FORWARD TRANSACTIONS IN ISLAMIC LAW PERSPECTIVE: AN ALTERNATIVE FINANCIAL TRANSACTION FOR SOCIETY

Fauzie Senoaji, Muhamad Nafik Hadi Ryandono

Post Graduate School of Airlangga University , Faculty of Economi and Business-Airlangga University, INDONESIA.

paujiks@gmail.com , muhammadnafik@feb.unair.ac.id

ABSTRACT

Forward is an agreement between two parties to buy or sell asset is no specific date and a specific price in the future. Assets can include forex, stocks, or foreign exchange. Meanwhile the Islamic law is used in the forms of Qiyas istimbath method, and study of the scholars and scientists fiqh, Islamic economics and conventional economics. Salam means the purchase of goods delivered at a later date, while the payment is made in advance. This research is classified as normative research. The study also called library research or literature research. This research includes as normative research on legal principles. In this study, the writer used analytical normative juridical approach. The type of approach used in this study is conceptual approach. In this study, the writer applied analysis of qualitative data as the method of data analysis. Results of this study show that forward transactions in currency containing interest rates and stock indices are not justified in Islam because it clearly involves an element of interest and high risk (gharar). There is also an opinion in Islamic perspective that states this type of contract significantly are not recommended under the law, but also clearly prohibited if it does not trade in commodities which are prohibited or not to use speculation and interest rates. The results show that salam transaction provides more benefits and welfare than forward transactions, in addition, in Islamic law, the force of law and halal transaction has been clear in Ijma 'ulama.

Keyword: Forward, Salam, Islamic Law, Qiyas, Fiqh

INTRODUCTION

Theory of Finance (Finance Theory) is the most widely discussed aspect of the financial economywhile instrument assessment is the most discussed topic in the financial economy. Actually, the financial economy is closely connected with various theories, particularly the theory of finance. However, one of the topics in the financial economy is the Forward, which is about the market and transactions, and also includes a forward price as well as the actions taken to benefit under the transaction (Manurung, adler haymans. Ekonomi finansial. www. perpustakaan.depkeu.go.id) Forward transactions are carried out by determining when the payment and delivery of foreign exchange conducted in the future. The currency exchange rate determined at the time the contract was made. Forward transactions use forward exchange which generally have a range of 1, 2, 3, 6, and 12 months. The time span indicates the due date forward transaction must be completed. Despite of maturity, certain forward contracts can provide the option of completing the transaction at the start (1 to 10), middle (11 to 20), or the end of the month (April 21 to the end of the month). These options cause forward contracts are more expensive than pure. Forward transactions between banks are

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generally made to limit the bank's risk for having a forward contract with a non-bank clients. For example, bank A 3-month forward contract entered into with his client, in which the three-month forward exchange rate is US $ 1 = Rp 2,300. A further bank will contact the bank B to do a 3-month forward transactions using forward exchange interbank three months. Through this contract A bank can limit the risks due to changes in currency exchange rates.

This study discusses one of financial economy topics, namely forward transaction. While the view of Islam that is used is the view according to Islamic law, namely view of scholars of Fiqh with istimbath method and Qiyas law. The views jurists used in this study, one of which is the view of the fiqh scholars Shaykh Sayyid Sabiq. Shaykh Sayyid Muhammad at- Sabiq Tihami, is a contemporary Egyptian cleric who has international reputation in the field of propaganda and Islamic jurisprudence, mainly through his work entitled Fiqh As-Sunnah. Jurisprudence Sunnah is widely used because it is considered already meet the needs of the Islamic schools of jurisprudence. The majority of the intellectual generation that has not committed to a particular school or fanatical enthusiasm for using it. The theories of jurisprudence in Fiqh As-Sunnah is used as reference for some issues of jurisprudence (fiqh priests-2-sheikh-Sayyid-sabiq.html). The juristic view of the explanation will be added as well to view the works of fiqh scholars of jurisprudence, and other 21st century Islamic scholar.

LITERATURE REVIEW

Prior to this research, there are few studies related to forward transactions and Salam that have been conducted by several researchers. Among them Mohd Zulkifli Muhammad and Rosita Chong. Their study aims to characterize and compare bay 'al-salam and istisna' in terms of their similarities and differences. In order to achieve the objective of their study, their first step is discussing the nature and conditions of bay'al salam and istisna'. Secondly, they focused their study on the comparison between the bay 'al-salam and istisna'. Their research was based on secondary data which compared bay 'al-salam and istisna'. The study found no clear differences and similarities between bay 'al-salam and istisna'. For example, in bay 'al-salam the buyer pays the transaction first and the goods will be delivered later. By contrast, sales istisna 'based on the specifications of which price and goods are delivered later. Al-salam contract is an exchange price for the object that deliverance is suspended, Object 'al-salam no contract and delivery session is suspended for a certain period in the future. In short, this study has provided an overview of the similarities and differences between bai 'al salam and istisna'.

In his research, Sai Obaid Al Zaabi explains that in general the most preferred financing instruments are musharakah murabaha and mudaraba. These instruments and contracts that govern them are quite well understood. However, the terms and conditions of the contract of salam, which is also used by Islamic banks seem to be less understood. This contract is marked with an advance payment of a specified price. In his research, Obaid presents in detail the principles, terms, and conditions of the contract regards as discussed by sects (Sunni). Obaid's study recorded both points of consensus and differences among scholars about contract theory and drawn some implications of the theory for the use of contract Salams in Islamic finance. A simple definition of Salam contract is that the customer agrees to purchase goods that will be delivered at a specific time in the future (Vogel and Hayes, 1998). As a general rule, the scholars agreed on the sale of something that is not owned - things that might not exist at the time of signing the contract of sale or its existence may be the cause of uatam uncertainty excessive (gharar) - for example, selling the birds in the air, or fish swim freely, or milk in goat or sheep's wool that has not been processed, etc. (al-Zuhayli, 1997). Salam contract is an exception to this general rule.

Dwi Iswina Yunanto explains investors, multinationals and governments need forecasting commodity prices in the future to take the decision to recognize hedging sales (hedging) of commodities as well as short-term investments. The process makes forecasting of indicators contained in the commodities market developed in a variety of approaches such as the approach to the expectation theory of forward, random walks and market-based forecasting. An approach for the expectation theory of forward mentions that forward prices are Unbiased Predictor against futures prices (Wesso, 1999), Random walk stating that the occurring spot prices describe the relevant information in determining the price of futures (Leuthold, 1972) approach to market based forecasting applied by 2 Unbiased efficiency approaches, and simple random walk hypothesis that using the spot price and the forward price as a predictor (Imad A. Moosa, 2004). The study also used a simple regression model to see the effect of the spot price and the forward price individually against the CPO price in the future. Multiple regression model is used to see the effect of the spot price and the forward price simultaneously to commodity futures prices of CPO. Variables used in this study are the spot price, forward prices and futures prices with a span of 3 months. The samples are transactions that occur on Bursa Malaysia Derivatives (MDEX) specifically for CPO during the years 2003 - 2008. Based on the sample period used, empirical evidence shows that the spot price and the forward price (composite) are the best predictors of future price CPO based on a market-based approach to forecasting. But the spot rate and the forward exchange rate individually still have a significant effect in predicting future prices.

Jenggi Ekawati explains the connection with international business transactions, the company confirmed in a foreign currency as a monetary instrummen in both payment and acceptance. Business transactions both sales and purchases, are generally made on credit, meaning a percentage of export sales and payment of import will occur in the future. Such transactions expressed in foreign currency will always fluctuate, the management is faced with the problem of transactions possible losses due to fluctuations in exchange rates, it is necessary that one of the hedging instrument is forward. Hedging forward contract is an agreement between both parties that exporters and importers in international transactions the payment of foreign currency denominated in a certain period in the future by using the forward price. Pricing forward in this study using the deposit rate.

And, I Gusti Ayu Kade Diana Yanthiand Luh Gede Sri Artini noted the importance of foreign exchange operations occurred as a result of the development of international trade and increasing international money and capital movements. Great development due to the international economic economic relations between the countries will be connected to each other which in turns increases the trading of goods, money and capital flow them. Variables used in this research are the spot, forward and future spot. Based on the results of the regression estimates applied in the hypothesis , the difference in foreign currencies performed simultaneously proved to be able to predict the future of the place. Investors and international economic players can use the spot rate and the forward rate as a short term predictor for the next trimester in 2011.

METHODOLOGY

In this study, the writer used literary research method in order to freely explore, in-depth description and understanding holistically. A qualitative approach was chosen for this study cold explained by theories or concepts.

ANALYSIS

A transaction consists of a conventional global derivatives principal reference number (underlying), commodities (commodity), equities (equity), and the index (index) others.

Based on the principle of reference, the existing instruments in derivatives are categorized into three parts, namely future, option and swap including interest rate swaps, currency swaps, cross currency swaps, credit default swaps (CDS), and others (Soemitra, 201: 142) Actually, the forward market in foreign currency only occurs at major banks and large financial institutions. In a forward contract, the bank agrees to sell foreign currency against other currencies in a certain price agreement, but shipping are both done in the future. The price itself is determined by supply and demand for each currency over a given period. The main objective of this transaction is that the banks have large amounts of surplus funds to be spared in anticipation of unexpected fluctuations in the future. Every bank wants to invest the balance of the surplus when the money is in a state of unproductive (Riva, 2002: 400). John C. Hull (2008: 5) said that:

> *A forward contract i s similiar to a futures contracts in that it is an agreement to buy or sell an asset at a Certain time in the future for A Certain price. But, whereas futures contracts are traded on exchanges, forward contracts trade in the over-the-counter market. Forward contracts on foreign exchange are very popular. Forward traders are trading for delivery at a future time.*

Also called a forward transaction or futures transaction is in principle a certain currency transactions with a number of other currencies with delivery in the future. Exchange rate is fixed at the time the contract is done, but the payment and the new submission made on when the contract matures. The forward transaction is often used for the purpose of hedging and speculation. Hedging result of exchange rate changes (amanitanovi.uny.ac.id.). The form of forward transactions is transaction in which the delivery is conducted in the future (forward). Usually done in a period of 30, 60, 90, 180, 360 days or other agreed period. Exchange rate risk on these transactions is higher for a longer time span. Therefore, more specific contract should be made for contracts with longer time span.

The rate at which forward transactions will be completed have been determined at the time the two sides agreed a contract to buy and sell. The time between the enactment of the contract and the actual currency exchange occurs can vary from two weeks to one year. Forward transaction typically occurs when an exporter, importer, or economic agents involved in the forex market have to pay or receive the amount of foreign currency at a certain date in the future (managament student society fe ui. Summary markets and financial institutions, valutas foreign).

The forward exchange rate is determined or calculated based on the spot rate prevailing when the transaction taking into account the interest rate differential between the two currencies are traded. Thus the forward exchange rate can be higher or lower than the spot rate. The forward exchange rate can be calculated by the following formula:

Forward exchange rate = (Spot exchange rate) + (r1 - r2) x (n / 360) x (Exchange Spot)

r1 = interest rate currencies 1, ie S

r2 = 2 interest rate currency, eg USD

n = days to n / 360, or n = month to n / 12

Example calculation of the exchange rate on forward transactions for the next three months:

Spot exchange rate USD / IDR 11900-12000the interest rate for 3-month maturity S= 14% per year.USD interest rate to maturity of 3 months = 4% per year.Forward exchange rate = 12000 + (14% - 4%) x (3/12) x 12,000= 12000 + 300= 12,300 or, Forward Exchange rate USD / IDR 12,300. From the results of calculations known that the forward exchange rate is higher than the prevailing spot rate. Transactions for taking the agreement forward contract forward exchange rate is higher than the spot rate is called the forward premium while wearing a contract agreement forward exchange rate is lower than the spot rate is called the forward discount.

Examples of forward transactions: A customer has just got a short-term loan, for a period of three months with a value of USD 1,000. Maturity repayment of the loan is three months ahead. The loan money will be used for the payment of the purchase of imported goods. Customers come to Bank X to do a three-month forward transactions. With a data quotation as follows:Spot exchange rate USD / IDR 11900-12000. Forward exchange rate USD / IDR 12198-12300. If the customer agrees with the quotation given by the Bank X, then the transaction can be carried forward and the period of validity of the transaction contract is three months. This means that delivery of the currency by the customer is done three months to come. Customers will buy the US dollar with a payment using Indonesian Rupiah on forward selling rate is: USD / IDR 12,300. This means that when the forward contract matures, three months later, the customer must submit the Indonesian Rupiah to Bank X as:USD 1000 x £ 12,300 / USD = £ 12.3 million, and at the same time the Bank X had to hand over the dollars USD in 1000 to customers. In this case, berapun spot rate for the USD / IDR at the time the forward contract matures, customers will only buy the US dollar at an exchange rate of USD / IDR 12,300. In this case the customer will be protected from losses due to exchange rate fluctuation.Various types of forward contracts on the market: Currency forward contracts are widely used by companies to manage foreign exchange risks. Typically, multinational companies that use them, because they operate in more than one country, thus exposed to foreign exchange risk. However, local companies also occasionally use them to hedge against foreign currency transactions. In currency forward contracts, then a party is obliged to buy or sell a specific currency at a certain exchange rate, a certain amount at a specified date in the future. This contract occurs over-the-counter and can be customized according to the needs (http://ardra.biz/ekonomi/valuta-asing/).

Equity forward contracts, then a party is required to purchase or sell an equity instrument or stock index at a certain time in the future. Type of contract could be a particular stock, or an index portfolio. Through equity forward, the value of transactions that will occur in the future has been set at this time, so as to overcome the risks that arise from changes in market value. Examples of these equity forward contract is a share buyback program that often occur in the capital market.In this program, the party promises to buy back shares in certain specified amount, at a certain price in the future. Plus, this anticipates increasing prices in the future, and provide certainty regarding cash flow. However, if prices decrease then for the contract parties may be forced to buy at the market price. Following are the various types of forward contracts on the market (http://blogsiffahartas.blogspot.co.id).

Commodity forward is a contract with the underlying asset of commodities such as oil, metals, corn, and others. These contracts allow a party to buy or sell a commodity at a specified price in the future. So, this contract anticipates price changes in the future. For manufacturers, this contract is helpful in reducing the risk if commodity prices strengthened in the future.Bond forward is similar to the equity forward, except that the bond has matured, so the forward contract must have expired before the due date. Bonds were common bond forward is used as T-bills issued by the US Treasury. In this contract, one party agrees to buy T-bills at a price that has been set at this time, in the future, prior to the maturity date of the T-bills.Interest Rate Forward contract is also called the Forward Rate Agreement (FRA) where its underlying form of interest payments in a particular currency. Thus, the FRA is an agreement to lend or borrow certain fixed rate.Interest rates are pegged to the FRA is set at 7%, with the principal contract for $ 5 million. What if: a) the interest rate rose to 8%? and b) the interest rate to drop back to 6.5%?a) if the interest rate rose to 8%, then the dealer must make a payment (8% -7%) x 180/360 x $ 5,000,000 = $ 25,000. Because LIBOR used is 180 days, then its present value is: $ 25,000 / (1 + 8% (180/360)) = $ 24.038 b) if the interest rate drops to 6.5%, then we must make a payment: (7% -6.5%) x 180/360 x $ 5,000,000 = $ 12.500. Because LIBOR is used 180 days, hence its present value is as follows: $ 12.500 / (1 + 6.5% * (180/360)) = $ 12.106

This study attempts to compare and prefigure forward transaction procedures with the view of Islamic law with regards transactions who had first got the ijma '(agreement) of the scholars since the time of Prophet Muhammad, and has been much discussed in the books of Islamic jurisprudence.As previously described forward transaction is a transaction currency futures with delivery on a specific date by using an agreed exchange rate on the transaction date. The purpose of the Forward Transaction is used to anticipate:

1. The need for debt payment in foreign currency
2. Anticipating fluctuations in foreign currency exchange rates
3. Export and Import Financing in foreign currencies.

One party agrees to purchase, the other party to sell, for a pre-agreed price. However, when going forward transactions, yet there is an exchange or payment. Payment and delivery of goods carried out in accordance with the schedule and the agreed rules. Forward prices differs from spot price or the price at the time of the asset changes hands {at that time (spot), usually two business days}. In Indonesia, the forward contract (forward contract) was made on the basis of the agreement of two parties to a transaction and can be done anywhere, while the futures contract has been set by default and can only be traded on a futures exchange. Forward contracts always ends with the delivery of physical goods, while the futures contracts can be covered in three ways, namely the delivery of goods or delivery in cash, taking the opposite position from the position it has now, and exchanges with physical transactions (exchange for physical). Then, the futures contract transactions carried out with the submission of a relatively small margin compared with the value of the contract and secured and settled by Clearing every day.

In addition, there are several types of forward transactions which are not permitted in Sharia and Islamic economic principles, namely Bond forward (bonds, debentures) and Interest Rate Forward contract which is also called the Forward Rate Agreement (FRA) where the underlying her in the form of interest payments in a particular currency.

In the Islamic Economic Law Compilation Part Two On Ba'i Salam mentioned (Compiler Team Supreme Court, 2008: 28-29)Article 100:

(1) Akad Bai 'Salam bound by their consent and granted as in regular sales.

(2) Agreement bai 'salam referred to in paragraph (1) shall be conducted in accordance with custom and decency

Article 101:

(1) Buying and selling Salams can be done on the condition that the quantity and quality of the goods is obvious.

(2) The quantity of goods can be measured by the dose or scales or metered

(3) The specification of goods that can be ordered to be known in full by the parties.

Article 102 Bai 'Salam should suit the requirement that the goods sold, time, and place of delivery is stated clearly.

Article 103 Payment of goods in bai 'salam can be done at a time and place agreed.Provisions are also included in the transaction regards DSN No. 50 / DSN-MUI / IV / 2000 are:

i. The provisions on payment:

a. Means to pay should note the number and shape, either in the form of money, goods, or benefits.

b. Payment must be made at the time the contract was agreed.

c. Payments should not be in the form of debt relief.

ii. The provision of goods

a. It should be clear characteristics and can be recognized as debt.

b. Must be explained specifications.

c. Submission made later.

d. Time and place of delivery of the goods to be set by the agreement.

e. Buyer may not sell goods before receiving it.

f. Not to be bartered goods, except with similar goods according to the agreement.

iii. The provisions on parallel Salam. Allowed to perform parallel with the requisite Salam:

a. The second covenant is separate from the first contract

b. Akad both performed after the first contract is valid.

iv. Delivery of goods before or at the time

a. The seller must deliver the goods on time with the quality and the amount agreed upon.

b. If the seller delivers the goods with higher quality, the seller is not allowed to ask for additional price.

c. If the seller delivers the goods with lower quality, and buyers are willing to accept it, then he should not be demanding a reduction in the price (discount).

d. The seller can deliver the goods more quickly than the time agreed with the terms: the quality and quantity of goods in accordance with the agreement, and it should not require an additional price.

e. If all or most of the goods are not available at the time of delivery, or of lower quality, and buyers are not willing to accept, then he has two choices: (1) Cancel the contract and demand the return of his money, (2) Wait until the goods are available.

v. Cancellation of Contracts

Basically cancellation Salam permissible, as long as no harm for both parties.

Along with the time, is now also known as the Forward Contracts Products Wa'd-i, namely foreign exchange is a unilateral contract that involves two parties: the first party to the second party promises to buy or sell currencies were completed on currency determined at the beginning of the exchange rate and the amount agreed today (Isra, 2015: 729).

CONCLUSION

Transactions in currency forwards, which involves interest rates and stock indices are not justified in Islam, because obviously involves the element of interest and high risk (gharar). However, according to of the positive law of Islam perspective (the postulates of jurisprudence which is used compilations of laws) own contract market in this type of transaction is not recommended, but also explicitly prohibited even if the terms do not trade commodities that are prohibited or not use speculation and interest rates.

The results of this study indicate that salam transaction provides more benefits, security and certainty than forward transactions, namely: it assures that the buyer acquires goods with certain characteristics in certain quantity and quality as stated on the agreement made at the beginning of transaction. For sellers obtaining capital funding to carry out production activities and also can meet most of their needs. In addition, in Islamic law, the force of law and halal transaction was clear according to the consensus of scholars since the time of Prophet Muhammad.

RECOMMENDATION

1. Business activities that use Forward transaction should also open up opportunities for the implementation of the Salam on his business activitiesto cover the deficiencies contained in the Forward Transaction.
2. The Government of Indonesia should strengthen the legal basis of purchase Salam, to facilitate the implementation of the Salam in business activities to people and give legal protection to sellers and buyers who do business using this Salam Akad.

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