bear the loss. If a dispute occurs, it will be resolved at the Sharia Arbitration Board. The decision of the Sharia Arbitration Board is final and binding.

f. Costs

Lenders will be charged various fees when making funding. These costs include:

- 1) Digital TTD fee of Rp. 3,500;
- 2) RDL fee of Rp. 3,000;
- 3) The disbursement fee for Ammana is a maximum of 1% (on average 1%) of the total funding, for example, the 1% fee funds Rp. 500,000 then the wage is Rp. 5,000;
- 4) Payment channel fee Rp. 3,000 (optional) So a lender who funds will be charged Rp. 11.500 – Rp. 14,500 (with a funding amount of 1 unit).

Based on the author's observations, the wakalah contract document states that Ammana takes *ujrah* for services providing the Ammana platform, but the amount is 0 rupiah from the financing ceiling. However, in practice, Ammana takes *ujrah* of a maximum of 1% of the funding ceiling.

Apart from the above fees, Ammana and Ammana Partners may not deduct the funder's profits for other costs outside the contract agreement unless the deduction is required by applicable law. All taxes arising from the efforts made by the Ammana partner to carry out the contract are borne by the Ammana partner.

g. Supervision and Coaching

Transparency is an important thing that needs to be done by Ammana. The more transparent the funds disbursed by the lender, the more trust the lender will have in Ammana. Therefore, Ammana supervises the applicant through Ammana's partners. Ammana partners are required to periodically inform Ammana regarding the development of funded financing. Mitra Ammana also actively guides MSME-UMKM in the form of socialization and training such as training in making financial reports.

h. Penalty for Delay

The contract document is written regarding the obligation to pay a fine if the payment is delayed, but the nominal amount is Rp. 0. This is in line with the statement of the informant that there was no fine that Ammana gave for the delay in payment. However, the contract document states that the fine is intended to discipline Ammana's partners, and the fine money will be used for social funds. The imposition of a fine is also carried out by looking at the cause of the delay according to the results of the Ammana team's evaluation. Fines will be imposed every day for up to 30 days (including warning letters 1 to 3 warning letters) and then the legal process will be continued through Basyaranas.

i. Guarantee (collateral)

The guarantee provided by the applicant for financing is joint property and is embedded in the right of subrogation between the lender and Ammana's partner. According to Ammana's informant, the guarantee will be disbursed if the financing applicant cannot complete the contractual obligations under the agreement, however, Ammana's standard operating procedures have not regulated the excess or lack of funds resulting from the disbursement of the guarantee.

V. SUBSTANCE AND MECHANISM OF P2P LENDING SYARIAH AMMANA

PT Ammana Fintek Syariah is a legal entity established under the laws of the Republic of Indonesia. Established as a company regulated by and under the supervision of the Financial Services Authority (OJK) in Indonesia, the Company provides interfacing services as a liaison between parties providing financing and parties requiring financing including funding from individuals, organizations, or legal entities to certain

individuals or legal entities. . The company does not provide any form of advice or funding recommendations regarding the options on this site.²²

Ammana as the first sharia fintech in Indonesia is here to support the progress of MSME actors by bridging lenders/lenders with borrowers/borrowers, in this case, MSME actors who need halal business capital through joint funding program / halal crowdfunding. and this is one of Ammana's tasks which is to connect people with the Halal Economy and make it universally accepted because it has an impact.

Procedures are procedures or work sequences or rules that must be carried out so that the objectives of these activities can be carried out effectively and efficiently, and can be well coordinated. The financing procedure at ammana.id is carried out by the Standard Operating Procedures (SOP) that have been determined by the company's management. The mechanism in the SOP is also implemented as mitigations from risks that may occur.

Ammana is present as a companyP2P (Peer-to-Peer) leading sharia with a non-direct funding system, namely MSME actors are required to be part/members of micro-sharia finance partners registered in Ammana which function as a curation institution for MSME business feasibility which will be funded together with lenders/funders through a crowdfunding/co-funding scheme through fintech application.

In conducting partnerships, Ammana applies Profit Sharing from productive funding results with a Pure Profit Sharing System between lenders/lenders and Ammana's partner Islamic microfinance institutions (BMT/KSPPS/BPRS/Sharia Venture Institutions/other Sharia Financial Institutions). The basis for determining profit sharing is based on a comparison between projections/estimates with the realization of the results of operating income obtained from customer partners/MSMEs who receive funding from Lender Partners/BMT/KSPPS Partners, and of course,

²² Evy Iskandar, Ayumiati Ayumiati, and Novita Katrin, "Analisis Prosedur Pembiayaan Dan Manajemen Risiko Pada Perusahaan Peer To Peer (P2P) Lending Syariah Di Indonesia," *J-ISCAN: Journal of Islamic Accounting Research* 1, no. 2 (2019): 1-28, <https://doi.org/10.52490/j-iscan.v1i2.698>.

any income/business results between each sector businesses have different business returns with different risks.

Profit-sharing pattern - purely sharia because it calculates profit-sharing rights in a fair/fair and open/transparent manner between MSME actors themselves, lenders/lenders, and sharia microfinance partners who are Amamana partners (BMT/KSPPS/BPRS/Sharia Venture Institutions/Financial Institutions another Sharia).

Technically managing public funds, Ammana collects public funds directly through the "Ammana" application by providing an overview of small and medium-sized businesses that need financing by including information about the description of the type of business, business partners, place of business, business value in units, disbursement wages, value charged submitted and approved, length of financing, details of financing, estimation of profit sharing, type of contract. With the data provided, investors can include funds for business capital to business actors.

Previously, Ammana, as a representative of the investor's fund, was looking for business partners in developing the capital to work together with BMT/KSPPS/BPRS/Sharia Venture Institutions/other Sharia Financial Institutions. In practice, Ammana has only reached out to *Baitul Maal wat Tamwil* and the Sharia Savings and Loans and Financing Cooperative. The chosen business must be by sharia principles. Guidance for business partners is not carried out by Ammana directly but through Ammana's partners as a channel of funds.

The mechanism for applying for loans from MSMEs to Ammana through Ammana partners (BMT/KSPPS):

1. MSME submissions to become prospective members and prospective customers to BMT/KSPPS Partners with Ammana.
2. The initial coaching and mentoring process by BMT / KSPPS Mitra Ammana.
3. After the development of BMT / KSPPS, MSMEs submit a capital application to BMT / KSPPS.
4. Selection and analysis as well as scoring by BMT / KSPPS.

5. The committee at BMT / KSPPS.
6. If approved, submit to the Ammana Partnership Business Team.
7. The process of review scoring and risk & compliance at RMC - Ammana.
8. The Ammana Committee Process.
9. Cross-check the process to be ready to go live.
10. Show process.
11. Funding Process.
12. Full funded - Akad process.
13. Fund disbursement process.
14. Installment process & progress reports / post-disbursement.
15. The process of mentoring and coaching by BMT / KSPPS.
16. Payment Process.

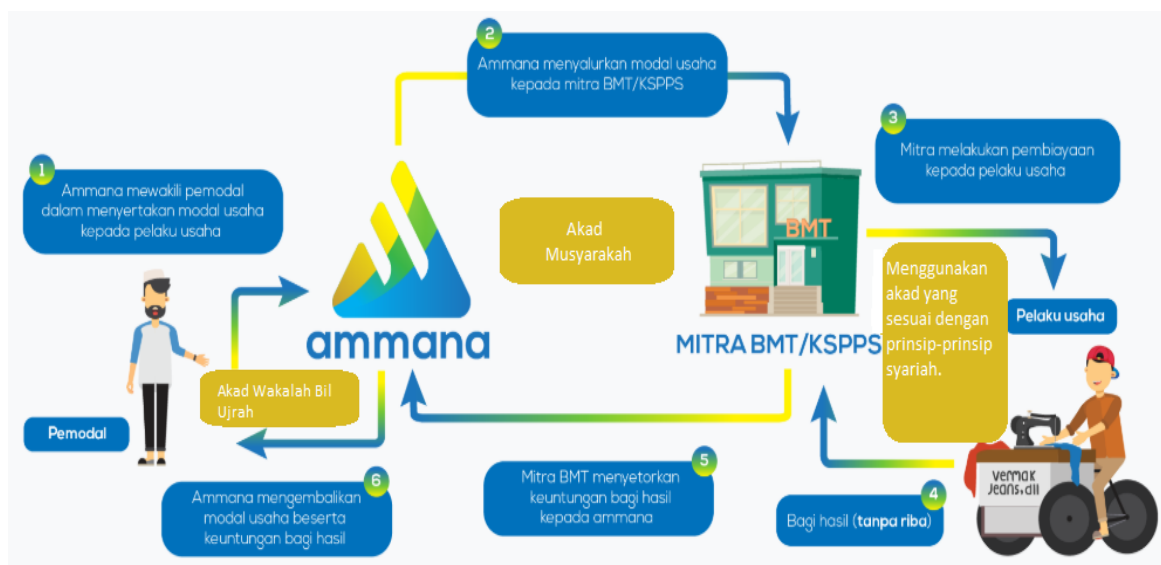


FIGURE 1. Loan Application Process at Ammana

VI. AMMANA SHARIA P2P LENDING LEGAL ANALYSIS

In disclaimer Ammana point 2, it is stated that "The risk of financing or failure to pay is fully borne by the lender. No state agency or authority is responsible for this default risk." The Ammana party as the organizer takes

profits through *ujrah* in *wakalah* but unilaterally is not responsible for compensation if the *wakalah* funds do not achieve a return according to what is offered in the business offer. This is clearly stated in the offer regarding the estimated profit sharing of financing. The estimation may later be wrong and not by what is stated, so there is an element of *gharar* in the description of the estimate.

And also in article 8 paragraph 1f of law number 8 of 199 concerning consumer protection, it is stated that: "business actors are prohibited from producing and/or trading goods or/or services that are not by the promises stated in labels, etiquette, information, advertisements or promotion of the sale of such goods and/or services" According to the author, the organizer's fintech p2p lending sharia violates article 8 paragraph 1f of law number 8 of 199 concerning consumer protection because it includes things that may not be appropriate in the future so that the financing provider must withdraw information on the estimated profit sharing in the financing.

In addition to disclaimer point 2, no state institution or authority is responsible for the risk of default. This is because the OJK as a financial supervisory institution in Indonesia does not supervise the risk management of lending to sharia p2p lending fintech providers. risk management of lending to Fintech is determined by each company. OJK is not responsible if sharia p2p lending fintech companies and fund owners bear the risk themselves. This is different from financial service institutions (LJK) whose risk management for financing distribution is regulated by the OJK.

Coupled with several contracts between channel partners and recipients of capital there are no binding guarantees, making it possible will increase the default rate on the return on capital. Even though there is a risk mechanism from the Ammana Party, without the supervision of the OJK, fintech p2p lending sharia is like a digital era loan shark wrapped in a sharia halal fatwa.

The long sequence of capital financing from the financier to the recipient of the financing is a problem in itself. The financier must go through two stages in translating its funds through the financing provider

(Ammana) and the implementing partner (BMT/KSPPS). In the contract used between the financing provider and the organizing partner, the Ammana party claims to use a musyarakah contract, which should be between the financier and the financing provider together for a particular business, where each party contributes capital provided that the profits are divided according to a ratio agreed and the loss will be shared proportionally. It is not explained whether the financing provider contributes capital or not. So that the conditions for the occurrence of musharaka, namely both contributing capitals have not been fulfilled so that it will result in the cancellation of the contract due to unclear conditions that have not been met. By the fatwa of the National Syari'ah Council of the Indonesian Ulema Council number 08/DSN-MUI/iv/2000 regarding musyarakah financing, point 2b stipulates: "Each partner must provide funds and work, and each partner carries out work as a representative."

Problems arise regarding prioritizing the contract wakalah or a contract agreed by Ammana's partner with the recipient of capital, granting of power (*wakalah*) from the lender to Ammana in practice the lender chooses directly the business without any agreement or wakalah contract which means prioritizing the contract agreed upon by the recipient of capital with Ammana's partner (eg. Murabaha contract)

In the DSN MUI Number 117/DSN-MUI/II/2018 in the sixth stipulation regarding the mechanism and contract point 6d it is stated: "If the prospective financier approves the offer as referred to in letter c, a contract shall be executed. wakalah bi al-ujrah between the Financing Provider and the Operator to provide financing to the Financing Recipient; the financier as muwakil, and the organizer as the representative." This article shows that the process of the wakalah contract occurs automatically when the financier approves the offer from the organizer.

The absence of a Sharia Supervisory Board as sharia director for all operational activities fintech sharia has an impact on investors' doubts about sharia compliance (shariah compliance) for sharia fintech institutions. The aspect of sharia compliance is a fundamental aspect and

makes the difference between sharia-based service providers and conventional service providers because in sharia there is not only profit-oriented but also *falah* oriented where not only profits are obtained but victory in the world and the hereafter becomes one of the benefits. to be achieved in the implementation of sharia-based services.

To achieve this, the regulation of sharia financial services institutions (in this case, sharia P2P lending) is regulated regarding sharia compliance, whose authority lies with the Indonesian Ulema Council, which is presented through the Sharia Supervisory Board which must be established at each organizer. information technology-based lending and borrowing services - sharia-based P2P lending.²³

CONCLUSION

Ammana as organizer P2P lending sharia obtains funds from the financier with a *wakalah bil ujah* contract and distributes the funds to the organizing partner using a *musharaka* contract and is continued by the organizers to the recipient of non-standard capital using what contract, depending on the organizing partner and the recipient of capital that is based on sharia principles. With disclaimer point 2, the organizers do not want to lose due to default by the recipient of the financing, which may occur due to the absence of OJK supervision and the absence of guarantees from the loan recipient. In the statement, it is stated about the estimation of profit sharing, even though the estimate may later be wrong and not by what is stated, so there are elements of *gharar* and violates article 8 paragraph 1f of law number 8 of 199 concerning consumer protection. The absence of a Sharia Supervisory Board as sharia director for all operational activities fintech sharia has an impact on investors' doubts about sharia compliance (*shariah compliance*) for sharia fintech institutions.

²³ Achmad Basori Alwi, "Pembiayaan Berbasis Teknologi Informasi (Fintech) Yang Berdasarkan Syariah," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 21, no. 2 (2018): 255–71, <https://doi.org/10.15642/alqanun.2018.21.2.255-271>.

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