AN NUQUD
Journal of Islamic Economics
P-ISSN 2828-4305 E-ISSN 2828-4283
Vol. 03 No. 02 Januari 2025 An Nuqud Journal of Islamic Economics

# RISK MANAGEMENT IN ISLAMIC FINANCIAL INSTITUTIONS: AN ISLAMIC LEGAL APPROACH TO THE PRACTICE OF GHARAR AND MAISIR

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**ABSTRACT**

Sharia financial institutions (SFIs) face various risks that must be managed carefully and in accordance with sharia principles. Among the main challenges is avoiding the practices of gharar (uncertainty) and maisir (speculation/gambling), both of which are prohibited in Islam. This article aims to analyse the Islamic legal approach to risk management in Islamic financial institutions, with a focus on identifying, mitigating, and preventing gharar and maisir. A qualitative-descriptive approach was used in this study, involving an analysis of Islamic legal literature, fatwas from the DSN-MUI, and the practices of Islamic financial institutions in Indonesia. The findings indicate that the principles of contract clarity, risk-sharing, and Shariah supervision are important instruments for ethical and sustainable Shariah risk management.

**Keywords**: *risk management, Islamic financial institutions, gharar, maisir, Islamic law*

## INTRODUCTION

The development of Islamic financial institutions (IFIs) in Indonesia and internationally has shown a very positive trend in the last two decades. LKS is present as an alternative solution to the conventional financial system which has been considered full of usury practices (interest), uncertainty (gharar), and excessive speculation (maisir) which can harm various parties. The existence of LKS brings a new colour to the financial system with an approach that is more ethical, stable, and based on moral values and social justice. (ADMI, 2025)

The Islamic financial system is based on Islamic sharia principles that emphasise honesty, transparency, responsibility, and fairness in every economic transaction. These values are reflected in the implementation of sharia contracts such as mudharabah, musyarakah, murabahah, ijarah, and others, which illustrate a business contract system that is not only legally valid but also shar'i moral. LKS also rejects the practices of economic exploitation and encourages the concept of profit sharing, instead of fixed interest that harms certain parties. (Aziz, 2021)

However, along with rapid expansion, LKS also faces a number of major challenges, especially in the aspect of risk management. Financing and investment activities carried out by LKS are inseparable from potential risks such as credit risk (default by customers), market risk (fluctuations in asset values), liquidity risk (inability to meet short-term obligations), as well as legal and reputational risks. Uniquely, in the context of Shariah, risk also includes a religious dimension, namely potential violations of Islamic principles, including gharar and maisir. (ut et al., 2023)

Gharar refers to any form of uncertainty or ambiguity in a contract that may cause loss to one of the parties. Common examples of gharar in financial practices are transactions with objects that are unclear, unavailable at the time of the contract, or of unknown quality and quantity. In contrast, maisir or gambling refers to highly speculative activities, where profit or loss depends solely on fate or luck. In the conventional financial system, forms of maisir can be found in derivative instruments, speculative options, and short-selling practices that are not in line with Islamic financial principles (Riyansyah & Ansori, 2024) .

In the framework of Islamic law, the practice of gharar and maisir is expressly prohibited, as mentioned in the Qur'an surah Al-Baqarah verse 219 and Al-Ma'idah verse 90.

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْٓا اِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْاَنْصَابُ وَالْاَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطٰنِ فَاجْتَنِبُوْهُ لَعَلَّكُمْ تُفْلِحُوْنَ

"*Believers, verily, intoxicants, gambling, (sacrificing to) idols, and casting lots with arrows are abominable (and) among the deeds of the devil. So, avoid them so that you may be fortunate*."

This prohibition aims to protect the parties from injustice and prevent the emergence of manipulative or harmful business practices. Therefore, risk management in LKS not only emphasises the control of financial losses, but also ensures that all transactions are carried out in accordance with the guidance of Sharia (Gani, 2022).

Islamic risk management requires a holistic and comprehensive approach, not only in terms of managerial techniques, but also based on Islamic normative and ethical values. In practice, LKS is required to be able to identify every potential risk, analyse the level of impact, formulate mitigation strategies, and conduct regular monitoring of the effectiveness of risk control. Furthermore, Islamic financial institutions must be able to maintain sharia integrity (shariah compliance) as a form of spiritual and social responsibility.

The success of LKS in managing sharia risk will not only maintain the sustainability of the institution, but also strengthen public trust, increase Islamic financial literacy, and expand the reach of the sharia-compliant inclusive financial sector. Therefore, the development of risk management strategies that are in accordance with the principles of fiqh muamalah is a necessity that cannot be delayed. (Ginayah et al., 2025)

Against this background, this article aims to examine in depth how the principles of Islamic law can be the basis for LKS risk management, especially in terms of preventing and handling gharar and maisir practices. This study is expected to provide a scientific contribution to the development of a sharia risk management model that is not only managerially effective, but also in line with maqashid al-syariah (sharia objectives), namely protecting religion, soul, mind, offspring, and property.

## METHODS

This research uses a descriptive qualitative approach, which aims to provide an in-depth description of the principles of Islamic law in risk management in Islamic financial institutions (LKS), especially related to the prohibition of the practice of gharar and maisir. The method used is library research, namely by examining various sources of relevant scientific literature, such as books on muamalah fiqh, academic journals, books on Islamic finance, and official documents from authoritative institutions such as the National Sharia Council-Majelis Ulama Indonesia (DSN-MUI), the Financial Services Authority (OJK), and Bank Indonesia. The data collected focuses on the theoretical and normative concepts in Islam regarding risk management and its implementation in LKS operations.

Furthermore, the data were analysed using a normative and juridical approach, which examines the content and meaning of Islamic legal norms relating to financial transactions and risk management, and relates them to the policies and practices applicable in the Islamic finance industry. This approach allows the researcher to understand how sharia principles, such as fairness, transparency, and the prohibition of uncertainty, are translated into concrete regulations and managerial practices in LKS. Thus, this research is expected to contribute to a more complete understanding of the application of Islamic legal principles in risk management that is not only legally valid, but also ethical and benefit-oriented. (Shohih & Setyowati, 2021)

## RESULTS AND DISCUSSION

### Sharia Risk Identification

Risk identification is a crucial first step in the risk management process in Islamic financial institutions (LKS). Unlike conventional financial institutions that focus on market, credit, and operational risks from a financial point of view, LKS must also consider the sharia dimension. In this context, risk is not only understood as a potential economic loss, but also a violation of the principles of Islamic law. Therefore, risk identification in an Islamic financial institution includes recognising all forms of Shariah non-conformity, particularly those related to gharar (uncertainty) and maisir (gambling/speculation), both of which are expressly prohibited in the Qur'an and Hadith. (Maulidizen et al., 2025)

Gharar in Islamic finance practice refers to the element of uncertainty or ambiguity in a contract, both in terms of object, price, time of implementation, as well as the rights and obligations of the parties. For example, in a conventional insurance contract, participants do not know exactly how much benefit they will receive, when claims can be submitted, and how the insurance company manages the funds. This creates uncertainty that is detrimental and contrary to the principles of justice in Islam. Similarly, derivative products such as futures and options are only speculative, because they are not accompanied by real ownership of goods.

Maisir, on the other hand, is a form of excessive speculation that results in profits or losses based solely on the element of luck. In the context of the capital market, this can be seen in the practice of buying and selling shares that are not based on fundamental analysis and only rely on short-term price fluctuations. Such transactions contain elements of gambling that are high risk and have no productive value. LKS must avoid involvement in financial activities that resemble maisir because it is contrary to the objectives of sharia which encourage real and productive economic activities. (Maulidizen, 2024)

To maintain sharia compliance, LKS needs to have a risk identification system that is able to recognise early any financial products or activities that contain potential violations. It is important for LKS to distinguish between business risks that are reasonable and tolerable in Islam and risks that stem from uncertainty or speculation. Business risks such as losses due to falling prices of goods or business failure are part of sunnatullah that can be managed through sharia mechanisms, such as profit sharing. However, risks from unclear contracts or price speculation must be eliminated because they can undermine fairness in transactions.

The sharia risk identification system can be built through various approaches. One of them is by analysing the contract documents to ensure that all elements in the transaction comply with sharia standards. Each contract must clearly state the object of the transaction, the price, the time of delivery, and the rights and obligations of the parties. If there is any ambiguity or clauses that open room for speculation, then the contract must be reviewed or revised. This process can be strengthened by simulating the contract implementation scenario to predict potential violations or deviations. (Ramly, 2019)

In addition to document analysis, testing new products before marketing is also important. LKS can use the shariah screening method of financial product innovation, both in terms of structure and potential risks. Products that contain high uncertainty or do not have a real asset base should be rejected. This step can involve input from various parties, including the Sharia Supervisory Board (DPS), academics, and Islamic law practitioners to ensure the quality of products offered to customers.

In order to strengthen the risk identification system, LKS are also advised to establish an internal shariah compliance unit that works closely with the risk management department. This unit is tasked with conducting regular reviews of the institution's financial activities, providing recommendations for improvements, and educating employees on sharia principles. Collaboration between the risk team and the sharia compliance team is essential to integrate the principles of muamalah fiqh into the institution's standard operating procedures. (Madyasari, 2022)

One of the challenges that often arises in the sharia risk identification process is the lack of human resources who understand both financial aspects and Islamic law in depth. Therefore, capacity building and continuous training for LKS employees are strategic steps. Islamic financial institutions need to encourage scientific development through sharia certification, professional training, and cooperation with higher education institutions and fatwa institutions to produce qualified experts.

With a good sharia risk identification system, LKS will be able to avoid violations of Islamic law, maintain institutional integrity, and increase public trust. Risks managed with a sharia approach not only prevent financial losses, but also ensure blessings in the institution's operations. In the long run, this will contribute to the stability of the national Islamic financial system and support the achievement of the big goals of maqashid al-syariah, namely justice, sustainability, and the welfare of the people. (Hisyam & Nisa, 2024)

**Risk Mitigation through Sharia Agreements**

Risk mitigation in Islamic financial institutions (LKS) is a strategic process carried out to minimise the possibility of loss, both in terms of economics and violations of sharia principles. One of the main approaches in risk mitigation is to use contract instruments that are in accordance with Islamic law. These contracts are not only designed to support business and financing activities, but also to keep every transaction free from elements of gharar (uncertainty), maisir (gambling), and riba (interest), which are explicitly prohibited in Islam.

One of the contracts widely used in Islamic financing is the mudharabah contract, which is a cooperation contract between the owner of capital (shahibul maal) and the business manager (mudharib). In this contract, business risks are shared proportionally according to the roles of each party. If there is a business loss that is not due to the negligence of the manager, the loss is borne entirely by the owner of the capital, while the manager does not get profit sharing. However, if the business generates profits, the profits are shared according to the agreed ratio. With this principle, the mudharabah contract reflects justice and encourages productive collaboration that avoids the element of maisir. (Fitriani & Nisa, 2024)

In addition to mudharabah, musyarakah contracts are also the main choice in sharia risk mitigation. Musyarakah is a form of cooperation between two or more parties who each contribute capital to a business activity. Profits and losses are shared proportionally based on capital contributions. The advantage of this contract lies in the principle of justice and shared responsibility. Risks in business are not borne by only one party, but are shared collectively. This is in line with sharia principles that emphasise fairness and mutual burden-bearing in muamalah.

Then, murabahah contracts are also very popular in Islamic financing, especially for the purchase of consumer goods or business capital. In this contract, the LKS buys the goods needed by the customer, then sells them back to the customer at a predetermined price (base price plus profit margin). All components of the transaction, such as the price of goods, profit margin, and payment period are explained in detail at the beginning. The clarity of information in the murabahah contract serves to avoid gharar, ensure transparency, and provide legal protection to both parties. (Deviyanti, n.d.)

In addition, ijarah contracts are used to mitigate risks in rental transactions. In this contract, LKS leases assets to customers for a certain period of time with rental payments (ujrah). Ownership of the asset remains with the LKS, while the user only has the right to the benefits of using the asset. The risk of physical damage to the asset, unless caused by the negligence of the user, remains the responsibility of the LKS. With this structure, the distribution risk in the ijarah contract becomes clearer and measurable, and avoids uncertainty in asset management.

In practice, the use of these contracts is not only a business contract, but also a form of legal and sharia protection against various potential risks. Before a contract is approved, LKS must ensure that the contract structure is in accordance with the fatwa of the National Sharia Council (DSN-MUI) and does not contain hidden elements that have the potential for gharar or maisir. This procedure is an integral part of the risk mitigation process, as contracts with sharia defects can cause losses both economically and to the institution's reputation.

In addition to the structure of the contract, it is also important for the LKS to include a mechanism for monitoring and periodic renewal of the contract. In the long run, changes in market conditions, regulations and customer preferences can affect the validity and effectiveness of the agreed contract. Therefore, contract renewal or renegotiation of the terms of the agreement becomes part of a dynamic risk mitigation strategy. This shows that Islamic risk management is not static, but adaptive to changes (Mustofa, 2024) .

Risk mitigation through sharia contracts also contributes to the achievement of maqashid al-syariah, namely preserving wealth (hifzh al-mal), maintaining justice (al-'adl), and avoiding injustice in muamalah. With a fair and transparent contract structure, LKS is able to form a harmonious relationship between institutions and customers. This not only strengthens the financial stability of the institution, but also builds public confidence in the Islamic financial system in general.

Thus, the proper and consistent application of sharia contracts in accordance with the provisions of muamalah fiqh is an important foundation in the LKS risk mitigation system. Not only is it able to maintain business continuity, this approach also ensures that all transactions carried out remain within the sharia corridor. This shows that risk mitigation in Islamic finance is not only a technical instrument, but also a manifestation of ethical and spiritual commitment in carrying out economic mandates (Emilia, 2024) .

**The role of the Sharia Supervisory Board (DPS)**

The Sharia Supervisory Board (DPS) is a very vital structural and functional component in the operation of Islamic financial institutions (LKS). DPS has the main role in ensuring that every aspect of LKS activities - from product design, contract implementation, to business strategy - runs in accordance with the principles of Islamic law. This role becomes very important because the existence of DPS is not only a symbol of the formality of sharia compliance, but as a guarantor of the authenticity and integrity of sharia in all activities of the institution. (Rosyidi et al., 2023).

As an independent supervisor, DPS is authorised to issue fatwas, provide advice, and evaluate the products and policies implemented by the LKS. DPS also acts as a strategic partner for LKS management in ensuring that product innovation remains within the maqashid al-syariah frame. This includes assessing the potential for practices that lead to gharar (uncertainty), maisir (gambling), or riba (interest). Therefore, DPS decisions and recommendations have direct implications for the legitimacy of the institution's operations.

In practice, every new financial product to be launched by LKS must first obtain approval from DPS. This process involves an in-depth review of the contract structure, sharia risks, and compliance with the applicable fatwa provisions. The DPS will assess whether the product can promote fairness, transparency, and avoid economic exploitation. This evaluation is the foundation in ensuring that the products are not only economically viable, but also halal and spiritually blessed.

Not only providing fatwas and recommendations, DPS also performs periodic sharia audits to assess the conformity between the institution's actual practices and the established sharia principles. This audit includes an evaluation of the implementation of the contract, the management of customer funds, and the validity of transaction documentation. If a violation of sharia provisions is found in the audit, DPS is authorised to issue corrective recommendations and even request the discontinuation or withdrawal of a product from the market. This shows that the role of DPS is very strategic in maintaining public trust and the reputation of LKS. (Ramadhani et al., 2025)

However, the effectiveness of DPS is strongly influenced by the quality and competence of its members. DPS members ideally come from among scholars or Islamic law experts who also have a deep understanding of the modern financial system. They should be able to bridge the gap between sharia values and the evolving market dynamics. Therefore, the selection of DPS members should not only consider religious background, but also analytical skills, adaptability, and multidisciplinary understanding.

The increasingly complex context of globalisation and financial innovation requires DPS to continuously update its knowledge and insights. The development of instruments such as Islamic fintech, blockchain, or green sukuk requires a quick and appropriate response from the sharia side. For this reason, strengthening the capacity of DPS members is a strategic step. LKS, professional associations, and regulators should provide regular training, certification programmes, and discussion forums that bring together scholars, academics, regulators, and industry practitioners.

In addition, collaboration between DPS at the institutional level and the National Sharia Council (DSN-MUI) is also very important. DSN-MUI acts as the highest fatwa authority in the Islamic financial system in Indonesia, and DPS must refer to the fatwas of DSN-MUI in carrying out its duties. The synergy between the two ensures the unity of fatwa, minimises overlapping interpretations of sharia, and maintains consistency between national policy and implementation in the field. (Djamil, 2023)

By strengthening the function, capacity, and independence of DPS, the sharia supervisory system in Islamic financial institutions will be more resilient. DPS is not only a sharia filter for financial products and activities, but also acts as a guardian of moral and spiritual integrity in the Islamic financial system. The existence of a strong and professional DPS will encourage the creation of an Islamic financial industry that is not only economically competitive, but also sustainable, ethical, and oriented towards the benefit of the people.

**Implementation Challenges**

The implementation of sharia-based risk management in Islamic financial institutions (LKS) is not an easy thing. In the midst of efforts to grow a strong and reliable Islamic finance industry, there are still various challenges that are both structural and cultural in nature. These challenges not only hamper the effectiveness of risk management, but also have the potential to erode the integrity of sharia if not addressed systematically. Therefore, it is urgent to identify and address these obstacles in order to maintain the sustainability of the Islamic financial system as a whole. (Febriyani et al., n.d.)

One of the most fundamental challenges is the limited understanding of human resources (HR) of the principles of Islamic risk management. Many human resources working in LKS come from conventional financial backgrounds, so they are accustomed to a risk paradigm that is only oriented towards financial losses, without considering aspects of compliance with sharia values. The lack of understanding of fiqh muamalah and maqashid al-syariah can lead to irregularities in the implementation of transactions that are ostensibly "sharia", but in practice still contain elements of gharar or maisir. (Ufaira, 2025)

In addition to limited human resources, Islamic financial product innovation is also a serious challenge. Many products developed by LKS are still derivatives or imitations of conventional products, with terminology modifications to make them look sharia-compliant. In fact, the substantial transformation needed to ensure compliance with sharia principles is often ignored. As a result, hidden sharia risks emerge that are not detected from the product design stage. This phenomenon is known as form over substance, which is more concerned with the formal form of sharia than its substance.

Competitive pressure from conventional financial institutions also complicates efforts to implement sharia risk management consistently. LKS is required to be able to compete in terms of operational efficiency, profit margins, and service speed. Under these competitive pressures, there is a temptation to "compromise" sharia principles in pursuit of short-term profitability. If not anticipated with a strong internal control system, LKS can be trapped in business practices that violate sharia values. (Triani & Fauziyyah, 2025)

On the other hand, weak regulatory infrastructure and support from financial authorities are also obstacles that cannot be ignored. Although OJK and BI have issued a number of policies to support the Islamic finance industry, there is still a gap between regulations on paper and implementation in the field. Many LKSs find it difficult to implement policies due to the absence of clear technical guidelines or the unavailability of adequate support systems. In addition, the supervision of Islamic risks has not been fully integrated into the risk-based supervision system by the regulator. (Ramadiyah, 2014)

The lack of Islamic financial literacy among the public also worsens the situation. People who do not understand the concept of Islamic finance thoroughly will find it difficult to distinguish between products that are truly sharia-compliant and those that only use the "sharia" label as a marketing strategy. This leads to low demand for genuine sharia products, and ultimately puts pressure on LKS to continue competing with more widely recognised conventional products.

To overcome these challenges, a collaborative and multidisciplinary approach is needed. The government, regulators, academics, industry players, and the public need to join hands in building a healthy Islamic financial ecosystem. Continuous education and training on Islamic risk management must be organised systematically, both for the internal human resources of LKS and for other stakeholders. Competency certification and curriculum development relevant to industry needs are important steps in creating superior human resources. (Widiyawati et al., 2025)

In addition, research and development (R&D) of Islamic financial products must be strengthened so that LKS is able to produce innovative products that are not only competitive, but also truly in accordance with maqashid sharia. This approach emphasises that every innovation must support the protection of wealth, social justice, and the benefit of the people. The synergy between research institutions, universities, and industry players is very important to encourage the transformation from copy-paste model to value-based innovation.

By strengthening internal capacity and external ecosystems, the implementation of sharia-based risk management in LKS will be more effective and reliable. LKS will not only be able to manage risks professionally, but will also be a pioneer in creating a financial system that is fair, sustainable, and in favour of community welfare. This success will ultimately strengthen the position of LKS as the main pillar in the development of the national Islamic economy. (Bashori, 2008)

## CONCLUSION

Risk management in LKS cannot be separated from the principles of Islamic law. The prohibition of gharar and maisir is a fundamental foothold in shaping a fair and transparent financial system. For this reason, LKS must strengthen the sharia supervision system, increase human resource capacity, and develop products that are in accordance with maqashid sharia. In addition, it is necessary to increase the role of academics and regulators in providing guidance and supervision of LKS practices to remain consistent with sharia principles.

With a comprehensive approach between sharia principles and modern risk management strategies, LKS are expected to grow sustainably and make a real contribution to an inclusive and ethical financial system. Strengthening regulations, educating the public, and developing innovative sharia-based products are important steps in building a healthy and reliable Islamic financial ecosystem.

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