

Studi kasus pembiayaan sindikasi antara bank syariah sebagai participant bersama bank konvensional pada pembangunan jalan tol dalam kota ruas Pulo Gebang-Semanan = A case study of a syndicated financing between sharia banks as participants with conventional banks in the toll road construction of Pulo Gebang-Semanan segment

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Abstrak

Pelaksanaan pembangunan jalan tol menggunakan pembiayaan sindikasi antara bank syariah bersama bank konvensional di Indonesia diperbolehkan tetapi modalnya tidak bisa dimasukkan kedalam satu rekening saja. Berdasarkan hal tersebut penulis membahas Pokok Permasalahan terdiri dari sisi proses pembiayaan sindikasi dari kasus dan peraturan perbankan yang berlaku, terutama mengenai pengaturan Bank Syariah sebagai Participant, kesesuaian hak dan kewajiban bank syariah sebagai participant, dan upaya bank syariah sebagai participant mengatasi kendala yang timbul. Penulis menggunakan metode penelitian yuridis normatif. Berdasarkan hasil penelitian dijelaskan bahwa pengaturan bank syariah sebagai bank anggota sebenarnya tidak diatur, bank syariah dapat saja bergabung asal pembiayaan tersebut tidak melewati Batas Maksimum Pemberian Pembiayaan dari POJK serta kerjasama dengan bank konvensional diatur dalam Fatwa DSN MUI No.91/DSN/MUI/IV/2014, pelaksanaan hak dan kewajiban pembiayaan sindikasi antara beberapa bank syariah dan bank konvensional telah sesuai berdasarkan praktek dalam pembiayaan sindikasi, dan dalam kendala-kendala yang timbul dapat diatasi dengan memaksimalkan komunikasi dengan sesama bank peserta, melaksanakan rapat antara bank-bank peserta, penyediaan uang oleh nasabah debitur, pembuatan Security Safe Agreement, dan apabila ada sengketa diselesaikan dengan Pengadilan Negeri. Saran dari skripsi ini adalah sebaiknya financial clause dalam perjanjian sudah diatur terlebih dahulu dan diperjanjikan sebelum penandatanganan perjanjian sindikasi.

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The implementation of toll road construction using syndicated financing between Islamic banks and conventional banks in Indonesia is permitted but the capital cannot be included in one account. Based on this matter, the author discusses the Principal Issues consisting of the syndicated financing process from the applicable banking cases and regulations, especially regarding the regulation of Islamic Banks as Participants, conformity of the rights and obligations of Islamic banks as participants, and the efforts of Islamic banks as participants to overcome the obstacles. The author uses a normative juridical research method. Based on the results of the study, it was explained that the regulation of Islamic banks as member banks was actually not regulated, Islamic banks could join as long as the financing did not exceed the Financing Provision of POJK and cooperation with conventional banks is more clearly regulated in Fatwa DSN MUI No.91/DSN/MUI/IV/2014, the implementation of syndicated financing rights and obligations between several Islamic banks and conventional banks is appropriate based on practices in syndicated financing, and in the obstacles that arise can be overcome by maximizing communication with fellow participating banks, conducting meetings between participating banks, providing money by debtor customers, making a Security Safe Agreement, and if there is a dispute resolved with the District Court. The suggestion of this thesis is that the financial clause in the agreement should have been arranged in advance

and agreed before the signing of the syndication agreement.