Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

Proposed Model of Sharia Bank Share Ownership Through Waqf Funds

Saparuddin Siregar[1], M. Ridwan[2], Hilyati Inayah Siregar[3], Muhammad Fitri Rahmadana[4]

Abstract

This paper presents a feasibility model for Sharia Bank share ownership through Waqf funds as an alternative source of capital. It begins by addressing the problem of insufficient capital stock for Islamic banks in Indonesia. The exploration includes banking regulations by the Indonesian Financial Services Authority, Sharia Waqf laws and regulations by the Indonesian Waqf Board, and literature in the field of Waqf, as well as secondary sources such as books, journal articles, and online resources, particularly those related to Waqf regulation. Conclusions are drawn by analyzing several themes, which are further validated through in-depth interviews and Focus Group Discussions with experts. This paper introduces Cash Waqf as a potential source of paid-in capital for Islamic banks, particularly in Indonesia.

Keywords: *Ownership, Shares, Islamic Bank, Waqf.*

Introduction

Capital adequacy positively affects a bank's ability to grow (Lotto, 2016; Tangngisalu et al., 2020). One of the main causes of bank failure is insufficient capital (De Andres & Vallelado, 2008; Chitan, 2012; Olowosegun & Moloi, 2021). In Indonesia, Sharia banks (also known as Islamic banks) struggle to grow due to their limited capital. Additionally, COVID-19 has exacerbated inefficiencies and eroded the capital of Islamic banks (Siregar & Nurlaila, 2023). As of the end of May 2021, there were 12 Sharia Banks, 20 Sharia Business Units, and 163 Sharia People's Financing Banks. Among the 12 Sharia Banks, only Bank Syariah Indonesia (BSI) is classified as a "BUKU-3" Sharia Bank. According to OJK regulations, "BUKU-3" Banks must have a minimum capital of IDR 5 trillion and less than IDR 30 trillion. Bank BSI successfully increased its capital to IDR 22.6 trillion as a result of the merger of three Islamic banks: Bank Mandiri Syariah, Bank BRI Syariah, and Bank BNI Syariah. The other eleven Islamic banks do not meet the minimum capital requirement of IDR 3 trillion. Commercial banks with paid-up capital of IDR 3 trillion are still categorized as "BUKU-2" banks, with capital ranging from IDR 1 to 5 trillion.

Sharia Business Units (UUS), of which there are 20, also face capital requirement challenges. According to Law No. 21 of 2008 concerning Sharia Banking, these units must be separated from their parent banks (spin-off) by July 2023 at the latest, and each UUS must prepare capital of IDR 500 billion. Sharia Rural Economic Banks (BPRS) are also experiencing difficulties in meeting capital requirements. The Financial Services Authority (OJK) Regulation Number 66/POJK.03/2016 mandates that BPRS must have a minimum capital of IDR 6 billion by 2025. Currently, however, 50% of BPRS have capital below this threshold.

A bank's capital can be fulfilled from three sources: first, capital deposits from the owner; second, capital accumulation from profits; and third, capital fulfillment through mergers (Bliss & Rosen, 2001; Anderson et al., 2004; Yusuf & Raimi, 2019). Banks with strong performance are more likely to realize capital through deposits and profit accumulation. However, for poorly performing banks, capital may erode, and shareholders may be reluctant to increase capital. Mergers are difficult to achieve, even when shareholders are under pressure from authorities to meet capital requirements (Caprio & Levine, 2002; Hamilton-Hart, 2008; Erturk, 2016; Siregar, 2023).

[1] UIN Sumatera Utara Medan, Indonesia, Email: saparuddin.siregar@uinsu.ac.id. (Correspondent Author)
[2] UIN Sumatera Utara Medan, Indonesia
[3] Sekolah Tinggi Ekonomi dan Bisnis Islam Medan, Indonesia.
[4] Universitas Negeri Medan, Indonesia.

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

One significant potential funding source that Islamic banks can utilize is cash waqf. The Republic of Indonesia Law No. 41 of 2004 on Waqf, along with several implementing regulations, has opened opportunities for cash waqf collected by Nazhir (waqf managers) to be invested in various productive ventures. The idea of establishing a waqf bank, inspired by the vision of Sheikh-ul-Islam Mustafa Hayri Efendi during the Ottoman period (Kahya, 2023), remains conceptual to this day (Harrieti & Abubakar, 2020). Therefore, it is crucial to study the regulations on capital fulfillment for Islamic banks using waqf funds, as banks with capital from waqf funds have the advantage of being more capable of providing interest-free financing or offering profit-sharing with minimal returns, thereby enhancing their social role (Mohammad, 2015; Abd Jalil et al., 2019; Sukmana, 2020; Baharuddin, 2022).

Various studies have explored breakthroughs in capital fulfillment through waqf (Shaikh et al., 2017; Thaker et al., 2016; Kasri & Chaerunnisa, 2021), with some proposing the establishment of Waqf Banks distinct from Islamic Banks (Ismail et al., 2017; Mohammad, 2013; Suhaimi et al., 2014). However, introducing a new type of bank as a Waqf Bank would require new regulations or amendments (Mohammad, 2015; Khan, 2019; Jouti, 2019), which would be a lengthy process. Unlike previous research, this study demonstrates that under current laws and regulations in Indonesia, it is possible for the capital of Islamic banks to be sourced from waqf and for them to operate as de facto Waqf Banks, without needing to be formally designated as such. This approach could also be applied in other countries around the world.

Literature Review

From a theoretical point of view, there is a relationship between the amount of bank capital and the volume of assets a bank is allowed to hold. This is known as the capital adequacy ratio (CAR). Capital adequacy acts as a buffer against the risks taken through business activities. This is why the capital adequacy ratio is determined by the country's central bank—to ensure that banks operate in a healthy manner. A bank is a trust institution, where the amount of funds managed by the bank is much larger than the capital owned by the bank's owners. If the credit or financing disbursed by the bank is of poor quality, exceeding the tolerance limit of 5%, for example, the bank must pay close attention to the threat of losses that could erode its capital. Naturally, as a bank's business activities expand, there is a greater need for careful risk management (Rosi et al., 2009; Sissy et al., 2017; AlKhouri & Arouri, 2019)

Capital Buffer Theory identifies a relationship between risk and minimum capital requirements (Marcus, 1984; Milne & Whalley, 2002; VanHoose, 2007). This theory suggests that banks respond to changes in capital requirements based on the strength of their capital buffers. Banks with a strong capital buffer will aim to maintain their capital reserves. Conversely, banks with weaker capital buffers will seek to strengthen their capital base in response to increased capital requirements from regulators.

Karim et al. (2014) examined the relationship between capital adequacy and lending in Islamic banks across 14 countries from the Organization of the Islamic Conference (OIC), concluding that there is a direct relationship between the level of capital and the amount of risky lending. Islamic banks tend to make riskier investments when they record a capital surplus. The empirical literature (Houston et al., 2010; Ashraf et al., 2016; Bunyaminu, 2021) on this topic suggests that banks invest more in risky ventures when capital requirements are high, indicating a direct relationship between capital requirements and bank risk. A higher level of capital can lead to higher profits, which in turn encourages bank management to take on more risks for potentially higher returns.

In line with Capital Buffer Theory, the minimum capital required to establish a commercial bank in Indonesia is IDR 10 trillion, as regulated by OJK Regulation No. 12/POJK.03/2021 concerning Commercial Banks. Previous regulations, such as Bank Indonesia Regulation No. 11/1/PBI/2009 concerning Commercial Banks, are still temporarily applied to existing banks. Under the earlier regulation, the minimum capital requirement was IDR 3 trillion. A bank with only IDR 3 trillion in capital may generate profits but is unlikely to contribute significantly to the national economy. Therefore, OJK now requires a minimum deposit of IDR 10 trillion for the establishment of new banks to ensure they can contribute to the national economy. Meeting the minimum capital requirement of IDR 10 trillion is essential, as it directly

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

impacts the scale of business activities a bank can undertake. The larger the bank's capital, the greater and wider the range of operations it can perform. OJK mandates that banks unable to meet the minimum capital requirement must either merge with other institutions or convert into people's credit banks.

OJK classifies Commercial Banks by Business Activities (BUKU) into four categories. BUKU-1 banks are those with capital of less than IDR 1 trillion. These banks are permitted to engage in activities such as fund-raising, fund distribution, trade finance, agency services, payment systems and electronic banking, equity participation for credit recovery, and limited banking services. BUKU-2 banks have capital of at least IDR 1 trillion but less than IDR 5 trillion. These banks can perform all BUKU-1 activities on a broader scale and are also allowed to invest in financial institutions within Indonesia. BUKU-3 banks have capital of at least IDR 5 trillion but less than IDR 30 trillion. BUKU-3 banks can engage in the activities permitted for BUKU-2 banks, and they are additionally allowed to invest in financial institutions within the Asian region. BUKU-4 banks have capital of at least IDR 30 trillion and are permitted to invest in financial institutions globally. Based on the BUKU-1 to BUKU-4 classifications, it is evident that for a bank to expand its operations on a wider scale, its paid-up capital must continuously increase. Therefore, banks are required to continually raise their paid-up capital. Islamic commercial banks in Indonesia, in particular, must work diligently to increase their capital deposits.

Sources of Islamic bank capital are regulated by Bank Indonesia Regulation No. 11/3/PBI/2009, dated January 29, 2009, concerning Sharia Commercial Banks. According to this regulation, capital must not originate from money laundering activities or from loans or financing facilities in any form from banks or other parties. Article 14 of Law No. 21 of 2008 specifies that individuals or entities eligible to purchase shares in Islamic banks include Indonesian citizens, foreign citizens, Indonesian legal entities, and foreign legal entities. The purchase of shares in Sharia Commercial Banks can be done directly or through the stock exchange. A legal entity is an entity or association that possesses rights and responsibilities similar to those of an individual, has its own assets, and can be sued or sue in a court of law. Several types of legal entities that can establish a bank include the Central Government, Regional Governments, Limited Liability Companies, Cooperatives, Foundations, independent non-structural government institutions, or associations. Figure-1 illustrates the parties eligible to purchase Islamic bank shares.

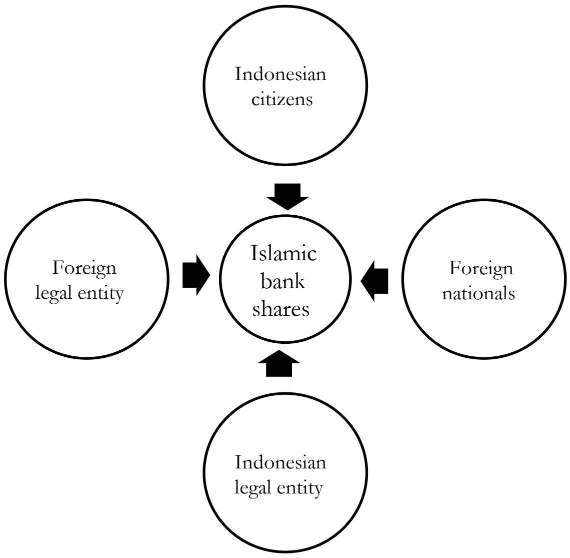

Figure 1. Sharia Bank Shareholders

Nazir Waqf has the opportunity to become a shareholder in a Sharia bank because it functions as a legal entity. The position of Nazir Waqf is regulated by Law No. 41 of 2004 concerning Waqf. A Nazir is the party that receives waqf property from the Wakif (the donor) to manage and develop it according to its

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

designated purpose. A Nazir can be a legal entity involved in social, educational, or Islamic religious activities. The role of a Nazir includes managing and developing waqf assets in line with their intended purpose, function, and designation. The Nazir receives guidance from the Minister and the Indonesian Waqf Board (BWI).

Contemporary scholars agree on the permissibility of money as a waqf object (Razak, 2020). The Indonesian Ulema Council (MUI) issued a fatwa on Cash Waqf on May 11, 2002. Cash Waqf (Waqf al-Nuqud) is a form of waqf conducted by individuals, groups, institutions, or legal entities in the form of cash. The definition of cash also includes securities. Cash Waqf is considered legal (permissible) and can only be channeled and used for purposes permitted by Sharia. The principal value of Cash Waqf must be preserved for sustainability, and it may not be sold, donated, or inherited. Based on these Sharia provisions, it can be concluded that there is no prohibition on using cash waqf funds to purchase shares in Islamic banks. Ownership of these shares can be categorized as ownership of securities, as mentioned in the fatwa.

BWI Regulation Number 01 of 2020 concerning Guidelines for the Management and Development of Waqf Assets provides significant flexibility in the management of cash waqf. The key provisions regarding cash waqf include: 1) Cash waqf management can be conducted directly or indirectly, with a focus on productive projects that benefit the community; 2) Buildings or assets originating from cash waqf funds can be sold, provided that the sale is profitable, and the proceeds are reinvested as cash waqf; 3) The management of cash waqf must be insured through Sharia-compliant insurance. In accordance with this BWI regulation, the ownership of Islamic bank shares is considered part of the allowed direct investment category.

Direct Cash Waqf management involves managing cash waqf in projects managed by Nazir and/or investors in collaboration with Nazir. Indirect Cash Waqf management refers to the management of cash waqf through an institution that meets institutional eligibility criteria and is profitable. Direct Cash Waqf management on projects overseen by Nazir can be undertaken if the project meets the following requirements: 1) The business must be conducted in accordance with Sharia principles; 2) The project's feasibility must meet the required standards according to the 5C principles (character, condition, capital, capacity, and collateral) and the 3P principles (people, purpose, and payment); 3) The source of returns must be calculable based on a feasibility study. Direct Cash Waqf management is required to be conducted through products with Sharia-compliant contracts within Islamic financial institutions (LKS) and must be insured. Given these various requirements for direct waqf management, the investment of waqf funds by Nazir for share ownership can be made in Islamic banks, provided that all relevant provisions are followed.

The direct management of cash waqf has evolved across various countries through different schemes. There are six recognized waqf financing schemes (Mohsin, 2013; Mohsin & Maruf, 2020): the waqf shares scheme, the deposited cash waqf scheme, the compulsory cash waqf scheme, the corporate waqf scheme, the deposit product waqf scheme, and the cooperative waqf scheme. While direct cash waqf management has been practiced in several countries, none have formally utilized waqf funds as capital for banking institutions.

Waqf schemes as shares outside bank institutions have been practised in Malaysia (Majid & Kassim, 2015; Bougatef et al., 2020), Indonesia, Kuwait, and the UK. But not yet as shares in Islamic Banks. In this share waqf, a company acts as an institution issuing waqf shares with various nominal units. The funds that the waqf management institution has collected are then invested in productive businesses. The investment results are then distributed to mauquf alaihi. Islamic banks in Bangladesh make waqf deposit funds as deposits on the liability side which are then channelled on the principle of mudharabah. This scheme is called the Deposit Waqf Product Scheme. Through this Waqf Product Deposit scheme, the wakif deposits their waqf to the bank, where the bank is simultaneously a Nazir. However, the wakif makes a list of names that will be the beneficiaries of the waqf proceeds. The bank distributes financing from these waqf funds in the form of sharia contracts. Furthermore, the development results are paid to the name that the Wakif has mandated.

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

Cash waqf deposits are practiced in Singapore, Bahrain, and South Africa (Zauro et al., 2020; Aliyu, 2017). In this Cash Waqf Deposit scheme, the wakif deposits their waqf into the Nazir waqf account at the bank. The profit-sharing earned by the Nazir from these deposits is then distributed to the beneficiaries (mauquf 'alaihi). This scheme has also been implemented in Indonesia through waqf deposits via LKS PWU. The Corporate Waqf Scheme, practiced in Malaysia, Turkey, India, Pakistan, and Bangladesh, involves individuals, private companies, or government companies collecting waqf to establish a waqf institution. These companies regularly encourage the community and their subsidiaries to allocate a portion of their profits as waqf, which is managed by waqf institutions. The waqf institutions then invest these funds in productive sectors, and the returns are allocated to specified projects after deducting the necessary costs.

As the challenge of continuously increasing capital persists for banks, Islamic banks need to explore innovative funding sources to strengthen their capital base. One promising source is waqf funds managed by Nazir. Currently, Islamic bank capital primarily comes from individuals and business entities that expect high returns. Additionally, public funds collected in the form of savings and deposits typically seek high-profit sharing. Consequently, Islamic banks must strive to channel financing with high margins or profit-sharing to satisfy these expectations, which often leads to a focus on profit motives. This focus can make it difficult for Islamic banks to fulfill their social functions, such as assisting economically vulnerable communities by providing financing with low-profit-sharing rates (Hassan & Cebeci, 2012; Saridona & Cahyandito, 2015). Therefore, replacing individual and corporate shareholders with Nazir waqf as shareholders in Islamic banks could be a viable solution to enhance the banks' social functions.

Research Method

This research is a case study aimed at exploring opportunities for fulfilling Islamic bank capital through waqf funds. Although there has been ongoing discourse about establishing a waqf bank, creating a bank under the name of waqf necessitates regulatory changes that may take a long time, as it must pass through a national legislation program and sessions of the House of Representatives. This study examines the regulations issued by the OJK, the regulator of Islamic banks, and the regulations of the BWI, which oversees Nazir waqf, to determine whether the current framework allows for cash waqf funds to be utilized as shareholding investments in Islamic banks. To date, there has been no instance of cash waqf funds being employed as capital for Islamic banks, either nationally or internationally.

This study aims to identify ways for Islamic banks to overcome the challenges of meeting capital deposit requirements. The provisions for using waqf as capital deposits for sharia banking are explored through the sharia legal literature on waqf and applicable national laws, particularly OJK regulations concerning sharia banking and BWI regulations regarding cash waqf. Additional literature sources include reputable books and journals. Besides reviewing literature, observations were conducted through visits and online discussions via Zoom with several Nazhir of cash waqf to gather factual information about the challenges faced by Nazhir in the collection and distribution of cash waqf.

Some important themes regarding the use of waqf funds as capital for Islamic banks include: 1) the interests of Islamic banks in obtaining paid-up capital from waqf funds and the provisions of sharia law that allow cash waqf to be invested in the paid-up capital of Islamic banks; 2) the legal status of Nazhir as a shareholder of a sharia bank; 3) strategies to maintain the integrity of the value of shares as waqf assets; and 4) methods for fundraising waqf funds to invest in Islamic bank capital.

The location of this research includes Medan, Padang, Pekanbaru, Semarang, Surabaya, Bali, and Lombok, which are cities that have nazhir cash waqf. The research was conducted by visiting the nazhir waqf locations to perform observations and in-depth interviews with the management. For some nazhir waqf that could not be visited directly due to mobility restrictions from the COVID-19 outbreak, online meetings were held via Zoom. The researchers prepared a list of both closed and open-ended questions related to the themes being studied for the interviews. Documentation of the interviews was prepared in writing, along with voice recordings, video recordings, and necessary photographs. The sampled nazhir waqf consisted of nazhir waqf money, particularly those involved in Sharia Financing Savings and Loans

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

Cooperatives (KSPPS) or Baitul Mal Wattamwil, which collect and distribute funds to and from their members. This research was carried out over five months, from April 2021 to August 2021. The list of visited nazhir waqf institutions is presented in Table 1.

Table 1. Nazhir Waqf Money Cooperative Savings and Loans Financing

	Name of Cash Waqf Nazir	Address	Length of Operational
1	Ar-Risalah Islamic Boarding School Foundation	Padang	3 years
2	Multipurpose Sharia Business-Cooperative BMT Al-Hidayah Ummah	Lombok	3 years
3	Hudatama Financing Savings and Loans Sharia Cooperative	Semarang	3 years
4	Foundation Rotte Indonesia Mulya. Foundation	Pekanbaru	5 years
5	Civil social wallet	Bali	3 years

In addition to conducting observations, an offline Focus Group Discussion (FGD) was held to gather insights from a panel of experts. The experts included leaders from the Indonesian Waqf Board (BWI), academics, core administrators from the National Sharia Council, waqf practitioners, Sharia law specialists, and civil law experts. The list of participants for this FGD is as follows:

Table 2. List of Participants

No	Name	Age (Years)	Position	Address
1	SMB	62	Head of the North Sumatra Province BWI Executing Agency	Medan
2	AHS	52	Academic Civil Law Expert	Medan
3	ARD	45	Head of the National Sharia Council representing North Sumatra	Medan
4	ARS	65	Sharia Expert Academic	Medan
5	IRZ	40	Practitioner: PUSPAS Universitas Airlangga Surabaya	Surabaya
6	NRH	50	Central BWI	Jakarta
7	WSD	50	PUSPAS Airlangga	Surabaya
9	MUS	40	Secretary of BWI Padang	Padang

The discussion in the FGD focused on the theme (Creswell, 2014; Braun & Clarke, 2006) concerning the permissibility of using waqf funds as capital for Islamic banks from the perspectives of Sharia law, as well as the regulations set by the OJK and BWI. Additionally, the discussion explored the benefits that Islamic banks could derive from utilizing capital sourced from waqf funds. Conclusions were drawn based on the consensus of the participants' opinions during the FGD.

Result and Discussion

A review of the published financial statements of Islamic banks in Indonesia, available on the OJK website, indicates that many Islamic Commercial Banks are still lacking in paid-up capital. As shown in Table 3 below, only BSI Bank and Panin Dubai Syariah Bank have met the paid-up capital requirement of IDR 3 trillion.

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

Bank BSI was able to achieve this capital level due to the merger of three Islamic banks: Bank Mandiri Syariah, Bank BNI Syariah, and Bank BRI Syariah. Bank BSI officially merged on February 1, 2021.

A review of the published financial statements of Islamic banks in Indonesia, available on the OJK website, indicates that many Islamic Commercial Banks are still lacking in paid-up capital. As shown in Table 3 below, only BSI Bank and Panin Dubai Syariah Bank have met the paid-up capital requirement of IDR 3 trillion. Bank BSI was able to achieve this capital level due to the merger of three Islamic banks: Bank Mandiri Syariah, Bank BNI Syariah, and Bank BRI Syariah. Bank BSI officially merged on February 1, 2021.

Table 3. Total Asset, Paid-Up Capital, Lack of Paid-Up Capital (Jun, 2021)

No	Banks	Total Asset	Paid-up Capital	Lack of Paid-up Capital to reach 3 Trillion
1	Bank Aceh	25,480,963	1,079,543	1,920,457
2	NTB Syariah	10,419,758	774,900	2,225,100
3	Bank Muamalat	51,241,304	1,103,435	1,896,565
4	Bank Victoria Syariah	2,296,027	360,000	2,640,000
5	Bank Jabar Banten	8,884,354	1,845,890	1,154,110
6	BSI	126,907,940	3,142,019	(142,019)
7	Bank Mega Syariah	16,117,927	1,150,000	1,850,000
8	Bank Panin Dubai Syariah	11,302,082	3,881,364	(881,364)
9	Bank KB Bukopin Syariah	5,223,189	1,050,370	1,949,630
10	Bank BCA Syariah	9,720,254	2,255,183	744,817
11	Bank BTPN Syariah	16,435,005	770,120	2,229,880
12	Bank Aladin Syariah	721,397	819,307	2,180,693

From table-3 above shows that Islamic banks require additional paid-in capital to meet the minimum capital requirements. Regarding how important waqf funds are as capital deposits, it can be explained that waqf funds are very important as a source of capital for Islamic banks in overcoming this protracted shortage of paid-up capital. There are specific benefits if the paid-up capital of Islamic banks comes from waqf funds. The main intended benefit is that Islamic banks can operate more efficiently with capital sourced from waqf because the owners of Islamic bank capital are not individuals or profit-oriented legal entities. Because shareholders are not profit-oriented, Islamic banks can channel financing with low margins and profit sharing that is very profitable for customers, especially micro and small businesses.

Table 3 above shows that Islamic banks require additional paid-in capital to meet the minimum capital requirements. Waqf funds play a crucial role as capital deposits, as they can significantly alleviate the persistent shortage of paid-up capital in Islamic banks. The primary benefit of sourcing paid-up capital from waqf funds is that Islamic banks can operate more efficiently, as the owners of the capital are not individuals or profit-oriented legal entities. Since the shareholders are not focused on profit maximization, Islamic banks can offer financing with lower margins and profit-sharing arrangements that are highly advantageous for customers, particularly for micro and small businesses.

After recognizing the significance of waqf funds as capital for Islamic banks, the next issue to explore is how sharia law views the use of these funds. The permissibility of utilizing waqf funds as capital for Islamic banks can be supported by contemporary opinions from a group of sharia experts. Notably, the 19th International Islamic Fiqh Academy conference, held from April 26 to 30, 2009, in the United Arab Emirates, concluded that the legal waqf of shares is permissible. The fiqh of waqf is open to accepting ijtihad, and waqf is considered a reasonable form of worship (ma'qul al-ma'na) that aligns with syara' goals,

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

ultimately realizing the benefits of waqf for the wakif and mauquf 'alaih. The sharia texts related to waqf are comprehensive; some endowments are eternal, while others are temporary. Waqf can encompass objects, benefits, and money, including both movable and immovable assets. Since waqf is regarded as an act of charity and is broadly encouraged, shares can also be endowed, as they are considered valuable assets under sharia law (refer to Ijtihad International Islamic Fiqh Academy Decision No. 181 (7/19) concerning the Waqf of Shares, Checks, Ma'nawi Rights, and Benefits).

The description above clearly indicates that world fiqh experts have permitted waqf funds to be invested in purchasing shares of Islamic banks. The next issue to address is the legal status of the nazhir waqf entity in relation to Islamic banking regulations. Law No. 21 of 2008 concerning Islamic banks stipulates that shareholders of Islamic banks must be individuals or legal entities. Therefore, it is essential for nazhir waqf to obtain legal entity status. Law No. 41 of 2004 concerning Waqf specifies that nazhir waqf can be a legal entity engaged in social, educational, community, and/or Islamic religious activities. In this context, the most suitable form of legal entity is a foundation, as outlined in Law No. 16 of 2001 concerning Foundations. Article 26 of this law states that if a foundation receives wealth derived from waqf, the waqf property will be governed by the provisions of waqf law. This clause ensures that waqf assets within foundation legal entities are managed according to the relevant waqf regulations.

One of the significant concerns in waqf management is how to prevent the principal value of the waqf from diminishing. When nazhir waqf invests in shares, the company in which they invest may experience both profits and losses. In the event of a loss, the value of the waqf investment could decline. To anticipate potential losses, BWI Regulation No. 1 of 2020 mandates the formation of reserves from the net proceeds of waqf asset management and development. These reserves are allocated for various purposes, including insurance costs, reinvestment, asset recovery costs, and risk management associated with waqf asset management and development. Notably, BWI Regulation No. 1 of 2020 also allows for the sale of buildings or goods derived from cash waqf funds, provided that the sale is profitable. The proceeds from such sales are considered cash waqf. This provision enables nazhir to divest from their ownership and shift investments away from Islamic banks if there are indications of declining performance in the bank in which they have invested.

The consensus among experts regarding the permissibility of nazhir waqf investing in share ownership in Islamic banks was strongly supportive, as expressed during both the FGD and interviews. NRH, an administrator at the Indonesian Waqf Board, articulated this perspective clearly: *"Essentially, in my opinion, it is possible. For example, Islamic Bank A can endow its shares with a certain amount, and then, through waqf products, nazhir can purchase shares of Islamic Bank A, allowing the number of shares to continue to grow*." (NRH, BWI Pusat).

A similar perspective was shared by IRZ from PUSPAS UNAIR Surabaya, who stated: *"Nazir's idea of ownership of LKS is a good one. There are several considerations to keep in mind, for instance, that LKS and nazhir waqf are both fundamental components of the sharia economy. These components represent the three pillars of the sharia economy: the financial sector, the real sector, and the philanthropic sector. If this integration occurs, it essentially means that these two pillars are united, which is expected to further stimulate the development of the sharia economy.*" (IRZ, PUSPAS UNAIR).

WSD, the speaker at the FGD, concurred with NRH and IRZ, recommending that BWI explicitly include a provision in its regulations allowing Nazhir waqf to become shareholders in sharia banks. *According to PBWI No. 1 of 2020, Article 13 permits Nazhir to direct investments by establishing a business activity under a PT legal entity. WSD emphasized the need for additional regulations, specifically the Indonesian Waqf Agency Regulation No. 1 of 2020 concerning Guidelines for Management and Development of Waqf Assets, which would enable Nazhir waqf to participate as a shareholder in Islamic banks*. (WSD, PUSPAS UNAIR)

To implement the practice of purchasing shares in Islamic banks by Nazhir waqf, support from OJK is essential from a regulatory standpoint. There is a need for explicit acknowledgment in OJK regulations that the Nazhir waqf foundation qualifies as a party eligible to become a shareholder in Islamic banks. Additionally, OJK regulations should clearly state that capital deposit funds can originate from waqf funds, with the Nazhir foundation serving as the legal entity for these transactions.

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

Regarding the themes discussed in the FGD, the participants generally agreed on the permissibility of investing waqf funds as capital deposits in Islamic banks. Additionally, there was a consensus that the primary reason for the low collection of waqf funds is the insufficient socialization and awareness about cash waqf. Table 4 below summarizes the experts' agreement on the permissibility of waqf funds being used as capital for Islamic banks and their consensus that the current challenges in waqf fund collection stem from a lack of effective socialization efforts.

Table 4. List of Expert's Agreement

No	Name	Position	Permissibility of waqf funds as Islamic bank capital	The problem is the difficulty of collecting waqf funds
1	SMB	Head of the North Sumatra Province BWI Executing Agency	Agree	Lack of socialization
2	AHS	Academic Civil Law Expert	Agree	Lack of socialization
3	ARD	Head of the National Sharia Council representing North Sumatra	Agree	Lack of socialization
4	ARS	Sharia Expert Academic	Agree	Lack of socialization
5	IRZ	Practitioner: PUSPAS Universitas Airlangga Surabaya	Agree	Lack of socialization
6	NRH	Central BWI	Agree	Lack of socialization
7	WSD	PUPS Airlangga	Agree	Lack of socialization
9	MUS	Secretary of BWI Padang	No Comment	Lack of socialization

In the effort to collect waqf funds, it seems that Nazhirs are still facing challenges in gathering cash waqf. One of the main difficulties is the lack of proper socialization and education about waqf in the form of money. The general public often still associates waqf primarily with land and buildings, typically used for cemeteries, mosques, or madrasas. Therefore, increasing socialization and literacy about cash waqf is crucial.

The Islamic savings and loan cooperatives, Hudatama Semarang, and KSPPS BMT Al-Hidayah Ummah Lombok have encountered significant challenges in collecting waqf funds. KSPPS Hudatama has been collecting waqf for about 10 years, with the total collection amounting to only Rp. 300 million. This cash waqf is recorded as waqf funds in the cooperative's balance sheet. Similarly, KSPPS BMT Al-Hidayah has collected just IDR 20 million over the span of one year, also recorded as waqf funds in their financial statements. These funds are then distributed as financing to cooperative members. In this instance, the sharia cooperative manages the waqf funds independently, rather than placing them in the PWU LKS.

The Nazir waqf was established in 2011, so it has been in operation for ten years. However, collecting cash waqf has proven to be challenging, with only IDR 300 million collected so far. We gather waqf funds by appealing to our cooperative members. Instead of placing these funds in the PWU LKS, we manage them internally by recording them on the liability side as waqf funds. In this way, we ensure the integrity of the waqf funds, even though some of these funds are channeled into financing. (IDH, KSPPS Hudatama Semarang)

The Ar-Risalah Islamic Boarding School Foundation in Padang has been collecting cash waqf for just two years, but the amount collected so far is only IDR 20 million. Gathering cash waqf is challenging because public response remains weak.

We collect waqf through social media, primarily by promoting it via WhatsApp. Our outreach is targeted at the parents of students, and we send messages daily to 100 to 200 WhatsApp contacts. We also use Tabligh Akbar events with Ustaz Abdul Somad as a platform for socialization. Although we have an LKMS engaged in the Savings and Loans Financing business, the collected funds of IDR 20 million are still stored in LKS PWU. (EFN, Ar-Risalah Islamic Boarding School Foundation).

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754

Conclusion

This study recommends that Nazir invest cash waqf funds in Islamic banks through share ownership, proposing this as both an investment model and a way to fulfill Islamic bank capital requirements using waqf funds. Although the OJK regulations currently lack explicit provisions regarding waqf funds as a capital source for Islamic banks, the existing framework for Islamic banking and waqf management allows for its implementation. By utilizing waqf funds for capital deposits, Islamic banks can secure a stable source of funding, aligned with the existing provisions of Islamic banking and waqf.

The results of this study suggest that Nazhir waqf and the Indonesian Waqf Board (BWI) should intensify efforts to raise awareness and increase literacy around the collection of cash waqf funds. Additionally, there is a need for the Financial Services Authority (OJK) to establish explicit regulations regarding the use of waqf funds as capital deposits for Islamic banks. Nazhir waqf organizations should promptly focus on collecting and investing waqf funds as capital for Islamic banks to ensure large-scale fulfillment of capital requirements. If Islamic bank capital is sourced from waqf funds, it is expected that Islamic banking will not only improve its business performance but also enhance its social contributions, thereby delivering significant benefits to the Muslim community and the country where the Islamic bank operates.

References

Abd Jalil, M. I., Pitchay, A. A., & Yahya, S. (2019). Cash Waqf and Preferred Method of Payment: Case of Malaysia Using an AHP Approach. In Revitalization of Waqf for Socio-Economic Development, Volume II (pp. 187-206). Palgrave Macmillan, Cham.

Aliyu, S., Hassan, M. K., Mohd Yusof, R., & Naiimi, N. (2017). Islamic Banking Sustainability: A Review of Literature and Directions for Future Research. Emerging Markets Finance and Trade, 53(2), 440-470.

AlKhouri, R., & Arouri, H. (2019). The effect of diversification on risk and return in banking sector: Evidence from the Gulf Cooperation Council countries. International Journal of Managerial Finance, 15(1), 100–128.

Anderson, C. W., Becher, D. A., & Campbell II, T. L. (2004). Bank mergers, the market for bank CEOs, and managerial incentives. Journal of Financial Intermediation, 13(1), 6-27.

Ashraf, B. N., Zheng, C., & Arshad, S. (2016). Effects of National Culture on Bank Risk-Taking Behavior. Research in International Business and Finance, 37, 309-326.

Baharuddin, G., & Possumah, B. T. (2022). Blended Finance and the Role of Waqf Bank: Shaping the SDGs in Indonesia. In Wealth Management and Investment in Islamic Settings: Opportunities and Challenges (pp. 357-365). Singapore: Springer Nature Singapore.

Bliss, R. T., & Rosen, R. J. (2001). CEO Compensation and Bank Mergers. Journal of Financial Economics, 61(1), 107-138.

Bougatef, K., Nakhli, M. S., & Mnari, O. (2020). The Nexus Between Islamic Banking and Industrial Production: Empirical Evidence from Malaysia. ISRA International Journal of Islamic Finance.

Braun, V., & Clarke, V. (2006). Using Thematic Analysis in Psychology. Qualitative Research in Psychology, 3(2), 77-101.

Bunyaminu, A., Bashiru, S., Amadu, I. M., Yakubu, I. N., & Iddrisu, A. J. (2021). Investigating The Impact of Capital Adequacy Ratio and Corruption on Bank Risk-Taking in Ghana. Academy of Accounting and Financial Studies Journal, 25(4), 1-7.

Caprio, G., & Levine, R. (2002). Corporate Governance in Finance: Concepts and International Observations. Financial Sector Governance: The Roles of The Public and Private Sectors, 17-50.

Chitan, G. (2012). Corporate Governance and Bank Performance in the Romanian Banking Sector. Procedia Economics and Finance, 3, 549-554.

Creswell, J. W. (2014). Qualitative, Quantitative and Mixed Methods Approaches. Sage.

De Andres, P., & Vallelado, E. (2008). Corporate governance in banking: The role of the board of directors. Journal of banking & finance, 32(12), 2570-2580.

Ertürk, I. (2016). Financialization, Bank Business Models and The Limits of Post-Crisis Bank Regulation. Journal of Banking Regulation, 17(1), 60-72.

Hamilton-Hart, N. (2008). Banking Systems A Decade After the Crisis. Crisis As Catalyst: Asia's Dynamic Political Economy, 45-69.

Harrieti, N., & Abubakar, L. (2020). The urgent need for the establishment of Waqf Bank: The case of Indonesia. Hamdard Islamicus, 43(Special Issue).

Hassan, K., & Cebeci, I. (2012). Integrating The Social Maslaha into Islamic Finance. Accounting Research Journal, 25(3), 166–184.

Houston, J. F., Lin, C., Lin, P., & Ma, Y. (2010). Creditor Rights, Information Sharing, and Bank Risk-Taking. Journal of Financial Economics, 96(3), 485-512.

Ismail, N. A., Omar, I., Tun, U., Onn, H., Noor, M., & Abu, R. (2017). Waqf Bank in Malaysia: A Consideration of the Roles. October 16–18.

Jouti, A. T. (2019). An Integrated Approach for Building Sustainable Islamic Social Finance Ecosystems. ISRA International Journal of Islamic Finance.

Journal of Ecohumanism
2024
Volume: 3, No: 4, pp. 2659 – 2669
ISSN: 2752-6798 (Print) | ISSN 2752-6801 (Online)
https://ecohumanism.co.uk/joe/ecohumanism
DOI: https://doi.org/10.62754/joe.v3i4.378410.62754
Kahya, H. K. (2023). Shaykh al-Islām's Dream Is Coming True: From Evkaf Bank to Vakif Participation Bank, Establishing a Bank with a Cash Waqf. Darulfunun Ilahiyat, 34(1): 1–31, DOI: 10.26650/di.2023.34.1.1194418
Karim, M. A., Hassan, M. K., Hassan, T., & Mohamad, S. (2014). Capital Adequacy and Lending and Deposit Behaviors of Conventional and Islamic Banks. Pacific-Basin Finance Journal, 28, 58-75.
Kasri, R. A., & Chaerunnisa, S. R. (2021). The Role of Knowledge, Trust, And Religiosity in Explaining the Online Cash Waqf Amongst Muslim Millennials. Journal of Islamic Marketing.
Khan, T. (2019). Venture Waqf in A Circular Economy. ISRA International Journal of Islamic Finance.
Lotto, J. (2019). Evaluation of Factors Influencing Bank Operating Efficiency in Tanzanian Banking Sector. Cogent Economics & Finance, 7(1), 1664192.
Majid, M. S. A., & Kassim, S. H. (2015). Assessing The Contribution of Islamic Finance to Economic Growth: Empirical Evidence from Malaysia. Journal of Islamic Accounting and Business Research.
Marcus, A. J. (1984). Deregulation and Bank Financial Policy. Journal of Banking & Finance, 8(4), 557-565.
Milne, A., & Whalley, A. (2002). Bank Capital Regulation and Incentives for Risk-Taking (SSRN scholarly paper No. ID 299319). Rochester, NY: Social Science Research Network.
Mohammad, M. T. S. H. (2013). Towards an Islamic Social (Waqf) Bank. International Journal of Trade, Economics and Finance, May, 381–386.
Mohammad, M. T. S. H. (2015). Theoretical And Trustees' Perspectives on The Establishment of An Islamic Social (Waqf)
Mohsin, M. I. A. (2013). Financing Through Cash-Waqf: A Revitalization to Finance Different Needs. International Journal of Islamic and Middle Eastern Finance and Management.
Mohsin, M. I. A., & Maruf, A. (2020). Smart Waqf City for Education–an experience in Darussalam Gontor, Indonesia. In Awqaf-led Islamic Social Finance (pp. 207-217). Routledge.
Olowosegun, O., & Moloi, T. (2021). an Alternative Corporate Governance Framework for Nigeria'S Banking Sector. Academy of Accounting and Financial Studies Journal, 25(5), 1–20.
Rossi, S. P., Schwaiger, M. S., & Winkler, G. (2009). How Loan Portfolio Diversification Affects Risk, Efficiency and Capitalization: A Managerial Behavior Model for Austrian Banks. Journal of Banking & Finance, 33(12), 2218-2226.
Saridona, R., & Cahyandito, M. F. (2015). Social Performance Analysis of Indonesia Islamic Banking Using Islamic Social Reporting Index. Proceedings of the International Conference on Economics and Banking 2015, 5(2010), 194–200.
Shaikh, S. A., Ismail, A. G., & Shafiai, M. H. M. (2017). Application of Waqf for Social and Development Finance. ISRA International Journal of Islamic Finance.
Siregar, S. (2023). Spin Off atau Konversi Syariah?: Studi Kebijakan Kewajiban Spin Off Unit Usaha Syariah di Indonesia. Inovasi, 20(1), 19-31.
Siregar, S., & Nurlaila, N. (2023). BANK EFFICIENCY BEFORE, DURING, AND AFTER COVID-19: A LESSON LEARNED FROM INDONESIA. International Journal of Economics and Finance Studies, 15(4), 43-63.
Sissy, A. M., Amidu, M., & Abor, J. Y. (2017). The Effects of Revenue Diversification and Cross Border Banking on Risk and Return of Banks in Africa. Research in International Business and Finance, 40, 1-18.
Suhaimi, F. M., Ab Rahman, A., & Marican, S. (2014). The Role of Share Waqf in the Socio-Economic Development of The Muslim Community: The Malaysian Experience. Humanomics.
Sukmana, R. (2020). Critical Assessment of Islamic Endowment Funds (Waqf) Literature: Lesson for Government and Future Directions. Heliyon, 6(10), e05074.
Tangngisalu, J., Hasanuddin, R., Hala, Y., Nurlina, N., & Syahrul, S. (2020). Effect of CAR and NPL on ROA: Empirical study in Indonesia Banks. Journal of Asian Finance, Economics and Business, 7(6), 9-18.
Thaker, M. A. B. M. T., Mohammed, M. O., Duasa, J., & Abdullah, M. A. (2016). Developing Cash Waqf Model as An Alternative Source of Financing for Micro Enterprises in Malaysia. Journal of Islamic Accounting and Business Research.
VanHoose, D. (2007). Theories of Bank Behavior Under Capital Regulation. Journal of Banking & Finance, 31(12), 3680-3697.
Yusuf, H., & Raimi, L. (2019). Does Positive Relationship Exist Between Bank Mergers and Asset Turnover? Empirical Evidence from Nigeria. International Journal of Ethics and Systems.
Zauro, N. A., Saad, R. A. J., Ahmi, A., & Hussin, M. Y. M. (2020). Integration Of Waqf Towards Enhancing Financial Inclusion and Socio-Economic Justice in Nigeria. International Journal of Ethics and Systems