

**A CRITICISM OF ANUITIES IN MURABAHAH TRANSACTION:
ALLOWING RIBA THROUGH FATWA?
(A case study of Shariah Banking in Indonesia)**

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ABSTRACT

This paper aims to analyze the use of annuities. Critical analysis of the literature is the applied method to be able to explore and understand the use of annuities in a murabahah contract, and to search for a common thread between annuities, interest, and usury. In the end, based on the analysis ranging from the use of capital asset ratio calculation and analysis on the capital adequacy of pricing models, it is concluded that the spirit within the annuity is essentially a capitalistic spirit, still close to usury. Therefore, it is recommended to policy makers to review the use of annuities.

Keywords: annuities, usury, fatwa

I. INTRODUCTION

In Shariah outlays, people are very familiar with the murabahah contract. To this present, murabahah contract is a contract dominating the distribution of Shariah banking outlay, in which in 2012, it grew up to 56.1% (yoy), taking the market position of 59.7% of the total Bank Umum Syariah (Shariah Communal Bank)¹ outlay and Unit Usaha Syariah (Shariah business unit)². While in the Bank Pembiayaan Rakyat Syariah/BPRS (Islamic Financing People Bank) outlay, the market of murabahah contract reached 80,3% (Bank Indonesia, 2012: 22). As a whole, the outlays distribution of SCB and SBU is dominated by *murabahah* contract, *ijarah*, and *ijarah muntahiyah bittamlik*, where murabahah contract is ranked the first position in term of total money issued to outlays, competing with *ijarah muntahiyah bittamlik* contract. It can be seen in table of The Development of Shariah Outlays Company, from 2008 through 2012, as the following.

Table 1. The Development of Shariah Outlays Company, from 2008 through 2012 (in Billion of Rupiah)

Keterangan	2008	2009	2010	2011	2012
Total Aktiva	556,05	639,11	2.364,65	4.295,09	22.664,34
Kegiatan Pembiayaan Syariah (netto):	490,23	540,77	2.148,76	3.944,48	19.760,85
- Piutang Murabahah	396,39	427,90	2.014,92	3.726,04	18.519,55
- Piutang Istishna'	0,00	0,00	0,00	0,00	0,00
- Piutang Salam	0,00	0,00	0,00	0,00	0,00
- Piutang Hiwalah	6,85	7,29	7,29	3,10	0,00
- Aktiva Ijarah	0,00	0,00	11,61	8,86	53,57
- Aktiva Ijarah Muntahiyah Bittamlik	86,99	105,59	114,94	206,48	1.187,73
- Aktiva Ijarah Musyarakah Muntanaqisah	0,00	0,00	0,00	0,00	0,00
Penyertaan	0,00	0,00	0,00	0,00	0,00
Persediaan	0,00	0,00	0,19	0,07	4,00
Simpanan pada Bank	19,65	23,79	55,56	112,02	599,57
Efek Syariah yang Dimiliki	3,75	3,75	3,75	3,75	8,00
Sumber Pendanaan:	283,90	341,88	1.815,50	3.495,87	12.148,33
- Pendanaan Mudharabah	0,00	39,33	399,33	689,69	5.764,96
- Pendanaan Mudharabah Muqayyadah	0,00	0,00	0,00	0,00	0,00
- Pendanaan Musyarakah	46,71	55,30	322,15	763,71	809,10
- Fasilitas Pendanaan Murabahah	228,62	245,33	1.089,29	2.021,10	4.214,31
- Ijarah Sukuk	0,00	0,00	0,00	0,00	70,68
- Pendanaan Lain Berbasis Syariah	8,57	1,92	4,72	21,36	1.289,27
Saldo Laba	5,55	25,31	110,57	173,75	366,95
Laba Rugi Periode Berjalan	18,95	14,85	57,88	151,52	489,88
Piutang Pihak Ketiga atas Penyaluran Pembiayaan Bersama:	0,00	0,00	106,40	1.820,41	6.876,39
- Chanelling	0,00	0,00	32,28	665,34	2.470,00
- Joint Financing	0,00	0,00	74,12	1.155,06	4.387,91
- Lainnya	0,00	0,00	0,00	0,00	18,48
Jumlah Perusahaan (satuan)	4	7	11	16	31*)

*) The total company obliged to send reports through 2012 was 31 companies.

Source: Development Reports of Shariah Banking, 2012: 107

Based on the above table, it is clear that in 2008, the portion of murabahah contract reached 80,86% of the total Shariah outlay (netto). Eventhough In 2009, murabahah outlays portion decreased to 79,13%, but as a whole, this sort of outlay was still dominating. Even, in 2010, murabahah outlays portion increased to 93,77% . It emphasizes that SCB and SBU tended to choose murabahah outlays as their primary product.

By this fact, it becomes a paradox that the Shariah financial institution is seriously aiming to realize a healthy and strong Shariah banking system which is in line with the Shariah principles within the framework of justice, well-being and balance, in order to achieve a prosperous society both materially and spiritually (*falah*) as stated in the vision of Shariah banking by Indonesia Bank (BI). Moreover, the Indonesian Ulema Council (MUI)³ issued a fatwa No. 84 / DSN-. MUI / XII / 2012 on the Method of Profit Recognition Al-Tamwil Bi Al-Murabahah (Murabahah outlay) in Shariah financial institution which stated that Shariah financial institutions are allowed to use the annuity method in recognizing profit in murabahah outlay. This is certainly becoming a new debate among academics and practitioners, especially those who have concern for the purity of Shariah financial institutions in the realization of *Maqashid Ash-Shariah*.

It is known that in the conventional accounting (and finance), the interest calculation can be done in three ways namely through flat, effective and annuity method, all of which rely on the basic assumption that the time and money have an essential relationship. Thus, the emergence of the debate regarding the use of annuities in murabahah profit recognition among academics and practitioners can not be avoided. In understanding the use of annuity, both academics and practitioners split into two groups. The first group supports the use of annuity because in recognition of profit, annuity has become a culture in banking operation and it can maintain banking liquidity as

expressed by Edy Setiadi (Akuntan Indonesian, 2014). In addition, some groups also assume that in Islam there is no provision regarding the profit recognition, whether in the beginning until the end, the number is just the same or declining as that of the annuity method. While the second group rejects the use of the method in the calculation of murabahah profits because annuities are not in accordance with the principles of Shariah as it is deemed close to *riba* (usury).

Based on the fact above, the writers try to see the position of the annuity in murabahah profit calculation. The purpose of this paper is to study whether the annuity method can be applied to the murabahah contract or not. The results of this critical study on the use of annuities on murabahah profit calculation is expected to be considered by related stakeholders in reviewing the policy on the use of annuities on murabahah profit calculation. More importantly, this critical study is expected to help promote the establishment of Shariah financial transactions and encourage policy makers to be more open in deciding or issuing a fatwa.

II. THEORETICAL REVIEW

Muamalah as worship

By language, muamalah means a reciprocal act and practice. Meanwhile, according to the term, the definition of muamalah can be divided into two kinds, namely muamalah in a broad sense and muamalah in the strict sense. In a broad sense, muamalah can be interpreted as the rules (laws) of Allah to organize human being in connection with worldly affairs in social interaction. While in the narrow sense, muamalah can be interpreted as rules of God that governs the relationship among human beings in relation to how to acquire and develop properties (Suhendi, 2011:1-3).

As human beings and God's creatures, muamalah has become part of the activities of our lives, especially in fulfilling the needs of our life. Based on the exchange aspects of their rights, muamalah has two kinds of contract namely the *akad tabarru* (free) and *akad tijarah* (exchange business) (Musjtari, 2012:52). *Akad tabarru* is an agreement concerning the non-profit transactions. Actually, tabarru contract is not a business transaction to seek commercial advantage. *Akad tabarru* is a contract made for the purpose of mutual help in order to do good (*tabarru*). In this transaction, the party involved do not have right to require anything in return to the other party. However, in its practice, it is allowed the party involved to ask for anything, but just to cover the costs incurred to be able to do the tabarru contract. So it can be concluded that the tabarru contract is a contract that gives something or to lend something, among others, *qard*, *Rahn*, *Hiwalah*, *wakalah*, *kafalah*, *hibah* (grants), *waqf*, *shadaqoh*, and *hadiah* (gifts) aimed for the profit of hereafter life (Karim, 2011:66-70).

While *tijarah contract* is a business agreement that aims to make a profit or commercial purpose. Based on its degree of certainty, *tijarah contract* is divided into two major groups, namely natural uncertainty contract (NUC) and natural certainty contract (NCC). In the NUC, the transacting parties mutually mix their assets (whether real assets or financial assets) into a single entity, and then take the risk together to make a profit. So in doing this agreement, each party can not know how much income that it will be obtained, both in terms of quantity and time of acquisition. While the NCC, each party exchanges their assets. It is therefore, an object of exchange (both goods and services) should be set at the beginning of the contract with certainty, regarding the amount, quality, price, and time of delivery (Karim, 2011:72-75). So from the above explanation, murabahah contract included in the contract *tijarah-NCC* since murabahah contract is a sale and purchase agreement in which the profit margin has been determined and mutually agreed between the seller and the buyer.

Indeed, Islamic economics is different from conventional economics. Islamic economics is rooted from Shariah as its basis as well as its goals and strategies. If conventional economics only focuses on world affairs alone, Islam is more balanced one. Furthermore, Chapra (1999, 8) explained that Islamic economics is to represent the objectives of Islam (*maqashid ash-Shariah*) that are based on concepts of human welfare (*Falah*) and the good life (*hayat thayibah*), which gives an important value to brotherhood and socio-economic justice. It also demands a balanced satisfaction, both in the material needs and spirituality of all mankind.

Understanding More About Murabahah

When we discuss murabahah, it is quite often that the buying and selling and profit margins come to our mind. Indeed, murabahah is one form of *tijarah contracts* which is the form of the contract of buying and selling. Trade or purchase by language means *al-Bai*, *al-Tijarah* and *al-Mubadalah* (Suhendi, 2011:67). Furthermore Suhendi (2011, 68) explains that the core of buying and selling is an agreement to exchange items or items that have voluntarily value between the two sides, the one receives objects and others accept it in accordance with the agreements or conditions that have been agreed and justified by *syara*. Murabahah itself is a sale and purchase

agreement in which cost and profit (margin) is based on the agreement between the seller and the buyer (Karim, 2011:113). In a murabahah contract the seller must notify the buyer on the purchase price of the goods and state the amount of profit that is added to the cost.

While in Pernyataan Standar Akuntansi Keuangan (PSAK) 102 (Paragraph 5) explained that Murabahah is selling the item which is based on the acquisition cost of the item plus an agreed profit that will be obtained and the seller must disclose the acquisition price of the goods to the buyer, where the cost of acquisition is the amount of cash or cash equivalents paid to acquire an asset until the assets are in condition and ready to be sold or used. Yaya, et al (2012, 180) explained that the pillars of murabahah transaction included transacting parties which are the buyers (customers) and the seller (Shariah Banks), murabahah contract object that contains goods and prices, as well as *ijab* and *kabul* which are the statement of each parties, either in the form of words or deeds.

Basically murabahah is not free from criticism. One contemporary critic concluded that murabahah is one type of transaction that was not known at the time of the Prophet or his companions (Muhammad, 2005:119-120). Nevertheless, since the early generations of ulama (muslim scholars) such as from *mazhab* of Maliki, Shafi'i, Hanafi, and Hanbali, it is allowed to impose the direct costs to be paid to a third party or which is currently known as murabahah. However, all the four mazhabs of Islam have agreed not to allow the imposition of direct costs associated with the work that was supposed to be done by the seller or the direct costs associated with work related to the things that are useful (Karim, 2011:114). Although the practice of murabahah has been criticized by some parties, for most scholars and Muslims around the world think that the practice of murabahah is still selling and buying practices allowed by the teaching of Islam as enshrined in the Qur'an, Al-Baqarah verse 275, in which God justifies the purchase and proscribe usury.

Murabahah is a financing scheme that is preferred by the Islamic banking not only in Indonesia, but also in the world. Muhammad (2005, 120) explained that Shariah banks in general have used the murabahah contract as their primary method of financing, covering about seventy-five percent of their wealth. This figure matches the total financing of Islamic banks in Pakistan and Iran which is since early 1984 it reached approximately eighty-seven percent of the total outlays in the Profit and Loss Sharing (PLS) deposits investment.

There are a number of reasons put forward to explain the popularity of murabahah in Shariah banking investment operations, such as murabahah contract is a short-term investment mechanism and it is quite easy compared to a system of profit and loss sharing (PLS). In addition, the *mark-up* in murabahah can be defined in such a way as to ensure that the bank can gain advantages which is comparable with the interest-based banks that rivals the Islamic banks. Murabahah also have a smaller risk because it minimizes uncertainty as it exist in income gained from businesses with PLS system. Minimization of risks also can be done because bank relationships with customers is the relationship between the creditor and the debtor so that the Islamic bank and the customer can not interfere the business management of each party (Muhammad, 2005:121).

Interest-(Riba) and Its Effect on Economy

Perhaps the scholars and academics have the same view on the usury (riba) law, which is forbidden. However, in term of the interest, scholars and academics have different views. Some agree that interest is unlawful because it is a form of usury, while others argue that it is different from the usury, so the interest is allowed. Those who allow the interest argue that the interest paid on investment loans in production activities do not conflict with the law of the holy Quran because usury in the law of holy Quran refers only to loans not for production in the pre-Islamic period (Mannan, 1992:164-165).

While Muhammad in a paper written with *ethico-legal approach* explains that the interest in the ethico-legal perspective includes in protectional values teaching while usury includes in obligatory values perspective (www.almanahij.net). Protectional values are intended to provide legal support in the implementation of the fundamental values so the survivalism can be maintained such as the protection of property rights (ownership rights) so it can not be easily claimed by other party that is not entitled on it. While the *obligatory values* as the first value in the Qur'an represents commands and prohibitions for Muslims, in which it explicitly explains the *halal* or *haram* of properties that must be obeyed by muslims. Furthermore, Muhammad explained that the bank has a vital economic role that can help borrowers who meet the criteria and requirements set by the bank to get financial aid to facilitate business or other beneficial activities. The debate over the *halal* and *haram* of the interest in the economic system will continue to happen as long as each party has its own benchmark values which differ from one another.

By language, riba means increasing, growing, excessing or bulging. Abdurrahman al-Jaiziri explained that usury is a contract that goes with a particular exchange. While Sheikh Muhammad Abduh argued that usury means additional points required by people who have wealth to those who borrow his property (money), because the resignation promise of payment by the borrower in a predetermined time (Suhendi, 2011:57-58). Meanwhile, according to Afzalurrahman (1997, 311) usury is the amount of money charged on the money borrowed (by the

borrower) as the time computation while the money is used. The calculation itself consists of three elements namely, in addition to the principal, additional tariffs in accordance with the time, and payment of an additional amount that is required in the bargain.

There are two kinds of riba (usury), *nasia* and *fadl*. *Nasia* usury happens in any credit transaction in which the loan is raised by paying the monthly interest that exceeds the principal money. While *fadl* is additional advantages of a loan that is paid by an object; additional payments from the borrower on the loan in exchanging similar items included in the goods containing usury (Afzalurrahman, 1997: 311-313). While Mulyono et al (2010) explains that usury is divided into three kinds, namely *nasia*, *fadl* and *jahiliyah*. The usury of *jahiliyah* is a debt that is paid in excess of the principal, because the borrower is not able to repay the loan at a predetermined time.

Imam Sarakhzi defines usury as additional payment required in business transactions without any equivalent (*'iwad*) which is justified by Shariah (Mulyono et al, 2010). Balancing transaction or replacement (*'iwad*) is a business or commercial transactions which legitimizes the fair addition, such as the sale and purchase, lease, or for the results of the project, in which in the transaction process, there are effort, risk, and costs as balancing factors. Prohibition of usury is not only applicable to Islam, but also forbidden by all divine religions other than Islam (Jews and Christians).

Prof. Dr KH. Didier Hafidhuddin revealed; there is a study conducted by NEF (The New Economic Foundation) which states that the current economic system is a system of usury, moving to the widening gap. From observations made in 20 years, from every 100 euros, there is only 0.6 percent enjoyed by the dhuafa (poor). That means that the rich enjoys 99.4 percent of it. For this reason, when the economic system of usury still run, it will never be able to improve the local economy (Hidayanto, 2008). While Mannan (1992, 165) explains that to change the name of usury to interest will not change its nature, since interest is an additional borrowed capital, because the interest is usury both in spirit and rules of Islamic law so that there is no difference between interest and usury. The statement of Mannan (1992) is also reinforced by the statement of Kieso et al (2008, 277) which states that the interest is paying for the use of money. Interest is the excess of cash received or paid back which is more than the amount of money that is borrowed. Based on these explanations, it can be concluded that there is no difference between interest and usury and they tend to benefit only the rich and tends to strangle people.

Annuity method

Discussing about annuity, it can not be separated from the concept of basic time value. The term of the time value of money shows the relationship between time and money in which money received today is worth more than money received in the future. The present value is always smaller in number than the future value, as the interest will be generated and accumulated over the current value to a date in the future, where in determining the future value, it uses accumulation process while in calculating the present value, the calculation is done moving against time by using the process of discounting (Kieso et al, 2008:277-285).

III. RESEARCH METHOD

The tendency of both BUS and UUS to chose murabahah contract as an outlay agreement might be because murabahah has a smaller degree of risk and the murabahah contract is a contract that is based on a fixed margin so that they can easily determine and calculate their profits they want. While the choice of *Ijarah* and *ijarah muntahiyah bittamlik* as other financing agreements might be because both contract have similar characteristics to the murabahah contract, which includes into the category of Natural certainty contracts (NCC) or exchange theory and it is basically a contract of sale.

As part of a study, from the data collection, this study is a library research. This paper examines and studies the use of annuities on murabahah contract as well as the pros and cons attached to them. In presenting and processing the data, this study used descriptive-analytical method. This paper will discuss the issue as it is and then it is analyzed by comparing one literature to another. So from these explanations, it can be concluded that this paper uses qualitative approach. The qualitative approach is also called constructive, naturalistic, or postmodern approach. A qualitative paradigm is a research paradigm that emphasizes on the understanding of the problems in social life based on reality conditions or holistic, complex, and detailed natural setting (Indriantoro and Supomo, 2002:12).

The purpose of this paper is to describe the theories or ideas on muarabaha and annuity and some relevant issues and compare one theory with another. From the collition of the theories discussed in this paper, it is expected to have a brief conclusion on the law of the use of annuities in murabahah transactions and its implications to the spirit of *maqashid syariah* of every muslim. This papaer is also expected to give some critics and constructive ideas on the Shariah accounting development as part of an Islamic economic system.

IV. DISCUSSION

Standard setters is a regulator that should provide the best information for all users. Not just for a group of people (Wibisana, 2013). This statement is certainly only a discourse without realizing it into actions. For instance, MUI legalizes the annuity and then PSAK revises the Statement of Financial Accounting Standards (SFAS)⁴ 102 which accommodates revenue recognition setting by annuity in murabahah transaction by Islamic Accounting Standards Board of Indonesia Accountant Association (IAI). This shows that the standart setter support particular groups representing conventional banking practices.

As stated in the fatwa of National Shariah Council (DSN)⁵, one of the reasons behind the fatwa is because Shariah banking industry has been using the annuity which means that if the annuity is unlawful, the financial report of Shariah financial institutions should be *disclaimer*. Basically, in the teaching of Islam, there is no prohibition in acknowledging whether profit can be recognized propotionally or not. However, Islam has its own rules primarily in terms of the rate of profit, such as whether the profit obtained in accordance with the objectives of Shariah. Even more important is whether the gains obtained reflect the values of fairness to the parties involved in the *muamalah* or wheter there is any adverse effects generated from these practices. If the practice does not meet these requirements, then it will be something ‘dilemma’ when it comes to the process of the muamalah; wheter it is halal, lawful or even more *thoyyib*.

The debate over the use of annuities in murabahah profit margin calculation would be an academic and practical dilemma in the world of finance. It also strengthens the argument that the current development of Islamic economics is reduced and focused only on building the Islamic banks as expressed by Prof. Sri Edi Swasono in the foreword to the book of Anwar Abbas (2010, xiv). At the level of academic debate, the use of annuities is still confusing when it is compared to the debate on the legalization of interest in determining the usury-free Islamic economy, especially for groups that consider the interest is forbidden. For this group, their support over the use of the annuity would be contrary to their recognition of the prohibition of interest. That is because the annuity method is not in accordance with the values and spirit of Islamic teaching.

Now, it seems that the religiosity of Islamic economics lies only in the name it bears and have not been fully practiced that it should be. That in turn raises a fundamental question. Which one is important, the use of the word ‘Islam’ in economic development or building the real economy with the enforcement and the spirit of Islam? Or are both questions important? The question is basically inspired from the statement of KH Abdurrahman “Gus Dur” Wahid, who stated that to name Islamic economy for economy is actually not necessary at all because the important thing is the enforcement (of the spirit of Islam in economy), not naming (Abbas, 2010: xiv). Perhaps what is stated by KH. Abdurrahman Wahid is true, but for the writer, the use of the word ‘Islam’ or Shariah is still needed as a reference for the Muslim Ummah in particular, as important as the use of halal certification for various goods, especially goods for consumption. The next question is whether sercive products such as banking outlay service also need to have halal certification or not? Maybe it is still necessary to study it in more depth.

The polemic that currently occurs is only about the interest that has not been seen comprehensively (*kaffah*). Most of people are likely to see usury only in the case of banks (bank sides) and not see it in the existing economic system. Sri-Edi Swasono explained that the current discussion on usury is only focusing on usury in the banking usury system. Riba (usury) actually thrives in the economic system in the form of wide exploitation, economic inequality, systemic trade-off, subordinate and discrimination, brutality of laissez-faire in the broad sense, all of which were ignored by those who are in euphoria of developing Islamic banks, without thinking of the need for restructuring and deconstructing usurious economic system (Abbas, 2010: xiv-xv).

The spirit reflected in the use of annuities are increasingly showing the intersection of the purpose and spirit in the developing Shariah banking system. Wheter is purely to achieve a profit or there are also other purposes which echoes the Islamic economy in accordance with *maqashid ash-Shariah*. It becomes more confusing when MUI issued a fatwa that support these activities (read: the use of annuities). So the practice occuring in Islamic banking resembles the practice in conventional banking. It is likely possible that someday in the future, the interest system is also allowed (halal) due to the similar reason.

The spirit in the Annuity Method: Lineage of Riba from Annuity

M. Jusuf Wibisana as the chairman of the Shariah Accounting Standards Board (DSAS)⁶ – Indonesia Accountant Association (IAI)⁷ said that the industry wanted a more aggressive regulation to sustain greater growth (Akuntan Indonesia, 2014). Furthermore Wibisana explained that the existing regulatory rigidity led to the slow growth of domestic Shariah industry. It is much more different from the development of Shariah banking in Malaysia. What is described by Wibisana basically is true. By using the annuity method, banks will be more liquid and ultimately the availability of financing funds can be maintained and eight percent of the capital adequacy ratio

(CAR) value can be achieved. However, for the writer, it will distort the purpose and spirit of the *ash-Shariah maqashid* in developing the concept of economy in particular and the practice of *muamalah* in general.

To know how far the reduction and distortion of the purpose and spirit of the *ash-Shariah maqashid* would go, we can trace it by calculating the capital adequacy ratio (CAR). CAR calculation is done by comparing the core capital and reserves to the fund from a third party, in which mathematically can be formulated as follows:

$$\text{CAR} = \frac{\text{Core Capital and Reserves}}{\text{third party funds}} \times 100\%$$

in more detail can be described as follows:

$$\text{CAR} = \frac{\text{Capital}}{\text{ATMR (CR + MR + OR)}} \times 100\% = \text{Minimum } 8\%$$

Based on the above formula, the authors attempted to analyze the spirit that might arise over the use of the above concepts. To achieve a minimum CAR of eight percent (8%), banks can play two things. First, the banks can raise capital and second is to minimize the risk for the use of third-party funds. When a bank uses the first method (capital raising), then the bank will strive to increase their profits. This is because the only way that has big chances is increasing profits. How to increase profits? The increase in profit is closely related to the use of profit recognition method. In banking, the use of annuity method is certainly more favorable than proportional method. This is because by using the annuity method, the profit recognized in the early outweigh the profit recognized in the end. In the end, such recognition will directly improve their liquidity.

Profit gain (much in the beginning) not only can help the bank achieve capital adequacy ratio of eight percent, it also will help the bank to make a profit again by giving financial assistance to new customers or adding financial outlay to existing customers from the profit that is widely recognized in the beginning. So from this analysis we can know that the original purpose of the use of the annuity method is to maintain the liquidity of the banking system and to increase their profits again (the banks will be more aggressive). The aggressiveness of banks is basically aimed at increasing their profits by adding customers or adding debt of their customers for their profit. Based on that fact, we can see that the current Shariah banking practices is not much different from conventional banking practices (Amir, 2014). The spirit of Shariah banking today is not much different from the spirit possessed by conventional banks. As an evidence, Shariah banking prefers NCC contract to NUC. It indirectly strengthens the argument that the current Shariah banking or Islamic economics is only focusing on the name and symbol and not the soul of Islamic teaching as it has to be.

The reduction and distortion of Shariah banking and Islamic economics can be clearly seen by studying “the parent” of the annuity method, the capital asset pricing model (CAPM), which was introduced by William F. Sharpe (1964) on the improvement of Markowitz’s portfolio model in 1952; in 1959 (Fama and French, 2003). In the article, Sharpe tried to explain the calculation of the investment portfolio under risky market conditions. Simply, the capital asset pricing model (CAPM) can be formulated as follows.

$$R_s = R_f + \beta_s (R_m - R_f)$$

Where:

R_s is Expected Return on a given risky security

R_f is Risk-free rate

R_m is Expected return on the stock market as a whole

β_s is Beta’s stock, calculated based on the predetermined time

Based on this formula we can see an “unfamiliarity” in the culture or values of Islam, namely the use of the Risk-Free Rate. As we all know, in the business culture of Islam, all parties must take the risk together when doing the natural uncertainty contract (NUC) such as *mudharabah* contract or *musyarakah* used when we do business contracts, as well as when we invest our funds into the company. Whereas in the calculation of capital asset pricing models which incidentally is the parent of the annuity calculation, it can be seen that the main factor that determines the magnitude of the expected return is the risk-free rate. Why does the Shariah banking keep using annuity and why does the DSN MUI issue a fatwa to support the use of annuity method? When the writer addressed this question to a lecturer who incidentally is also a member of DSAS he said that:

“In Islam there is no prohibition to acknowledge whether profit should be recognized proportionally or not. While for most Shariah banking, annuity method can help their liquidity. Why annuity? Because the annuity calculation is a bias calculation that pulled-zero amount of money at the end. Shariah banking still needs benchmark and the benchmark which is deemed appropriate for this time is an annuity.”

For the writers, what is explained by the lecturer has a point. Because in Islam we are required to be a trustworthy person, especially when we are asked to manage people's funds. However, to this present, there are a few challenges to tackle especially in term of the morality of those involved so the risk management is still required. But if the policy makers are not trying to shape the mindset, soul, and spirit of the *ummah* to apply Shariah, then the Shariah banking will always rely on conventional banking. It also turns out to be worse if doing the business activity only based on the culture ('*urf*). In fact, in the science of Islamic prejudice (*ushul fiqh*), it is stated that there are two kinds of culture ('*urf*) in community namely the good culture and the destructive one (Khallaf, 2003:117). The good culture is customs of the human which are not contrary to the arguments of *syara'*, not justify the unlawful (*haram*) and not cancel the obligation. While the bad culture is customs made by humans which are contrary to the *syara'*, justify the unlawful, one of which is the culture of consuming usury goods and gambling (Khallaf, 2003:117-118).

Based on that explanation, there is a question for the DSN. Is the annuity a good culture or destructive one? If it is deemed destructive, why is it still allowed? Does the DSN members consider all existing findings, such as the use of the risk-free rate and the culture of consumption that might arise over the use of capital adequacy ratio? The slightest thing should be taken into consideration by policy makers especially the ulamas (Islamic scholar) who are part of the policy makers because they are responsible for the *ummah's* stupidity. It is important for Islamic scholars that if a layman complained and asked about his or her condition, they should give guidance what to do according to the teaching of Islam such explaining to them about the nature of *wara'* in life, teaching them the prudence in living the religion, warning them of consuming *haram* goods and warning them of bringing things that are forbidden by God, and staying away from things that are doubtful and something unclear (Abdullah, 2011:66).

While practitioners and professionals should also explain in detail the origin of the use of a method and not cover it up so that the statement of Mannan (1992) on the efforts of the scholars to seek proposition and tried to lead the arguments which are not allowed into the proposition that is allowed does not happen. Thus the development of Islamic economics or shariah banking will remain on the path of Allah SWT as an effort to realize the *maqashid ash-Shariah*. The use of annuity should also be reviewed. In Islam there are no rules regarding the recognition of profit, but Islam has the rules on what is halal and haram, which one is compatible with *maqashid-Shariah* and not. If banks want declined profit recognition, banks can use a simple calculation that does not burden the community.

V. CONCLUSION

Based on the above explanation, it can be concluded that the use of annuity essentially contains the spirit of capitalism and injustice which is not based on the syariah law. We can know it from tracing the origin and the birth of annuity and the relationship between the use of annuity and the spirit of capital adequacy ratio calculation and risk-weighted assets. Annuity still contains the spirit of *riba*, in which annuity is using the time value of money. Murabahah is a sale and purchase agreement in which profits have been agreed at the beginning, not the agreed percentage to be paid each payment time. The difference of opinion regarding the *halal* and the *haram* of the interest is given by God that must be addressed with a cool head to avoid conflicts among fellow Muslims. However, the writer still believes that interest, usury are just the same and they are prohibited by Islam. For the writer, interest and annuity are brothers of the same father and mother, they both are close to usury.

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Footnotes:

¹ Bank Umum Syariah (Shariah Communal Bank) is Shariah Bank providing services in its payment traffic. (Undang-undang Nomor 21 Tahun 2008/Act Number. 21 of 2008)

² Unit Usaha Syariah (Shariah Business Unit) is a unit of Conventional Bank head office which serves as the head office of the office or unit conducting businesses based on Shariah principles, or a unit of an overseas branch office of a conventional bank carrying out banking activities.

*conventionally served as the head office of shariah branch offices and / or Shariah units. (Undang-undang Nomor 21 Tahun 2008/Act Number 21 of 2008)

³ A non-governmental body whose members consists of Ulema and Indonesian Muslim Intellectuals. This autonomous body was established on 7 Rajab 1395 H or July 26, 1975 in Jakarta.

⁴ Pernyataan Standar Akuntansi Keuangan (PSAK) is a framework in financial reporting procedures to enable the uniformity in the presentation of the financial reports.

⁵ Shariah National Board (so-called in Indonesian, Dewan Nasional Syariah (DSN)) is formed by the Board of the Indonesian Ulema Council (MUI) to address issues relating to the activities of Islamic financial institutions. DSN is part of the Indonesian Ulema Council (MUI).

⁶ Dewan Standar Akuntansi Syariah (Islamic Accounting Standards Board) is a board that has the authority to make or arrange the rules on how the recording of financial transactions in accordance with Shariah.

⁷ Ikatan Akuntan Indonesia (Indonesia Accountant Association) is a professional accountant organization in Indonesia. Its Secretariat office is located at Graha Akuntan, Menteng, Jakarta.