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Legal Analysis of the Implementation of Shari'ah Insurance Investment According to Fiqh Muamalah

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Abstract

The principle of Sharia insurance is mutual assistance or mutual protection, where members set aside their funds as contributions related to tabarru' (charitable donations). Investments in insurance companies can be represented in the form of portfolios. A portfolio is a collection of integrated investment forms aimed at gaining investment returns. The primary objective of an investment portfolio is to achieve high returns with low risk levels to meet obligations to policyholders and for the growth of the company. Meanwhile, profitability depicts the company's ability to generate profits through all available capabilities and resources. Sharia-compliant insurance companies like Sunlife Sharia Insurance offer investment opportunities to customers through various insurance products. Each product has different contractual agreements, some requiring customers to make investments while others do not. Since Sharia-compliant insurance products containing

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investment elements are still relatively new, detailed explanations regarding the contracts and implementation of investments in the insurance company are necessary.The author uses a research method that includes qualitative research, which is descriptive in nature. The Fatwa of the National Sharia Council Number 21/DSN-MUI/X/2001 Regarding General Guidelines for Sharia Insurance states that Sharia insurance (ta'min, takful, or tadhamun) refers to mutual protection and assistance among individuals or parties through investments in the form of tabarru' funds that provide a return pattern to address specific risks through contracts (agreements) that comply with Sharia.
KEYWORDS: Sharia compliant Insurance, Investment, Fiqh Muamalah

Introduction

In Shariah insurance, the source of claim payment is taken from the *tabarru'* fund account that has been intended by all Shariah insurance participants for helping activities.[1] The process of filing a claim occurs when the insured party gets a disaster, accident or health problem that comes unexpectedly. If at the end of the period the amount of participant contributions is greater than claims and other expenses, there will be an *underwriting surplus*. The *underwriting surplus* is the excess of total participant contributions to the *Tabarru'* Fund after deducting compensation or claim payments, reinsurance contributions, and technical reserves, in a certain period.[2]

Shari'ah insurance business has the principle of helping or protecting each other by setting aside funds as a benevolent contribution related to *tabarru'*. So this system is more about risk sharing where participants bear each other, so that existing funds must be managed properly.[3] Insurance activity is a type of business that is included in the category of business activities that are highly regulated by the government. This is because insurance is closely related to the collection of funds from the public, namely

[1] Yusnedi Achmad, *Aspek Hukum Dalam Ekonomi* (Yogyakarta: Deepublish, 2015).

[2] Chairul Fahmi, 'The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industrial in Aceh, Indonesia', *Jurnal Ilmiah Peuradeun* 11, no. 2 (30 May 2023): 667–86, https://doi.org/10.26811/peuradeun.v11i2.923.

[3] Jarmanisa et al., 'ANALYSIS OF RISK COVERAGE AGREEMENT BETWEEN PT. J&T AND AN INSURANCE COMPANY FOR DELIVERY OF CONSUMER GOODS IN THE CONTEXT OF KAFALAH CONTRACT', *JURISTA: Jurnal Hukum Dan Keadilan* 5, no. 2 (1 October 2021): 1–20, https://jurista-journal.org/index.php/jurista/article/view/11.

in the form of fund contributions. However, financial performance is still important for the insurance company itself, because trust can be built from institutions whose financial performance is healthy, although this cannot be seen only from the financial statements. The basis of insurance is public trust, especially in terms of financial ability to fulfil claims and other obligations on time. For this reason, the insurance business must be managed professionally, both in risk management and financial management.[4]

Investment is the investment of a certain amount of funds at this time to get greater results in the future. It can also be said that investment is a savings process that is oriented towards certain goals and how to achieve these goals. The principle in financing activities and financial investment in Sharia insurance is a variety of business ventures carried out by the owner of capital to the entrepreneur (issuer) aims to empower business owners to the maximum in carrying out their business activities where financiers and investors expect to get certain benefits or profits.[5]

Investment is literally defined as an investment activity or activity, while an investor is a person or legal entity that has money to make an investment or investment. Investment activities are not new in human civilisation, because since ancient times people have made various forms of investment. It's just that in ancient times people invested in the form of investments made directly such as: investment in the purchase of livestock, purchase of agricultural land, or investment in making plantations and so on.

Investments in insurance companies can be recognised in the form of portfolios. According to Lawrence and Michael quoted by M. Syakir Sula, a portfolio is a collection of integrated investment forms that aim to get investment returns. The main objective of the investment portfolio is to get a high rate of return with a small level of risk to fulfil obligations both to policyholders and for company growth. While profitability describes the company's ability to earn profits through all existing capabilities and sources.[6]

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[4] Mahmoud A. El-Gamal, *Islamic Finance: Law, Economics, and Practice* (London: Cambridge University Press, 2006).

[5] Mariia Dykha, 'CAUSES OF INVESTMENT FRAUD AND SUGGESTIONS TO PREVENT IT', *Economy of Ukraine* 2023, no. 7 (30 July 2023): 57–71, https://doi.org/10.15407/economyukr.2023.07.057.

[6] Chairul Fahmi and Wira Afrina, 'ANALYSIS OF LEGAL ASPECTS ON DEBT TRANSFER FROM CONVENTIONAL BANK TO SHARIA BANK POST THE APPLICATION OF QANUN ACEH NO. 11 OF 2018', *Al-Mudharabah: Jurnal Ekonomi Dan*

Sunlife Syari'ah Insurance Company provides investment opportunities to customers through insurance products. Each product has a different contract. Like products that require customers to take investments and products that do not have investments in them, of course in investment has a contract that is different from life insurance policies, because Sunlife Syari'ah Insurance products that contain elements of investment are still very new, it is necessary to explain in more detail about the contract and implementation of investment in insurance companies.

Thus the author wishes to raise the issue through a scientific work entitled: "Legal Analysis of Investment Implementation in Shari'ah Insurance Companies According to Fiqh Muamalah: A Research in Sunlife Sharia Insurance Banda Aceh".

Research Method

The author uses research methods that include qualitative research methods, where this method is descriptive analysis. Descriptive analysis is a method that aims to describe using data analysis, painting or describing systematically, which is concerned with the facts, properties and relationships between the phenomena being investigated.[7] And also utilising existing theory as supporting material to produce a theory, in this study the author investigates investment analysts on Sharia insurance products. The data sources obtained to examine the object of study are primary and secondary data sources.[8] Data collection techniques in this study are using interviews and documentation methods. Researchers in this case will design the subjects that will be used as research, and make supporting instruments of research. Then the data obtained will be analysed and will produce a conclusion that is generally and easily understood.

Keuangan Syariah 4, no. 1 (23 July 2023): 28–39, https://www.journal.ar-raniry.ac.id/index.php/mudharabah/article/view/3047.

[7] Muhammad Siddiq-Armia, *Penentuan Metode Dan Pendekatan Penelitian Hukum*, ed. Chairul Fahmi (Indonesia: Lembaga Kajian Konstitusi Indonesia (LKKI), 2022).

[8] Reza Banakar and Max Travers, *Theory and Method in Socio-Legal Research* (USA: Bloomsbury Publishing, 2005).

Definition of Investment

Investment is a term with several meanings related to finance and economics.[9] The term relates to the accumulation of some form of assets with the expectation of future gains. Sometimes, investment is also referred to as capital investment. Based on economic theory, investment means the purchase and production of capital goods that are not consumed but used for future production.[10] Investment is a commitment to a number of funds or other resources made at this time, with the aim of obtaining a number of future benefits. Meanwhile, according to Sunariyah, investment is the investment of capital for one or more assets that are owned and usually have a long term in the hope of getting future profits. Another opinion reveals that investment is the placement of the amount of funds at this time with the hope of obtaining future profits. Investment is also called postponement of current consumption to be used in efficient production over a certain period of time.[11]

According to Jogiyanto, investment can be defined as a delay in current consumption to be used in efficient production during a certain period of time.[12] Meanwhile, according to Sukirno, investment activities carried out by the community will continuously increase economic activity and employment opportunities, increase national income and increase the level of community prosperity. This role comes from three important functions of investment activities, namely (1) investment is one component of aggregate expenditure, so that an increase in investment will increase aggregate demand, national income and employment opportunities; (2) the increase in capital goods as a result of investment will increase production capacity; (3) investment is always followed by technological developments.[13] From the definition above, it can be seen that investment is the placement

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[9] Zamir Iqbal and Abbas Mirakhor, *Economic Development and Islamic Finance* (USA: World Bank Publications, 2013).

[10] Eduardus Tendelilin, *Investment Analysis and Portfolio Management*, 1st Edition, cet. I (Yogyakarta, BPFE, 2001), p. 1.

[11] Chairul Fahmi, *HUKUM DAGANG INDONESIA* (Banda Aceh: Bandar Publishing, 2023), https://bandarpublishing.com/hukum-dagang-indonesia/.

[12] Jogiyanto, *Portfolio Theory and Investment Analysis*, 3rd Edition, cet, I (Yogyakarta, BPFE, 2003) p 5

[13] Chairul Nizar, Abubakar Hamzah, Sofyan Syahnur, *The Effect of Investment and Labour on Economic Growth and its Relationship to Poverty Levels in Indonesia*, Postgraduate Economic Journal of Syah Kuala University, Volume 1, No. 2, May 2015, p. 3.

of the current amount of funds in one or more assets owned in a certain period to get future profits.

The term investment can relate to a wide range of activities. In investing, there are two types of assets: real assets and financial assets. Real assets are assets that have a form such as land, houses, gold, precious metals and others. Meanwhile, financial assets are assets that are not visible but still have a high value such as bonds, stocks, mutual funds and money market instruments. For smarter and more risk-taking investors, their investment activities can also include investments in more complex financial assets such as warrants, options, and futures as well as international equities.[14]

Investing is concerned with the management of financial assets, especially tradable securities. Financial assets are claims in the form of securities on a number of assets of the asset issuer of the securities. Marketable securities are financial assets that can be traded easily and at low transaction costs in an organised market.

Parties who make investments are referred to as investors. Generally, investors are divided into two groups, namely individual investors and institutional investors. Individual investors consist of individuals who carry out investment activities. Whereas institutional investors consist of companies of depository institutions such as banks and savings and loan institutions, then insurance companies, pension fund institutions and investment companies.[15]

Shariah investment is a Shariah-based investment that uses Islamic instruments in its implementation. There are several types of investments based on timeframe, risk and process. These things need to be known in order to ensure the accuracy between the reason and the way of investing.[16]

a. According to the time period

Short-term investments, which are investments made for no more than 12 months. Medium-term investments, which have a time span between 1 to 5 years. Long-term investments that have no time limit.

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[14] Wahyu Akbar et al., 'Optimization of Sharia Banking Regulations in Developing the Halal Cosmetic Industry in Indonesia', *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 1–12, https://journal.iain-manado.ac.id/index.php/JIS/article/view/2611.

[15] Chairul Fahmi and Syarifah Riyani, 'ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT', *Wahana Akademika: Jurnal Studi Islam Dan Sosial* 11, no. 1 (2024): 89–104, https://doi.org/10.21580/wa.v11i1.20007.

[16] Ganjar Isnawan, *Smart Strategy for Shari'ah Investment, Laskar Aksara*, Jakarta, 2015, p 45.

b. According to risk

Every investment choice will be related to two things, risk and return. Both are cause and effect relationships and contradictory relationships. In investment theory, the term "*high risk high return, low risk low return*" is known.

In Arabic, risk can be defined as gharar. Which sometimes also refers to *uncertainty*. If risk is then simply equated with uncertainty, and this uncertainty is considered gharar and prohibited, it will become complicated. Therefore, it is important to differentiate and sharpen the definition of gharar or risk.[17]

There are two things that distinguish risk into two types. The first is passive risk, such as a *game of chance*, which relies solely on luck. . The second is responsive risk, which allows for a probability distribution of outcomes with logical causality.[18]

Uncertainty is intrinsic to every economic activity. However, the uncertainty of the event still follows a logical causality that can affect its probability. This means that seeking profit by luck alone, such as buying a lottery, gives rise to delusions or false expectations, and is definitely a *gharar* transaction.*[19]*

From these explanations, it can be concluded that a gharar transaction can arise for two main reasons. Firstly, there is a lack of information or knowledge on the part of the contracting parties. This leads to a lack of control on the part of the contracting parties. Secondly, due to the absence of an object.[20]

Direct investment, which is an investment made without the help of intermediaries. In this case, investors can directly buy the investment portfolio and indirect investment, which is an investment made by using intermediaries or investments made through investment companies.[21]

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[17] Iggi H. Achsien, *Shariah Investment in the Capital Market*, PT.Gramedia Pustaka Utama, Jakarta, 2011, p. 50.

[18] Arif H. Ali and David L. Attanasio, *International Investment Protection of Global Banking and Finance: Legal Principles and Arbitral Practice* (The Netherlands: Kluwer Law International B.V., 2021).

[19] Iggi H. Achsien, *Shariah Investment in the Capital Market, Ibid....,* p 51.

[20] Muhammad Siddiq Armia et al., 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?', *Journal of Indonesian Legal Studies* 7 (2022): 525, https://heinonline.org/HOL/Page?handle=hein.journals/jils7&id=529&div=&collection=.

[21] Ganjar Isnawan*, Smart Strategy for Shari'ah Investment, Laskar Aksara*, Jakarta, 2012, p. 48.

The investment activities of insurance companies and reinsurance companies as mentioned in the *admitted assets* component consist of:

a. Time Deposits and Certificates of Deposit
b. Shares, Bonds, and other securities listed on a stock exchange in Indonesia
c. Bank Indonesia Certificates (SBI)
d. Money Market Securities (MBS)
e. Debt acknowledgement letters with a maturity of more than one year
f. Direct investment
g. Buildings or land and buildings for investment purposes
h. loan
i. Policy loans (specifically for life insurance companies) with the cash value of their policies as collateral

Definition of Shari'ah Insurance

In Dutch the word insurance is called assurantie which consists of the words "*assuradeur*" which means insurer and "*geassureerde*" which means the insured. Then in French it is called "*assurance*" which means to bear something that is sure to happen. While in Latin it is called "*assecurare*" which means convincing people. Furthermore, the English word *insurance* is called "*insurance*" which means bearing something that may or may not happen and "*assurance*" which means bearing something that may or may not happen and "*assurance*" which means bearing something that is certain to happen. Insurance is a way or method to maintain humans in avoiding the risk (threat) of various dangers that will occur in their lives, in the course of their life activities or in their economic activities.[22] Abbas Salim argues that insurance is a willingness to set certain small losses as a substitute for uncertain losses.[23]

In Indonesia, the definition of insurance according to Law Number 1 of 1992 concerning Insurance Business is as follows: Insurance is an agreement between two or more parties, whereby the insurer binds itself to the insured, by receiving an insurance premium, to provide compensation to the insured due to loss, damage or loss of expected profits, or legal liability to third parties that the insured may suffer, arising from an uncertain event,

[22] Muhammad Syakir Sula, *Shari'ah Insurance*, (Jakarta: Gema Insani, 2004), pp. 28
[23] Abbas Salim, *Insurance Basics*, (Jakarta: PT Raja Grafindo Persada, 1995)

or to provide a payment based on the death or life of an insured person.[24] In general, the insurance business is divided into two separate business activities, namely the business activities of general insurance and life insurance.[25]

Article 246 of the KUHD states that the purpose of insurance is to prevent or at least reduce the risk of loss that may arise due to loss, damage, or destruction of the insured goods from an uncertain event.[26]

Shari'ah insurance is insurance based on the principle of mutual help and mutual protection between participants. This definition is in accordance with MUI Fatwa Number 21 / DSN-MUI / X / 2001, namely Sharia Insurance (Ta'min, Takaful, or Tadhamun) is an effort to protect and help each other among a number of people / parties through investment in the form of assets and / or *Tabarru'* which provides a pattern of return to face certain risks through contracts (bonds) in accordance with Islamic law. Hariyadi (2017) wrote that according to Law Number 2 of 1992 concerning insurance business, insurance provides legal liability to third parties that may be suffered by the insured, arising from an uncertain event, or to provide a payment based on the death or life of someone who is insured.

Contemporary jurist Wahbah az-Zuhaili defines insurance based on its division. He divides insurance into two forms, namely *at-ta'min at-ta'awuni and at-ta'min bi qist sabit. At-ta'min at-ta'wuni* or mutual aid insurance is: "the agreement of a number of people to pay a sum of money as compensation when one of them is harmed." *At-ta'min bi qist sabit* or fixed-share insurance is: "a contract in which a person pays a sum of money to an insurance company consisting of several shareholders with the agreement that if the insured person suffers an accident, he will be compensated".[27]

In Indonesia itself, Islamic insurance is often known as takaful. The word takaful comes from takafala-yatakafulu, which means to guarantee or bear each other. Moh. Ma'sum Billah understands takaful as: *"mutual guarantee*

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[24] Cashmere, *Banks and Other Financial Institutions*, (Jakarta: PT Raja Grafindo Persada, 2012), pp. 261

[25] Soetatwo Hadiwigeno, *Financial Institutions and Banks, Theory and Policy Development*, (Yogyakarta: BPFE-Yogyakarta, 1999), p. 377. 377

[26] Thomas Suyatno, *Banking Institutions*, (Jakarta: PT Gramedia Pustaka Utama, 2009), p. 88

[27] Wahbah Zuhaili, *Al-Fiqh al_Islami Wa Adilllatuhu* (Beirut: Dar al-Fikr al-Mu'ashir, 1998).

provided by a group of people living in the same society against a defined risk or catastrophe befalling one's life, property or any form of valuable things."

Based on some of the above definitions, it can be concluded that in general, Shariah insurance can be defined as insurance whose operational principles are based on Islamic law by referring to the Qur'an and as-Sunnah. As the basic principle of Shariah insurance which is mutual protection and mutual help called ta'awun, which is the principle of living to protect and help each other with elements of mutual risk among insurance participants, where each participant becomes the insurer of other participants.[28]

Shari'ah Insurance is a risk management arrangement that fulfils the provisions of Shari'ah, mutual help involving participants and operators. According to the Fatwa of the National Shari'ah Insurance Council of the Indonesian Ulema Council (DSN-MUI) Fatwa DSN N0.21 / DSN-MUI / X / 2001 concerning General Guidelines for Shari'ah Insurance in the first part states the definition of Shari'ah Insurance (*ta'min, takaful*, or *thadamun*) is an effort to help each other among a number of people or parties through investment in the form of assets and or *tabarru'* which provides a pattern of return to face certain risks through contracts or agreements in accordance with Shari'ah. Shari'ah insurance is mutual protection and help known as *ta'awun*, which is the principle of life that protects and helps each other on the basis of ukhuwah Islamiyah between fellow members of Shari'ah insurance in the face of adverse uncertainty.[29]

The principle in financing activities and financial investments in Sharia insurance is a variety of business ventures carried out by the owner of capital to the entrepreneur (issuer) aims to empower business owners to the maximum in carrying out their business activities where investors expect to get certain benefits or profits. The principle and foundation of Shari'ah investment that needs to be considered by Shari'ah insurance business actors is to have the principle that the company as a trustee (*mudharib*) entrusted by the owner of the funds (*shahibul maal*) must carry out investment activities after obtaining Shari'i approval from the Shari'ah supervisory board of funds

[28] Sri Rejeki Hartono. *Insurance Law and Insurance Companies*. (Jakarta: Sinar Grafika, 2008), 7
[29] Buchari Alma, *Shari'ah Business Management*, (Bandung: Alfabeta, 2009), p. 37

that have been successfully collected from participant premiums. Where the investment made must be in accordance with Shariah law.[30]

Sunlife Syari'ah Insurance Products

Sunlife Syari'ah Insurance products are divided into two groups, namely traditional (non-investment) and Unitlink (investment). The following is an explanation of traditional Sunlife Syari'ah Insurance Products:

1. Greetings Healthy Grace

Salam Anugerah Sehat is a health insurance product that provides health and surgical benefits with a large benefit according to the plan chosen, as well as death benefits up to the age of 65 years which only applies to plans with the plus category. The advantages of this product are treatments that are paid according to bills with *cashless* facilities throughout the hospital network and provide comprehensive health protection and as needed up to the age of 100 years.[31]

Unit-linked life insurance products are designed by linking life insurance products with investment instruments. The goal is as an alternative product that provides flexibility for policyholders to directly access their investments. Unit-linked life insurance can be said to be an innovative and creative product in the life insurance business, because this product provides dual benefits, as protection as well as investment.[32]

Shari'ah unit-*linked* insurance is a Shari'ah-based unit-linked basic insurance that is managed based on Shari'ah principles, namely the principle of mutual assistance between fellow Participants through the

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[30] Amrin, Abdullah. What is the Difference between Sharia Insurance and Conventional Insurance. Jakarta. ST MEDIAKOM Trisakti. 2016

[31] Rick Antle and John Fellingham, 'Models of Capital Investments with Private Information and Incentives: A Selective Review', *Journal of Business Finance & Accounting* 24, no. 7–8 (September 1997): 887–908, https://doi.org/10.1111/1468-5957.00140.

[32] Pungky Jati Aji Suprabawa. 2010. *Life Insurance (a study of the Implementation of Link Assurance at PT Prudential Life Surakarta)*, (Thesis). Bachelor of Laws Programme in Legal Science at the Faculty of Law, University of Muhammadiyah Surakarta, page 7.

management of contributions in the Tabarru Fund. The following is an explanation of each product:[33]

2. Brilliance Hasanah Sejahtera

Brilliance Hasanah Sejahtera is a life insurance and investment product with periodic payments to assist customers in achieving future financial needs such as education costs, business capital, worship, children's marriage, old age funds and others managed based on Shariah principles.

3. Brilliance Hasanah Maxima (Shari'ah)

Brilliance Hasanah Sejahtera Maxima Insurance is a combination of insurance and investment product that provides Shari'ah life insurance benefits and investment managed by Shari'ah principles. This product is also equipped with various types of additional insurance benefits (riders) and maximises investment funds through additional benefits in the form of contribution bonuses and loyalty bonuses, along with surplus sharing opportunities.

4. Brilliance Hasanah Fortune Plus (Shari'ah)

Sunlife Financial Indonesia presents Brilliance Hasanah Fortune Plus Insurance, a combination of Shariah-based insurance and investment that provides life insurance benefits with permanent disability and accidental death benefits. This product provides the opportunity for optimal investment returns to help achieve a blessed future for customers and their families.

5. Greetings Grace family

Asuransi salam Anugerah keluarga is an insurance product linked to investment (*unitlink*) that comes as a comprehensive family planning solution and is equipped with insurance benefits for married couples and two children, this insurance product answers the needs of families today.

Insurance Policy, according to POJK No. 23 of 2015 concerning Insurance Products and Marketing of Insurance Products, what is meant

[33] Interview with the Head of Sunlife Syariah Insurance office Mr Safrizal on 28 March 2022.

by an insurance policy is an insurance agreement deed or other document that is equivalent to an insurance agreement deed agreement, as well as other documents that are an integral part of the insurance agreement, which is made in writing and contains an agreement between the insurance company and the policy holder.[34]

Article 255 of the KUHD states that every insurance must be made in writing in a deed called a policy. From this statement, it can be concluded that an insurance policy is written evidence or a letter of agreement between the policyholder or insurance participant and the insurance company. Thus, the policy plays an important role in maintaining the consistency of the agreement between the parties and making the parties' agreement legally binding. Insurance policies are included in the type of standard agreement, because in the form of policy documents there are agreements whose clauses have been designed by insurance companies, while participants or policyholders are only asked to accept or reject the contents of the agreement. In addition, the policy also contains standard clauses that will harm participants, so that the provisions of these clauses are regulated by OJK.[35]

The policy also has several benefits including, as proof of guarantee for cash compensation to be given by the insurance company and also as proof of payment of contributions or premiums from participants to the insurance company. The insurance policy contains the following things: policy number, name and address of the insured, description of risk, description of investment management, amount of coverage, period of coverage, amount of contribution, stamp duty, guaranteed hazards, and various other provisions in accordance with the agreement of the parties.[36]

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[34] POJK No. 23 of 2015 concerning Insurance Products and Marketing of Insurance Products, Article 1 paragraph 6.

[35] Chairul Fahmi, 'THE DUTCH COLONIAL ECONOMIC'S POLICY ON NATIVES LAND PROPERTY OF INDONESIA', *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 5, no. 2 (1 November 2020): 105–20, https://doi.org/10.22373/petita.v5i2.99.

[36] Martono, *Banks & Other Financial Institutions* (Yogyakarta: EKONISIA, 2010), pp. 150 151.

Implementation of Investment in Sunlife Syari'ah Insurance

The nature of Islamic insurance is mutual responsibility, mutual cooperation or mutual assistance and mutual protection of each other's suffering. The National Shari'ah Council Fatwa No. 21/DSN-MUI/X/2001 concerning General Guidelines for Shari'ah Insurance states that what is meant by Shari'ah insurance (*ta'min, takful or tadhamun*) is an effort to protect and help each other among a number of people or parties through investment in the form of *tabarru'* fund assets that provide a pattern of return to face certain risks through contracts (bonds) in accordance with Shari'ah. Therefore, insurance is permissible in Shari'ah, because the basic principles of Shari'ah call for everything that results in the bonding of fellow human beings and for something that alleviates their disasters.

Initially, customers who want to invest must take insurance products first. Products are everything that is offered to the public to be seen, held, purchased or consumed. Products can be consists of *product variety, quality, design, features, brand name, packaging, sizes, services, warranties, and returns*. Starting with the product or service offered is very important as the beginning of the marketing process. Thus, marketers can answer the question of what to market. Customers usually face a large number of products and services that may satisfy certain needs. Customers form expectations about the value and satisfaction that various market offerings will provide and buy based on their expectations. Customers will be re-directed or *prospected* by insurance agents. Then the agent will explain about Pricing. Price is the amount of money consumers pay to buy a product. Prices include *last price, discount, allowance, payment period, credit terms, and retail price*. Through pricing, agents can market their products according to a predetermined price. Investments will be channelled in the Shariah capital market. The capital market is a complement in the financial sector to the other two institutions, namely banks and financing institutions. The capital market provides its services, namely bridging the relationship between the owner of capital (Investor) and the borrower of funds

(Issuer).[37] As explained above, the capital market is a facility to bridge capital owners with fund borrowers because not all economic activities are able to fulfil their investment needs from their own savings.

In investment fund products, every periodic contribution paid by participants called premiums is partly a *tabarru'* fund, partly allocated for investment. Among them, each product has a different flow of investment funds. The following is a table of the distribution of funds allocated to investment:[38]

Table1: the fund allocated to investment at Sunlife Insurance, Aceh.

No.	Insurance Products	Year One	Year Two	Year Three	Year Four	Year Five
1	Brilliance Hasanah Sejahtera	20%	45%	65%	85%	95%
2	Brilliance Hasanah Maxima	50%	60%	70%	85%	100%
3	Brilliance Hasanah Fortune Plus	60%	90%	95%	-	-
4	Greetings Grace family	65%	45%	55%	70%	80%

The table above explains that each investment fund allocated is different in each year. In the fifth year the investment is getting bigger percentages. According to the results of interviews with one of Mr Boy's customers, he bought Brilliance Hasanah Sejahtera products with a premium of Rp.6,000,000 per year. The funds allocated to investment were 20% in the first year, and 80% became *tabarru'* funds. However, investment funds will increase each year. Mr Boy also explained that the funds invested can be seen directly through the *My Sunlife* application every ups and downs of the investment pattern in Sunlife Syari'ah

[37] Panji Anoraga & Piji Pakarti, *Introduction to Capital Markets*, Rineka Cipta, Jakarta, 2008, p. 5.

[38] Interview with the Head of Sunlife Syariah Insurance office Mr Safrizal on 28 March 2022.

Insurance.[39] Shari'ah insurance participants act as fund owners and companies as fund managers.

Investment Management in Sunlife Syari'ah Insurance will be managed by the *Fund Manager*. All matters regarding the contract are stated in the Policy. The customer can choose where the funds are invested but only in the Sharia capital market section. The customer also gets education by the insurance company if the stock is declining and does not get a profit.[40] Investment funds can only be disbursed after the customer has paid off the payment. Only one product has an investment period of 3 years, namely Brilliance Hasanah Fortune Plus, other products have a minimum of 5 years. So if the customer defaults, the funds will be forfeited and cannot be disbursed.

Fiqh Muamalah review of investment implementation in Sunlife Insurance company

Investment is a form of activity that begins through observation, research, data collection and business planning in the form of capital investment or asset placement. Capital or assets used can be in the form of assets and / or funds, for sectors of activity that are calculated very carefully with the aim of providing income and increasing its value in the future.[41]

Investment is one of the Islamic teachings and concepts that fulfils the process of tadrij and trichotomy of knowledge. It can be proven that the concept of investment in addition to being knowledge is also spiritual because it uses Islamic norms, as well as the essence of a science and charity, therefore investment is highly recommended for every Muslim.[42]

In fact, the principle and foundation of Shari'ah investment that needs to be considered by Shari'ah insurance business actors is the principle that the company as a trustee (*mudharib*) entrusted by the owner of the funds (*shahibul maal*) must carry out investment activities after

[39] Interview with one of the Sunlife Syari'ah Insurance Customers Mr Boy on 01 June 2022

[40] Interview with the Head of Sunlife Syariah Insurance office Mr Safrizal on 28 March 2022.

[41] Abdullah Amrin. 2011. *Achieving Blessings Through Shari'ah Insurance in Comparison with Conventional Insurance*. Jakarta: PT Elex Media Komputindo, p 202.

[42] Nurul Huda & Mohamad Heykal. 2010. *Islamic Financial Institutions: Theoretical and Practical Review*. Jakarta Prenada Media Group, p 185.

obtaining Shari'ah approval from the Shari'ah Supervisory Board of funds that have been successfully collected from participant premiums. where investments made must be in accordance with Shari'ah law based on Surah al-Baqarah verse 275, An-Nisa verse 29, al-Maidah verse 1 and the hadith of the Prophet Muhammad SAW narrated by Tirmizi from Amr bin Auf and Ibn Maaja from Ubadah bin Shamit from Yahya.[43]

1. Qur'an

ۘلَّذِيْنَ يَأْكُلُوْنَ الرِّبٰوا لَا يَقُوْمُوْنَ اِلَّا كَمَا يَقُوْمُ الَّذِيْ يَتَخَبَّطُهُ الشَّيْطٰنُ مِنَ الْمَسِّۗ ذٰلِكَ بِاَنَّهُمْ قَالُوْٓا اِنَّمَا الْبَيْعُ مِثْلُ الرِّبٰواۘ وَاَحَلَّ اللّٰهُ الْبَيْعَ وَحَرَّمَ الرِّبٰواۗ فَمَنْ جَاۤءَهٗ مَوْعِظَةٌ مِّنْ رَّبِّهٖ فَانْتَهٰى فَلَهٗ مَا سَلَفَۗ وَاَمْرُهٗٓ اِلَى اللّٰهِۗ وَمَنْ عَادَ فَاُولٰۤىِٕكَ اَصْحٰبُ النَّارِۚ هُمْ فِيْهَا خٰلِدُوْنَ

Meaning: "Those who eat (take) usury cannot stand but as one who is possessed by a demon because of insanity. That is because they say that buying and selling is the same as usury, whereas Allah has made buying and selling lawful and usury unlawful. And as for those to whom the prohibition of their Lord has come, and they have ceased (from usury), then to them belongs what they had taken (before the prohibition came); and their affair is (up to) Allah. But whoever returns (to usury), those are the inhabitants of Hell; they will abide therein." (QS. Al-Baqarah: 275).

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَأْكُلُوْٓا اَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ اِلَّآ اَنْ تَكُوْنَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْۗ وَلَا تَقْتُلُوْٓا اَنْفُسَكُمْۗ اِنَّ اللّٰهَ كَانَ بِكُمْ رَحِيْمًا

Meaning: "O you who believe, do not devour one another's wealth by unlawful means, except by way of mutual trade between you, and do not kill yourselves; surely Allah is Most Merciful to you". (QS. an-Nisa: 29).

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْٓا اَوْفُوْا بِالْعُقُوْدِۗ اُحِلَّتْ لَكُمْ بَهِيْمَةُ الْاَنْعَامِ اِلَّا مَا يُتْلٰى عَلَيْكُمْ غَيْرَ مُحِلِّى الصَّيْدِ وَاَنْتُمْ حُرُمٌۗ اِنَّ اللّٰهَ يَحْكُمُ مَا يُرِيْدُ وَاَنْتُمْ حُرُمٌ.

Meaning: "O you who believe, fulfil those contracts. Forbidden to you are cattle, except those of which you shall be recited, but not hunting

[43] Abdullah Amrin. 2011. *Achieving Blessings Through Shari'ah Insurance in Comparison with Conventional Insurance.* Jakarta: PT Elex Media Komputindo, p 203.

> while you are performing the pilgrimage. Verily, Allah decrees laws as He pleases." (QS. al-Maidah: 1).

Many authentic Qur'anic and Hadith texts instruct Muslims to base their actions on righteousness, for its own sake. That foundation is sincerity in order to worship Allah. All means and ends are aligned with that foundation.

Indeed, all human activities, the basis on which a person invests his funds should be as worship to seek the pleasure of Allah SWT. The realisation of a Muslim that life in this world is a provision for the next life, will fence him off from actions that will harm his long-term goals. Business ethics is not just a social norm, but a standard of behaviour that will be accounted for in the hereafter.[44]

As stated earlier that the laws of muamalah are open-ended, meaning that Allah Swt in the Qur'an only provides rules that are outline only. The rest is open to the mujtahid to develop it through his thinking as long as it does not conflict with the Qur'an and Hadith. The Qur'an and Hadith do not mention exactly what and how to insure, but that does not mean that insurance is forbidden because it turns out that Islamic law contains the substance of insurance in an Islamic manner.[45]

The nature of Islamic insurance is mutual responsibility, mutual cooperation or mutual assistance and mutual protection of each other's suffering. The National Shari'ah Council Fatwa No. 21/DSN-MUI/X/2001 concerning General Guidelines for Shari'ah Insurance states that what is meant by Shari'ah insurance (*ta'min, takful or tadhamun*) is an effort to protect and help each other among a number of people or parties through investment in the form of *tabarru'* fund assets that provide a pattern of return to face certain risks through contracts (agreements) in accordance with Shari'ah.[46]

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[44] Chairul Fahmi, 'TRANSFORMASI FILSAFAT DALAM PENERAPAN SYARIAT ISLAM (Analisis Kritis Terhadap Penerapan Syari'at Islam Di Aceh)', *Al-Manahij: Jurnal Kajian Hukum Islam* 6, no. 2 (2012): 167–76.

[45] Gemala Dewi. 2017. *Aspects of Shari'ah Banking & Insurance in Indonesia (Third Edition).* Depok: Prenada Media Group, pp 145-146.

[46] Bahrul Ulum. 2015. Comparison of Unit Link Life Insurance of PT Prudential between Conventional and Shariah, (Thesis). Bachelor's Degree Programme in Islamic Law, Faculty of Shari'ah, Maulana Malik Ibrahim State Islamic University, Malang, p. 25.

Therefore, insurance is permissible in Sharia, because the basic principles of Sharia call for anything that results in the bonding of fellow human beings and for something that alleviates their disasters as Allah says in the Qur'an surah Al-Maidah verse 2:

وَتَعَاوَنُوْا عَلَى الْبِرِّ وَالتَّقْوٰىۖ وَلَا تَعَاوَنُوْا عَلَى الْاِثْمِ وَالْعُدْوَانِۖ وَاتَّقُوا اللّٰهَۗ اِنَّ اللّٰهَ شَدِيْدُ الْعِقَابِ.

Meaning: "And help each other in (doing) righteousness and piety, and do not help each other in sin and transgression. And fear Allah, surely Allah is very severe in His punishment".

Shari'ah insurance also leads to the establishment of a society that stands on the principle of mutual assistance and mutual support because every Muslim to another Muslim is like a building that strengthens one part of it to another. This insurance does not include the act of eating human wealth unlawfully, because what is given is merely charity from the results of the collected assets. In addition, the existence of Shari'ah insurance will bring progress and prosperity to the economy of the people

Conclusions

Based on the results of the research and discussion above, the authors conclude as follows:

1. Today's Shariah Insurance products are already very diverse than some Shariah insurance products circulating in general. Shariah insurance is an effort to help and protect each other among participants whose operational implementation and legal principles are in accordance with Islamic law. Without intending to precede fate, insurance can be intended as a preparatory effort to face the possibility of risk. Sunlife Syariah Insurance Banda Aceh has 2 types of products, namely traditional (non-investment) and *Unitlink* (investment). Traditional products are Salam Anugerah Sehat and *Unitlink* products consist of Brilliance Hasanah Sejahtera, Brilliance Hasanah Maxima, Brilliance Hasanah Fortune Plus and Salam Anugerah Sehat. There are 4 types of contracts in Sharia insurance,

namely *tabarru'* contracts, tijarah contracts, wakalah bil Ujrah contracts, and mudharabah musytarakah contracts.

2. Initially, customers who want to invest must take insurance products first. Customers will be directed back or with the term *prospects* by insurance agents. The agent will introduce all forms of product products, monthly payments and risks in the policy. Investment will be channelled in the capital market. The capital market is a complement in the financial sector to the other two institutions, namely banks and financing institutions. The capital market provides its services, namely bridging the relationship between the owner of capital (Investor) and the borrower of funds (Issuer).

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