

## THE PRINCIPLE OF LEGAL RELATIONSHIP BETWEEN SYARI'AH BANKS AND CUSTOMERS SAVING THEIR MONEY

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### Abstract

Saving money in *syari'ah* banks may be conducted through *aqad Wadiah* and *aqad Mudharabah*, in the form of *wadiah giro*, *wadiah saving*, *mudharabah saving*, *mudharabah deposit*, and other financial products in line with the *syari'ah* of Islam. The legal relationship between *syari'ah* banks and customers saving their money is an agreement specifically mentioned in a written contract about saving some money in *syari'ah* banking, and it is called *Aqad* (i.e., contract). In financial collection, the relationship between *syari'ah* banks and the customers (depositor) is in the form of partnership. The principle underlying that partnership is the principle of trust and *amanah*.

### Keywords

legal relationship, principle, trust, amanah

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## Introduction

The function of banks as financial collector and distributor is fundamental for economic activities, in particular to the real sectors. They allow people to do economic development activities through investments, distributions, and consumptions.

Syari'ah banks organized based on the syari'ah of Islam play an important role in people's development. It is apparent in Article 3 of the Act of 2008 No. 21 about Syari'ah Bank (further called the Law of Syari'ah Banking) that:

"Syari'ah banking aims to support the implementation of national development in order to improve mutual equality and people prosperity."

In addition to collecting and distributing finance to all people, syari'ah banks, as the agent of service, provide other financial services such as money transfer, valuable deposit counter, warrant bank, credit card, etc. (Y. Sri Susilo, Sigit Triandaru, Totok Budi Santosa, 2000).

In its development, syari'ah banks have three primary functions, which includes: collecting financial fund from people in the form of savings and investments, distributing the fund to people in need for their business of personal interests, and providing financial services.

Syari'ah banks, in addition to be an intermediary and service institution as mentioned in Article 4 of the Law of Syari'ah Banking, act as an organizer of social activities. Broadly stated, the operational activities of syari'ah banks as well as the Unit of Syari'ah Business are classified into 4 (four) categories, including:

### 1. Funding

It is conducted through the mechanisms of savings, gyro, and deposit. In particular to syari'ah banking, the savings and gyro are classified into two categories, including *Wadiah-based* and *mudharabah-based*.

### 2. Lending

Syari'ah banks and UUS may implement this activity in the form of *mudharabah*, *salam*, *istishna*, *murabahah*, *musyarakah*, *ijarah*, *ijarah wa iqtina*, or *qardh*. Syari'ah banks and UUS, as financial providers, may gain reward in the form of a profit margin from *murabahah*, *salam*, *istishna*, revenue sharing from *mudharabah* and *musyarakah*,

and rental costs from *ijarah* and *ijarah wa iqtina*, as well as administration costs from *qardh*.

### 3. Service of Banking

The activities of syari'ah banks and UUS in the context of services area may be in the form of warrant bank (*kafalah*), *Letter of Credit* (L/C), *hiwalah*, *wakalah*, and foreign exchange trading (*sharf*).

### 4. Social function

Syari'ah banks and UUS implement their social function by organizing *baitul mal*. It is collecting some fund from *zakat*, *infaq*, *shodaqoh*, *hibah*, as well as other social funds to be distributed to the organization of *zakat*.

Jaib Mubarak (H. Jaib Mubarak, 2013) states: derived from some *aqad* they have organized, it seems that syari'ah banking is a unique organization since it does not solely implement the function of banking as an inter-mediator between creditors and debtors, but also acts as: 1. Seller (*ba'i*) in sales-and-purchase-based *aqad*; 2. *Mu'jir* in *ijarah aqad*; 3. *Murtahin* in pawning *aqad*; and 4. Organization of social charity which function is *baitul maal*, as mentioned in the Law of Syari'ah Banking.

Syari'ah banks, in addition to developing various products, also develop their facilities of banking in order to support their services, including the utilization of technology. Bank is a corporation collecting fund from people and distributing those fund back to people in the form of credit and other kinds of financial products in order to improve people's life. Besides helping the companies' internal operation systems, the use of technological devices also aims to provide facilities for customer to have services. All those efforts aim to attract people's interest to save their fund in bank.

Funding by syari'ah banks is commonly through *aqad Wadi'ah* and *aqad Mudharabah*. *Wadi'ah* is a deposit to be maintained and brought back anytime as the depositor will, and the entrusted party should be responsible to maintain the deposit (Zainuddin Ali, 2008. Sutan Remy Sjahdeini, 2014. Khir, Kamal; Gupta, Lokesh, 2008). Thus, syari'ah banks must be prudent in order to protect people's fund entrusted (Darwini T., 2005), and to protect the interests of customers saving and entrusting their money to the bank so that they may take back their fund along with its benefits based on the kinds of financial products and the procedures agreed.

Therefore, the legal issue to be discussed in this study is the principle of legal relationship between syari'ah banks and customers saving their money.

### **Funding Products in Syari'ah Bank**

Syari'ah banks collect people's fund by offering various kinds of financial products such as *Wadi'ah gyro*, *Wadi'ah savings*, *Mudharabah savings*, *Mudharabah deposit*, and other financial products allowed by the syari'ah of Islam. People's funding may be through *aqad Wadi'ah* and/or *aqad Mudharabah*.

### **Wadi'ah Gyro and Wadi'ah Saving**

*Wadi'ah* is the principle of pure saving from the depositors to entrusted organizations to be maintained based on particular terms. The deposit must be maintained by entrusted parties, and it can be drawn anytime if necessary (Ismail, 2013).

It is consistent with Quran *Surah An-Nisa:58*, that:

*Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and Seeing.*

Following Abd. Shomad (Abd. Shomad, 2012), *Wadiah* is customers' pure deposit to be maintained and paid back anytime they are willing to take. It aims to protect the entrusted object from any lost, damage, or robbing. Bambang Rianto Rustam argues that *Wadiah* is an entrusting transaction of financial fund or particular valuable object for a depositor to an entrusted company which has responsibility to bring them back anytime (Bambang Rianto Rustam, 2013).

In syari'ah banking, funding in the form of gyro and savings is through *aqad Wadiah yad Dhamanah*. Then, the banks will invest the fund to users of fund to be used for their real business purposes. In this case, the users of fund will have benefits and/or profits from their business and it will be used to pay the *return* of financial fund they have borrowed. The users of fund should pay *return* to syari'ah banks in the form of revenue sharing, profit margin, as well as rental costs, and those all may depend on the *aqad* (Bambang Rianto Rustam, 2013).

#### **1) Wadiah Gyro**

The Law of Syari'ah Banking defines that:

“Gyro is a kind of *aqad wadiah* or other *aqad*-based saving which holds syari’ah principle, and it can be drawn anytime using check, *bilyet gyro*, and other payment order services, as well as through book-entry service.”

Withdrawing *wadiah gyro* in cash uses check, - check is an unconditional warrant from depositors to an entrusted bank maintaining their gyro accounts. It is used to take some amount of money as mentioned within. A syari’ah bank should pay some money as mentioned in that check to the depositor. It is paid to the party mentioned in that check or to whomever holding that check, under the terms of check-based withdrawal. - as the means of cash disbursement, while taking the book-entry is through *bilyet gyro*. *Bilyet Gyro* is a standardized warrant to transfer some money to particular account as mentioned in that gyro, whether in the same bank or in another bank. Withdrawing *wadiah gyro* can be conducted in other banks, and it is called clearance.

## 2) *Wadiah Saving*

*Saving deposit*, based on the Law of Syari’ah Banking article 1 subsection (21), is defined as:

“Saving is *wadiah*-based or investment-based funding by banks using *mudharabah* or other *aqad* as the underlying base, and the withdrawal may only be conducted based on particular terms of conditions agreed. However, it can be drawn through check, *bilyet gyro*, and/or other similar means of service”.

### *Mudharabah Investment in Saving and Deposit*

Following Afzahr Rahman, *Mudharabah* is a limited partnership between investors (as the passive party) and businessmen (as the active party) and it aims to get revenue sharing based on a mutual agreement. Abdur Rahman I. Doi argues that *Mudharabah* is a contract in which certain property or stock (*Ras al-mal*) is offered by the owner or proprietor (*Rabb al-mal*) to the other party to form a joint partnership in which both parties will participate in profit. *Mudharabah* or *qiradl* is often used for short-term business activities. Nadeem ul Haque and Abbas Mirakhor notes that *Mudharabah* traditionally has been applied to commercial activities of short duration (Abd. Shomad, 2012. Abdur Rahman I Doi, 1984. Mohsin S. Khan and Abbas Mirakhor, 1987).

On the Decree of Direction of Bank Indonesia No. 32/34/KEP/DIR on 12<sup>th</sup> May 1999, about Syari’ah Bank, it mentions that *Mudharabah* is a contract (*aqad*) between investors (*shahibul maal*) and the executives (*mudharib*) to gain profits or revenue. Those

profit and revenue will be shared based on *nisbah*. *Nisbah* is a certain percentage mentioned in *aqad* business (*mudharabah* and *musyarakah*) agreed between bank and investor. agreed in the contract.

If a business conducted by *mudharib* suffers losses, it will be charged to *shahibul maal*. However, if the *mudharib* is neglected in managing the business, they have to pay back the invested fund to *shahibul maal*. It is consistent with *Hadis* of Rasulullah SAW:

*“narrated by Ibnu Abbas: when Abbas bin Abdul Muthalib invests his fund to his business partner through mudharabah, he requires that the fund must not either cross the sea, down a dangerous valley, or be used to buy pneumonia cattle. If they break those terms of conditions, they have to be responsible with that fund. Inform these conditions to Rasulullah SAW and he then allows it to apply”.* (HR. Thabrani).

Quran Surah Al-Anfal : 72 mentions that:

*“ Indeed, those who have believed and emigrated and fought with their wealth and lives in the cause of Allah and those who gave shelter and aided – they are allies of one another. But those who believed and did not emigrate –for you there is no guardianship of them until they emigrate. And if they seek help of you for the religion, then you must help, except against a people between yourselves and whom is a treaty. And Allah is Seeing of what you do.”*

In *mudharabah*, therefore, (*mudharib*) should be serious in implementing and maintaining the object that investors have entrusted to.

*aqad* of *mudharabah* is classified into two categories: *Mudharabah-muthlaqah* (independent), and *mudharabah-muqayyadah* (dependent). Wahbah al-Zuhaili emphasizes that:

*Aqad* of *mudharabah muthlaqah* (independent) is investing some fund from *shahibul maal* to *mudharib* for organizing a business without considering the kinds of the business, the location, the time, the characteristics of the business, and the parties organizing the business. On the other hand, *aqad mudharabah muqayyadah* (dependent) is *aqad mudharabah* in which *shahibul maal* invest some fund to *mudharib* for organizing a business by considering the kinds of business, the location, the time, the characteristics, and/or the parties organizing the business (Al-Zuhaili, 1977. Umar Mushthafa Jabar Ismail, 2006).

Following Ismail, *Mudharabah muthlaqah* is a contract between investors (*shahibul maal*) and the executives (*mudharib*) to organize a business based on syari'ah principle and with particular conditions of using the invested fund, such as:

- a. The location and the procedures of investment
- b. Kinds of investment
- c. The object of investment
- d. The period of time. (Ismail, 2013)

Next, Funding with *aqad mudharabah* is through *Mudharabah* saving and *Mudharabah* deposit.

### 1) *Mudharabah Saving*

*Mudharabah* saving is a product of funding by syari'ah banks using *aqad mudharabah muthlaqah*. The customers entrust their fund to be absolutely maintained by *mudharib* (syari'ah bank). The bank may calculate the *revenue sharing* they gained. *Revenue Sharing* is calculation adalah perhitungan bagi hasil yang didasarkan atas penjualan dan/atau pendapatan kotor atas usaha sebelum dikurangi dengan biaya. Bagi hasil dalam *revenue sharing* dihitung dengan mengalikan nisbah yang telah disetujui dengan pendapatan bruto. At the end of every month, the customers will get the revenue sharing from the bank in which they save their money, and it will be based on the *nisbah* agreed since they open a saving account of *mudharabah*. The revenue sharing in *mudharabah* saving considers some aspects, including (Ismail, 2013):

- a. Revenue of the syari'ah bank
- b. The total investment of *mudharabah muthlaqah*
- c. The total investment of *mudharabah* saving product
- d. The average balance of *mudharabah* saving
- e. The *Nisbah* of *mudharabah* saving based on the agreement
- f. The method applied for calculating the revenue sharing, and
- g. The total cost of syari'ah bank.

## 2) *Mudharabah* Deposit

*Mudharabah* deposit is the customers' financial investment based on syari'ah principle, and the withdrawal is only in particular time as mentioned in its *aqad*/contract between the syari'ah banks and the customers.

Based on the Law of Syari'ah Banking, in Article 1 subsection 22:

"Deposit is financial investment based on *aqad mudharabah* or other *aqad*, and it is not against syari'ah principle. The withdrawal may only be conducted in particular time as mentioned in *aqad* between the syari'ah bank/UUS and the customer."

### The Principle of Legal Relationship between Syari'ah Bank and Customers Saving Their Money

Legal relationship is set under legal regulation/law. Based on its nature, legal relationship is classified into private and public. The indicator classifying its nature does not point to the legal subjects who organize the relationship, but more refers to the nature of the transaction (Peter Mahmud Marzuki, 2013).

Legal relationships made by parties to deal with particular things in terms of properties refer to private relationship. The subjects of this kind of legal relationship may be between an individual and corporation, both public and private ones.

As the primary functions of banks are funding and lending, two legal relationships between banks and customers occur, including (Ronny Sautma Hotma Bako, 1995):

#### a. Legal relationship between creditors and bank

In this context, banks act as ones borrowing customers' fund. The legal relationship between the bank and the customers is apparent from the products of banking they offer, such as gyro, saving, deposit, etc. it is set under the regulation of the pertinent banks, and the customers must obey the general terms. Those terms must correspond to the existing products of banking, as it will be different to one another. In saving and deposit, for instance, the applied terms should relate to those two products of banking.

#### b. Legal relationship between debtor and bank



In this case, banks act as the creditors for the customers. The products are commonly in the form of credit such as credit for capital, investment, or small business.

The legal relationship between banks and customers are contractual. It occurs when the customers make a legal relationship with a bank for particular interests such as making account of saving, deposit, or other products of banking. J. Milnes Holden (J. Milnes Holden, 1982) argues that the existing contractual relationship between banks and customers is complex in nature as it has common terms applied in the world of banking. Some of those terms are then legally recognized and applied as implicit terms in every bank-customer contract. He also states that few of the customers realize that when they make a new account in a bank, they actually make an agreement with a lot of implicit terms of condition which may probably in pages.

In USA, the relationship between bank and customer is seen as a contractual relationship between creditor and debtor. According to American Law, if a depositor make a new account in a bank, such contractual relationship between creditor and debtor occur in the pertinent bank. The bank has legal rights over the entrusted fund and become a debtor to the depositor for the amount of that entrusted money. Bank-customer relationship is actually a contract between those two parties. It is specifically mentioned in a written agreement about saving some money between the owner of an account and the pertinent bank (David G. Epstein, et. Al., 1988).

Another legal expert argues that bank-customer relationship is between creditor and debtor. If the depositor acts as a debtor, the relationship shifts into creditor-debtor relationship. This double relationship provides a fast and easy way for a bank to protect itself from any broken promises as the bank has right to confiscate the entrusted fund for the sake of compensation in order to protect its credits (Robert N. Corley & Peter J. Shedd, 1989).

Tan Kamelo, as cited by Trisadini P. Usanti, argues that bank-customer relationship is a kind of agreement-based relationship, including: saving agreement. It is different from either an entrusting agreement or agreement of authorization. The agreement of saving, as anonym agreement (*onbenoemde overeenkomst, innominaat contracten*), has some characteristics, including:

- a. The agreement is real in nature. Organizing this kind of contract does not only need agreement, the customers also have to transfer some money to be saved in bank;
- b. The money, along with the authority of its utilization, will fully belong to the pertinent bank;
- c. In the context of its legal relationship, the bank plays as debtor and the customer play as creditor;
- d. The bank does not act as the borrower of the customers' money;
- e. The customer does not act as the depositor of the bank;
- f. The bank will pay all the saving back to the customers with a *contra-performance* in the form of interest (Trisadini Prasastinah Usanti, 2013).

In this current banking practices, including in Indonesia, transferring money by the customers to be saved in particular bank always contains a definition that the bank saving the money has right to use the fund in such a way for any purposes and the customers, temporarily, have nothing to do with the use of the fund. They only have right to draw and take the money back. The transferred money as if belonged to the bank. It means that the customers' money belongs to the pertinent bank as long as it is saved in that bank.

An agreement or contract in Islamic Law is called *aqad*. Ala' Eddin Kharofa, in *Transaction in Islamic Law*, as cited by Dr. Abd. Shomad, defines the term 'contract' in Islamic Law as (Abd, Shomad, 2010):

1. The term '*aqad*' (contract) derived from Arabic originally means as tying tightly, as in tying a rope, Arabs also used the term to speak about firm belief or determination.
2. The term 'contract' in Islamic Jurisprudential usage means as an engagement and agreement between two person in a legally accepted, impactful and binding manner.

Two terms in Al-Quran that relate to *aqad* are *al-'aqdu* (contract) and *al-'ahdu* (promise). Etymologically, *aqad*/contract is defined as engaging, binding (relation) (Ahmad Warson Al-Munawwir). Defined as relation (*al-rabth*) since it unifies two tips of the rope and make them gathered in one unity (Ghufron A. Mas'adi, 2002).

The term *al-'aqdu* is mentioned in QS Al Maidah verse (1) "that you who have believer, fulfill [all] contracts." Following Fathurrahman Djamil, the term *al-'aqdu* may

be similar to the term *verbinten* in *Burgerlijk Wetboek* (Fathurrahman Djamil, 2001). The term *al-'ahdu* may equal to the term 'agreement' or *overeenkomst*; an individual's statement to do or not to do something that is nothing to do with others. This term is mentioned in QS Ali Imran verse (76), "actually, whoever fulfilling his commitment and fears Allah, then indeed, Allah loves those who fear Him." (Kementrian Agama RI, 2010)

In KHES (i.e., Compilation of Syari'ah Economic Law), the definition of *aqad* is set in definitive manner. it is defined as an agreement between two parties or more to do or not do particular legal behavior.

In Islamic Law, *Aqad* is the most common way used for fund collection in everyday life. It is allowed by Allah and it should uphold the content within. In terminological manner, the law of *fiqih* defines *aqad* as "a relationship between *Ijab* (offering) and *Kabul* (acceptance) allowed by *syara'* (Islamic Law) and based on the consent of both parties." (T.M. Hasbi Ash-Shiddieqy, 1974).

Similar to Hasbi, Ahmad Azhar Basyir defines *akad* as *Ijab-Kabul* allowed by *syara'* and it determines the possible legal consequences toward the object. *Ijab* is the statement of the first party about the content of the expected engagement, while *Kabul* is the statement of the second party to accept the agreement (Ahmad Azha Basyir, 2009). Agus Yudha Hernoko, argues that the agreement occurs due to "offering and acceptance", and the determinant one is 'acceptance' (Agus Yudha Hernoko, 2014).

Based on Article 1 subsection 13 in Act of 2008 No. 21 about Syari'ah Banking, "*aqad* is a written agreement between the syari'ah bank or UUS (i.e. Syariah Business Unit) and other parties, and it contains rights and obligation for each of the parties based on syari'ah principle." Following Abdul Ghafur Anshari, *aqad* is an agreement causing an obligation for one party to perform and another party to take benefit from that performance without having an obligation of *contra-performance*. The obligation of one party is a right for another party, and the vise versa (Abdul Ghofur Anshari, 2010). Overall, *aqad* is not only a common agreement between two parties to have transaction, but it also relates to the provision of Islamic Law.

The Islamic Law recognizes two kinds of *aqad*, including (Abd, Shomad, 2012):

1. *Aqad Tabarru*. It is an *aqad*/contract that aims to help and purely want to get *ridha* and reward from Allah S.W.T. without having any motive of seeking for "return" or profit, such as Al-Qardh.

2. *Aqad Tijari*. It is an *aqad* that aims to seek for profit in which the terms should have been fulfilled, such as *murabahah*, *salam*, *istishna'*, *ijarah*, *ijarah muntahiya bittamlik*, *mudharabah*, and *musyarakah*.

With *aqad*, the parties are engaged to the Islamic Law (Syari'ah) in the form of rights and obligation (*iltizam*). Thus, it should be organized based on the syari'ah of Islam. An *aqad* is considered valid based on Islamic Law if the *rukun* (Abdurrahman Raden Aji Haqqi,) of the contract have already been fulfilled.

In implementing their business activities, Syari'ah banking as an intermediary institution is free from any interest. However, it is based on the principle of profit and loss sharing or known as PLS principle. In its profit sharing, syari'ah banking acts as business partner, both with the customers saving their money and those using the fund. As it is based on profit sharing, the amount of the profit is not always consistent over time for each customer. It depends on several factors such as the percentage of actual fund invested and the *nisbah* agreed in the beginning of the contract.

In relation to funding, the relationship between Syari'ah Bank and the depositors refers to partnership, as it corresponds to the principle applied that all tasks of maintaining the fund belong to Syari'ah Bank and thus, as an entrusted organization, it should be transparent, trusted, and fair, in particular to things related to profit sharing as the benefit that the customers/depositors may gain depends on the profit sharing of the pertinent bank. Thus, it needs to be transparent to the customers. Based on *mudharabah*, the performance is on *mudharib's* hand. *Shahibul mall* (the depositor) is not allowed to interfere. Therefore, it needs transparency and fairness to exist, and those may be found through partnership (Muhammad Yusuf dan Wiros, 2007). It should be noted that the relationship between syari'ah banks and the customers refers to partnership.

The partnership between syari'ah bank and customers holds on two interrelated elements, law and trust. A bank may only implement its activities and development if the people entrust their money to the products of that bank. With people's trust, it may mobilize some fund through some banking services.

Nindyo Pramono argues that bank is a fiduciary financial institution with good mission and vision as an institution that holds a mandate for national development in order to improve the standard of people's lives (Trisadini Prasastinah Usanti, 2013). In funding and maintaining people's money, banks holds on the principle of trust, the

customers entrust their money to be saved in banks in the form of a portfolio and be maintained in fair and transparent manner. Furthermore, they may draw their deposit anytime and the bank should provide it. The characteristic of such legal relationship is not solely a creditor-debtor relationship. It is also considered as fiduciary relation.

The legal relationship between bank and the customers contains some specific principles in addition to the general ones derived from the law of *aqad*. It means that the customers saving their money are only willing to save their money in a bank if they are sure that the bank is able to pay the money back. The bank also has particular function in society as a part of trusted monetary system, thus, a bank-customer relationship is based on the principle of trust (Ronny Sautma Hotma Bako, 1995).

The Banking Law asserts that bank-customer relationship is based on a fiduciary relationship. It is found in some articles in Banking Law, such as mentioned in Article 29 subsection (3) of Banking Law:

*"In providing credit or finance based on syari'ah principle and implementing other business activities, banks should go through several procedures that will not disadvantage the them and the interest of the customers **entrusting** their money to them"*

Next, Article 29 subsection (3) mentions that:

*"Given that banks primarily work with fund that people save in banks based on the principle of **trust**, each bank needs to keep protecting their fitness and maintain the people **trust**."*

Similarly, the description of Article 40 of Banking Law mentions that:

*"Confidentiality is necessary for the bank itself which needs people's trust for saving their money to banks. People will only **entrust** their money to Bank ...".*

In a *syariah* contract, it is based on *amanah* principle. *Amanah* is a form of good faith from each of the parties to organize an *aqad*/contract. it may be defined as entrusting another party to make cooperation (Trisadini P. Usanti, 2013). The principle of trust may be applied both in *tijarah* and *tabarru'*. In *aqad tijarah*, for instance, the *shahibul maal* entrusts *mudharib* to do business through *aqad mudharabah*. On the other hand, in *aqad tabarru'*, for instance, one party entrusts another party to maintain particular entrusted object through *aqad wadiah*.

Trust is the most fundamental aspect in *mudharabah*. *shahibul maal* trusts *mudharib*. *Shahibul maal* is not allowed to either ask any collateral or guarantee to *mudharib* or to interfere in the business management funded by *shahibul maal*. Thus, it is clear that no

*mudharabah* may occur if it has no the element of trust from *shahibul maal* to *mudharib*. It is a determinant of *mudharabah*. *Shahibul maal* may end the *mudharabah* unilaterally if they are no longer trust *mudharib* (Sutan Remy Sjahdeini, 2014).

The basic regulation of this *amanah* principle is mentioned in Allah saying that:

“Indeed, Allah commands you to render trusts to whom they are due...” (QS. An-Nisa (4) : 58).

“... And if one of you entrusts another, then let him who is entrusted discharge his trust [faithfully]...” (QS. Al-Baqarah (2) : 283).

“Oh you who have believed, do not betray Allah and the Messenger of betray your trusts while you know [the consequence]” (QS. Al Anfal (8):27).

Based on those Sayings, it shows that the relationship between syari’ah banks and the costumers is based on *amanah*, and it should be maintained well.

## Conclusion

The legal relationship underlying the relationship between syari’ah banks and the customers saving their money through *aqad Wadiah and Mudharabah* is not a creditor-debtor relationship, but a partnership. The partnership between syari’ah bank and the customer is based on two interrelated elements, law and trust. It is consistent with the description of Article 29 subsection (3) that “Given that banks primarily work with fund that people save in banks based on the principle of **trust**, each bank needs to keep protecting their fitness and maintain the people **trust**.”

This partnership is based on *amanah* principle with the value of believing that Allah always sees everything, in addition to the principle of trust with the implementation of good faith. Thus, every action may refer to taking worship. It is consistent with Allah saying, “Oh you who have believed, do not betray Allah and the Messenger of betray your trusts while you know [the consequence]” (QS. Al Anfal (8):27).

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