

# The Importance of The Form of Notarial Deed in The Shari'ah Banking Deed for Legal Protection for Customers (Muhil) Who Are Just in Indonesia

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## KEYWORDS

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Banking; Book  
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## ABSTRACT

The development of economic business in Indonesia today, especially in the banking sector, is not only in the conventional field system but has spread to the realm of shari'ah system economic business. Indonesian citizens are predominantly Muslim, so it will increasingly attract market share to take part in the shari'ah economic business. The shari'ah banking system is a banking system that has not long been going on in Indonesia, so it is an excellent opportunity to give birth to various forms of problems in practice that then harm the customers as the primary consumers of shari'ah banks. The presence of a shari'ah notary is still needed in Indonesia because what is needed is the format of the Standard Agreement deed with its provisions focusing on the shari'ah economy so as to ensure legal certainty and public security in shari'ah transactions. This research uses a normative juridical approach, which will strengthen the theory of legal certainty, legal protection, expediency, and justice. Therefore, the conclusion obtained by the need for a shari'ah notary is significant.

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## 1. Introduction

Indonesia is a state of law based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Everyone needs to get legal protection, legal certainty, guarantees, and recognition; this is contained in Article 28D, paragraph 1 of the 1945 Constitution. Law enforcement is aimed at improving order and legal certainty in society; according to Gustav Radbruch's theory, law enforcement is divided into 3 types, namely justice, certainty, and expediency. The theory presented solely provides protection of law, order, and the welfare of the people. Law enforcement is also needed in the banking world, both conventional banks and shari'ah banks. Along with the development of the times, shari'ah banking in Indonesia continues to experience rapid development from year to year. Starting from the banking sector in 1991 with the establishment of Bank Muamalat, which was followed by the emergence of financial institutions, the shari'ah economy has become a trending thing in the country that spreads to various other business aspects such as aspiration, pawns,

property, housing, hospitality, multi finance, cooperatives to Multi-Level Marketing (MLM) shari'ah Sdan many others. From time to time, the shari'ah business will continue to grow, especially the majority of Indonesian Muslims, so that the concept of the shari'ah economy will quickly adapt and be readily accepted. Judging from the growth of the Islamic economy, Indonesia is the best in the world, bringing growth that reaches 39% every year, while conventional economic growth is only 19%.

Banks are a core part of the financial system in every country and play an essential role in supporting the movement of business or the economy. Its function, among others, is to act as an intermediary between parties who have excess funds and parties who lack and need funds, serve financing needs, and launch payment system mechanisms for all sectors of the community's economy. From these conditions, banks are institutions that rely on public trust. The Bank continues to involve the government to protect the public from irresponsible actions of bank employees and damage to public trust (Ais, 2020).

Along with the development of banks in Indonesia, both conventional banks and shari'ah banks do not guarantee that all banking businesses are run soundly. In reality, on the ground, business actors/banks often ignore consumer rights and take advantage of consumer weaknesses without having to get legal sanctions (Adjie & Hafidh, 2017). The weak position of customers as consumers is caused by a lack of legal understanding owned by the community, existing legal regulations not being able to provide a sense of security, and inadequate direct protection of the interests and rights of customers. So, there needs to be legal protection for customers in the banking world as part of law enforcement.

Legal protection is needed not only for conventional bank customers but also for customers in shari'ah banks are also included; in shari'ah banking is a banking system that has not long been in the State of Indonesia, so problems often arise in banking practices and can then harm the customer as the main consumer. Sharia bank institutions are the same as conventional banking institutions, where banks depend on the public's trust. Without the public's trust, the bank cannot carry out its business activities properly. To provide public trust in the bank, it is necessary to provide legal protection for the benefit of the public from the bank concerned.

Sharia banking practices in Indonesia show that the implementation of guarantee institutions has not been based on Sharia principles. On the other hand, Shari'ah banking is proud because creating the Shari'ah banking system can eliminate and prohibit non-productive, haram, dangerous, bad, and speculative activities. The notary field is among the legal instruments that are still considered inadequate at this time because it is based on the conventional business contract paradigm.

Notaries provide legal services and consultations to people in need, as stated in Article 1 paragraph (1) of Law Number 2 of 2014 Amendments to Law Number 30 of 2004 concerning Notary Positions, which states that Notaries are general officials who are authorized to make authentic deeds regarding all deeds of agreements and determinations required by general regulations or by those interested are desired to be stated in an authentic deed. Notaries occupy a very important position in shari'ah banking today because they make deeds and contracts for shari'ah banking products and binding guarantees. The practice of business agreements in the banking world today certainly requires a notary who can understand the concepts of shari'ah contracts and their application in Islamic banking practices in a format that is true to the concept of the standard sharia agreement deed model. So far, what happens in Islamic banking practice is that there are still many conventional Notary deed format models used for Islamic banks. Hence, the contents are not in accordance with the spirit of the Islamic bank itself. This is the author's concern and concern to research, and it is

urgently needed in Islamic banking practice to pay attention to using a deed format that really contains and reflects the standard format of Sharia deeds (Setyowati, 2016).

A bank is a financial institution that utilizes notary law in every business agreement, including fiduciary guarantees and liability. Generally, larger conventional banks involve Notaries in making deeds of agreement or engagement compared to Islamic banks. However, shari'ah banks, as a sub-system of the national banking system, are specifically regulated in Law Number 21 of 2008 concerning Sharia Banking, which states that every business activity related to the Deed of Deed of Financing can use notary services. The agreement should note and emphasize that there are principles and principles of Shari'ah economic law. In other words, all recording business agreements, as stated in the notarial deed, must also refer to the norms of shari'ah economic law (Gaol, 2014).

The existence of a Notary in business contracts, including shari'ah business, is very important considering that its main task is to make authentic deeds needed as evidence of legal events. As a general official who makes authentic deeds, Notaries must have a good personality, work independently, honestly, and fairly, and be full of responsibility. In addition, notaries are required to have proficiency or mastery in the field of law in which they are competent. In addition to being capable, Notaries must provide legal counseling to their clients to achieve high legal awareness. Given the existence and duties of Notaries who are strategic and full of challenges, it should be along with the development of the shari'ah business at least based on several reasons: (Ridhaan et al., 2022)

- a. All through the hone in shari'ah budgetary educate, particularly banks, there are still numerous shari'ah trade contracts that damage the arrangements of shari'ah rules, counting since the Public accountant who handles it as it were capacities to legalize the contract does not coordinate the substance of the contract since of its restrictions;
- b. Legal officials who are able of defining contracts or Sharia commerce contacts are required to realize a adjust of capacity between different legitimate callings, which in turn will influence the quality of Indonesian law authorization..

The term Sharia Notary is still unfamiliar to the public. However, because of the development of the era of deeds regarding the requirements of shari'ah by the community, a notary in shari'ah is needed, which will later back up Notaries who do not understand shari'ah contracts that are often used in shari'ah banking because in fiqh discourse a rule is known that changes in law are in harmony with changes in place and era or period (Arliman S, 2016; Ningsih & Chalim, 2017). In the past, shari'ah notaries were not given much attention. However, along with the times and the number of cases regarding agreements in shari'ah banking, the presence of a shari'ah notary is highly anticipated.

If regulations governing shari'ah notaries are realized, problems regarding the competence of notaries of shari'ah financial institutions will be resolved. It is hoped that a shari'ah notary regulation can minimize the phenomenon of shari'ah agreement deeds that are not shari'ah (conventional) due to the Notary's lack of understanding of shari'ah principles.

## 2. Materials and Methods

The research method used in this writing is a type of Normative Juridical research, with the intention that the legal research used prioritizes the literature approach. The approach used also seeks to examine the rules of law that are currently in force in the community and their relation to the practice of their application in the field. It aims to study and test the legal aspects and find the law in reality. The data analysis used in this study was carried out in an analytical descriptive manner, that is, it described applicable and systematic legislation and then carried out a problem-solving analysis.

### **3. Result and Discussion**

#### **The Role of Notaries in Banking in Indonesia**

A notary in Indonesia is an institution appointed by a competent authority that aims to provide essential services to the general public and obtain an honorarium from the general public. A Notary Public has a legal basis established on January 26, 1860, with the issuance of Notary regulations, or this provision can be said to be a copy of the notary in force in the Netherlands. Notary office regulations consist of 66 articles. Notary position regulations are still valid until the promulgation of Law No. 2 of 2014, which amended Law No. 30 of 2004 concerning Notary Positions (UUJN) (Soleh, 2022).

The State of Indonesia deliberately created the presence of Notary institutions as an implementation of the State to provide services to the community, especially in making authentic deeds recognized by the State. As written in Article 1868 of the Civil Code, "an authentic deed is a deed which in the form prescribed by law, is made by and or before a public officer authorized for it, at the place where the deed is made". Notary is a general official who is authorized to make authentic deeds and other authorities as referred to in Law No. 2 of 2014 Amendments to Law No. 30 of 2004 concerning Notary Positions. To carry out the mandate conveyed in Article 4 of the UUJN confirms that before carrying out his office, the Notary Public must take an oath or promise according to his religion in the presence of the Minister or appointed official. The deed made by a Notary Public is an authentic deed which, as written evidence, can be seen in Article 15 Paragraph 1 of the UUJN. A Notary Deed has Perfect legal force, and if a transaction is not made by a Notary Deed, which is only made under sufficient seal, then the transaction only has legal force if the parties who make and sign into an agreement acknowledge it.

Notaries have essential characteristics, including:

1. The position of Notary Public, which has been sworn based on the applicable legal rules, is intended to help and serve the public who need authentic written evidence concerning circumstances, events, and other legal acts based on UUJN.
2. The authority of a Notary office is stated in Article 15, paragraphs 1, 2, and 3 UUJN
3. Notaries are appointed and dismissed by the government. This does not mean that They are subordinated to the government. Thus, when carrying out the notary office, it is independent and impartial to anyone, and the duties of the notary office cannot be interfered with by the party who appointed it or by other parties.
4. Notaries do not receive salaries or pensions from the government. They only receive honorariums from the public who have served them.
5. Notaries have a responsibility to have to serve the public. The public can sue the Notary Public civilly, and the cost of compensation and interest.
6. Notaries are domiciled in only one area between cities or districts and have the authority of the entire provincial office area from their seat. They have only one office and may not open branches or representatives.

Notaries and deeds are inseparable part because the Notary's position becomes authentic due to the Notary's position as a public official based on UUJN. Juridically and formally, the types of

agreements are divided into 2 types, which are used in banking that banks use in releasing their credit, namely:

1. Agreement or underhand deed (deed under hand) and,
  2. Agreement or binding before a Notary Public (notary) or authentic deed.
- Differences in the agreement of the Deed underhand and the Notarial Deed.

**Table 1 Differences in the agreement of the Deed underhand and the Notarial Deed**

Information	Deed Under Hand	Notarial Deed
<b>Understanding</b>	The parties agree without the intervention of a general official, and the law does not specify its format.	An authentic Deed, based on Article 1868 of the Civil Code, is a deed made by a public employee who has the power to make an authentic deed.
<b>Format/shape</b>	The format is not expressly regulated in law, without intermediaries, and the manufacture is not carried out in the presence of authorized public officials.	The organize within the bona fide deed is in agreement with the laws and controls indicated in Article 38 of the UUJN, and the making of the deed is carried out within the nearness of an authorized official (common representative) and at the put where the deed is made.
<b>Evidentiary Value</b>	<ul style="list-style-type: none"> <li>• The control of confirmation is recognized as long as the parties concur to the concurred understanding and don't deny the understanding.</li> <li>• On the off chance that either party does not concede it, the verification is cleared out to the party denying the deed, and the judgment of dissent of the prove is cleared out to the judge.</li> </ul>	The deed made has idealize confirmation. The Legal official Deed is prove, so the deed must be seen because it is; it does not ought to be evaluated or interpreted differently than what is composed within the deed.

A deed or underhand credit agreement is an agreement by a bank to provide credit to its customers made between creditors and debtors without a notary. A credit agreement made by a Notary (authentic deed is an agreement to provide credit by a bank to its customers, which is only made before a notary. A credit application from the debtor precedes the process of the birth of a deed of bank credit agreement. If the process of assessing the guarantee and eligibility of the debtor is approved, then a determination of the amount of credit that the debtor can obtain is then carried out the bank will issue a Notification of Credit Approval (SPPK). It can be found that the use of Notary services is determined by banking policy, so not all credit agreements made by credit parties entirely use notary services.

### **Development of Sharia Banking in Indonesia**

The establishment of Islamic banks in Indonesia began with the workshop "Bank Interest and Banking," held on August 18-20, 1990, in Cisarua, Bogor, West Java. The results of the workshop were discussed in more depth at the IV National Conference of the Indonesian Ulema Council (MUI), which

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took place at the Sahid Jaya Hotel Jakarta, August 22-25, 1990. Based on the results of the deliberations, the Indonesian Ulema Council (MUI) formed a *Steering Committee Team*, which was tasked with preparing everything related to the establishment of Islamic banks in Indonesia (Amir Sup, 2022, pp. 14–16). With the support of the government and the public on November 1, 1991, PT Bank Muamalat Indonesia (BMI) was established and operated on May 1, 1992, this was strengthened by the issuance of Law No. 7 of 1992 concerning Banking which was continued with PP No. 72 of 1992 concerning Banks Based on the Principle of Profit Sharing (Sup & Amir, 2022).

To improve the previous legislation, in 2008, a new regulation of shari'ah banking in Indonesia was passed, namely Law No. 21 of 2008 concerning Sharia Banking. In the Law, it is explained that shari'ah banking is everything that concerns shari'ah banks and shari'ah business units, including institutions, business activities, and ways and processes of carrying out their business activities. The enactment of this law is specifically intended to be a legal umbrella that regulates shari'ah banking business activities and, in the law, is regulated regarding the issue of shari'ah compliance.

The rule of a shari'ah bank is that it carries out its trade exercises based on the standards of shari'ah. The rule of shari'ah itself may be a rule of Islamic law in banking exercises based on fatwas issued by teach that have the specialist to decide fatwas within the field of shari'ah. Trade exercises carried out with shari'ah principles are all shapes of shari'ah bank trade exercises that don't contain a few components, including:

1. *Riba*, is the practice of increasing income by non-halal means, such as in exchange transactions of similar goods that are not the same quality, quantity, and delivery time or lending and borrowing transactions with the condition that the customer is obliged to return the funds received beyond the principal of the loan for reasons of passage of time. For example, the loan sharks provided a debt of IDR 100 million, accompanied by 20% interest within 6 months.
2. *Maisir* is a transaction that is lucky because it depends on an uncertain condition. In practice, *maisir* can be interpreted as "gambling" because there is no certainty over the results of transactions made,
3. *Gharar*, a form of transaction whose object is known, not owned, unknown existence, and other matters containing uncertainty,
4. *Zalim*, is a transaction practice that is unfair to one of the parties. In other words, transactions that only benefit one party.
5. *Haram* is a transaction that is prohibited by Shari'ah both regarding its object and the parties who make the transaction.

The principle of shari'ah is part of Islamic teachings related to economics; applying the principle of shari'ah in a shari'ah bank will bring positive things to the national economic system. It will create a fair and healthy investment, reducing the risk of loss that will only be suffered by one party. Because of the essence of the principles of Shari'ah, in addition to sharing profits, also sharing risks to be borne together. If the application of shari'ah principles in shari'ah banking occurs, justice and equity will occur between banks and customers.

Article 1, number 13 of Law 21 of 2008 concerning Sharia Banking confirms that an akada (agreement) is a written agreement. The content or substance of the written agreement contains each party's rights and obligations by the principles of Shari'ah. The scope of Shari'ah banking

examines contracts, including non-profit sharing contracts for banking services and profit-sharing contracts.

1. Agreement Based on Non-Profit Sharing of Banking Services,

a. Akad *Murabahah*,

Based on Shari'ah banking legislation, an Akad *Murabahah* is a contract to finance an item by affirming its purchase price to the buyer. The buyer pays the item a higher price as an agreed-upon profit.

According to BI regulations, a *Murabahah* contract is an agreement to buy and sell goods in the amount of the acquisition price plus the margin agreed by the parties, where the seller informs the buyer in advance of the acquisition price.

b. Akad *Salam*

A financing agreement is in the form of a transaction of buying and selling goods by ordering with certain conditions based on the principles of shari'ah, and payment is made in cash in full in advance. The Sharia Banking Law explains that Akad *Salam* is an event of financing of an item by ordering and paying prices made in advance with certain agreed conditions, and according to BI regulations, Akad *Salam* is a transaction of buying and selling goods by ordering with certain conditions and cash payment in full.

c. Akad *Istishna*

The financing agreement is in the form of a sale and purchase transaction of goods in the form of an order for the manufacture of goods with specific criteria and requirements based on the principles of shari'ah agreed with payment in accordance with the agreement. According to Shari'ah banking laws and regulations, Akad *Istishna* is a contract for financing goods in the form of ordering the manufacture of certain goods with specific criteria and requirements agreed upon between the orderer or buyer and the seller or seller. BI regulations also explain that Akad *Istishna* is an event of buying and selling goods in the form of ordering the manufacture of goods with specific criteria and requirements agreed upon with payment according to the agreement.

d. Akad *Ijarah*

A financing agreement in the form of a lease transaction on an item and or service between the owner of the rental object and the tenant to get compensation for the leased object. Sharia Banking legislation provides an explanation that Akad *Ijarah* is divided into two meanings, namely, Akad *Ijarah* is an agreement to provide funds in order to transfer the right to use or benefit from a good or service based on a lease transaction without being accompanied by a transfer of ownership of the goods themselves. Furthermore, the second understanding of the Akad *Istishna Muntahiya Bittamlik* is the agreement to provide funds in order to transfer the right to use or benefit from a good or service based on a lease transaction with the option of transferring ownership of goods. BI regulation explains the Akad *Ijarah*, which is a form of agreement from a lease transaction on goods and/or services between the owner of the lease object, including the ownership of the right of use or rental object with the tenant to get compensation for the leased object.

e. *Akad Qardh*

Financing agreement in the form of a loan and borrow transaction without compensation with the obligation of the borrower to return the principal at once or in installments within the agreed period. Sharia Banking Regulations describe *Akad Qardh* as a loan agreement to the *muhil* with the provision that *the muhil* must return the funds he receives at the agreed time. The definition of *Akad Qardh* in BI regulations is a loan and borrowing transaction without compensation with the obligation of the borrower to return the principal in full or installments within a certain period.

f. *Akad Sharf*

According to BI regulations, *Akad Sharf* is a deed made of exchange transactions between different types of currencies (foreign currencies)).

2. Profit Sharing Agreement

a. *Akad Wadi'ah*

According to the Sharia Banking Law, *Akad Wadi'ah* is a custody agreement between the party who owns the goods or money and the party who is entrusted and aims to maintain the safety, security, and integrity of the goods or money. Based on Bank Indonesia (BI) regulations, a *Wadi'ah* contract is a custody transaction of goods or funds from the owner to the depositor of goods or funds with an obligation for the depositing party to return the funds at any time.

b. *Akad Mudharabah*

A financing or investment agreement from the fund owner (*shohibul maal*) to the fund manager (*mudharib*) to carry out certain business activities in accordance with shari'ah, with the distribution of business results between the two parties based on the estimated rewards to be received by the fund owner from the fund manager (*ratio*), which is agreed beforehand. Based on shari'ah banking regulations, *Mudharabah* is a cooperation agreement between the first party as the owner of the fund and the second as the manager of the fund, which provides business benefits based on the agreement. BI regulation explains that a *Mudharabah contract* is the investment of funds from the fund owner to the fund manager to carry out business activities between the two parties based on a *previously agreed ratio*.

c. *Akad Musyarakah*

Financing or investment agreements from two or more owners of funds and / or goods to run certain businesses in line with the principles of shari'ah with the distribution of operating results between the two parties based on a *previously agreed ratio*, while losses are divided based on the proportion of their respective capital. According to Sharia Banking Law, *Akad Musyarakah* is a cooperation agreement between two or more parties for a particular business. Each party provides a portion of funds provided that profits will be divided according to the agreement and losses according to their respective portions of funds.

d. *Akad Hawalah*

Is a debt transfer agreement from the party who owes the debt to another party who is obliged to bear or pay. The definition, according to BI regulations, *Akad Hawalah* is a debt transfer transaction from one party who owes money to another party who is obliged to bear or pay.



e. *Akad Kafalah*

The guarantee agreement is given by one party to another party, where the guarantor (*kafil*) is responsible for the repayment of the debt to which the recipient of the guarantee (*makful*) is entitled. The definition, according to BI kafala regulations, is a guarantee transaction provided by the insurer (*kafila*) to a third party or the insured to fulfill the obligations of the second party.

f. *Akad Wakalah*

In the laws and regulations, *Akad Wakalah* is a contract to grant power of attorney to power of attorney to carry out a task on behalf of the authorizer.

### **The Role of Notaries in Making Authentic Deeds in Sharia Banking in Indonesia**

In order for the agreement made by *Muhil* with Islamic banks to get a solid legal force, every contract in Islamic banks should also start from now on by applying the sharia deed format system that is made and signed in front of a notary. Because every business always needs a Notary as an official who does authentic deeds in accordance with their duties regulated in the UUJN, this also applies to businesses with Shari'ah. In addition, Notaries are also authorized to provide legal advice to their clients in order to achieve their rights and obligations so that transactions agreed upon before Notaries are not legally defective. Everything he writes and establishes is true, and Notaries are strong document makers in a legal process (Adil, 2011; Wahid, 2022).

The Notary Deed as an authentic deed, which becomes written evidence contained in Article 15 Paragraph 1 of the UUJN, is a study of the phenomenon of shari'ah banking law where there is a merger between Western civil law and Islamic civil law. This is inseparable from the increasing existence and recognition of shari'ah law in Indonesia, with, in fact, the people of the Muslim community prioritizing the principle of Ramallah specifically. These principles are categorized into 2 things. First, what is prohibited in muamalah activities is that the object of trade or business is not halal and not trustful. Second, things that are forbidden to do include *Riba*; an object whose object of commerce is not in the hands of the owner or does not know its existence so as to cause the debtor to suffer losses (*takhir*); fraud due to defects in the goods traded (*tadlis*) (Harahap et al., 2020).

Notary is a position born from the law and officials who make authentic deeds, it is just that Notaries who handle shari'ah business contracts must learn specifically about shari'ah business contracts. To learn about the shari'ah contract is more efficient if done at least 1 week or more. So far, there are still many Notaries who experience problems in making shari'ah deeds, so many Notaries mix conventional provisions into shari'ah deeds. During handling contracts in the shari'ah business, Notaries often experience obstacles in handling them, the obstacles faced include: (Akbar & Yazid, 2020; Jufri, 2020)

1. Regarding the writing of the second party, namely the borrowed customer, Sharia banks always refer to him as a customer. In this case, the second party or the party who owes the debt should be called a debtor (*muhil*). If it is called the customer, the bank will have a legal loophole that harms the bank.
2. The client's second wife claims that she did not agree to sign a contract between the bank and her husband.

3. Notaries only accept a raw copy of the contract format from the shari'ah bank, this can cause difficulties in describing the client's rights and obligations in the shari'ah contract.
4. The lack of understanding of notarial science about Shari'ah and Shari'ah business is an obstacle in drafting a well-made contract.
5. Regarding the binding of financing, sometimes Notaries are still unfamiliar with their shari'ah contracts. Until when facing banking customers, Shari'ah still used conventional customer glasses and did not adjust rights and obligations shari'i.

From the obstacles faced in handling shari'ah banking deeds, Notaries have new challenges and opportunities to realize shari'ah notaries, which include;

1. Many of the Notaries and stakeholders agreed to create a Sharia Notary, with the intention of Notaries who understand and understand shari'ah business contracts and are more focused on the fields of shari'ah so that *stakeholders* understand very well about the forms and understanding of shari'ah business contracts. This is necessary so as not to arouse suspicion about errors in determining the contract and also minimize errors and violations in the shari'ah contract.
2. The need for a Sharia Notary in Indonesia because the majority of Indonesian citizens until now are Muslims. So that it becomes an asset to work on the market for the realization of Sharia Notaries in Indonesia.
3. The development of the Shari'ah business continues to increase year after year. With the development of the Shari'ah business, it is not impossible to create a Shari'ah notary. A notary is one form of creating an authentic deed.

Efforts in creating a Sharia Notary are not as easy as expected, there are several challenges found in the field, including:

1. In terms of different opinions. Some Notaries, as well as some stakeholders, have the opinion that Notaries currently have fulfilled the provisions of Shari'ah when participating in briefings on deeds in the Shari'ah business. On the other hand, there are also some opinions that Notaries currently have not fully implemented the compliance of Shari'ah because they take their legal sources from Western law and are not based on the Quran, and are feared that it can result in defects in a deed because of Notaries' lack of understanding of the provisions of Shari'ah.
2. Creating a Shari'ah notary needs to go through several processes, including the legislature, so that it can take the form of a law regarding the Shari'ah notary deed.
3. The rapid development of Shari'ah banking in Indonesia is only a mask. It only attracts market interest while, in practice, it has not purely applied the concept of Shari'ah. Because the background of Shari'ah banking so far comes from conventional banking, there is still a lot of customer interest in investing in conventional banks, considering that the provisions used in Islamic banks are the same as those used in conventional banks.

#### **4. Conclusion**

The role of Notaries as public officials who are authorized to make authentic deeds in every business agreement in Shari'ah banking is very important. Notaries are concerned not only with their authority to make authentic deeds required in the cooperation but also with other agreements made

between shari'ah banks and customers to better guarantee legal certainty for both parties. Notaries are also required to equip themselves with adequate knowledge about the types of contracts and financial products in shari'ah banking. Because shari'ah banks and conventional banks have different characteristics, in a financing deed, shari'ah banks do not recognize the terms loan, bonus, debtor, creditor, and interest. The terms debtor and creditor were changed to the recipient of financing (Muhil) and lender (Bank). Notaries who already have a shari'ah certificate must understand the provisions of shari'ah contained in the deed because they have attended training to understand shari'ah economic law. At the same time, notaries who have not been shari'ah certified will experience difficulties in facing shari'ah banking contracts, and if forced, the deed to be used later will also lead to conventional and not shari'ah. The shari'ah agreement will be more authentic if it is stated in a Notary deed prepared with a comprehensive understanding of Notary Shari'ah so that Notaries have demands from the public to continue to increase the capacity of knowledge and sufficient understanding related to contract agreements, shari'ah muamalah products.

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