

Implementation of Istishna 'Aqd in The Financial Investment Scheme of Koperasi Syariah Benteng Mikro Indonesia

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Abstract

This research aims to examine the implementation of Istishna 'aqd in investment financing at Koperasi syariah BMI, Ciawi branch. The issue addressed in this study is that the Istishna 'aqd, substantively, is not an investment aqd but rather a sales aqd. Therefore, a comprehensive analysis is needed to determine the permissibility of utilizing the Istishna aqd in investment financing or to explore potential changes in the financing model or 'aqd used. The research employs a qualitative descriptive method with data collection techniques through interviews and secondary data collection from the website, reports, and guidelines of Koperasi Syariah BMI. The study investigates how the Istishna 'aqd is implemented in investment financing and its compliance with Sharia principles, aiming to conclude the feasibility of applying the Istishna 'aqd in investment financing at Koperasi Syariah BMI. Based on the research findings, it is observed that the Istishna 'aqd scheme applied in investment financing at Koperasi Syariah BMI is more aligned with the Fatwa DSN MUI No 06/DSN MUI/IV/2000 on Istishna, which involves a regular Istishna 'aqd between two consenting parties. This approach deviates from the guidance of Fatwa DSN MUI No 32/DSN-MUI/IX/2002 on Sharia bonds, where Istishna is used in investment schemes, and is also inconsistent with Fatwa DSN MUI No 22/DSN MUI/III/2002 on parallel Istishna, as the cooperative already possesses a company engaged in building material provision. Despite the compliance of Istishna-based financing in Koperasi Syariah BMI with Fatwa DSN MUI No 06/DSN MUI/IV/2000, it is recommended that the cooperative adopt terminologies such as consumptive financing, productive financing, property ownership financing, or other terms in financing schemes involving Istishna 'aqd. This suggestion is made due to the fact that cooperative members do not function as investors but as buyers seeking financing for development schemes such as housing, sanitation, and the provision of clean water.

Keywords: Financial Investment; Istishna; Koperasi Syariah

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1. INTRODUCTION

In Islam, cooperatives fall under the category of Syirkah/Syarikah. Several definitions have been provided by scholars of Fiqh, as cited by Dr. H. Hendi Suhendi, M.Si., in his book on Fiqh Muamalah. Among them are Sayyid Sabiq's perspective: an agreement between two or more individuals to collaborate on the principal amount of capital and profit; Taqiyuddin Abi Bakr Ibn Muhammad al-Husaini's definition: to establishing a right over something for two or more individuals through a predetermined method; and Hasbi Ash-Shiddieqie's interpretation: an agreement between two or more

individuals to collaborate in working on a business venture and share its profits. From these, it can be concluded that Syirkah is a cooperation between two or more individuals in a joint business venture where both profits and losses are shared (Ghulam, 2016).

In terms of conceptualization, the notion of cooperatives already implies a transaction system based on Sharia principles. However, in Indonesia, the establishment of cooperatives tends to prioritize a mutual assistance system, where members collectively deposit funds managed by cooperative administrators. The utilization of funds is transparent and accountable, with any surplus profits (Sisa Hasil

Usaha) distributed according to the proportion of each member's savings (Muttaqin, 2022).

Islamic cooperatives, on the other hand, operate based on Sharia principles in both savings and financing. In Indonesia, the emergence of Islamic cooperatives has grown as public interest in Sharia-based financial institutions has increased (Anwar, 2016).

Among the 'aqds used by Islamic cooperatives in Indonesia are wadiah and mudharabah for savings products, murabahah and musyarakah for financing (Nur'aeni, 2020). However, in Koperasi syariah BMI, there is an investment financing product that utilizes the Istishna 'aqd (Awaliah, 2020).

The Istishna 'aqd is a sale and purchase agreement between the buyer and the seller, where the specifications and price of the item are agreed upon upfront, and payment is made gradually according to the agreed terms. Istishna-based financing also facilitates both investment and consumptive financing that complies with Sharia principles, such as home ownership financing (PPR), home renovations, and others (Muslimin, 2021).

Islamic financial institutions, in a transaction using the Istishna 'aqd, can act as both the seller and the buyer. As a seller, the institution can place orders using sub'contractors (trusted third parties) to produce the requested items under the Istishna 'aqd. In fulfilling obligations to customers in the first 'aqd, the institution can enter into a second Istishna 'aqd with a sub'contractor to create items according to the customer's order, previously communicated to the institution. This new 'aqd is referred to as Istishna' parallel. If the Istishna' parallel 'aqd is applied, several consequences must be met by the Islamic financial institution (Puteri, 2014).

The Istishna' parallel 'aqd can be fulfilled after the first 'aqd is valid, and the second 'aqd, an agreement between the Islamic financial institution and the sub'contractor, is executed separately from the first 'aqd between the institution and the end buyer (Dewi, 2017).

The Istishna 'aqd is more appropriately used in a sale and purchase financing product where the Islamic financial institution earns a profit from the margin obtained from the difference in selling prices from a third party to the consumer. If the Istishna 'aqd is implemented in investment financing, a more in-depth analysis of its application is required, especially if the Koperasi Syariah operates in an area where the

majority of the population is Muslim. Therefore, the author will conduct a study entitled 'IMPLEMENTATION OF ISTISHNA 'AQD IN INVESTMENT FINANCING AT KOPERASI SYARIAH BMI.

According to UU No. 7 tahun 1992, financing is defined as the provision of funds or bills that can be equated with it, based on the purpose or agreement of borrowing between a bank and another party. This agreement obliges the borrower to settle the debt after a specified period, along with an additional amount for interest, fees, or profit-sharing. In the context of BMT (Baitul Maal wat Tamwil) activities, financing is often referred to as lending or financing. In Sharia microfinance institutions such as BMT, financing is a crucial activity related to income acquisition planning (Maulida, 2021).

2. LITERATURE REVIEW AND RESEARCH METHOD

2.1. Literature Review

Based on its nature of use, financing is divided into two categories:

- a. Productive financing, intended to fulfill production needs broadly, including business improvement, production, trade, and investment.
- b. Consumptive financing, used for consumption needs.

Productive financing is further categorized based on its purpose:

- a. Working capital financing, to meet the needs for production improvement and trade.
- b. Investment financing, to meet the needs for capital goods and related facilities.

When disbursing working capital financing, BMT/Sharia Cooperation must consider the type of needs and utilization plans. Based on its purpose of use, Sharia financing products can be classified into three categories:

- a. Transaction financing with the principle of sale, such as Murabahah, Salam, and Istisna. The income or profit is referred to as the margin (Bonita, 2017).
- b. Profit-sharing financing transactions, such as Mudharabah and Musyarakah. The income or profit-sharing is referred to as profit-sharing (Hendrawan, 2022).
- c. Financing transactions with the lease principle (ujrah), such as Ju'alah, Ijarah and Ijarah

muntahiyah bittamlik. The income or profit is called a fee (Farid, 2015).

Financing between Sharia financial institutions is often perceived similarly to the credit offered by conventional financial institutions. There are both similarities and differences between Sharia bank financing and conventional bank credit. The similarities include:

- a. Procedures for providing credit or financing.
- b. Requirements for credit or financing requested by debtors, clients, or members from the bank.

Istishna is a sales 'aqd where the manufacturer is assigned to create a customized product requested by the buyer. Istishna is a sales 'aqd based on orders between customers and banks, specifying certain requested features. The bank requests the manufacturer to create the ordered item according to the customer's specifications. Upon completion, the customer will buy the item from the bank at the agreed-upon price.

Al-Istishna' is a sales 'aqd based on orders between the producer/craftsman/order receiver (shani') and the customer (mustashni') to create a specific product (mashnu') where raw materials and production costs are the responsibility of the producer. Payment can be made in advance, during, or at the end.

In general, the Sharia principles that apply to bai' as-salam also apply to bai' al-Istishna'. According to the Hanafi, bai' al-Istishna' is considered a prohibited 'aqd because it argues that the fundamental sales 'aqd (product) must exist and be owned by the seller, while in Istishna, the product does not yet exist or is not owned by the seller (Al-Feel, 2019).

Al-Istishna is a 'aqd for the sale of goods between two parties, where the ordered item will be produced according to agreed specifications and sold at a predetermined price with prior approval of payment terms. Istishna is a sales 'aqd between al-Mustashni (the buyer) and as-Shani (the producer, who also acts as the seller). Under the Istishna 'aqd, the buyer commissions the producer to create or acquire the mashni (ordered goods) according to specified specifications and sell it at an agreed-upon price (Mujjatun, 2014).

2.2. Research Method

The method section consists of description concerning the Research Model, Sample Selection and Data Source, Data Collection, and Data Analysis (Variable Measurement).

The research employed is qualitative descriptive research, as it is considered capable of capturing the procedures that can generate descriptive data in the form of written or oral words, both directly and indirectly from the parties to be studied.

The data sources utilized include both primary and secondary data. Primary data is directly obtained from the researched object through interviews with informants. Secondary data is information used by the researcher, acquired from various sources such as books, journals, articles, and other relevant reading materials related to the research object.

The data analysis technique employed is qualitative data analysis, focusing on data that cannot be measured or analyzed numerically spontaneously. The methodological approach used is the descriptive analysis method, a writing approach that emphasizes events, phenomena, and current conditions. According to Hubberman and Miles, the types of data analysis include data reduction, data display, and verification.

3. RESULTS AND DISCUSSION

3.1. The Scheme of Istishna 'aqd according to the Fatwa of the DSN MUI No 06/DSN MUI/IV 2000 on Istishna.

The Fatwa of the DSN MUI No 06/DSN MUI/IV 2000 related to Istishna serves as an important legal foundation in regulating Islamic economic transactions. Istishna, as a form of sale based on buyer's orders, is thoroughly explained in this fatwa, providing a comprehensive legal framework for an economy based on Sharia principles.

Istishna is described as a transaction where a buyer orders the production of a specific item according to their desired specifications. This fatwa seeks legitimacy from the Sharia principles found in the Quran and Hadith, emphasizing the theological basis of Istishna practice.

The fatwa outlines several conditions that must be met for an Istishna transaction to be considered valid. Clear specifications of the goods, transparent payment terms, and certainty of delivery are the main focuses. One significant aspect addressed by this fatwa is the fair distribution of risks and responsibilities between the buyer and the seller. This inclusion aims to promote justice and align with the principles of fairness in Islamic economic practices.

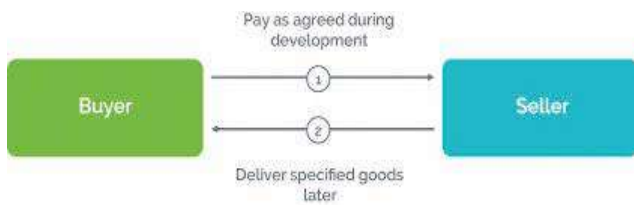


Figure 1. Istishna Aqd Scheme

The process begins with an order from the buyer to the seller to create or produce a specific item. This order must be clear and specific regarding the desired goods, including technical specifications, quality, and quantity.

Once the order is received, the seller and the buyer agree on the Istishna price. This price must be clear and cannot be changed after the agreement. The agreed-upon price includes production costs, the seller's desired profit, and all other relevant elements.

The buyer makes a down payment as a deposit. This payment can be used by the seller to start the production process or make the goods. The amount of the down payment, the payment period, and other payment mechanisms must be clearly defined according to the agreement in the 'aqd.

After receiving the down payment, the seller begins producing or making the goods according to the agreed specifications. This process includes all production stages, raw material procurement, and other necessary efforts to complete the order.

Once the goods are finished, they are delivered to the buyer as agreed. The delivery must be clear and in accordance with the agreed specifications.

The buyer makes the final payment according to the established agreement. This payment includes the entire value of the goods agreed upon beforehand. Payments must be made on time and according to the mechanisms specified in the Istishna 'aqd.

After the final payment is made, the Istishna 'aqd is considered complete. The seller must deliver the goods to the buyer and conclude this transaction successfully.

3.2. Parallel Istishna 'aqd Scheme based on the Fatwa DSN MUI No: 22/DSN-MUI/III/2002 on Parallel Istishna

Fatwa DSN MUI No: 22/DSN-MUI/III/2002, which discusses Parallel Istishna', provides a legal framework for regulating Islamic economic transactions. Parallel Istishna' is a specific form of Istishna, unique in its implementation. In this fatwa, Parallel Istishna' is described as a sales transaction based on a buyer's order involving two simultaneous

Istishna 'aqds between the buyer, producer, and distributor. The legal basis of this fatwa refers to Sharia principles derived from the Quran and Hadith, providing a strong foundation for sustainable Sharia-compliant economic transactions.

The fatwa legitimizes collaboration between producers and distributors in implementing Parallel Istishna'. Both parties are obligated to cooperate transparently and fairly.

Similar to regular Istishna, the specifications of the ordered goods must be clear and detailed. This includes materials, quality, and the quantity of the ordered goods. While istishna is a straightforward contract for the sale of a customized product, parallel istishna involves two separate contracts, enabling a more complex financial arrangement, often used for project financing or risk management. The main distinction lies in the additional layer of contracts and parties involved in parallel istishna.

The fatwa emphasizes the importance of guaranteeing 'aqd implementation to ensure smooth transactions in line with the principles of justice. The fatwa grants the distributor the right to determine the selling price to third parties, creating flexibility in the market and providing an opportunity for the distributor to make a profit.

The implementation of Parallel Istishna' in Sharia-compliant economic practices is crucial. Producers and distributors can use this fatwa as a guide to develop Parallel Istishna' 'aqds that align with Sharia principles.

This fatwa has a significant impact on the growth of the Sharia economy. By legitimizing Parallel Istishna', the fatwa stimulates collaboration between producers and distributors, creating a business environment based on Sharia values. However, the implementation of Parallel Istishna' is not without challenges. It is essential to identify and address potential obstacles, such as 'aqd agreement issues, production risks, and market uncertainties.

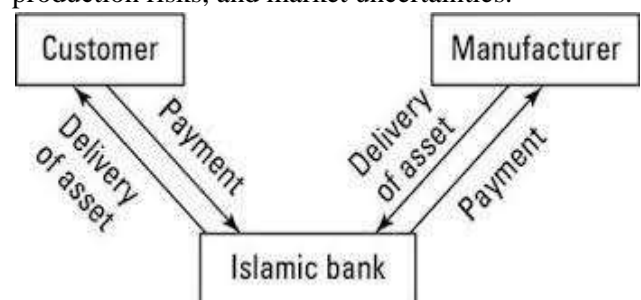


Figure 2 Parallel Istishna' 'aqd scheme

The process begins with an agreement between the producer (mustasni') and distributor (musharik). In this agreement, both parties agree to conduct parallel Istishna', involving two Istishna transactions that run simultaneously.

Mustasni' (producer) and musharik (distributor) agree on the Istishna price and the specifications of the goods to be produced. This agreement includes the price, quantity, and quality of the ordered goods.

Mustasni', as the producer, initiates the first Istishna process by producing the goods according to the agreed specifications. The distributor pays the mustasni' as a down payment or advance to start the production process.

After the goods are produced, mustasni' transfers ownership rights to the distributor. This indicates the end of the first Istishna and the beginning of the second Istishna.

The distributor, now owning the goods, conducts the second Istishna with a third party. The third party pays the distributor the agreed-upon price. The distributor then pays the remaining amount to mustasni' according to the initial agreement.

The distributor settles the payment with mustasni' and delivers the goods to the third party. The third party, as the final buyer, receives the goods according to the agreed specifications.

With the completion of the transaction, the parallel Istishna is considered complete. Mustasni' has received full payment from the distributor, and the distributor, in turn, has received payment from the third party.

3.3. Scheme of Istishna 'aqd in Sharia Bonds According to the Fatwa DSN MUI No: 32/DSN-MUI/IX/2002.

Based on the Fatwa DSN MUI No: 32/DSN-MUI/IX/2002, in the context of Sharia bonds/ sukuk, bond issuers (issuers) can use the Istishna mechanism to obtain funds. Issuers can conduct Istishna by issuing bonds or sukuk to fund specific projects or the production of certain goods.

Sukuk, often referred to as Islamic bonds, are financial instruments that comply with Islamic principles. The term "sukuk" is plural, and the singular form is "sakk," which means a legal instrument or deed. Unlike conventional bonds that involve the payment and receipt of interest (which is prohibited in Islamic finance due to the prohibition of usury or riba), sukuk are structured to comply with Sharia principles.

Bondholders, essentially investors, can be considered as buyers in the Istishna context. They provide funds to the issuer with the expectation of receiving returns from the completed project or ordered goods. The DSN MUI emphasizes the importance of drafting 'aqds in accordance with Sharia principles in Istishna transactions. This applies to Sharia bonds as well, where bond issuance documents and agreements between parties must comply with Islamic legal principles.

The principles of transparency and clarity in the Istishna 'aqd also apply to Sharia bonds. The issuer must provide detailed explanations about the use of bond funds, the project or ordered goods, as well as the rights and obligations of the parties involved. The principle of fair risk and profit-sharing between the buyer (bondholder) and the seller (issuer) must be observed. This reflects Sharia principles that promote justice in every economic transaction.

In the context of Sharia bonds, Istishna can be an instrumental means for companies or governments to obtain funding in accordance with Sharia principles. However, it is important to note that the implementation provisions of Istishna in Sharia bonds may vary depending on the structure and mechanisms used by the issuer and the authorities issuing fatwas or specific guidelines related to Sharia bonds.

a. Here is the general scheme of the Istishna 'aqd in Sharia bonds:

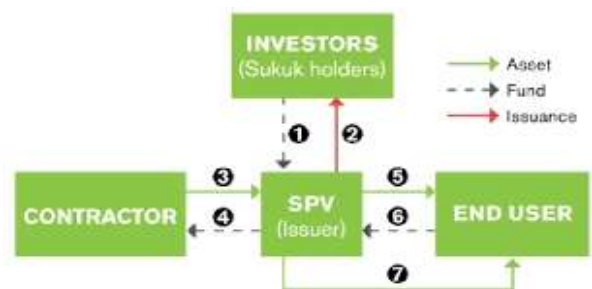


Figure 3 The Istishna 'aqd Scheme in Sharia Bonds

b. Issuance of Sharia Bonds (Sukuk):

The issuer, which can be a company or a government entity, issues Sharia bonds to raise funds from bondholders. This issuance involves documents describing the structure of Sharia bonds, including the terms of fund usage.

The funds obtained from issuing Sharia bonds are then used to carry out Istishna. The issuer allocates these funds for the order of specific goods or projects described in the sukuk issuance documents.

The issuer, as the seller in Istishna, initiates the process of ordering goods or projects according to the specifications desired by bondholders as buyers.

After the order, the issuer or third parties involved in the process (contractors or producers) start the manufacturing or procurement of goods or projects according to the agreed-upon specifications.

After the completion of goods or projects, there is a delivery to the buyer (bondholder) according to the terms set in the Istishna 'aqd. This also includes the transfer of ownership documents according to Sharia principles.

As compensation for the manufacturing or procurement of goods or projects, Sharia bondholders make payments to the issuer according to the agreements set in the Istishna 'aqd.

c. Coupon Payments and Fund Recovery:

Bondholders also receive coupon payments according to the established schedule. Funds received by the issuer from coupon payments (profit-sharing from sales margin, not interest) or principal repayments can be used to recover the funds invested in Istishna.

d. Completion of the 'aqd and Full Fund Recovery:

After receiving full payment, the Istishna 'aqd is considered complete, and bondholders have executed their investment. Full fund recovery by bondholders includes the promised principal and coupon payments according to the Istishna 'aqd and sukuk documents.

The Istishna 'aqd scheme in Sharia bonds reflects an approach in line with Sharia principles, emphasizing transparency, fairness, and clarity in every transaction. This scheme allows the issuer to obtain funds from bondholders while facilitating projects or the production of goods according to the needs and specifications desired by buyers (bondholders)."

3.4. Analysis of the Compatibility of Koperasi Syariah Implementation with 'aqd Schemes in the Fatwa of the National Sharia Board (DSN MUI)

In conducting economic activities in accordance with Sharia principles, BMI Koperasi Syariah plays a crucial role in empowering its members and creating sustainable economic development based on Islamic

values. One of the instruments that the Koperasi Syariah can utilize in its financing products for members is the financing product with an Istishna scheme.

In the Istishna scheme, members of the Koperasi Syariah play a vital role as buyers of goods or projects. They place orders with specific specifications to the cooperative, which then uses the funds obtained to fulfill these orders. The funds acquired from cooperative members through the Istishna scheme are then allocated for the production or procurement of goods according to the received orders. The cooperative may decide to produce goods or provide specific services according to the needs and desires of its members. After the goods or services are produced or obtained, the cooperative executes the delivery to the members who placed the orders. This delivery must align with the agreed-upon specifications and comply with the provisions set forth in the DSN MUI Fatwa Number 06/DSN-MUI/IV/2000.

Members of the cooperative make payments according to the mechanisms established in the Istishna scheme. These payments encompass the price of the ordered goods or services and adhere to the agreements between the cooperative and its members. The Istishna scheme in Koperasi Syariah creates a situation where profits and risks are shared between the cooperative and its members. The profits gained from the sale of goods or services can be used for the cooperative's development, while any potential risks are shared collectively.

Through the Istishna scheme, Koperasi Syariah can develop their economic activities based on the orders and needs of their members. This provides flexibility for cooperatives to adapt to market demands and meet the requirements of their members. The Istishna scheme not only offers a financing solution to Koperasi Syariah but also fosters a close relationship between the cooperative and its members. By empowering members in the process of producing or procuring goods, Koperasi Syariah can grow and develop sustainably in line with Sharia principles.

Here is the Istishna 'aqd in investment financing products in Koperasi Syariah Benteng Mikro Indonesia:

a. Micro Home Improvement Program:

Aimed at members seeking to renovate their homes with financing up to Rp40,000,000,-. The requirement is a minimum 2 year membership,

and the Istishna' 'aqd serves as the basis for the transaction.

b. Micro Sanitation Program:

Designed for members desiring healthy sanitation facilities with a maximum financing of Rp15,000,000,-. New members can apply for financing through the Appraisal and Feasibility Test processes, using the Istishna' 'aqd.

c. Micro Water Management Program:

Intended for members seeking access to clean water facilities with a maximum financing

of Rp15,000,000,-. New members can apply for financing after undergoing the Appraisal and Feasibility Test processes, with the Istishna' 'aqd being utilized.

d. No Down Payment Home Financing Program:

Provides financing up to Rp85,000,000,- with conditions such as a minimum 2 year membership, a viable business, no existing habitable house, ownership of at least 50 m2 certified land, no history of installment delays, and utilizing the Istishna' 'aqd.

Table 1. The Compliance of the Implementation of the Istishna 'aqd in Koperasi Syariah BMI

	Fatwa DSN MUI Nomor 06/DSN-MUI/IV 2000	Fatwa DSN MUI Nomor: 22/DSN-MUI/III/2002	Fatwa DSN MUI Nomor: 32/DSN-MUI/IX/2002	Implementation in Koperasi Syariah BMI
	<i>Istishna</i>	<i>Istishna paralel</i>	<i>Istishna Investasi</i>	
Member / Customer	Buyer / Orderer	Buyer / Orderer	Investor / Part of the Seller	Buyer / Orderer
Islamic Financial Institution	Seller	Intermediary with the seller	Investor / Part of the Seller	Seller
Third-Party Partner	-	Seller	Seller	-
Fourth-Party Partner	-	-	Buyer	-
What the customer obtains	Goods	Goods	Profit-sharing margin	Goods

Based on the table above, the Istishna 'aqd applied by BMI Koperasi Syariah is the ordinary Istishna model, involving two contracting parties. This scheme is not in line with the DSN MUI Fatwa Number: 32/DSN-MUI/IX/2002 regarding Sharia bonds or sukuk, where Istishna is used in the context of investment. It also does not align with the DSN MUI Fatwa Number 22/DSN MUI/III/2002 regarding parallel Istishna because the cooperative has its own company that focuses on providing building materials. Based on the table above, it is concluded that the use of the Istishna 'aqd in the financing of BMI Koperasi Syariah is in accordance with the DSN MUI Fatwa Number 06/DSN MUI/IV/2000 regarding Istishna.

4. CONCLUSION

The istisna 'aqd scheme used in investment financing at Koperasi Syariah BMI more precisely refers to the DSN MUI Fatwa Number 06/DSN MUI/IV/2000 concerning istisna, which is a regular istisna 'aqd involving two contracting parties and is not in line with DSN MUI Fatwa Number: 32/DSN-MUI/IX/2002 regarding Islamic bonds where the istishna 'aqd is used in investment schemes, nor is it in accordance with the DSN MUI Fatwa Number

22/DSN MUI/III/2002 regarding parallel istishna because the cooperative already has its own company engaged in the provision of building materials.

The financing that uses the istisna 'aqd at BMI Koperasi Syariah is already in accordance with DSN MUI Fatwa Number 06/DSN MUI/IV/2000 concerning istisna. However, it is advisable for the Koperasi Syariah to use terms such as consumptive financing / productive financing or ownership financing for buildings or other terms in the financing scheme using the istisna 'aqd because the members do not act as investors but act as buyers who apply for financing for various development schemes, including houses, sanitation, and clean water facilities.

5. ACKNOWLEDGMENT

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