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Profit Sharing Akad of Sharia Venture Capital Companies

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Abstract

This study aims to analyze the essence of profit sharing contracts for Islamic venture capital companies. This study uses a qualitative method which is a method that focuses on in-depth observation. Therefore, the use of qualitative methods in this study resulted in a more comprehensive review of profit-sharing contracts for Islamic venture capital companies. the type of research that the author uses is normative legal research. The nature of research in this writing is the nature of descriptive research. The approach used in this legal research is a statutory approach and a conceptual approach. The results of this study indicate that Islamic venture capital uses musyarakah and mudharabah akad in the profit-sharing scheme. Akad Musyarakah are used for companies that already have an ongoing business, but still need additional capital for business expansion purposes and akad mudharabah are used when a new business is established that has prospects for development.

Keywords Venture Capital; Sharia Venture Capital; Sharia Principles.

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1. PENDAHULUAN

In this modern era, Indonesia's economic development is very rapid. With an Indonesian population of 273 people, this is a very large market in Indonesia. On the other hand the Muslim population in Indonesia reaches 90 percent of the total population. Because economic growth is actually based on population growth. (Budi and Komarudin 2020)

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And today, the development of the world of business and trade in Indonesia is growing rapidly. It is undeniable that the development of the world of business and trade cannot be separated from the development of globalization. The development of this current of globalization gave rise to complex relationships or business and trade transactions. (Yuhelson, 2018) In daily practice, business and trade activities can be carried out in various ways. Some do it by cooperating with local parties and some do it with foreign parties. Some do it for personal gain and some do it for the benefit of the company. The implementation of this cooperation is marked by agreeing on an agreement/business contract between entrepreneurs. (Andriani, 2022)

Today, the development of the world of business and trade in Indonesia is growing rapidly. It is undeniable that the development of the world of business and trade cannot be separated from the development of globalization. The development of this current of globalization gave rise to complex relationships or business and trade transactions. (Yuhelson 2018) In daily practice, business and trade activities can be carried out in various ways. Some do it by cooperating with local parties and some do it with foreign parties. Some do it for personal gain and some do it for the benefit of the company. The implementation of this cooperation is marked by agreeing on an agreement/business contract between entrepreneurs. (Andriani 2022)

Non-bank financial institutions have activities to facilitate cooperation between parties who have funds and parties or companies that need funds to develop their business (Noor & Heradhyaksa, 2021). Venture capital financing is different from banks which provide financing in the form of credit facilities. Venture capital companies provide financing in the form of direct investment in the company being financed. The high risk that may be faced by a venture capital business will result in a high expected return by venture capital. As a result, venture capital tends to only finance businesses that can provide or promise large profits. Venture Capital is one of the many non-bank financial institutions in Indonesia, which also provides a more effective and efficient financing alternative for business development. In financing or equity participation in an investment activity, venture capital can be alternative financing that assists an entrepreneur in developing his business. Because, venture capital can not only provide benefits for each party but can also directly assist in business growth and business activities that are experiencing difficulties (Rangkuty & Zulmi, 2020). Venture capital practices are carried out based on sharia contracts, and are engaged in businesses that do not conflict with sharia principles (www.kajianpustaka.com, 2020). Most of these venture funds come from a group of well-established financial investors, investment banks, and other financial institutions that conduct fundraising or partnerships for the purpose of the investment. According to Presidential Decree No. 61 of 1988 concerning Financing Institutions, business entities that conduct business financing in the form of equity participation in a company that Investee Company for a certain period is a Venture Capital Company. There is domestic (conventional and sharia) venture capital in Indonesia and there are as well as venture capital companies owned by foreign companies. Capital company Domestic ventures finance local companies while companiesan modal foreign ventures finance startup companies based on digital and e-commercecommerce (Asia Small and Medium-Sized Enterprise Monitor 2020 Medium-Sized Enterprise Monitor 2020).

The Deregulation Policy of December 20, 1988, and Presidential Decree No. 61 of 1988 were the sole legal documents that established venture capital firms in Indonesia. According to Law No. 21 of 2011 About the Financial Services Authority, the Financial Services Authority is currently responsible for overseeing, directing, and licensing venture capital. Since OJK's founding, at least 4 (four) regulations pertaining to venture capital have been released by OJK.. The four POJKs, including the Financial Services Authority Regulation Number 35/POJK.05/2015 Concerning the Implementation of Venture Capital Company Business, Financial Services Authority Regulation Number 34/POJK.05/2015 Concerning Business Licensing and Institutional Venture Capital. Companies, Financial Services Authority Regulations Number 37/POJK.05/2015 Concerning Direct Examination of Venture Capital Companies, Financial Services Authority Regulation Number 36/POJK.05/2015 Concerning Good Corporate Governance for Venture Capital Companies (Sofia, 2021).

Sharia venture capital business according to Financial Services Authority Regulation Number 34/POJK.05/2015 Concerning Business Licensing and Institutional Venture Capital Companies is a financing business through investment activities and or service services performed within a specific time frame in the context of developing a business partner business conducted in accordance with sharia principles.

Similarly, Islamic banks in their business activities must be based on sharia principles with Islamic law which prohibits the practice of maysir, gharar and usury (MAGHRIB) as well as other fraudulent transactions. (Hidayatullah and Komarudin 2021)

Although in every financing there is a risk(Hidayat and Komarudin 2018). With the development of financing transactions conducted by non-bank financial institutions, venture capital has also played a role in the financing sector. The current development of venture capital, can provide capital and can encourage business activities that are experiencing difficulties and can also help business entities or business activities that still lack experience in advancing their businesses and businesses. Financing carried out by venture capital companies certainly has a high risk because of the uncertainty faced because it is dealing directly with market conditions that are always changing. Venture capital companies finance companies with a high level of risk, and have high-profit potential (Rangkuty & Zulmi, 2020).

It should also be realized that micro, small and medium enterprises have some difficulties they face. The problems faced include difficulties in obtaining capital to develop and advance their business as well as difficulties in the ability to manage their business. With the existence of venture capital, this can certainly be an alternative for business actors to be able to help not only in terms of capital but can also assist in management. Because venture capital companies can guide in terms of management so that the business activities carried out can develop as expected.

This study analyzes Islamic venture capital using musyarakah contracts and mudharabah contracts in profit-sharing schemes. In contrast to previous research, namely, the first research by Dewi Mahrani Rangkuty and Alfian Zulmi with the title Comparison of Conventional and Sharia Venture Capital: Literature Study of Startup and MSMEs Financing Models in West Sumatra Province. His research has led to a very urgent need for a Sharia venture capital company to be implemented right away. In Sumatra Barat, sharia venture capital firms may be founded in any regency or city. For the Sharia venture capital that was established to run for the establishment, the government should also pay attention to the socialization of Sharia venture capital and venture capital funds (Rangkuty & Zulmi, 2020). Second, Caswati Rasmi Pratiwi with the research title Sharia Venture Capital. The result of his research is that sharia venture capital is one of the sharia financial institutions that provide capital assistance for companies experiencing financial crises and contains motivation to help (Pratiwi, 2022). Third, Sulistyowati with the research title The Problems of the Existence of Sharia Venture Capital in the Perspective of Islamic Economics. The results of this study are that the level of public literacy and inclusion of Islamic venture capital companies is very low, this is due to the limited knowledge of the wider community about Islamic venture capital companies, this is what causes the slow growth in the development of Islamic venture capital companies, in addition to the high cost of Islamic venture capital financing Compared to other financial institutions, this is because Islamic venture capital financing has a high risk due to its characteristics without collateral, and is also due to limited funding by Islamic venture capital, which so far has been mostly obtained from loans from other Islamic financial institutions, which ultimately results in community inclusion low (Sulistyowati, 2022).

With the presence of Venture Capital Companies as a means of financing, they have a great opportunity to develop business activities carried out by micro, small and medium enterprises, because they have characteristics that are owned by venture capital companies that are not owned by others. For example, the position of Venture Capital is not only involved with investing capital but at the same time also plays an active role in the management of the company it helps.

Financial transactions with sharia-based contracts in the application of the Islamic economic system have spread in various countries, Islamic economics has become an important part of the global economy (Komarudin & Hidayatullah, 2021). From the beginning of the establishment of venture capital has three patterns in its financing activities/schemes, namely; First, with transferable capital participation in the form of shares (share participation/equity participation). Second, by investing in capital through the purchase of convertible bonds (quasi-equity participation), and the third is to carry out a financing scheme based on business profit sharing (Profit Sharing) (Nurcahyo, 2018). By using this profit sharing pattern, the financing scheme carried out by venture capital companies needs to be reviewed based on the perspective of sharia economic law. The contract is a very important part of explaining the agreement that occurred between the parties, so that the contract is used in the Islamic venture capital financing scheme. however, according to the author's opinion, it is interesting to study the essence of the profit sharing contract for sharia venture capital companies in order to be able to integrate in creating a pattern of cooperation in the form of sharia.

2. METHODS

This study uses a qualitative method which is a method that focuses on in-depth observation. Therefore, the use of qualitative methods in this study resulted in a more comprehensive review of profit-sharing contracts for Islamic venture capital companies (www.djkn.kemenkeu.go.id, n.d.). the type of research that the author uses is normative legal research. This research is descriptive analytical, namely making a systematic, factual, and accurate regarding the facts. Therefore, this study has the character of reviewing and describing the legal aspects of the problems relating to the development of regulations and the concept of Islamic venture capital (Abubakar & Handayani, 2019). The approach used in this legal research is a statutory approach and a conceptual approach. Sources of data used in this research include books, laws and regulations, studies, and others (Ahmad, Anggraini, & Iswahyudi, 2022).

3. HASIL DAN PEMBAHASAN

3.1 Venture Capital Company

Venture means something that has risks inherent in it or can also be interpreted as a business. The word "venture" is the origin of the term venture. So that in a narrower sense, it can be taken as an understanding of venture capital or venture capital which is the investment or participation of funds in a field of business or activity of business activity that cannot be separated from a risk that must be faced. This venture capital is said to be inseparable from risk because the inclusion of funds made looks at the prospects and also the feasibility of the business being financed, in this case also venture capital does not emphasize the aspect of a guarantee from the business entity or company it is financing (Rusli, 2014). Companies that are often given capital are referred to as vestees, while finance companies that provide funds and act as venture capitalists or investors (Farid, 2020).

A venture capital company is defined by the Financial Services Authority as a business entity that engages in business financing or equity participation in a company that is an investee company for a specific period of time in the form of investment in shares, investment through the purchase of convertible bonds, and/or financing based on the distribution of operating results (Sofia, 2021).

Inside The Encyclopedia of Private Equity and Venture Capital, the notion of venture capital is defined as a series of opportunities to make investments; promising business; capital and management assistance provided by individuals and companies. The Bank of England Quarterly Bulletin defines venture capital as an activity in which investors assist entrepreneurial talents with financial and business expertise in order to capitalize on market opportunities and earn long-term capital gains. According to the law, venture capital is the equity contribution of a venture capital company to a business partner company that has been operating for a specific amount of time. (Belladina, 2020).

The definition of venture capital has also been put forward by several experts, including:

1. Tony Lorenz, gave the understanding that venture capital is an investment that provides capital for a long period and in it cannot be separated by a risk where the profit expected by the owner/provider of funds is not obtained from the income generated in an interest-based system. (usury) on loaned capital or from profit income derived from the distribution of profits from the company to its shareholders (dividends), but the expected profit from the owner/provider of funds comes from capital gain.
2. D. Richardson (founder and director of Southern Capital Forum), provides an understanding of venture capital as funds invested in a company or business owned by someone where there is a high risk that follows.

From the definitions that have been put forward, a conclusion can be drawn that there are distinctive characteristics possessed by venture capital. These characteristics include the following (Sofia, 2021):

1. Providing financing/business capital participation aimed at business partner companies.
2. Providing financing/equity participation that is temporary in nature, meaning that the period of participation in funds or venture capital financing is only up to the time of the divestment.
3. Venture capital is also involved in the management of venture capital firms financed by venture capital firms.

Venture capital activities are carried out in the form of equity participation in a Business Partner Company by Minister of Finance Decree No. 1251/KMK.013/1998 for:

a. Development of an invention,
b. Development of companies that in the early stages of their business experience funding difficulties,
c. Helping companies that are in the stage of business decline,
d. Helping companies that are in the development stage,
e. Development of research and engineering projects,

f. Development of various uses of new technology and transfer of technology both from within and outside the country,

g. Assist in the transfer of ownership of the company.

In Indonesia, venture capital conducts its business activities in the form of equity participation, purchase of convertible bonds, and financing based on profit sharing. The majority of these business activities are carried out by Venture Capital Companies on a profit-sharing basis similar to a bank credit scheme in terms of loans, but the requirements are not as stringent as in banking. As for facilitating the differences in business activities carried out by venture capital and banking, it can be seen in the table below (Soemitra, Hukum Ekonomi Syariah Dan Fiqh Muamalah Di Lembaga Keuangan Dan Bisnis Kontemporer, 2019):

Table 1. Venture Capital Business Activities With Banks

No.	Aspect	Bank	Modal Ventura
1.	Perpetrator	Banks, Creditors, Debtors	Investors, Venture Capital Companie, Business Partner Company
2.	Financing	Financing	Capital Participation
3.	Management Engagement	There aren't any	As Partners
4.	Risk Type	Bad Credit	Business Credited
5.	Period	Short, Medium, and Long	Long (5-10 Years)
6.	End of Contract	Financing Settlement	Divestment

In its financing activities, venture capital has several financing schemes provided to business partner companies. The types of financing include the following (Salim, 2017):

a. Direct share participation

This type of financing, as the name implies, directly includes capital in the business partner company in the form of shares, where the venture capital company acts as one of the shareholders in the business partner company.

There are 2 (two) methods used by venture capital companies to invest in shares directly in a business partner company, namely by jointly establishing a new company or by taking over shares of an existing business partner company, either by buying from shareholders old shares or by taking over portfolio shares. Venture capital companies benefit from the participation of their funds in the form of profits from stock dividends, capital gains, and annual management contracts. In addition, a venture capital company can place a representative in a business partner company whose job is to oversee the running of a business activity being carried out, as well as help manage the operations of the business partner company. So that in addition to helping venture capital companies in terms of capital, they can also provide benefits in terms of management in business partner companies.

b. Convertible Bonds

The form of convertible bonds is also commonly referred to as semi-equity financing. Slightly different from direct equity participation as described above, in this type of convertible bond the shareholders of the business partner company still want to fully own the shares, but the business partner company still needs additional funds or capital to develop a business that is already running well. With the financing through this convertible bond pattern, the financial structure of the business partner company will improve. Usually, financing with a convertible bond pattern is given to an established business partner company, meaning that there is already a plan to conduct an IPO (Initial Public Offering). So with this pattern of fund participation, venture capital companies will get the possibility of capital gains which can be considered quite large.

c. Profit sharing pattern/limited participation

Using capital participation based on a revenue-sharing financing scheme (profit and loss sharing) means that the profit obtained by the venture capital company comes from a percentage of profits from business activities carried out by the business partner company and this percentage is determined at the outset by the agreement. In a financing scheme like this, as the name implies, apart from profits, there is also a risk of loss.

Venture capital financing has several characteristics. The characteristics of venture capital financing, among others:

a. Venture capital financing is capital participation (quasi-equity financing) where venture capital is carried out by direct equity participation in a business partner company, in addition, venture capital financing can also be carried out using convertible bonds or instruments. This form of financing is known as semi-equity financing.
b. Venture capital is high-risk financing (risk capital). It is said to be high risk because venture capital financing is not accompanied by collateral as is the case with bank loans. However, it is based on belief in the proposed idea. This high risk is offset by the expectation of a large return.
c. Venture capital is an investment with a long-term (long-term perspective) perspective. Venture capital does not expect to gain profits by trading its shares in the short term but expects capital gains after a certain period. This means that in principle the financing or venture capital business has a long-term perspective.
d. Venture capital financing is always accompanied by involvement in the management of the company being financed, including financial management, marketing, and operational monitoring. This makes it an active investment. Participation in management is anticipated to

be able to help the companies involved boost profitability while lowering the investment risk for venture capital firms.

e. Venture capital is temporary at a certain time. In venture capital participation, it has a certain period even though it is in the form of direct share participation, meaning that the participation of funds made by venture capital companies is not continuously invested in business partner companies. There are provisions regarding this period, in Indonesia, the maximum period given is 10 years. With this predetermined time, it is hoped that the business partner company will be able to develop and achieve the targeted growth. Furthermore, the business partner company can buy back its shares from the venture capital company.
f. In terms of the expected profit, that is mainly derived from capital gains or an increase in the price of the share price of the business partner company in addition to profit income from dividends of the business partner company.
g. The high level of profits earned by venture capital firms. This is because the financing or participation of venture capital funds is given to the business sector which is the latest innovation and creativity so that it can provide high-profit prospects (Soemitra, Bank Dan Lembaga Keuangan Syariah, 2018).

According to Dipo Handoko in Kartono states that venture capital has the following characteristics: (1) In contrast to other financing institutions, venture capital, in addition to investing in the company, venture capital also participates or is involved in the management of the company, for example related to the relationship with the company's stakeholdersi investee so make it easy in management company such as the government, suppliers, suppliers and others. (2) Venture capital invests by wanting a high rate of return so that investment is also made by venture capital in companies that have high risk. (3) Investments made by venture capital companies are not permanent or permanent (Kartono, 2020).

In addition, if the venture capital company carries out its business activities based on sharia principles. Then there are special characteristics for sharia venture capital companies, while the special characteristics for the fulfillment of these sharia principles are:

a. There is a Sharia Supervisory Board whose task is to oversee every implementation of business activities carried out by Islamic venture capital companies so that they are in line with and not contrary to sharia principles.
b. Business activities carried out by venture capital companies must be by sharia principles so that activities that are contrary to these sharia principles are not justified to be carried out by sharia venture capital companies. In general, business activities that conflict with these sharia principles are:

1) Carry out interest concepts as in conventional financial institutions or do not carry out practices that contain elements of usury.
2) Carrying out gambling activities and also games belonging to the gambling category.
3) Producers, distributors, and trade in food and beverages that are haram or other trades that are prohibited by sharia.
4) Producers, distributors, and/or providers of goods or services that damage morale and are harmful.
5) Venture capital companies may not invest or include their capital in companies that at the time of the transaction the level (ratio) of the company's debt to ribawi financial institutions is more dominant than its capital (Soemitra, Bank Dan Lembaga Keuangan Syariah, 2018).

3.2 History of Venture Capital in Indonesia

The development of venture capital which has the main activity to finance the development of a business, this development began in 1973 with the establishment of PT. Bahana Pembinaan Usaha Indonesia, which is a non-bank financial institution. Based on Government Regulation no. 18 of 1973 to operate in the field of equity participation, PT. Bahana Pembinaan Usaha Indonesia. Just as Islamic banking as a financial institution is a business entity that cannot stand alone without public trust, it also needs to be supported by an existence that has legal force. (Komarudin and Hidayatullah 2021) Meanwhile, the legal basis for sharia venture capital companies is based on the existing venture capital legal basis but is enriched by sharia principles.

Furthermore, if viewed based on a legal basis, the development of venture capital in Indonesia can be broken down as follows:

1. Presidential Decree No. 61 of 1988 concerning Financing Institutions.
2. KMK No. 1251/KMK.013/1998 dated December 20 concerning Provisions and Procedures for Implementing Financial Institutions.
3. Government Regulation no. 62 of 1992 concerning Business Sectors of Business Partner Companies of Venture Capital Companies.
4. KMK No. 227/KMK.01/1994 dated 9 June 1994 concerning Business Sectors of Business Partner Companies of Venture Capital Companies.
5. Government Regulation no. 4 of 1995 concerning Income Tax of Venture Capital Companies.
6. KMK No. 469/KMK.17/1995 dated 3 October 1995 concerning the Establishment and Development of Venture Capital Companies.
7. Law No. 7 of 1991 concerning Income Tax.

8. Government Regulation no. 4 of 1995 concerning Income Tax on Venture Capital (Soemitra, Bank Dan Lembaga Keuangan Syariah, 2018).

The Legislative Decree No. 61 of 1998 concerning Financing Institutions, which generally defines venture capital business as one of the business operations that can be carried out by financial institutions, served as the foundation for the formation of venture capital in Indonesia. Additionally, the terms for putting this venture money into practice are governed by the Finance Minister's Decree No. 1251/KMK.013/1989, issued November 18, 1989. The regulations governing Business Sectors of Venture Capital Companies are then based on Government Regulations No. 62 of 1992, which were then followed by the Minister of Finance's Decree Number 227/KMK.01/1994, which governs Business Sectors that will become Business Partner Companies, which was dated 9 June 1994. Based on the Decree of the Minister of Finance Number 469/KMK.017/1995 dated October 3, 1995, it was explained the establishment and development of venture capital companies. According to the information provided, the most significant change made to legislation governing venture capital is that it is no longer included in financing operations. Since that time, venture capital business activities have been conducted separately with separate legal organizations. Due to the existence of this decree, venture capital has spread its wings across every province to offer funding options to assist micro, small, and medium-sized businesses that struggle to repay bank loans. A Regional Venture Capital Company was also founded to make it simpler to manage and support a business partner company. A venture capital company's income is defined as a share of profits received from equity participation in a business partner company within a period of 10 years and profits received or earned by a venture capital company from the transfer of equity participation in business partner companies within a period of 10 years, according to PP No. 4 of 1995 concerning Venture Capital Company Income Tax. (Soemitra, Bank Dan Lembaga Keuangan Syariah, 2018).

The legal basis for venture capital companies is also provided by the Financial Services Authority, including venture capital companies whose business activities operate based on sharia principles in Indonesia. The regulations issued by the Financial Services Authority are as follows:

1. POJK No. 34 /POJK.05/2015 Concerning Business Licensing and Institutional Venture Capital Companies.
2. POJK No. 35 /POJK.05/2015 Concerning the Implementation of Venture Capital Company Business.
3. POJK No. 36 /POJK.05/2015 Concerning Good Governance for Venture Capital Companies.
4. POJK No. 37 /POJK.05/2015 Concerning Direct Examination of Venture Capital Companies.

3.3 Cooperation Agreement and Revenue Sharing in Fiqh Muamalah

Islam is a universal religion that regulates all aspects of human life, even in the economic field. An Islamic economic system that carries out all phenomena concerning choice behavior and decision making in each economic unit by including sharia rules as an independent variable (influences all economic decision making). (Hidayatullah and Komarudin 2017)

There are 4 (four) main contracts included in the field of cooperation carried out by parties who are carrying out economic activities using a pattern or profit-sharing scheme to determine the profits. In general, the principle of profit sharing is:musyarakah, mudharabah, muzara'ah, musaqah. However, what is widely used in financing schemes at financial institutions is the contract musyarakah and mudharabah contracts.

1. *Musyarakah*

   As for musyarakah or syirkah According to the term, fiqh scholars provide various opinions in interpreting the term syirkah, some of which are as follows (Hepning, 2021):

   a. According to Maliki scholars,syirkah is the granting of permission to both parties working together to manage assets (capital) together as well. The point is that each party entering into a cooperative bond gives permission to the other party to manage the assets of both without losing the right to do so from each party.
   b. According to Hanabi scholars,syirkah is a union / uniting rights or arrangement of assets.
   c. According to Shafi'iyah scholars, syirkah is the permanent ownership rights for two or more people who enter into a partnership to carry out a business activity so that there is no difference between the rights of the parties.
   d. According to Hanafiyah scholars, syirkah is a transaction involving two people who share in capital and profit. According to Wahbah az-Zuhaily, this is the definition of syirkah the most appropriate when compared with the notions put forward by others, because the notion mentioned by the Hanafiah scholars explains the nature of syirkah, that is, a transaction. As for the meanings put forward by others, all of them only provide explanations about syirkah from the point of view of goals and effects or consequences.

   Musyarakah is a cooperation contract between two or more parties for a particular business, with each cooperating party contributing funds/capital provided that profits are shared based on an agreement while risks (losses) are based on the portion of the contribution of funds/capital (www.ocbcnisp.com, 2021).

In working together to carry out a business activity, musyarakah has principles, namely (www.kajianpustaka.com, 2020):

a. Business activities or business activities that will be carried out together are projects that are feasible and not against Sharia.
b. Each party that cooperates in a business activity contributes funds musyarakah, while the provisions in the contribution of funds or capital are:
    1) Capital contributions can be in the form of liquid assets or can be in the form of cash and others.
    2) The capital contribution from each party that shares is no longer the property of individual individuals, but becomes a joint venture fund.

2. *Mudharabah*

The scholars put forward the definition of mudharabah or qiradh according to term syara', some of the meanings given by the scholars, among others, as follows below (Hidayat, 2016):

a. According to Hanafiyah scholars mudharabah or qiradh is a statement/expression about the contract syirkah (cooperation) in profit. Agreement syirkah (cooperation) in profit with the assets of the owner of capital and work of the manager of capital.
b. According to Maliki scholars mudharabah or qiradh is the owner of capital providing funds used as capital to carry out a business activity to the manager whose goal is to be benefited by both parties, while the two parties are the owner of capital and the manager of capital. While the profits generated from business activities are managed by the capital manager, the profits are shared according to a mutual agreement by both parties, either half, a third, a quarter, or the other according to the agreement, the profits are calculated and distributed after being separated from the capital.
c. According to Syafi'iyah scholars mudharabah or qiradh is a contract in which the owner of the capital represents the management of the funds by handing over his capital to another person to be managed and the profits will be shared in accordance with a mutual agreement. This profit sharing is carried out after the separation related to debts/spending expenses to others has been carried out.
d. According to Hanabi scholars mudharabah or qiradh is a joint venture of two people who agree, in which the capital comes from one party and the other party manages the work/business activities and the profits will be shared according to a mutual agreement. Submit a known amount of capital to the capital manager with profit sharing that has also been determined based on an agreement.

Explanation of the meaning of mudharabah or qiradh stated by the scholars as mentioned above, then mudharabah or qiradh can be understood as part of a type syirkah (cooperation) in business/business activities, in which one party is the owner of capital and the other party is the manager of capital or workers. Profits obtained from business activities carried out will be shared according to a mutually agreed percentage. Not only profits, if the business activities carried out suffer losses, but it will also be shared too, the owner of the capital loses property because the capital for the business he runs comes from him, it is fun for the manager to lose because he does not get any results even though he has worked hard as a manager or worker (Hidayat, 2016).

In general, the types of mudharabah are divided into two, namely, first, Mudharabah mutlaq is a cooperation agreement that gives full authority to the manager (mudharib) to manage business capital. Managers are not limited by place, type and purpose of business. second, Mudharabah muqayyadah is a cooperation agreement that stipulates the conditions that must be fulfilled by the capital manager (mudharib) and the owner of capital (shahibumaal), regarding the place of business, type and purpose of business (Sa'diyah, 2019).

The pillars and conditions for mudharabah financing are the provision of funds. Fund manager. Ijab and qabul statements stated by the parties indicate their will in the contract (contract). Capital, namely the amount of money and/or assets provided by the provision of capital to the mudharib. Profit, meaning a number of advantages that can be partially excess from capital (Subakti, 2019).

Meanwhile, if dissected, then understanding mudharabah can be detailed as follows (www.kajianpustaka.com, 2020):

1) *Mudharabah* is a partnership agreement between fund owners (shahibul mal) with business management (mudharib). The owner of capital acts as a provider of funds for all capital requirements in a business activity to be carried out by business managers in carrying out a joint business activity. Obtained profits from operations will be distributed based on a percentage (ratio) that has also been mutually agreed upon.
2) When a loss occurs in the business being managed, as long as the loss does not originate from the negligence of the business manager, the owner of the capital will bear it. However, if the loss is incurred and comes from the capital manager himself then he can be held accountable.
3) The owner of fixed capital has the right to be able to supervise the business being managed, but the owner of capital has no right to intervene in managing the business.

3.4 Sharia Venture Capital Company

Sharia venture capital is a financing strategy based on sharia principles that entails equity involvement in a company for a specific period. The use of venture capital is based on sharia contracts, and it also engages in activities that do not contravene sharia principles. (Soemitra, Bank Dan Lembaga Keuangan Syariah, 2018).

The influence of venture capital financing institutions on the development of small businesses can be seen from the application that occurs, for example, in traveling wholesalers, where many venture capital companies offer themselves to become business partners. injecting the funds needed by mobile wholesalers, and after the traveling wholesalers become large, they will receive profit sharing from all profits from a certain composition (Royan, 2006).

The definition of an Islamic Venture Capital Company in Financial Services Authority Regulation Number 35/POJK.05/2015 Concerning the Implementation of Venture Capital Company Business is a business entity that engages in Sharia Venture Capital. All commercial operations, venture fund management, and other business activities that have The Financial Services Authority's clearance are carried out in accordance with sharia law. However, the business activities of an Islamic Venture Capital Company may not contravene sharia principles. An Islamic Venture Capital Company's business activities are essentially comparable to those of a Conventional Venture Capital Company.

Quotes from Abdul Ghofur Anshori, that in other literature it is said that Venture Capital business is high-risk financing, this is because venture capital is not accompanied by collateral (collateral). The methods taken by venture capital companies in providing financing are:

a. Direct equity participation in a business partner company financed by a venture capital company (*Investee Company*).
b. Purchase of shares in a Business Partner Company financed by a venture capital company.
c. Convertible bonds (*convertible bonds*) have the option to exchange for ordinary shares of companies financed by venture capital firms (www.kajianpustaka.com, 2020).

Changes in the type of venture capital business can be seen from the beginning only in the form of share participation, share participation through the purchase of convertible bonds, and financing based on the distribution of business results, after the formation of POJK/35/2015 venture capital business in the form of financing based on the distribution of business results does not exist and there is productive business financing, plus there is financing through the purchase of debt securities which are more or less the same mechanism as venture capital businesses in the form of convertible bonds (Haspada, Abubakar, & Lubis, 2021).

In share participation, there are several types of shares that are allowed in Islamic venture capital, namely ordinary shares that can be accepted according to Sharia, while preference shares may not be used in Islamic venture capital companies, this is because preference shares are shares whose owners will have more rights than the owner's rights. common stock.

So far, the cooperation of Islamic venture capital companies in obtaining business capital has collaborated with Islamic financial institutions (Islamic banks, Islamic insurance, Islamic mutual funds) and other institutions that wish their funds to be used according to Islamic principles, in the form of ordinary shares, promissory note mudharabah muqayyadah in other Islamic financial institutions, Islamic bonds mudharabah, Medium Term Notes sharia mudharabah (Sulistyowati, 2022).

3.5 Application of Sharia Principles and Profit-Sharing Contracts in Venture Capital

Islam is a universal religion that regulates all aspects of human life, even in the economic field. An Islamic economic system that carries out all phenomena concerning choice behavior and decision making in each economic unit by including sharia rules as an independent variable (influences all economic decision making). (Komarudin and Rifqi Hiadayat 2017)

Venture capital business is intended to expand alternative sources of financing for the business world in addition to existing sources of financing, specifically aimed at micro, small and medium enterprises. Meanwhile, micro, small and medium enterprises as a supporter of the economy have the characteristic that it is difficult to find financing for business capital, on the other handventure capital company offer financing participation forBusiness Partner Company which in this case includes micro, small and medium enterprises (Angkasa, 2016).

The presence of Islamic venture capital does not merely accommodate the interests of Muslims, but also the interests of all people, especially micro, small and medium enterprises who prioritize factors of excellence and benefits by providing financial assistance to economic activities both small, medium and large as well as by prioritizing benefit to obtain better sustenance, which is halalan toyyiban, according to surah al-Baqarah (172) (Sulistyowati, 2022).

يَا أَيُّهَا الَّذِينَ آمَنُوا كُلُوا مِنْ طَيِّبَاتِ مَا رَزَقْنَاكُمْ وَاشْكُرُوا لِلَّهِ إِنْ كُنْتُمْ إِيَّاهُ تَعْبُدُونَ [٢:١٧٢]

translate: *O ye who believe! Eat of the good things that We have provided for you, and be grateful to Allah, if it is Him ye worship.* (QS. al-Baqarah [2]: 172)

According to Financial Services Authority Regulation Number 34/POJK.05/2015 Concerning Business Licensing and Institutional Venture Capital Companies, sharia venture capital business refers to financing a business through investment activities and or service services performed within a specific time frame in the context of developing a business partner business conducted in accordance with sharia principles.

The application of sharia principles to Venture Capital business activities does not yet have regulations that specifically regulate it. However, by looking at the characteristics of the forms of instruments that can be provided to Business Partner Companies, the application of sharia principles becomes very possible. That Venture Capital Company is permitted to provide additional capital to a Business Partner Company with a profit-sharing scheme shows that the traditional Islamic contract in the form of a profit-sharing contract has relevance to Venture Capital.

Profit sharing contract in the concept of fiqh which was later also introduced by the DSN-MUI Fatwa consists of Akad mudharabah and contract musyarakah. Lags mudharabah in the DSN-MUI Fatwa Number 07/DSN-MUI/IV/2000 concerning Funding Mudharabah is a financing contract channeled by an LKS to another party for a productive business. Mudharabah is a form of financing in which the funder shahibul mal) provides 100% financing to the business from the fund manager/entrepreneur (mudharib). Then the profit-sharing contract is in the form of musyarakah based on the DSN-MUI Fatwa Number 08/DSN-MUI/IV/2000 concerning Financing Musyarakah at its core is financing in which both parties both enter participation in a particular project (www.kajianpustaka.com, 2020).

In the financing scheme carried out by venture capital companies based on sharia contracts, namely (Sulistyowati, 2022):

a. *Musyarakah*

Musyarakah that is, pooling funds to set up a new business or contract a job for the purpose of making a profit. In the musyarakah These are all involved as owners of capital, it can be two or more parties and for example the owners of capital are venture capital companies, entrepreneurs/companies, as well as silent partners. Profits or losses of business or project contracts are shared or shared according to the portion of profit/loss sharing stipulated in the initial agreement.

In sharia financing musyarakah has a specific implementation in the form of shares. The principles of sharia shares are:

1) Characteristic musyarakah if the shares are offered in private.
2) Characteristic mudharabah if shares are offered publicly.
3) There should be no difference in the type of shares because the risk must be borne by all parties.
4) All profits will be shared and if there is a loss, losses will be shared after liquidation.
5) Investments in shares cannot be disbursed from the business or project concerned except in a state of bankruptcy or transferred through buying and selling investments (Kumalasari, 2016).

b. *Mudharabah*

Mudharabah For business or project financing, it can be aligned with bond/quasi financing instruments such as convertible bonds. The capital owner provides all the funds and will be managed by the manager until a certain period of time in which all funds used as capital are returned. The company is the fiduciary holder of the capital received from the capital owner (venture capital company) where the capital is used to make a profit.

Mudharabah is also often referred to as trust financing which is only given to entrepreneurs who have been tested and can be trusted to hold the mandate properly. If something else happens that is detrimental to both parties, and the loss is not caused by negligence or manager error, then the risk can be borne fairly. In sharia financing mudharabah has a specific implementation of the form quasi-equity, such as convertible bonds.

The basic principles of operation of sharia bonds are:

1) Characteristic mudharabah (but do not have to bear the loss).
2) Generally get a share of the income (revenue sharing).
3) It can be sold below par value if the company suffers a loss if an Islamic capital market mechanism is formed.
4) Changes in market value do not mean changes in the amount of debt.

Meanwhile, the basic principles of sharia bonds are:

1) Characteristic mudharabah.
2) Inclusion is not as long as the general company (only as long as the general project is specific).
3) All profits and losses will be shared contractually.
4) Participation value may decrease.
5) The commitment is the same as fixed capital participation (Kumalasari, 2016).

By looking at the characteristics of these two contracts, with reference to the DSN-MUI Fatwa it can be implemented into the business activities of a Venture Capital Company in order to provide financing to a Business Partner Company, namely:

a. If a Venture Capital Company obtains a financing application from a Business Partner Company as its partner, in which case the Business Partner Company concerned has a prospective business if it is developed. For example, the Business Partner Company's business is to develop its inventions in the field of patent-worthy technology, however, the Business Partner Company does not have capital. Facing conditions like this, the Venture Capital Company can provide financing by contract mudharabah, namely by providing 100% of the funding needs of the Business Partner Company.

b. If a Venture Capital Company obtains a Business Partner Company that already has an ongoing business, but still requires additional capital for business expansion purposes, the Venture Capital Company may provide financing to the Business Partner Company referred to as a financing scheme musyarakah (www.kajianpustaka.com, 2020).

4. CONCLUSION

Essence of sharia principles in the financing activities of Venture Capital Companies is integration, this can be seen from the characteristics of venture capital and referring to the existing DSN-MUI Fatwa, the profit sharing contract is:

a. DSN-MUI Fatwa Number 07/DSN-MUI/IV/2000 concerning FundingMudharabah applied if the Sharia Venture Capital Company obtains a financing application from a Business Partner Company as its partner, in which the Business Partner Company concerned has a prospective business if it is developed. For example, the Business Partner Company's business is to develop its inventions in the field of patent-worthy technology, however, the Business Partner Company does not have capital. So that the Venture Capital Company provides 100% capital to the Business Partner Company.

b. DSN-MUI Fatwa Number 08/DSN-MUI/IV/2000 concerning FundingMusyarakah applied if a Sharia Venture Capital Company obtains a Business Partner Company that already has an ongoing business, but still requires additional capital for business expansion purposes, the Venture Capital Company can provide financing to the Business Partner Company referred to as a financing scheme *musyarakah*.

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