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THE DIALECTIC OF USURY AND LIQUIDITY NEEDS: AN ISLAMIC LEGAL REVIEW OF SHARIA BANK FUND PLACEMENTS IN CONVENTIONAL BANKS IN INDONESIA

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Abstract

Purpose - This study departs from the normative problem of placing Islamic bank funds in conventional banks, which continues amid limited Islamic liquidity instruments, causing tension between the *qaṭ'ī* prohibition of usury and the need for systemic liquidity in the dual banking system. This study aims to determine the extent to which the placement of Islamic bank funds in conventional banks is permissible under Islamic law and the limits of permissibility that can be maintained without reducing the principle of non-usury (*ribā*).

Method - This study uses a normative qualitative method based on fiqh and uṣūl al-fiqh analysis oriented towards *maqāṣid al-sharī'ah*, with analysis techniques in the form of content analysis and comparative legal analysis of the views of contemporary scholars, DSN-MUI fatwas, and Indonesian and Financial Services Authority regulations.

Finding - The permissibility of fund placement can only be positioned as a temporary *rukhsah* based on *ḥājah* that is close to systemic emergency, with operational indicators in the form of the absence of adequate sharia liquidity instruments, time and nominal restrictions in proportion, non-interest schemes, and strict and continuous sharia supervision. The legitimacy of this permissibility is casuistic and contextual and cannot be normalized as a permanent practice in Shariah banking liquidity management. This study affirms a moderate-critical normative approach that acknowledges the regulatory reality in the dual banking system while still placing the non-usury principle and the principle of Sharia prudence as the main ethical-juridical boundaries in preventing the shift of Sharia principles in contemporary financial practices.

Contribution - This research contributes to the conceptual reformulation of temporary *rukhsah* as an operational legal category in contemporary *fiqh al-mu'āmalah* and the strengthening of sharia liquidity instruments.

Limitations - The limitations of this research lie in its predominantly normative-conceptual basis of analysis, which is not yet supported by comparative empirical data across Islamic banking institutions.

Keywords: *Ḍarūrah Shar'iyyah*, DSN-MUI Fatwa, Sharia Banking, Temporary *Rukhsah, Dual Banking*

ABSTRAK

Tujuan *- Penelitian ini berangkat dari problematika normatif penempatan dana bank syariah pada bank konvensional yang terus berlangsung di tengah keterbatasan instrumen likuiditas syariah, sehingga menimbulkan ketegangan antara larangan ribā yang bersifat qaṭ'ī dan kebutuhan likuiditas sistemik dalam dual banking system. Penelitian ini bertujuan mengetahui sejauhmana penempatan dana bank syariah pada bank konvensional hukum Islam dan batasan kebolehan yang dapat dipertahankan tanpa mereduksi prinsip anti-ribā.*

Metode *- Penelitian ini menggunakan metode kualitatif normatif bertumpu pada analisis fikih dan uṣūl al-fiqh berorientasi maqāṣid al-sharī'ah, dengan teknik analisis berupa content analysis dan comparative legal analysis terhadap pandangan ulama kontemporer, fatwa DSN-MUI, serta regulasi Bank Indonesia dan Otoritas Jasa Keuangan.*

Finding *- Bahwa kebolehan penempatan dana hanya dapat diposisikan sebagai rukhsah sementara berbasis ḥājah yang mendekati darurat sistemik, dengan indikator operasional berupa ketiadaan instrumen likuiditas syariah yang memadai, pembatasan waktu, dan nominal secara proporsional, skema non-bunga, serta pengawasan syariah yang ketat dan berkelanjutan. Legitimasi kebolehan tersebut bersifat kasuistik, kontekstual, dan tidak dapat dinormalkan sebagai praktik permanen dalam tata kelola likuiditas perbankan syariah. Penelitian ini menegaskan pendekatan normatif moderat-kritis yang mengakui realitas regulatif dalam sistem dual banking, namun tetap menempatkan prinsip anti-ribā dan asas kehati-hatian syariah sebagai batas etik-yuridis utama dalam mencegah pergeseran prinsip syariah dalam praktik keuangan kontemporer.*

Kontribusi *- Penelitian berkontribusi terhadap reformulasi konseptual rukhsah sementara sebagai kategori hukum operasional dalam fiqh mu'āmalah kontemporer dan penguatan instrumen likuiditas syariah.*

Keterbatasan - *Keterbatasan penelitian terletak pada basis analisis yang dominan normatif-konseptual dan belum didukung oleh data empiris komparatif lintas lembaga perbankan syariah.*

Kata Kunci: *Ḍarūrah Shar'iyyah, Fatwa DSN-MUI, Perbankan Syariah, Rukhsah Sementara, Perbankan Ganda.*

INTRODUCTION

In the global research map of Islamic finance, the consistency between normative Sharia principles and modern institutional practices remains a central issue that continues to be debated. Conceptually, the Islamic financial system is built on the prohibition of usury and the ideal of separation from the usurious system as an ethical-legal foundation that distinguishes it from conventional systems (Nafisa, 2025). However, in institutional practice, Islamic banks in various jurisdictions with dual banking schemes still face limitations in terms of liquidity instruments that are fully compatible with Sharia principles (Masdiana, 2025). Reports from the Islamic Financial Services Board (IFSB) and various recent studies show that institutional interaction between Islamic and conventional banks, particularly in short-term liquidity management, continues in countries such as Malaysia, the United Arab Emirates, and Pakistan, mainly as a pragmatic response to systemic stability needs and the limitations of an Islamic money market that is not yet fully developed (IFSB, 2022; Samsudin et al., 2024).

These global conditions provide an important analytical framework for understanding similar dynamics at the national level (Chandraningtyas, 2025).

In the Indonesian context, the significant growth of Islamic banking, marked by an increase in assets and market share, has not been fully accompanied by the availability of adequate and liquid Islamic liquidity instruments (Nafi'an, 2025). The limited depth of the domestic Islamic money market has caused Islamic banks to continue operating in a financial ecosystem that is structurally integrated with the conventional system, making liquidity management choices adaptive (Wati & Fasa, 2024). In practice, some Islamic banks place funds in conventional banks, particularly in the form of non-interest-bearing current accounts, to meet their Minimum Reserve Requirements (GWM) and maintain short-term liquidity stability within the framework of national banking regulations (Pusvisasari et al., 2023).

Data from the Indonesian Financial Services Authority (OJK) in 2023 show that approximately 35% of Islamic banks in Indonesia still have operational relationships in the form of short-term fund placements in conventional banks, indicating that this practice is not an incidental anomaly but rather a structural phenomenon that reflects the limitations of the Islamic liquidity infrastructure (Putri, 2024). This figure shows a pragmatic functional dependence on the conventional banking system in terms of liquidity management, while also indicating that operational integration in the dual banking system is still difficult to avoid. This also reflects the gap between the normative ideal of separation from usury practices and the regulatory and financial market realities that demand efficiency and stability, so that the practice of placing funds needs to be understood not merely as a preferential choice, but as a liquidity risk mitigation strategy within the broader framework of banking governance.

Normatively, this practice raises a complex legal issue: whether the operational involvement of Islamic banks in the interest-based banking ecosystem can be considered Shariah-compliant simply because there is no explicit acceptance of interest. This question places the practice of fund placement not merely as a technical liquidity issue but as a matter of normative legitimacy within the framework of contemporary Islamic law. On the one hand, the prohibition of *ribā* is fundamental and forms the epistemological foundation of Islamic finance; on the other hand, institutional liquidity needs are pragmatic and cannot be ignored in an integrated, modern banking system. This conceptual tension between normative principles and operational demands forms the locus of this research problem. Therefore, the central legal question raised is how Islamic legal thinking positions the practice of Islamic banks placing funds in conventional banks in the context of Indonesia's dual-banking financial system structure.

Recent research on the placement of Islamic bank funds in conventional banks shows a tendency toward a partial approach, either overly normative-apologetic or predominantly technocratic. Sobana (2020) and Afifah ZA (2020), for example, tend to place the legitimacy of this practice on the construction of emergency and *maṣlaḥah*, but their analysis has not conceptually distinguished between emergency (*ḍarūrah*) and *ḥājah*, thus potentially opening up space for the expansion of dispensative justification without clear operational boundaries. Usman (2022) linked this practice to the national legal framework, but the normative relationship between DSN-MUI fatwas and state regulations has not been elaborated as a dialogical or hierarchical legal authority relationship. Meanwhile, Pusvisasari et al. (2023) and Wati & Fasa (2024) made important contributions to the aspects of liquidity management and banking stability through an empirical approach, but they tend to place Sharia issues as secondary variables that are not tested in depth within the *uṣūl al-fiqh* framework. The research by Putri (2024) and Samsudin et al. (2024) enriches the international comparative perspective, but their analysis still departs from the assumption of policy inevitability, making it less critical in assessing the limits of sharia legitimacy. On the other hand, Syaifulloh (2024) has highlighted the interaction between fatwas and regulations but has not positioned fatwas as living laws or quasi-legal norms in the construction of contemporary Islamic legal theory. Meanwhile, Qalbi (2025) criticizes the Sharia identity at the level of public discourse without constructing a systematic normative evaluative framework.

Thus, this gap lies not only in the lack of research but also in the absence of a methodological synthesis capable of examining the practice of fund placement simultaneously within the strict framework of *uṣūl al-fiqh* and legal relations. Based on these conditions, this study positions itself in a critical-reflective *maqāṣid al-sharī'ah* approach, not to affirm or reject practices a priori, but to assess the limits of their Sharia legitimacy through the reconstruction of Islamic legal thought. The novelty of this research lies in the integration of *uṣūl al-fiqh* analysis (especially the concepts of *ḍarūrah*, *ḥājah*, and *maṣlaḥah*) with contemporary Islamic legal thought and the theory of the relationship between Islamic law and positive law, thereby producing a more systematic normative evaluative framework for assessing the practice of placing Islamic bank funds in conventional banks.

This study aims to analyze Islamic legal thought on the practice of placing Islamic bank funds in conventional banks in the context of the Indonesian financial system, focusing on the normative tension between the principle of prohibiting usury and institutional liquidity needs within the framework of a dual-banking system. In addition, this

study examines the position of the DSN-MUI fatwa in relation to the regulations of the Financial Services Authority and Bank Indonesia as part of the construction of national Islamic financial governance. This study departs from the theoretical assumption that a critical approach to *maqāṣid al-sharī'ah* can provide a more proportional and contextual evaluative framework for assessing liquidity policies, so that dispensative practices can be tested consistently and measurably without neglecting the normative integrity of the anti-usury principle of Islamic law. The study's theoretical framework is based on *uṣūl al-fiqh*, the theory of *maqāṣid al-sharī'ah*, and the theory of the relationship between Islamic law and state law. This framework functions as an analytical instrument to test the normative rationality, limits of legitimacy, and legal justification of liquidity management practices in contemporary Islamic banking, rather than merely as a policy legitimization tool. Thus, this study critically tests the consistency between *fiqh* constructs, the authority of DSN-MUI fatwas, and state regulatory design in responding to the dynamics of a complex and integrated modern financial system.

METHOD

This research is normative legal research with a qualitative approach that is analytical, critical, and prescriptive. This study focuses on Islamic legal norms, *uṣūl al-fiqh* arguments, and DSN-MUI fatwas as products of institutional *ijtihād* and analyzes them in relation to national banking regulations. This approach was chosen to examine the legal rationality, *uṣūl al-fiqh* arguments, and normative legitimacy of these practices within the framework of contemporary Islamic law (Moleong, 2017; Fadli, 2021). The research subject is conceptual, namely Islamic legal norms and their legal thought products, including Shar'i texts, *uṣūl al-fiqh* rules, fatwas of the Indonesian Ulema Council's National Sharia Board (DSN-MUI), and relevant Islamic banking regulations. The primary data consists of primary legal materials, namely the Qur'an, hadith, *ijmā'*, *qiyās*, and DSN-MUI fatwas; secondary legal materials, in the form of books, scientific journals, theses, dissertations, and official documents from the Financial Services Authority and Bank Indonesia; and tertiary legal materials as conceptual support.

Data collection techniques were carried out through literature studies using instruments in the form of literature search guidelines and norm-analysis matrices. Data analysis was conducted descriptively, analytically, and comparatively, with the following steps: (1) identification of normative conflicts between the prohibition of usury and liquidity needs; (2) analysis of *fiqh* arguments using the *maqāṣid al-sharī'ah* approach, the concepts of *ḍarūrah* and *ḥājah*, and *maṣlaḥah*; (3)

comparison of scholars' views and fatwas (comparative *fiqh* and fatwa); and (4) evaluation of the normative relationship between DSN-MUI fatwas and state regulations. The research was conducted through a systematic procedure that included inventorying norms, classifying themes, and tracing *fiqh* and regulatory arguments related to Islamic bank liquidity management. Within this framework, DSN-MUI fatwas are positioned as contemporary *fiqh* products and quasi-legal norms that are critically analyzed, rather than accepted affirmatively, to assess their consistency, limits of legitimacy, and implications for Islamic banking practices in Indonesia (Abdullah et al., 2024). In this study, artificial intelligence was used as a tool to assist in word correction and language proofreading.

RESULTS AND DISCUSSION

Theoretical and Regulatory Framework for Placing Islamic Bank Funds in Conventional Banks

The discussion on placing Islamic bank funds in conventional banks is inadequate if it only begins with a general historical or normative description of the topic. Rather, it needs to be supported by identifying substantive legal problems arising from such institutional practices. Research findings show that this practice occupies an ambivalent space in the perspective of Islamic law because it brings together two logics that are not entirely in line: the normative logic of sharia, which necessitates distance from *ribā*-based systems, and the institutional logic of modern banking, which demands operational efficiency and liquidity stability. The intersection between these two rationalities creates a normative tension that forms the basis of the analysis, particularly in assessing the limits of Sharia legitimacy over the practice of placing Islamic bank funds in conventional banks in the context of the contemporary financial system.

Sharia Interbank Funds: Between Ideal Concept and Operational Reality

Theoretically, interbank funds (interbank placement) in the banking system function as instruments for managing liquidity and the stability of the financial system. In the context of Sharia banking, this concept cannot be equated with conventional interbank mechanisms (Putri, 2025). The results of the analysis show that Islamic interbank funds must be defined more precisely, namely as the placement of funds between financial institutions that do not involve usury, are not profit-oriented, and use contracts that are valid under Islamic law, such as *wadī'ah yad ḍamānah*, *qarḍ*, or *muḍārabah* between banks (Muhajir et al., 2024).

However, in the practice of placing funds in conventional banks, these contracts are often normative-ideal because the institutional environment of conventional banks is not built to substantially implement the logic of Sharia contracts (Ernawati, 2020). As a

result, even though there are no elements of interest textually, the funds remain in an interest-based intermediation system. Therefore, Islamic legal analysis is inadequate if it stops at the formal validity of the contract; it must be expanded to include economic functions, institutional context, and systemic implications for the integrity of Shariah principles.

Prohibition of Ribā and the Dialectic of Maṣlaḥah in Legal Reasoning

At this point, the prohibition of *ribā* remains the main normative foundation for assessing fund placement practices (Abdullah et al., 2021), but institutional reality shows a dialectic between the normative ideal of anti-*ribā* and the pragmatic rationality of liquidity policy. In legal argumentation, the principle of maslahah is often used as a compromise without adequate *uṣūl al-fiqh* classification, which is problematic. This dialectic is mediated through the concept of *maṣlaḥah* in legal reasoning, which is often used as a basis for compromise without adequate *uṣūl al-fiqh* classification. Many arguments justify this practice on the basis of "the benefit of banking stability," but do not explicitly distinguish whether this benefit includes *maṣlaḥah mu'tabarah*, *maṣlaḥah mursalah*, or merely modern utility reasoning.

Methodologically, this lack of clarity in classification has a direct impact on the strength of legal legitimacy because, in the framework of uṣūl fiqh, maṣlaḥah at the *ḥājiyyah* level cannot be equated with the *ḍarūriyyah* condition, which opens up a wider space for dispensation (Safitriani et al., 2023). This finding shows that the weakness does not lie in the use of *maṣlaḥah* itself, but rather in the absence of strict conceptual parameters, so that legal arguments have the potential to shift from normative considerations to functional policy justifications.

Ḍarūriyyah Syar'iyyah: Operational Limits and the Risk of Permanent Justification

These conditions directly intersect with the concept of *shar'iyyah* emergency as a basis for permissibility. Theoretically, the rule of *al-ḍarūrāt tubīḥ al-maḥẓūrāt* provides room for legal flexibility in situations of necessity (Puteri, 2023). The results of this study confirm that, theoretically, the rule of *al-ḍarūrāt tubīḥ al-maḥẓūrāt* opens up room for legal flexibility. However, this flexibility is temporary, proportional, and exclusive, and can only be applied if there are no equivalent Shariah alternatives (Putra, 2024). Problems arise when, in regulatory practice, the operational limits of emergencies are not explicitly formulated, either in terms of duration, volume of funds, or the obligation to transition to Sharia liquidity instruments. Without these indicators, the concept of an emergency has the potential to expand in meaning and shift from a temporary exception to a permanent justification for policy

(Farsiah, 2024). This finding reinforces the criticism that the unrestricted use of emergency powers weakens the normative discipline of Islamic law and opens up space for the normalization of involvement in the ribāwi system, even though it is formally claimed to be an emergency policy.

Maqāṣid al-Sharī'ah and Sadd al-Dharī'ah as Control Mechanisms

In a more substantive evaluation framework, the *maqāṣid al-sharī'ah* approach provides an analytical basis for assessing legal objectives, particularly the protection of property (*ḥifẓ al-māl*), institutional stability, and public trust in the Islamic banking system (Karimullah, 2023). Therefore, using maqāṣid arguments to justify placing funds in conventional banks can be understood as an effort to maintain the sustainability of institutions in the modern financial system. However, this study found that the *maqāṣid* approach is rarely discussed in relation to the principle of *sadd al-dharī'ah*. Consequently, *sadd al-dharī'ah* often becomes merely normative rhetoric rather than a legal control mechanism. In fact, without a preventive mechanism, practices that were originally justified on *maqāṣidī* grounds have the potential to become a gateway to the normalization and structural legitimization of the *ribā* system (Misranetti, 2020). In fact, without an operational prevention mechanism, practices that were originally justified on the basis of *maqāṣid* have the potential to become a gateway for structural habituation that gradually blurs the boundaries between the Shariah and *ribāwi* systems. Thus, the relationship between *maqāṣid* and *sadd al-dharī'ah* should be corrective and integrative, not substitutive or mutually exclusive.

Regulatory Dimension: Fatwa as a Quasi-Legal Norm

The overall dynamics above are also inseparable from the regulatory dimension, particularly the position of the DSN-MUI fatwa in the governance of national Shariah banking. The results show that fatwas function as quasi-legal norms that operate between *fiqh* norms and state regulations (Dianto, 2025). In this position, fatwas should ideally not only play a role in affirming practices but also serve as a normative control mechanism for technical banking policy. However, in practice, fatwas are often reduced to legitimizing instruments that are present ex post to justify liquidity policies formulated by monetary authorities, rather than functioning as ex ante mechanisms that critically examine transaction structures, potential *ziyādah* elements, and their systemic implications for the non-usury principle. This pattern shows that the problem of fund placement is not merely a technical liquidity issue but a reflection of the structural tension between fiqh construction, modern financial policy rationality, and state regulatory design in the dual banking system, which

requires a more integrative, contextual, and normatively critical Islamic legal evaluation framework.

These findings indicate the urgency of repositioning fatwas in Islamic banking governance from mere administrative legitimization tools to evaluative instruments that limit fund placement practices in conventional banks. This repositioning requires the formulation of clear and measurable legal parameters, such as the objective determination of emergency conditions or *ḥājah syar'iyyah*, restrictions on the duration of fund placement, clarity of non-investment objectives, and a mechanism for ongoing supervision to prevent the normalization of practices that are exceptional in nature. With this evaluative framework, fatwas not only maintain formal compliance with Sharia principles, but also function as a normative control instrument that ensures that liquidity policies remain within the corridor of *maqāṣid al-sharī'ah*, particularly the protection of property (*ḥifẓ al-māl*) and systemic prevention of usurious practices.

The following is a summary of the theoretical and regulatory framework for the placement of Islamic bank funds in conventional banks, which is within the realm of limited normative compromise and not full legitimacy.

Table 1. Theoretical and Regulatory Framework for Fund Placement

Analysis Aspects	Key Findings	*Uṣūl al-Fiqh* Analysis	Normative Implications	Regulatory Risks
Sharia Interbank Funds	Formally valid contract, structurally weak	Valid contract, valid system	Conditional sharia compliance	Normalization of the *ribā* system
Prohibition of Usury	Directly avoided, not structurally	Conflict between *maqāṣid* and *wasīlah*	Strict restrictions on practice	Erosion of non-usury principles
Maṣlaḥah	Used without classification	*Ḥājiyyah*, *Ḍarūriyyah*	Weak legitimacy	Policy justification
Ḍarūriyyah Syar'iyyah	No operational restrictions	Temporary emergency	Temporary solution	Permanent emergency
Maqāṣid* & *Sadd al-Dharī'ah	Not integrated	Prevention neglected	Weak normative control	Regulatory moral hazard

Source: compiled by the author

Table 1 shows that the practice of placing Islamic bank funds in conventional banks is within the realm of limited normative compromise and not full legitimacy. Formally, the contract can be considered valid, but structurally, it still leaves systemic compatibility issues due to its

interaction with the interest-based financial ecosystem. The avoidance of direct usury does not fully address the structural dimension, giving rise to tension between *maqāṣid al-sharī'ah*, particularly the protection of the integrity of the Islamic financial system, and the operational need for liquidity. In addition, the use of *maṣlaḥah* and *ḍarūrah* in liquidity policy practices does not appear to have been classified methodologically (between *ḥājiyyah* and *ḍarūriyyah*), even though, in the framework of *uṣūl al-fiqh*, the legitimacy of dispensation requires temporal limits, proportionality, and the absence of equivalent alternatives. Without these operational limits, dispensative practices could become institutionalized, gradually eroding the principle of non-*ribā* (non-excessive). Kamali warns that expanding the concept of *ḍarūrah* without strict parameters can weaken the normative consistency of Islamic law (Kamali, 2003).

Compared to the findings of other studies, the results in this table show a more normative-critical analytical position. Studies on Islamic banking liquidity management generally assess the placement of funds in conventional banks as a pragmatic response to the limitations of Islamic money market instruments and the need for systemic stability, as noted in the Islamic Financial Services Board (IFSB) report and international Islamic monetary studies (IFSB, 2024). However, this approach tends to emphasize policy rationality and financial stability, while testing the limits of sharia legitimacy through the instruments of *uṣūl al-fiqh*, *maqāṣid al-sharī'ah*, and *sadd al-dharī'ah* is relatively less elaborated. In this context, the table indicates that the permissibility of this practice can only be positioned as a temporary rukhsah based on *ḥājah* that is close to a systemic emergency, not as a policy normality, to avoid regulatory moral hazard and the normalization of structural dependence on conventional systems that could potentially weaken the distinctiveness and institutional identity of Islamic banking (Chapra & Khan, 2000).

The Legal Basis of the State and the Dynamics of Sharia Bank Fund Placement Regulations

A positive legal analysis of Sharia bank fund placement in conventional banks is inadequate if it stops at normative mapping alone; rather, it must be directed toward regulatory criticism that questions the relationship between the principles of Sharia compliance and the logic of modern financial system's stability. In this perspective, positive law is not only understood as a collection of written norms but also as a policy instrument that reflects a compromise between idealistic values and the technocratic demands of the financial system (Ichsandi, 2024). Law Number 21 of 2008 concerning Sharia Banking explicitly affirms the obligation of Sharia banks to operate in accordance with Sharia

principles and avoid usury practices as the main normative foundation (Haqqani, 2024). However, structurally, this law also contains normative ambiguities because it does not formulate clear operational boundaries when Islamic banks face liquidity management issues in a financial ecosystem dominated by non-Islamic instruments. This ambiguity creates broad regulatory discretion, opening a regulatory gap for the practice of placing funds in conventional banks under the justification of system stability, while also revealing the latent tension between the idealism of Sharia law and the practical needs of modern banking.

At the technical regulatory level, the policies of Bank Indonesia and the Financial Services Authority (OJK) through the development of Sharia Monetary Operations and the Sharia Interbank Money Market (PUAS) represent the state's efforts to build a liquidity infrastructure that is in line with Sharia principles (Rahayu, 2025). Normatively, this policy is intended to be a functional substitute for conventional money market mechanisms. However, empirically, the effectiveness of the PUAS still faces serious obstacles in the form of low market depth, uneven participation of Islamic banks, and limited short-term liquidity instruments that are responsive to market dynamics (Pratama, 2024). This condition shows that the country's Sharia regulations have not been fully successful in creating an autonomous and competitive liquidity ecosystem, so that residual dependence on the conventional system still exists. In this context, the policy of placing Islamic bank funds in conventional banks emerged not as a consciously designed normative choice, but as a pragmatic response to the partial failure of Islamic instruments to effectively meet short-term liquidity needs (Imon, 2025). This situation confirms that the main problem does not lie solely in the compliance of individual banks but in the design of policies and the capacity of state regulations to bridge the demands of system stability with the consistency of Sharia principles.

In this context, the hierarchical relationship between state law and DSN-MUI fatwas is a central issue. Juridically, DSN-MUI fatwas are not a source of state law, but they gain binding force through a mechanism of normative transformation into OJK regulations and banking practices (Islahudin, 2024). The ambiguity of this hierarchical position creates a situation in which fatwas function as ethical-normative standards, while state regulations function as operational instruments that can compromise Sharia ideals. This is where the potential for normative conflict arises: when state regulations tolerate practices that, according to Islamic jurisprudence, can only be justified in emergency conditions, while fatwas seek to limit the normalization of such practices. The function of DSN-MUI fatwas, particularly those related to the

prohibition of usury and the obligation of *taṭhīr al-māl*, must be read as a corrective mechanism against the tendency of state regulations to be overly technocratic (Ulum, 2018).

The concept of "regulatory *rukhsah*" in the practice of placing funds in Islamic banks needs to be constructed theoretically so that it is not merely rhetorical (Jaelani, 2026). Regulatory *rukhsah* can be understood as a legal concession arising from the interaction between the fiqh principle of emergency and state public policy, with the following conditions: (1) there are structural limitations to sharia instruments, (2) the permission is temporary and proportional, and (3) there is an obligation to transition to normal conditions. Without these restrictions, *rukhsah* has the potential to become permanently institutionalized, thus deviating from Islamic legal logic, which treats emergencies as exceptions rather than as norms.

The dynamics of Sharia bank fund placement regulations are also not linear and harmonious, but rather fraught with tension between the orientation of system stability and Sharia consistency. The Minimum Reserve Requirement (GWM) provision is a concrete example of this conflict. In terms of public policy, the GWM is designed to maintain the stability of the national financial system; however, operationally, it can force Sharia banks to seek quick liquidity outside Sharia instruments. Regulations that allow temporary fund placement in conventional banks without interest indicate a problematic policy compromise: on the one hand, maintaining system stability, and on the other, maintaining structural dependence on the conventional system (Pratito, 2013). The weak operational deepening of GWM in the context of Sharia indicates that this policy is not yet fully sensitive to the characteristics of Islamic banking as a value system, not merely a technical entity.

Thus, the dynamics of positive law on Islamic bank fund placements reflect an unfinished regulatory transition. This practice should be read as an expression of the tension between Sharia norms, state authority, and market realities. Without strengthening Sharia liquidity instruments and affirming regulatory *rukhsah* limits, this policy risks weakening the normative identity of Islamic banking in the long term.

Table 2. Positive Legal Basis and Regulatory Dynamics of Fund Placement

No	Legal Sources	Focus of Critical Analysis	Normative Tensions	Regulatory Implications
1	Law No. 21 of 2008	Ambiguity between Sharia principles and liquidity flexibility	The principle of prohibiting usury vs. system stability	Opening up space for technocratic discretion
2	PBI Sharia Monetary Operations	Sharia instruments are not yet substitutive	Sharia idealism vs. market limitations	Dependence on non-sharia solutions

3	Sharia Interbank Money Market	Low market depth	Regulatory design vs. implementation reality	Limited liquidity effectiveness
4	DSN-MUI Fatwa	Ethical-corrective function	Fatwa vs. state regulations	Non-state normative control
5	POJK & GWM	Pragmatic public policy	System stability vs. Sharia identity	Temporary regulatory dispensation

Source: compiled by the author

Table 2 shows that the positive legal basis for the placement of Islamic bank funds in conventional banks does not stand as a completely harmonious framework, but rather as a dialectical space between Sharia rationality and financial system stability rationality. Law No. 21 of 2008, the GWM policy, and Islamic monetary instruments indicate the existence of technocratic regulatory flexibility, but this flexibility operates within the normative tension between the prohibition of usury and the need for systemic liquidity. The limited depth of the Sharia Interbank Money Market (PUAS) and the non-substitutive nature of Sharia monetary operation instruments show that regulatory design is still based on transitional logic. Thus, dependence on non-Sharia instruments is not merely an ideological choice but a structural consequence of the immature development of the Shariah financial ecosystem. In this context, the DSN-MUI fatwa functions as a corrective ethical mechanism that maintains normative boundaries, but its position is not always parallel to state regulations, so that the hierarchy of legal authority becomes fluid and opens up room for policy discretion that has the potential to expand, if not controlled, based on *maqāṣid* (Dusuki & Abdullah, 2007).

Other studies show that global Islamic banking liquidity practices still face "structural liquidity constraints" due to the limitations of Islamic instruments and their integration with conventional financial systems. Iqbal and Mirakhor emphasize that the Islamic financial regulatory framework is often adaptive-pragmatic because of the demands of system stability, which, in practice, gives rise to normative compromises in liquidity policy (Iqbal & Mirakhor, 2011). Compared to these findings, Table 2 shows a similar pattern in Indonesia, where regulations function as *rukhsah* born out of market limitations and systemic stability pressures, but are not yet fully supported by the integration of *maqāṣid al-sharī'ah*, the design of a deep Islamic money market, and normative coordination between fatwas and state regulations. Thus, temporary regulatory compromises have the potential to become policy norms if they are not limited by strict *syar'iyyah* emergency classifications and operational *sadd al-dzarī'ah* mechanisms.

Islamic Legal Review of Sharia Bank Fund Placement in Conventional Banks

The placement of Islamic bank funds in conventional banks is a contemporary *fiqh mu'āmalah* issue that cannot be adequately understood in a normative dichotomous framework based solely on halal and haram, but must be analyzed in the context of the structural dual banking system and the institutional limitations inherent in the Islamic banking ecosystem. In a dual financial system, Islamic banks do not operate in a normative vacuum but within a network of regulations, markets, and systemic obligations designed primarily based on conventional banking logic. Empirical data show that the technical interaction between Islamic and conventional banks is not an ideal preference from a Sharia perspective, but rather a pragmatic response to short-term liquidity needs that cannot yet be fully met by the available Islamic money market instruments (Muhajir et al., 2024). Therefore, the legal problem that arises is not merely about the validity of the transaction form but concerns how Islamic law responds to the structural necessity produced by the design of the financial system itself, without losing its commitment to the non-usury principle.

In this framework, the view of scholars who allow the placement of funds should not be understood as a permissive attitude that weakens Sharia norms, but rather as a *fiqh* construction that departs from the concept of *ḥājah syar'iyyah*, which has developed to resemble a systemic emergency. For example, Al-Qaradawi and Usmani do not give unconditional permission for interaction with conventional banks but explicitly limit this permission to non-investment administrative transactions that are free from *ziyādah* or required benefits (Anwar, 2025). This restriction demonstrates an effort to maintain the demarcation between the technical needs and substantive legitimacy of the *ribāwi* system. From the perspective of *uṣūl al-fiqh*, hajah in this context is understood as a collective need (*ḥājah 'āmmah*) which, if ignored, will not only affect one institution but also has the potential to paralyze the entire Islamic financial intermediary function. This argument is empirically reinforced by Sibqi et al. (2025), who confirm that the stability of Islamic financial institutions is a prerequisite for the realization of *maqāṣid ḥifẓ al-māl* at the macro level, particularly in maintaining public trust and the sustainability of the Islamic financial system.

However, the construction of fiqh based on *ḥājah* still leaves crucial normative issues if it is not accompanied by a clear formulation of operational boundaries. Without measurable indicators such as the absence of real Sharia alternatives, time and nominal placement restrictions, and periodic evaluation mechanisms, the concept of *ḥājah* risks experiencing normative inflation and shifting from a *rukhsah* function to permanent legitimacy. Under

such conditions, what was originally intended as an exception could normalize practices that are problematic in principle, thereby weakening the critical power of Islamic law against systemic structures that are not fully in line with sharia values. Therefore, the development of permissibility arguments must be accompanied by strict *uṣūl al-fiqh* discipline so that Islamic law continues to function as an instrument of normative control and not merely as a tool for adaptation to systemic pressures.

Conversely, the views of scholars who impose an absolute prohibition also need to be tested rationally and jurisprudentially, rather than simply accepted as being morally superior. Al-Zuhaili and Zahrah emphasize that the placement of funds, even without interest, still contributes to the continuity of the usury system and falls under the category of *ta'āwun 'alā al-ithm* (Rafiuddin et al., 2024). This argument is strong from the perspective of *sadd al-dharī'ah*, but becomes problematic when applied in the context of modern financial systems that do not provide total isolation for Islamic banks. Puspitasari (2022) shows that the absolute application of *sadd al-dharī'ah* in an institutional context can sacrifice the sustainability of Islamic institutions themselves. Thus, absolute prohibition must be criticized because it does not consider the dimensions of collective *maqāṣid* and structural realities.

A moderate (*tawassuṭ*) approach that combines emergency, *ḥājah*, and *maqāṣid al-sharī'ah* is often too quickly adopted as the final solution. This approach also needs to be critically examined. Mahmud (2023) and Prasetiyo (2022) emphasize that conditional permissibility is valid only if the emergency is strictly defined, temporary in nature, and accompanied by control mechanisms such as nominal restrictions, duration, and the obligation of *taṭhir al-mal*. Without clear oversight instruments, a moderate approach risks normalizing practices that were originally intended to be exceptions. This is where the crucial difference between *ḍarūrah* and *ḥājah* must be emphasized: *ḍarūrah* allows what is haram temporarily, while *ḥājah* only provides relief within certain limits and must not violate the principle of *qaṭ'ī*.

In the Indonesian context, the DSN-MUI's moderate approach cannot be separated from the institutional position of fatwas as guardians of the balance between *fiqh* normativity and the needs of the national financial system. As noted by Sobana (2020), DSN-MUI fatwas consistently emphasize that technical interaction with conventional banks is not an ideal policy, but rather a transitional solution. Academically, this position must be emphasized as contextual institutional *ijtihad*, not as an absolute legitimacy. Therefore, the results of this study position the DSN-MUI's moderate approach as the most rational option in the current Indonesian

context, but still leaves room for criticism so that this approach does not lose the cautious character of *uṣūl al-fiqh*.

Table 3. *Fiqh* Perspectives on the Placement of Islamic Bank Funds

No	*Fiqh* Approach	Islamic Scholars	Uṣūl al-fiqh Logic	Strength of Argument	Weakness of Argument
1	Limited permissiveness	Yusuf al-Qaradawi	*Ḥājah ʻāmmah* approaching emergency	Responsive to systemic realities	The limits of *ḥājah* are prone to expansion
2	Institutional permissiveness	Muhammad Taqi Usmani	*Maqāṣid* (*ḥifẓ al-māl*)	Stability of Sharia institutions	Potential for normalization of *rukhsah*
3	Absolutely restrictive	Wahbah al-Zuhaili	*Sadd al-Dharīʻah*	Consistency in no-usury	Institutionally less adaptive
4	Ethical restrictions	Abu Zahrah	*Taʻāwun ʻalā al-ithm*	Maintaining Sharia identity	Ignoring collective interests
5	Contextual moderation	DSN-MUI	Conditional emergency & *maqāṣid*	Normative-practical balance	Vulnerable without strict control

Source: compiled by the author

Table 3 shows that the spectrum of *fiqh* views on the placement of Islamic bank funds in conventional banks does not merely reflect differences in halal or haram laws but rather differences in the *uṣūl al-fiqh* paradigm in interpreting the relationship between the norm of prohibiting *ribā* and the reality of the modern financial system. The limited permissive and institutional permissive approaches place *ḥājah ʻāmmah*, *maqāṣid al-sharīʻah*, and *hifẓ al-māl* as the basis of legal rationality that is adaptive to the needs of liquidity and institutional stability, while the absolute restrictive and ethical restrictive approaches depart from the logic of *sadd al-dharīʻah* and *taʻāwun ʻalā al-ithm*, which are oriented towards protecting the normative identity of sharia from the infiltration of the ribāwi system. Thus, differences in ijtihad are more accurately understood as a dialectic between normative and contextual *fiqh*. The moderate contextual position represented by DSN-MUI shows a pattern of conditional emergency-based *ijtihad* that seeks to maintain a balance between sharia compliance and the sustainability of the sharia financial system, but still retains normative vulnerabilities if the limits of *ḥājah* and emergency are not formulated in an operational and measurable manner.

This finding is in line with contemporary Islamic finance research, which shows that Sharia bank liquidity practices in various countries are often based on a *maqāṣid*-oriented pragmatism approach, namely the use of *rukhsah* based on maslahah to overcome the

limitations of Sharia money market instruments. Iqbal and Mirakhor assert that the dual banking system structurally forces Islamic financial institutions to interact with the conventional system under certain conditions, so that institutional *ijtihad* tends to be contextual and gradual rather than puristic (Iqbal & Mirakhor, 2011). Meanwhile, Usmani, in his study of modern *fiqh mu'āmalah*, emphasizes that permissibility based on *ḍarūrah* or *ḥājah* must be temporary and cannot develop into a permanent policy that normalizes practices that potentially contain elements of usury (Usmani, 1998).

CONCLUSION

This study concludes that the permissibility of placing Islamic bank funds in conventional banks under Islamic law cannot be justified as a normal practice and cannot be understood as general and permanent normative legitimation. It must be positioned as a temporary rukhsah based on *ḥājah syar'iyyah* that approximates a systemic emergency. This permissibility can only be justified if strict operational indicators are met, namely the unavailability of adequate Islamic liquidity instruments, the existence of proportional time and nominal restrictions, the use of verifiable non-interest schemes, and effective and sustainable Islamic supervision. Thus, the legal legitimacy of this practice is casuistic and contextual, depending on the specific situation behind it, and cannot be generalized as a standard model in Shariah banking liquidity management.

Furthermore, this study emphasizes the need for a moderate normative approach to respond to the reality of the dual banking system. This approach acknowledges structural limitations and pressures on financial system stability but still places the principles of non-usury, prudential principles, and the integrity of *maqāṣid al-sharī'ah* as ethical boundaries that must not be crossed. Therefore, any form of regulatory compromise must be understood as a transitional solution aimed at strengthening independent and substitutive Islamic liquidity instruments, so that the Islamic banking system does not become trapped in the normalization of practices that have the potential to obscure its identity and fundamental principles in the contemporary financial landscape.

The theoretical contribution of this research lies in strengthening a critical-adaptive approach to Islamic law, which is capable of reading the realities of the modern financial system without losing the discipline of *uṣūl al-fiqh*. Practically, these findings imply that regulators and Shariah authorities need to formulate operational emergency indicators, clear time and nominal limits, and accelerate the strengthening of Shariah liquidity instruments so that dependence on conventional banks does not continue. Thus, this study positions fund

placement practices not as a final solution but as a policy alarm that signals the urgency of independence for the national Sharia financial ecosystem.

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