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The Role of The Sharia Supervisory Board In Sharia Banking In Indonesia

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The Role of The Sharia Supervisory Board In Sharia Banking In Indonesia

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Abstract

One of the characteristics that distinguishes Islamic Commercial Banks from conventional banks is the existence of a sharia supervisory board (DPS) at an independent Islamic bank and located parallel to the board of commissioners. DPS, has an important and strategic role in the implementation of sharia in Islamic Banks. DPS is responsible for ensuring that all products and procedures of Islamic Banks comply with sharia principles. This research is entirely a literature review. The purpose of this research is to find out about the role of DPS in Islamic banking. The analytical method used is content analysis method. The results of this study indicate that the DPS is an independent body consisting of muamalah sharia experts who also have knowledge in banking in Islamic financial institutions and are tasked with overseeing the implementation of the decisions of the national sharia board at these sharia financial institutions. DPS has an important and strategic role in the application of sharia principles in sharia banking. DPS is responsible for ensuring that all sharia bank products and procedures comply with sharia principles.

Keywords: Sharia Bank, Sharia Supervisory Board, Sharia Principles.

Abstrak

Salah satu ciri yang membedakan Bank Umum Syariah dengan bank konvensional adalah keberadaan dewan pengawas syariah (DPS) pada bank syariah yang independen dan terletak sejajar dengan dewan komisaris. DPS, memiliki peran penting dan strategis dalam penerapan syariah di Bank Islam. DPS bertanggung jawab untuk memastikan semua produk dan prosedur bank Islam sesuai dengan prinsip syariah. Penelitian ini sepenuhnya merupakan kajian pustaka. Tujuan dari penelitian adalah untuk mengetahui terkait bagaimana peran DPS dalam perbankan syariah. Metode analisis yang digunakan yaitu metode konten analisis. Hasil penelitian ini menunjukkan bahwa DPS adalah badan independen yang terdiri dari para pakar syariah

muamalah yang juga memiliki pengetahuan dalam bidang perbankan yang ada di lembaga keuangan syariah dan bertugas men⁴wasi pelaksanaan keputusan dewan syariah nasional pada lembaga keuangan syariah tersebut. DPS memiliki peran penting dan strategis dalam penerapan prinsip syariah di perbankan syariah. DPS bertanggung jawab untuk memastikan semua produk dan prosedur bank syariah sesuai dengan prinsip syariah.

Kata Kunci: *Bank Syariah, Dewan Pengawas Syariah, Prinsip Syariah.*

Introduction

The Islamic banking and finance system is part of a broader concept of Islamic economics, where the aim is to impose an Islamic value system and ethics into the economic environment. Because of this ethical basis, Islamic finance and banking for most Muslims is not just a system of commercial transactions. The Islamic perception of financial transactions is seen by most Muslims as a religious obligation. The ability of an Islamic financial institution to attract investors successfully depends not only on the level of the institution's ability to generate profits, but also on the perception that the institution is really paying attention to the limits outlined by Islam. Financial institutions are basically intermediaries, with a central position between owners of funds, between depositors and borrowers, between buyers and sellers.

A financial institution is not a factory or producer that produces its own money and then distributes or lends it to those who need it. Banking financial institutions are one of the most dominant business activities and are much needed in the economic activities of modern society. Based on this fact, Muslims feel the need to establish banking institutions that can meet the needs of the Muslim community to be able to use riba-free banking services. Banks as financial intermediary institutions (financial intermediaries), whose main task is to collect funds from the public, are expected with these funds to meet the needs for financing funds that were not provided by the two previous institutions, both state and private institutions. In fundraising activities,

It is called an investment, because the principle used is the principle of investment or participation, and profits will be obtained depending on the performance of the business that is the object of the investment in accordance with the previously agreed profit sharing ratio. It is called financing because Islamic banks provide funds to finance the needs of customers who need it and deserve it (Ilyas 2015, 185). Sharia

banking in its operational activities must carry out its functions properly, in accordance with applicable banking regulations and in accordance with sharia principles.

To guarantee the implementation of sharia principles in sharia banking activities, there is one affiliated party, namely DPS, as a party that provides services to sharia banks or sharia business units (UUS). This board is the party responsible for information about the compliance of bank managers with sharia principles (Suryani 2014, 104). As mandated in law number 40 of 2007 concerning limited liability companies (President of the Republic of Indonesia 2007) and law number 21 of 2008 concerning Islamic banking (President of the Republic of Indonesia 2008) which states that Islamic banks must have 3 DPS.

The role of DPS is very strategic in the practice of sharia compliance in Islamic banking institutions in Indonesia. The function and role of DPS in Islamic banks has a strong relationship with the management of Islamic banking risk, namely reputation risk which in turn gives an impression on other risks, such as liquidity risk. Islamic banking activities must apply sharia principles in economic transactions and apart from things that are prohibited by Islam such as usury, gambling, speculation and others (Sutedi 2011, 131). This study aims to find out how the role of DPS in Islamic financial institutions, especially in Islamic banking. This research was conducted by reviewing the literature and research results presented in the form of journal articles.

Research Methodology

The type of research used by researchers is library research (literature review). Thus, the discussion in this study was carried out based on a literature review and several writings that are relevant to the object of study. In this case the object the author is referring to are books and journal articles related to Islamic banking, Islamic financial institutions and other supporting sources.

The data analysis method used is the content analysis method, which is a research method used to draw reflective and valid conclusions from data based on context. In using content analysis there are five rules that exist. First, it must be related to a problem, secondly it must be complete, thirdly it is not interdependent, fourthly it

must be independent, obtained on the basis of a single classification principle (Molong 2011, 221).

The analysis carried out must be based on explicitly formulated rules. To meet the systematic requirements, content categorization must use certain criteria. The results of the analysis must present generalizations, meaning that the findings must have a theoretical contribution, findings that are only descriptive have low value.

DISCUSSION

Sharia Supervisory Board (DPS)

Basically DPS continues the extension of the DSN in realizing the fatwa that has been decided by the DSN. DPS acts as a supervisor of Islamic financial institutions that oversees every operational activity of Islamic banking, be it Islamic banks, Islamic insurance, Islamic capital markets and others, so that all Islamic financial institutions can operate in accordance with the demands of Islamic law. DPS is not directly involved in the management of Islamic financial institutions, because this is a direct responsibility under the authority of the Board of Directors of an Islamic financial institution. DPS has the right to provide input to the implementing parties of Islamic financial institutions (Sultoni 2019, 108).

DPS is an independent body consisting of muamalah sharia experts who also have knowledge in banking in Islamic financial institutions and are tasked with overseeing the implementation of DSN decisions at these Islamic financial institutions. DPS is an independent body, so to guarantee the issuance of opinions, several things must be considered: (a) DPS are not bank staff, in the sense that they are not subject to administrative authority. (b) DPS is elected by the general meeting of shareholders (GMS). (c) The DPS honorarium is determined by the GMS. (d) DPS has a work system and certain tasks like other supervisory bodies.

DPS has an important and strategic role in the application of sharia principles in sharia banking. DPS is responsible for ensuring that all sharia bank products and procedures comply with sharia principles. Due to the importance of the DPS role, two laws in Indonesia state the necessity of having a DPS in sharia companies and sharia banking institutions, namely law number 40 of 2007 concerning limited liability companies and law number 21 of 2008 concerning sharia banking. Thus, juridically,

DPS in banking institutions occupies a strong position, because its existence is very important and strategic (Ilyas 2019, 199).

The main role of the ulama in the DPS is to oversee the day-to-day operations of the bank so that it is always in accordance with sharia provisions. This is because the transactions that apply in Islamic banks are very special when compared to conventional banks. Therefore, it is necessary that these guidelines are compiled and determined by the DSN (Irham 2019, 447).

According to law number 40 of 2007 article 109: (1) Companies that carry out business activities based on sharia principles in addition to having a board of commissioners are required to have a DPS. (2) The DPS as referred to in paragraph (1) consists of one sharia expert or more appointed by the GMS on the recommendation of the MUI. (3) The DPS as referred to in paragraph (1) has the task of providing advice and suggestions to the Board of Directors and supervising the company's activities so that they comply with sharia principles.

Based on this law, every company that is a limited liability company is required to have a DPS. In line with that, law number 21 of 2008 article 32 states: (a) DPS must be formed in Islamic banks and conventional commercial banks that have UUS. (b) The DPS as referred to in paragraph (1) is appointed by the GMS on the recommendation of the MUI. (c) DPS as referred to in paragraph (1) has the task of providing advice and suggestions to the directors and supervising bank activities so that they are in accordance with sharia principles. (d) Further provisions regarding the formation of DPS as referred to in paragraph (1) are regulated by bank Indonesia regulations.

Based on these two laws, the position of Sharia Supervisory Board is very clear and stable and very decisive for the development of Islamic banks and Islamic companies. According to article 21 PBI No. 6/24/PBI/2004 DPS members must meet the following requirements: (1) Integrity, namely: (a) Having good character and morals, (b) Having a commitment to comply with applicable laws and regulations. (c) Have a high commitment to the development of sound bank operations. (d) Not included in the list of failed in accordance with the provisions stipulated by Bank Indonesia. (2) Competence, namely having knowledge and experience in the field of sharia muamalah and knowledge in banking and or finance in general.

Based on the decision of the MUI leadership regarding the composition of the DSNMUI management number Kep-98/MUI/III/2001, the DPS carries out the following functions: (a) As an adviser and adviser to the directors, heads of sharia branch offices regarding matters relating to aspects sharia. (b) As a mediator between the bank and DSN in communicating suggestions and suggestions for the development of bank products and services, it requires studies and fatwas from the DSN. (c) As a DSN representative placed at Islamic banks.

DPS duties include: (a) Supervising the day-to-day running of Islamic financial institutions so that they are always in accordance with sharia provisions, (b) Making periodic statements that the Islamic financial institutions they supervise have been operating in accordance with sharia provisions, (c) Examining and make new product recommendations from the Islamic financial institutions it supervises. (d) Together with the commissioners and directors, oversee and maintain the application of Islamic values in every activity carried out by Islamic financial institutions. (e) Conduct outreach to the public about Islamic financial institutions through media that already exist and are in effect in society.

To carry out such supervision, DPS members must have integral scientific qualifications, namely muamalah fiqh science and modern Islamic financial economics. The big mistake of sharia banking today is appointing DPS because of their charisma and popularity in society, not because of their knowledge in economics and sharia banking.

Institutionally, the structure of DPS in LKS can be seen as follows: (a) In the corporate structure. The DPS is at the same level as the commissioner's function as supervisor of the directors. (b) If the commissioner's function is supervisor in relation to management performance, DPS supervises management in relation to the implementation of systems and products so that they remain in accordance with Islamic sharia. (c) Responsible for the moral development of all employees based on the Islamic coaching system that has been programmed every year. (d) Participate in supervising violations of Islamic values in the company environment. (e) Responsible for the sharia selection of new employee recruitment carried out by the DPS secretary.

Figure 1. Organizational Structure of Islamic Banks



Source: (Rivai, 2010, 164)

Based on Figure 1, it can be seen that the position of the DPS is equal to the board of commissioners, because the DPS and the board of commissioners must obtain the approval of the GMS and represent the interests of the GMS in terms of sharia oversight. So both of them are equally responsible to the GMS. In addition, it is necessary to consider the honorarium of DPS members if they are considered equal to members of the board of commissioners, meaning that the compensation given should also be the same. The DSN cannot dissolve the DPS, but only proposes to the GMS to dissolve the DPS, if it does not carry out its duties properly. If irregularities occur in the DPS, then Bank Indonesia, in this case the director, will report to the DSN and then the DSN will recommend the GMS to dismiss the DPS. As for the phenomenon that is currently occurring, the practice of supervision at Islamic banks in Indonesia is a vital role for DPS but has not run optimally, in fact it is very far from the role they should be carrying out. This phenomenon is not only in sharia rural banks, but also in sharia commercial banks. Many of them have no role or have no role at all in supervising Islamic banking operations (Maulana 2014, 3).

The challenge faced by DPS both in Indonesia and other Muslim countries is how to unite the various views of the ulama which sometimes differ from one another. In the Islamic financial forum in Bahrain in December 1998, the issue of the global clerical fatwa unity (all Muslim countries) was discussed. But taking into account the complexity of opinions and the existence of various schools of thought in Islam, the formation of an international sharia board is still an agenda, which is very important to follow up. The same thing was conveyed by Faozan that the DPS task must be very heavy, because it is indeed not easy to be an institution that has to oversee and guarantee the sharia operations of a business entity in a context that is very broad and

complex in general. Because it concerns muamalah matters where the space for interpretation is very broad. The sharia of an Islamic financial institution rests on their shoulders (Faozan 2014, 31). Based on AAOIFI (accounting and auditing organization of Islamic financial institutions) has provided standards for DPS, composition and related aspects, such as regulations, reports and so on. According to this standard, sharia institutions should be independent institutions consisting of scholars who are concerned with Islamic science and law. The DPS may also consist of other experts in the field of Islamic financial institutions with scientific knowledge of Islamic law relating to commercial transactions. DPS is entrusted with the task of directing,

Optimizing the role of DPS is very important to ensure that every financial and banking transaction complies with sharia principles that refer to the Al-Qur'an and Sunnah, in this case the DSN MUI fatwa. The basic guidelines for the DSN MUI chapter IV paragraph (2) state that the DSN MUI issues a fatwa that binds the DPS in every Islamic financial institution and forms the basis for the parties to take related legal action, namely based on the fatwa issued by the DSN MUI referred to by the DPS (Probowo 2017, 119). DSN is the only body that has the authority to issue sharia fatwas on types of Islamic financial activities, products and services, as well as oversee the implementation of the intended fatwa by financial institutions in Indonesia (Minarni 2013, 2). Besides that,

National Sharia Council (DSN)

MUI as an institution that has authority in the field of religion related to the interests of Indonesian Muslims formed a sharia council on a national scale called the national sharia council (DSN), established on February 10, 1999 in accordance with the MUI decree (SK) number kep-754 /MUI/II/1999. This MUI DSN institution is an institution that has strong authority in determining and maintaining the application of sharia principles in the operations of sharia financial institutions, both sharia banking, sharia insurance and others.

This is as contained in law number 21 of 2008 concerning Islamic banking article 32 and law number 40 of 2007 concerning limited liability companies article 109 which in essence states that DPS must be formed in Islamic banks and companies that

carry out business activities based on sharia principles. The DPS can only be appointed if it has received a recommendation from the MUI DSN. (Iswanto 2016, 430).

The DSN is established by the MUI, which is tasked with and has the authority to ensure conformity between products, services and business activities of Islamic financial institutions (banks, insurance, mutual funds, venture capital, etc.) with Islamic principles. There are three things behind the formation of the DSN, namely: (a) Realizing the aspirations of Muslims regarding economic issues and encouraging the application of Islamic teachings in the economic sector/which are carried out in accordance with the demands of Islamic law. (b) The efficiency and coordination of the ulama in responding to issues related to economic problems. (c) Encouraging the application of Islamic teachings in economic and financial life (Rivai 2010, 755). The main function of the DSN is to oversee the products of Islamic financial institutions so that they comply with Islamic sharia principles.

For this reason, DSN makes guidelines for sharia products taken from sources of Islamic law. Another function of the DSN is to research and provide fatwas for products developed by Islamic financial institutions. In addition, DSN also has the authority to include: (a) Giving and withdrawing recommendations for names that will sit as members of the Sharia Supervisory Board (DPS) in an Islamic financial institution. (b) Issuing a **fatwa that binds DPS in each Islamic financial institution and becomes the basis for** legal actions of related parties. (c) Issuing fatwas which serve as the legal basis for provisions issued by authorized agencies, such as Bank Indonesia and the capital market development agency (BAPEPAM). (d) **Give a warning to Islamic financial institutions to stop deviations from the fatwas that have been issued by the DSN.**

According to DSN decision number 01 of 2000 concerning the basic guidelines of the MUI, the DSN has the following tasks: (a) Developing the application of sharia values in economic activities in general and finance in particular. (b) Issuing fatwas on types of financial activities. (c) Issuing fatwas on financial products and services. (d) Supervise the implementation of the issued fatwas. In addition, the DSN also has the following powers: (a) Issuing a fatwa that binds the DPS in each Islamic financial institution and forms the basis for related legal actions. (b) Issuing fatwas which serve as the basis for provisions/regulations issued by authorized agencies, such as the finance

department and Bank Indonesia. (c) Provide recommendations and or revoke recommendations for names that will serve as DPS at an Islamic financial institution (LKS). (d) Inviting experts to explain an issue that is needed in the discussion of sharia economics, including domestic and foreign monetary authorities/financial institutions. (e) Give a warning to the LKS to stop deviating from the fatwa that has been issued by the DSN. (f) Propose to the competent authority to take action if the warning is not heeded.

In Indonesia, the authority for religious matters is under the MUI, as are matters relating to the sharia board. With the development of LKS, the number of DPS in each LKS also grows. This often results in the appearance of different fatwas between the DPS in one LKS and the DPS in another LKS. To issue a fatwa, the MUI forms a fatwa commission. This commission analyzes the issues that will be fatwa by referring to the Al-Qur'an and Hadith, the opinions of the four Imams of schools of thought as well as the opinions of previous scholars. In giving the fatwa, DSN may not be influenced or influenced by any institution.

Independent is needed so that the fatwas produced are truly in accordance with sharia provisions and can maintain the objectivity of making fatwas issued by the DSN. The Sharia Board is tasked with exploring, studying and formulating values and principles of Islamic law (shariah) to serve as guidelines for transaction activities in Islamic financial institutions as well as overseeing their implementation and implementation. Members of the institution are Islamic law experts and economic practitioners, especially the financial sector, both banks and non-banks whose functions are to carry out the duties of the MUI. In its implementation, this institution is assisted by a daily implementing agency (BPH-DSN) which conducts research, exploration and studies of problems related to Islamic banking.

After being considered sufficient, the results of the study were set forth in the form of a draft DSN fatwa. The draft DSN fatwa is then brought to the plenary meeting of the DSN management for discussion. Then it was decided to become a DSN fatwa. The finalization of this fatwa, especially from an editorial aspect, was signed by the drafters of the BPH-DSN. To date, DSN has issued 43 fatwas covering sharia banking

products, non-bank financial institutions such as insurance, capital markets, mortgages and various fatwas supporting other transactions in sharia financial institutions.

Syariah Banking

Islamic banks, or hereinafter referred to as sharia banks, are banks that operate without relying on interest. Islamic banks or commonly referred to as interest-free banks, are banking institutions whose operations and products are developed based on the Al-Qur'an and the Hadith of the Prophet SAW. In other words, Islamic banks are financial institutions whose main business is providing financing and other services in payment traffic and money circulation whose operations are in accordance with Islamic sharia principles.

Antonio and Perwataatmadja differentiate into two meanings, namely Islamic banks and banks that operate on Islamic sharia principles. Islamic Bank is (a) a bank that operates according to the principles of Islamic shari'ah; (b) banks whose operating procedures refer to the provisions of the Al-Qur'an and Hadith. Meanwhile, a bank that operates according to Islamic sharia principles is a bank that follows the provisions of Islamic syari'ah, especially those concerning procedures for dealing with Islam in an Islamic manner. Furthermore, in this muamalat procedure, practices that are feared to contain elements of usury are to be filled with investment activities on the basis of profit sharing and trade financing. Shari'ah banks are banks whose activities leave usury problems behind.

Thus, the avoidance of interest which is considered usury is one of the challenges faced by the Islamic world today. It is encouraging that recently Muslim economists have devoted great attention to finding ways to replace the interest system in banking and financial transactions that are more in line with Islamic ethics. This effort was carried out in an effort to build an interest-free economic theory model and test it on economic growth, allocation and distribution of income.

A progress that is quite encouraging, towards the twentieth century there was a revival of the Muslim community in all aspects. In the financial system, thoughts are developing that lead to a reorientation of the financial system, namely by eliminating its main instrument: interest. This effort is carried out with the aim of achieving conformity

¹ in carrying out the principles of Islamic teachings which contain the basics of justice, honesty and virtue.

The existence of Islamic banking in the country has gained a solid footing after the enactment of the Banking Law Number 7 of 1992 which was revised through Law Number 10 of 1998, which expressly recognizes the existence and functioning of Profit Sharing Banks or Islamic Banks. Thus, this bank is operating on the principle of profit sharing. Profit sharing is the principle of muamalah based on shari'ah in conducting bank business activities.

Conclusion

DPS is an independent body consisting of muamalah sharia experts who also have knowledge in banking in Islamic financial institutions and are tasked with overseeing the implementation of DSN decisions at these Islamic financial institutions. The position of DPS is equal to the board of commissioners, because it must obtain the approval of the GMS and represent the interests of the GMS in terms of sharia oversight. So both of them are equally responsible to the GMS. In addition, it is necessary to consider the honorarium of DPS members if they are considered equal to members of the board of commissioners, meaning that the compensation given should also be the same.

DPS has an important and strategic role in the application of sharia principles in sharia banking. DPS is responsible for ensuring that all sharia bank products and procedures comply with sharia principles. Due to the importance of the DPS role, two laws in Indonesia state the necessity of having a DPS in sharia companies and sharia banking institutions, namely law number 40 of 2007 concerning limited liability companies and law number 21 of 2008 concerning sharia banking.

Thus, juridically, DPS in banking institutions occupies a strong position, because its existence is very important and strategic. The main role of the ulama in the DPS is to oversee the day-to-day operations of the bank so that it is always in accordance with sharia provisions. This is because the transactions that apply in Islamic banks are very special when compared to conventional banks. Because of this, it is necessary that these guidelines be compiled and determined by the DSN.

This research is a literature study, so this research has limitations including research that only focuses on literature sourced from the results of the thoughts of experts and from the results of previous research reviewed through journals so that it is necessary in the future to conduct field research through interviews with the DPS in order to get more related information. So it is suggested that this research can also continue at the field research stage.

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