

# DOES SHARIA

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**DOES SHARIA ACCOUNTING REALLY SHARIA?  
BASIC FUNDAMENTAL VERIVICATION OF SHARIA PRINCIPLE**

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Topic area  
Sharia Accounting

## **DOES SHARIA ACCOUNTING REALLY SHARIA? BASIC FUNDAMENTAL VERIVICATION OF SHARIA PRINCIPLE**

Various entities such sharia Islamic banking in Indonesia can be traced its presence with the rules or regulations relating to Indonesian banking. Islamic bank as one entity in the financial sector that have a banking regulation as a legal basis in the operations

The aim of research is to know and understand the fundamental basis of the practice of Islamic transactions and Islamic products in accordance with the rules of fiqh and ushul Fiqh, It is important to undertake a more fundamental understanding of the principles of ushul fiqh of the Qur'an and Alhadist that the legal basis for the development of Islamic business today

ushul fiqh rules emphasize the origin (fiqh) is a law so that the law can be implemented and not biased in its application, the majority of Islamic products currently available have been discussed in terms of the practical and dynamic in conventional business transactions with the intention of avoiding usury, interest, and uncertain transaction (gambling) others, and not based on the origin of law (fiqh rules of fiqh)

Most of sharia bankers have a background of conventional banking or non-sharia conventional business, this is what could be one of the causes are not inter linked understanding between conventional business and Islamic fiqh ushul

**Keywords:** Sharia, Islamic Accounting, Islamic Banking, Ushul Fiqh, Islamic Fundamental

### **Introduction**

Islamic business development especially in the field of banking entities make as sharia is being loved or budding, regardless of whether the entity is really founded on the principle of sharia as a pioneer or simply as a follower? sharia business unit seemed to be a trend for the entity which originally based non-Islamic or conventional, this phenomenon can be seen in the large number of banks and non-bank financial institutions conventional spread its wings with the formation of sharia, regardless of whether the entity was established for the sake of profit improvement of conventional or indeed moved to execute Islamic law.

Sharia entities bloom and grow increasingly like green grass in the rainy season. Islamic banking in Indonesia can be traced its presence with tracing rules or regulations relating to Indonesian banking. Islamic bank as one entity in the financial sector that have a banking regulation as a legal basis in running its business

But there will always be a question that bothered and seemed to always tickle the hearts<sup>1</sup> of the existence and progress of the business and sharia entity today, whether sharia entity (including Islamic banking) is indeed built on understanding the fact of Islamic foundation? And why sharia principles associated with ushul fiqh? Research conducted by Muhammad Kamal Zubair (2008) states that Islamic banking in Indonesia is an integral part of the development of a national banking system within the framework of the Indonesian Banking Architecture

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<sup>1</sup> The use of the word heart in this article is intended to have meaning and words more original at essentially said, in Arabic "qalbun" which means also dhomir, or can be interpreted as a "small heart that never lie"

In the history of Islamic culture, the accounting science is not something new, but until now world more familiar with the concept of accounting history by Luca Pacioli (1447-1517) as the Father of Accounting who first introduced about double bookkeeping system in 1494. with book entitled 'Summa de Arithmatica, Geometria, Proportioni et Proportionalita.' section of the book that talks about the books there are 37 chapters, with the title 'Tractatus de Computis et Scriptorio.', Kamayanti (2012) mentions that Luca Pacioli was a monk who initiated the idea of double-entry in accounting that he wrote 150 years after the practice of accounting was found in northern Italy. He wrote the opening line to the name of the Lord. This explanation could be linked to research cited by kamayanti (2011) that Derks (2008) believes that there is a possibility of the West to learn bookkeeping / accounting of Arabian, but Luca Pacioli is the one who is more famous as the father of Accounting in world

While the Islamic history, has been known earlier that the term Baitul Mal wattamwil similar financial institutions. This serves as a guarantor of social welfare.

Besides, the history also notes that long before Luca Pacioli wrote accounting principles, about 700 years before Abu Yusuf or real name Hubaib Ya'qub ibn Ibrahim ibn al-Ansari, who lived during 113-182 H / 731-798 more known as Qadli Qudhat during the reign of caliph Harun al-Rashid. He has a lot of attention in the public finances and the state, known as the author of the first book of taxation called Kitab al-Kharaj.

In line with the development of Islamic business entity in Indonesia currently, certainly no doubt in regulation, that sharia entity would be claimed to be the most Islami entity, starting from the performance of human resources sharia, sharia clothing, as well as label support sharia attribute, even almost of the original conventional banking switch gradually develop became sharia entity

Sharia banking or Bank Islam with Islamic accounting is generally referred to the Islamic Bank that the bank adjusted its operations to the principles of Islamic law. Today many terms given to refer to entities other than the term Islamic Bank, those are Islamic Bank, the Bank without interest (Interest-Free Bank), Bank without Riba (Lariba Bank), and Bank Sharia (Sharia Bank). In Indonesia technically juridical mention of Islamic Bank use the official term "Bank Sharia", or in full-called "Bank Based on Sharia Principles". In the implementation of Islamic Bank claimed on the basis of Indonesian law and Islamic

**Table 1**  
**Number of Islamic Banks and Conventional Bank Sharia Business Unit**

Year	Total	
	Islamic Bank	Conventional bank with sharia business unit
2007	3	26
2008	5	27
2009	6	25
2010	11	23
2011	11	24
2012	11	24
2013	11	23
2014	12	22

Year	Total	
	Islamic Bank	Conventional bank with sharia business unit
2015	12	22

Ref: Islamic Banking Statistics March 2015

This data clearly shows that the development of Islamic banking from 2007 to 2015 showed a significant increase, even though there is a decrease in the number of conventional banks that have Sharia business unit.

### Research problems

Based on the background above, it is important to undertake more fundamental understanding of the principles of ushul fiqh of the Qur'an and Alhadist that the legal basis for the development of Islamic finances today. Thus the focus of this research is the legal basis on which base determination of the sharia legal entities in carrying out the practice of Islamic banking, so that problems of this research can be formulated how the implementation of Islamic transactions accordance with the rules of Ushul Fiqh? How is the determination of lawful legal basis for Islamic transactions? Whether this concept that implemented today appropriate with the basic laws of Islam?

### Research Purposes

The aim of research is to know and understand the fundamental basis of the practice of Islamic transactions and Islamic products in accordance with the rules of Fiqh ushul of the Qur'an and Alhadist and the most important it is to look the compliance from the command of Creator in carrying out all his orders in the context of sharia

### Regulation, Fundamental, Principle, and Rules

Ushul fiqh consist of words ushul and fiqh, the first word that Origin or "al-ashlu" in the language can be interpreted as something that becomes a backrest. Like the roots on which the growth of a tree or also as a foundation on which the foundation of a building, and ushul al-fiqh which became the foundation of fiqh. While the branch or al-far'u is something that was built on something else. Like the branches of a tree (trunk and others) were standing on their roots, and fiqh which stands on its ushul (*mabadi'ul awaliah fi ushulul fiqh waqoqidul fiqhiyyah*<sup>2</sup>, Abdul Hamid Hakim)

Likewise with sharia entities including Islamic banking with Islamic Accounting, the sharia is the foundation sharia accounting Principle, and sharia accounting Principle is a branch is leaning on Fiqh Science and Fiqh science is leaning to Ushul Fiqh science

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2 Several references in the research literature related to fiqh and fiqh ushul quoted directly from the yellow book (books and reference books ushul fiqh fiqh which has a very long and sometimes not written in what is written) one of which is "mabadiul awaliah" written by Abdul Hamid Hakim

Whereas basic definition of fiqh based on the terminology is *Dalil*<sup>3</sup> or arguments and rules. As well as the basic obligatory to pray is the Quran. That's mean the basic rule that obligatory to pray clearly written in the Quran

According to the Law of the Republic of Indonesia Number 21 of 2008 concerning Islamic Banking Chapter I General Provisions Article 1 explains that Islamic Banking is everything concerning the Sharia Bank and Sharia Business Unit, covering institutional, business activities, as well as the manner and process of conducting business. Whereas Islamic Bank is a Bank running on their business, based on the type Islamic bank divided into Islamic Banks and Bank of People Syariah Financing. Commercial Bank is a Sharia Bank in its activities providing services in payment traffic. Meanwhile, Bank of People Syariah Financing is the activities do not provide services in payment

Law No. 10 of 1998 which commercial banks is a bank conducting conventional business or activities based on Islamic principles which provide services in payment services, besides the application of the system of "Dual Banking System" which is referred to as a form of support for the development of Islamic banking, where allowed conventional banks to open sharia business unit

Sharia Business Unit is a unit of a conventional commercial bank head office which serves as the head office of the office or unit conducting business based on Sharia, or a unit of a branch office of a bank domiciled abroad who carry out business activities conventional who serves as the head office of sharia branch offices and / or sharia units. Branch office is a branch office of Islamic bank is responsible to the head office of the Bank concerned with clear business location address according to the location of the branch office conducts its business. Meanwhile, according to A. Karnaen Perwataatmadja and HM Syafii Antonio, Islamic banks or Islamic bank is a bank that operates in accordance with Islamic principles and procedures for the operation of the provisions referring to the Quran and the Hadith

While Islamic law itself refers to the laws of fiqh and *usul fiqh* which all use arguments derived from the Quran and hadith, in AlQur "an surah Albaqarah paragraph 282

*O you who have faith! When you contract a loan for a specified term, write it down. Let a writer write between you with honesty, and let not the writer refuse to write as Allah has taught him. So let him writes, and let the one who incurs the debt dictate, and let him be wary of Allah, his Lord, and not diminish anything from it. But if the debtor be feeble-minded, or weak, or incapable of dictating himself, then let his guardian dictate with honesty, and take as witness two witnesses from your men, and if there are not two men, then a man and two women—from those whom you approve as witnesses— so that if one of the two defaults the other will remind her. The witnesses must not refuse when they are called, and do not consider it wearisome to write it down, whether it be a big or a small sum, [as being lent] until its term. That is more just with Allah and more upright in respect to testimony, and the likeliest way to avoid doubt, unless it is an on the spot deal you transact between yourselves, in which case there is no sin upon you not to write it. Take witnesses when you make a deal, and let no harm be done to writer or witness, and if you did that, it would be sinful of you.*

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<sup>3</sup> The term *Dalil* is the law that serve as guidelines in running all the commands of Allah, the usual synchronized with paragraph AlQur "an, even though" postulate "itself can mean a reason to carry out God's command, consisting of the proposition Naqli (Qur'an and Hadith) and propositions aqli (based on logic)

Be wary of Allah and Allah shall teach you, and Allah has knowledge of all things.

Verse is the basis for the application of accounting in Islamic law, this verse clearly instructed recording transactions properly without making mistakes intentionally (fraud), from the verses of the Quran is also the basis for the determination of Fiqh and Ushul Fiqh law, so that it becomes a defined rules

Fiqh general definition of science is the science that studies the various Sharia or Islamic law and various rules of life for human beings, both individually and in the form of a social community. While by definition ushul fiqh which became the foundation of Islam on a clear legal basis will judge everything based on its origin and

Fiqh and Ushul Fiqh above it can be concluded that it is to learn and know the laws of sharia of Islamic religion, while Ushul Fiqh rules are needed to remove the legal and human actions desired by the Fiqh. Thus, the relationship Fiqh and Ushul Fiqh is intimately, which cannot be separated between the two branches of the Sciences).

In a ushul fiqh rules as contained in the book Mabadiul awaliah states that '*Al ashlu baqaa'un makana ala makana*' which means that the legal origin of something is according to previous state

Other rules in other states fiqh ushul

*"Dar'ul mafasid muqaddamun ala jalbil mashoolih"*

Which can be interpreted that the Leaving an evil takes precedence over taking a benefit.

Two of these rules may provide an explanation for the law that is based on fiqh and usul fiqh which is based on Al-Quran and Al Hadith

Several Bank Indonesia Regulation concerning Islamic banking also mentioned those are Bank Indonesia regulation 9/19 / PBI / 2007 regarding the implementation of Sharia principles in fund raising activities and the distribution of funds and services of Islamic banks, 7/35 / PBI / 2005 on changes Indonesia on bank regulation No. 6/24 / PBI / 2004 on commercial bank conducting business based on sharia principles and rules 6/24 / PBI / 2004 on commercial bank conducting business based on sharia principles

Seen in stark contrast definition *qowaidah ushul fiqhiyyah* (rules or rules of usul fiqh) with some regulations that have been outlined in the sharia entity. Though so no doubt the development of sharia entity in Indonesia in particular, remain consistently adhered to the arguments of the Quran and Hadith in a range of innovative product launches sharia macro scale in several entities sharia

In some studies and literature on Islamic economics, accounting sharia and Islamic banking there are many seminars and research that has been done as a form of a new breakthrough study materials are discussed in detail as well as providing an explanation that Islam contains basic principal accounting regulations that have not been known by experts conventional accounting, everything has reached an agreement that the implementation of sharia entity based on the Quran and alhadist them is the Quran commands in a letter albaqarah paragraph 2824 that become jargon in the application of sharia accounting

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4 In Islam, sharia accounting is Muamalah activities (relationship to fellow beings) are the source of the law of the Qur'an letter surah Al-Baqarah including paragraphs 271 and 282 and 283, An-Nisaa verse 29 on the separation of accounting functions, at-Tawbah verse 36 about budgeting, Al-Hujaraat paragraph 6 of the audit

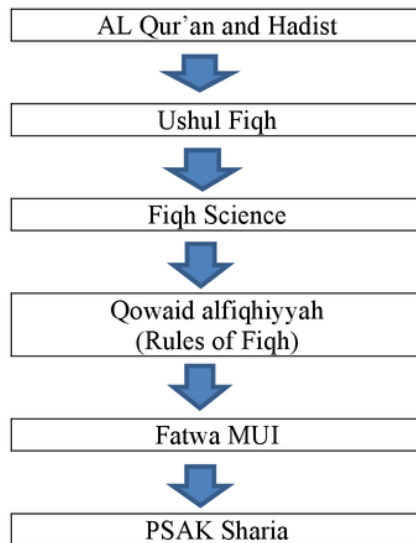


But once again it is becoming critical turning review when an Islamic entity applying accounting principles in Islamic sharia products labelled products have a parent entity non-Islamic or conventional, whether the existence of this entity in accordance with sharia as the cornerstone principles of ushul fiqh

In a Hadith which also explains the nature of the business should be done in running the sharia

*A believer (mukmin) is like a trader, he will not receive earnings before capital gain substantially. Likewise, a believer will not get deeds Sunnah before he received the obligatory deeds.* “(HR. Bukhori and Muslim).

#### Sharia-based business fundamentals



Ref: interpretation of various references in 2015

**Figure 1**  
**The basic foundation overview of sharia law**

This simple flow described to explore the legal basis should be the foundation of rules and accounting principles of sharia in Indonesia

This simple flow described to explore the legal basis should be the foundation of rules and accounting principles of sharia in Indonesia

#### Research methods

To get the information and data required in this study, the research was conducted in the following ways

1. Interview as closer information by asking questions directly to the informant, the interviews conducted unstructured interviews, which in this method allow the ongoing question flexible, more open towards the question, stay focused, in order to obtain the information rich and the talks are not rigid. As for the data collection,

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function, Al-Isra verse 35 mentioned the balance sheet as well as explanations on the law melelui authentic hadith of the Prophet Muhammad are narrated by the companions



the researchers conducted interviews along with, among others, to the employees and the employee who worked on the entity / Islamic Bank, the Islamic Bank customers as well as other Islamic academics. It thus carried out with the aim to obtain extensive and comprehensive data in accordance with current conditions.

2. Direct observation is a way of collecting data by conducting a careful and systematic recording. Observation should be done carefully and systematically to obtain reliable results, and researchers must have the background or knowledge about the broader object of research has theoretical basis and objective attitude. Direct observation conducted by researchers could be realized by recording of information relating to the activities and transactions carried out in sharia entity. Also observe how the process of Islamic business units works in running the business strategy. With direct observation, researchers can understand the context of the data in a variety of situations that can obtain a thorough view. To that researchers can conduct direct observations in obtaining evidence relating to the object of research.
3. Document the process of looking back at the sources of the data from existing documents and can be used to expand the data that has been discovered. The source document data obtained from the field in the form of books, records, magazines, booklets sharia entity even official company documents or documents related to the research focus.

### **The existence of Fiqh and Usul Fiqh in the Business Practice and Islamic Banking**

Based on the information and the study carried out against the existence of sharia commercial banks and Islamic business units, most of sharia entity has been declared in accordance with Islamic principles, this is because the existing Halal Assurance From the National Sharia Board (DSN). With the fatwas DSN, then the Islamic banks in Indonesia finally felt it was no doubt in sharia laws. The fatwa some of which are:

1. Murabahah (financing the purchase of the property)  
Fatwa DSN (number 04 / DSN-MUI / IV / 2000) states that the bank must buy the necessary goods on behalf of the bank's own customers, and purchases must be valid and free of usury.
2. Mudharabah (profit sharing)  
Fatwa DSN (number 07 / DSN-MUI / IV / 2000) states that Islamic financial institutions as providers of funds to bear all the losses resulting from the mudaraba unless the customer makes a mistake is intentional, negligent, or violate agreements
3. Gold Pawn  
Fatwa DSN (number 25 / DSN-MUI / III / 2002 and 26 / DSN-MUI / III / 2002) states that the cost of maintenance and storage of goods should not be determined based pawn loan amount, but based on the real-real expenditure incurred

But how if it is associated with the rules of fiqh ushul first discussed in this research that "al ashlu baqaa'un makana makana ala 'that the legal origin of something is according to previous state, it is understood that the legal origin of a conventional commercial bank uses interest and usury system is haram, then when conventional banks running the Islamic business units and implement sharia principles with sharia products, then legally ushul this fiqh Islamic business unit (UUS) also cannot be classified as Sharia-based entity, because it still has the original rule with state entities non-conventional and sharia-based agreed otherwise unlawful

Will become more serious benefits if implementation of Islamic banking businesses to apply the rules of fiqh second proposal discussed in this study are "dar'ul mafasid muqaddamun jalbil masholih" that "Leaving an evil takes precedence over taking a benefit," so before developing Islamic business units of conventional banks must abandon all activities related non-Islamic, in other words, a business unit of sharia or Islamic commercial bank cannot stand on non-conventional banks based on sharia, because the law is in a state of non-Islamic law, if it should establish a sharia-based entity then it must be true completely separate from its parent, including in terms of investment, and asset management

Another problem is the Islamic banks to invest funds raised to conventional banks including Bank Indonesia certificates and investment benefits obtained from conventional banks have clearly been declared as usury, and usury is also distributed to customers of Islamic banks as a form of profit sharing in terms Islamic banks, whether the result is in accordance with Islamic principles? the rule "the legal origin of something is according to previous state", the origin of law for Islamic banks results originating from non-Islamic investments, and results of non-Islamic investments as the interest agreed upon is illegitimate, then the value for the results obtained from the interest is usury and legal is illegitimate, it is clearly mentioned in the Quran, *"And God justifies buying and selling and forbidden usury"*. (Qs.Al Baqarah: 275)

Results of the study were derived from Islamic banking informant is surprising or rather it is sad that consciously employees and employee Islamic bank said in a live interview opportunities in the following that "we are also aware of the actual cannot really sharia"

The answer is given when the investment concerning Islamic banks to conventional banks in question, also other questions about Islamic Bank provides mortgages (KPR) to customers, which from the beginning has been to make sure the banks are flat values assigned by the bank to its customers, of course, this it makes no difference to the determination of the interest in conventional banks, and the law clearly is Prohibited/haram

So if there are errors MUI fatwa in this regard? The most obvious is the possibility of errors in interpreting the MUI fatwa that already rely on fiqh and usul fiqh, within a stated rule

*"Something that requires explanation, then the error in giving explanations causing void"*

According to Sheikh Muhammad Taqi Usmani, a member of the Accounting and Auditing Organization for Islamic Finance Institutions (AAOIFI), which sets standards for all Sharia Islamic financial institutions around the world stating that 85% of the entire Islamic sukuk traded worldwide are not in accordance with the rules of Islam?

In Sharia Accounting No. 102 Accounting Murabahah paragraph 8 to Mention

*"Murabaha Payments can be made in cash or deferred. Deferred payment is a payment made at the time the goods are not delivered to the buyer but the payment is made in the form of instalments or all at once at a particular time."*

Then again at paragraph to 9

*"Akad offers murabaha allow different prices for different payment method before murabahah done. However, if the contract has been agreed that there is only one price (the price in the contract) is used."*

In the science of fiqh stated that the definition of riba al-nasi'ah according Jumhurul Ulama, including al-Zuhaili according Wahbah (1985), usury nasi'ah is the addition of the cash price of the goods due to delay in payment or adding 'ain (cash items) above dain (price of debt) against different types of goods are weighed or measured out or to similar goods are not dosed or weighed.

According to Abdur Rahman al-Zajairi, nasi'ah is riba or usury additional (collected) as a counterweight to the postponement of payments ".

Meanwhile, according to Sayid Sabiq, usury nasi'ah additional required is taken by the lender of the debtor, as a counterweight to the delay in payment of debts, the opinion of the scholars is based on the traditions of the Prophet Muhammad

*From imam al-Bukhari narrated rahimahullah of 'Ubadah bin ash-Saamit radiallahu anhu, that the Prophet sallallaahu' alaihi wa sallam said*

*"(Buying and selling) of gold with gold, silver for silver, wheat by wheat, sya'ir with sya'ir, dates with dates and salt with salt, must be the same size, and must be from hand to hand (done with cash). If the types are not the same, then the step that you are as long as they pleased in cash. "*

In the meaning and literal it is contradictory between explanation on Sharia accounting rule 102 paragraph 9 which states "Akad offers murabaha allow different prices for different payment method before murabahah done, while fiqh is clearly evident in the different prohibit transactions with the value of the time difference, but a business trip sharia in Indonesia in particular has been claimed by passing *ijtihad* with the exclusion of some fatwas through the DSN, stating that the transaction is lawful if it has been agreed by both parties and only with one price.

The debate lawful or unlawful sharia entity is still something *syubuhah* for the general public, it is obtained from the information society informants Islamic transactions that most observers still doubt the halal entities such sharia Islamic banks. Although some there are also people who do not pay attention to this aspect of halal haram, as research conducted by Irbid and Zarka (2001) concludes that the motivation of the customer in choosing the Islamic banks tend to be based on the profit motive, not the religious motives.

If some Islamic transactions are still a debate, then how is the legal basis of sharia entity under the non-Islamic entity? Based on information collected in this study, namely to the employees of entities sharia, sharia bank customers, as well as observers of Islamic business community is not much concerned with the fundamental problem with the rules of *usul fiqh* law, it is possible that the bankers sharia most have backgrounds conventional or conventional banking business non-Islamic, and that is the one of the causes of separation between sharia-based business with *ushul fiqh*, and also many who do not know the importance of the science of *usul fiqh* linkages with Islamic transactions, while the explanations and information obtained by the students of science jurisprudence clearly states that the principles of *usul fiqh* which is discussed in this study are clear law is absolute

## **Conclusions and Recommendations**

The existence of sharia entity which is currently a trend in the business development of conventional entity, which still have relevance in terms of policy and mastery of the parent entity conventional assets, based on the nature of the rules of fiqh such entities cannot be included into the category of entities sharia that refers to the

Koran and the Hadiths, the rules of the original proposal emphasizes *fiqh* is a law so that the law can be implemented and not biased in its application, the majority of Islamic products currently available have been discussed in terms of the practical and dynamic in conventional business transactions with the intention of avoiding usury, interest, and uncertain transaction (gambling) others, and not based on the origin of law (fiqh rules), whereas it is important to pay attention to the rules of origin of an Islamic business transactions to be executed, especially if the basis of the transaction is a non-Islamic / Conventional

The bankers sharia would be better if willing and able to understand the rules of *usul fiqh* in greater depth so that more legal certainty opportunities can be ensured, through socialization workshops, training, seminars and other activities commonly performed by entities in the implementation of sharia

### **Limitations of the study**

Various research and studies discussing the implementation of sharia, Islamic products in a variety of activities and business transactions, that developed into a fixed rule that guide the business in running sharia, it is as noted in some of the regulations issued by DSN or that are already shaped Sharia Accounting regulation, but still have not found studies that discuss the basic nature of the legal entity based on its origin and its sharia, so the references related to the theme of the research is still very little, if any just discussed until the problem *usul fiqh* alone, while the Islamic business problems grown today only discussed on the development, targets, strategies, innovation, performance and other developments

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