



Optimizing the Performance of The Sharia Supervisory Council in Sharia Financial Institutions

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ABSTRACT

The sharia supervisory board has a fundamental contribution to the compliance of sharia bank compliance. In the progress of Islamic Financial Institutions, there are still often violations committed by individual Islamic bank managers themselves. As happened in the case of the Bogor branch of the Syariah Bank Mandiri (BSM) in 2013 caught the case of a fictitious credit of Rp102 billion, which was carried out by unscrupulous BSM. This paper will discuss the scope, mechanism of the supervisory function and work of the sharia supervisory board and finding ways to optimize the performance of the sharia supervisory board. By using a qualitative normative approach. This study produced an understanding that the Sharia supervisory board must ensure that Islamic banks are in line with sharia principles as reflected in the fatwa, rules, and guidelines issued by the sharia supervisory board. For the achievement of Sharia Financial Institutions that are by existing Islamic regulations, special attention needs to be paid by the Sharia Supervisory Board and the government.

Keywords: *Optimize, Performance, Sharia Supervisory Board, Scope, Oversight Function*

INTRODUCTION



Islam is "a complete and universal system of life"¹ to compose and provide dynamic and easy direction for all aspects of life, including business and financial transactions. One phenomenon that emerged in the past three decades was the rapid growth of the Islamic banking industry"². "The Islamic banking industry is run based on sharia principles and systems. Therefore, the suitability of Islamic banking operations and practices with sharia is a fundamental tool in Islamic banking". In its implementation, Islamic banks function as "collecting funds from the public in the form of deposits and investments, channelling funds to people who need funds from banks and providing services in the form of Islamic banking services", these three functions are the main functions of Islamic banks in Indonesia.³

The operation of Islamic banks has two risks "first, the risk of material loss in each contract performed; second, the risk of violation of sharia compliance"⁴. These two risks show that developments in Islamic banking are "like two sides of a sword, on the one hand, it can bring convenience, on the other hand, it is risky for the parties in Islamic banking". So to overcome this problem, a Sharia Supervisory Board was formed, from now on referred to as DPS, DPS is a delegation of full authority from the National Sharia Council (DSN) of the Indonesian Ulema Council (MUI) in every Islamic bank.⁵

"Muhammad in his book *Islamic Bank Analysis of Strengths, Opportunities, Weaknesses and Threats*, he explained that the majority of Indonesians are Muslim

¹ Edi Susanto, "Islam Pribumi Versus Islam Otentik (Dialektika Islam Universal dengan Partikularitas Budaya lokal)", *Karsa*, Vol. 13, No. 1, 2018, p. 17.

² Imam Mahfud, "Strategi Pemasaran Perbankan Syariah Di Tengah Pesatnya Pertumbuhan Industri Perbankan Syariah di Indonesia", *Madani Syari'ah*, Vol. 3, No. 3, 2020, p. 16.

³ Bagya Agung Prabowo dan Jasri Bin Jamal, "Peranan Dewan Pengawas Syariah terhadap Praktik Kepatuhan Syariah dalam Perbankan Syariah di Indonesia", *Jurnal Hukum Ius Quia Iustum*, Vol. 24, No. 1, 2017, p. 114.

⁴ Agus Waluyo, "Kepatuhan Bank Syariah Terhadap Fatwa Dewan Syariah Nasional Pasca Transformasi Ke dalam Hukum Positif, Inferensi", *Jurnal Penelitian Sosial Keagamaan*, Vol. 10, No.2, 2016, p. 520.

⁵ Taufik Kurrohman, "Peran Dewan Pengawas Terhadap Syariah Compliance Pada Perbankan Syariah", *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum dan Keadilan*, Vol. 8, No. 2, 2017, p. 50.



as a captive market that is profitable for the development of Islamic banking. Captive market means that the majority of the population has a psychological sentiment to prioritize the use of Islamic banking services because of the security (halal) guarantees offered, of course with a note that the services and facilities owned by Islamic banks also do not disappoint”.⁶

After the passing of the "Shari'ah Banking Bill into Law by the Indonesian Parliament on June 18, 2008, all forms of sharia banking already have the highest legal umbrella that will protect the actions and actions of sharia banking in the Islamic financial industry. In Indonesia. The Shari'ah Banking Act is a crystallization of the long struggle of Indonesian Muslims in applying shari'ah principles in the field of muamalah, especially muamalah maliyah. Therefore, the Syari'ah Banking Law is expected to be the highest legality umbrella capable of accelerating the growth of syariah banking in Indonesia as well as being able to boost the national economic growth rate that is just people and is oriented towards equity and the real sector".⁷ The realization of the Shari'ah principles in the shari'ah banking system must refer to three basic principles, namely: 1) the principle of justice, 2) avoiding activities that are prohibited by the shari'ah, and 3) paying attention to aspects of benefit sector”.⁸

For these shari'ah principles to be realised adequately in shari'ah banks, there must be supervision. This supervision was carried out by Bank Indonesia as a supervisor and supervisor and by DPS. Thus, ideally in its application in the field, there is no opportunity for irregularities and fraud in Islamic Banking.⁹ The development of Islamic Financial Institutions still frequently occurs violations committed by unscrupulous sharia bank managers themselves. "As happened in the

⁶ Imam Mahfud, *Op Cit*, p. 17.

⁷ Fitra Nelli, "Problematika Kiprah Dewan Pengawas Syari'ah (DPS) di Perbankan Syari'ah", *Al-Masharif*, Vol. 3, No. 1, 2015, p. 85.

⁸ *Ibid*, p. 86.

⁹ Bagya Agung Prabowo dan Jasri Bin Jamal, *Op Cit*, p. 114.



case of Bank Syariah Mandiri, in 2013 a subsidiary of Bank Mandiri, namely the Bogor branch of BSM, was caught in a fictitious loan disbursement case of Rp102 billion. This crime is known to be part of a banking syndicate. Four suspects were named in this case, three of whom were BSM employees. The mode used by the suspect was to falsify the identities of 197 fictitious customers either through the customer's identity or through other administrative requirements. This case stems from a report submitted by the Central BSM to the Indonesian Police's Criminal Investigation Agency (Bareskrim), which then carried out an investigation and investigation".¹⁰

"Another mode of banking crime is document forgery which leads to theft of customer funds. This has at least happened in BSM mid-2014-2015, which involved two BSM employees with a loss from this case of Rp50 billion. Two employees are BSM Marketing Manager, Gatot Subroto Branch and BSM Trade Specialist, Officer.¹¹ In connection with these cases, researchers have to study and examine further the role or existence of SSB in the development and progress of Islamic banking institutions in Indonesia. So that researchers are interested in examining more deeply through a paper entitled "Optimizing the Performance of the Sharia Supervisory Board in Islamic Financial Institutions". The problems raised in this study are; What is the scope of SSB Supervision in Islamic Financial Institutions? What is the mechanism for the supervisory and work functions by DPS in Islamic Financial Institutions?

RESEARCH METHODE

The methodology that will be used in this research is normative legal research, namely, research conducted on legal principles, legal principles in terms

¹⁰ Pusat Pelaporan Dan Analisis Transaksi Keuangan, "Pembobolan Bank dan Bagaimana Penjahat Kerah Putih Beraksi", diakses melalui http://www.ppatk.go.id/siaran_pers/read/796/pembobolan-bank-dan-bagaimana-penjahat-kerah-putih-beraksi.html, accessed on 23 June 2020, 19.40

¹¹ Bagya Agung Prabowo dan Jasri Bin Jamal, *Op Cit*, p. 117.



of values (norms), concrete legal regulations and legal systems. With the statute approach, namely, by examining laws and regulations that are relevant to the object of research being discussed, and the conceptual approach, namely, an approach based on the opinion of experts, if no law regulates it. The data used are secondary legal data in the form of primary legal materials, namely the laws and regulations on Islamic Banking, also using secondary legal materials in the form of literature related to Islamic financial institutions and the functions of DPS. The data and legal materials were collected through a literature study, then analyzed descriptively and analytically.¹² to describe the object of research and answer research problems.

RESULTS AND DISCUSSION

Scope of Supervision of the Sharia Supervisory Board in Sharia Financial Institutions

Scope of the Sharia Supervisory Board

The religious basis for the formation of the DPS can be seen in Q.S. At-Taubah (9): 105. Meaning: And say: "Work you, then Allah and His Messenger and the believers will see your work, and you will be returned to (Allah) Who Knows the unseen and the real, then He will tell you what is you have done". Islamic banking refers to the banking system, which is consistent and compliant with Islamic law, also known as Sharia (divine rules). Complying with Sharia or obeying Sharia means strictly obeying what is permitted (halal) or staying away from what is prohibited (haram). To convince the stakeholders of a sharia bank that the bank conducts its business in Sharia, a religious board service consisting of sharia scholars known as the Sharia Council is employed.¹³

¹² Kornelius Benuf, Muhamad Azhar, "Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer", *Gema Keadilan*, Vol. 7, No. 1, 2020, p. 25.

¹³ Ali Said, Rihab Grassa, "The Determinants of Sukuk Market Development: Does Macroeconomic Factors Influence the Construction of Certain Structure of Sukuk?", *Journal of Applied Finance & Banking*, Vol. 3, No. 5, 2013, p. 256.



DPS, which is typical for Islamic banks is considered a major component of the Islamic governance framework¹⁴. DPS exists alongside the usual governance structure, but its function is primarily to certify and monitor Islamic banking financial contracts, transactions and activities on behalf of stakeholders and clients to ensure that they comply with Sharia.¹⁵

According to the Islamic Financial Service Board (IFSB), Sharia governance refers to a set of institutional and organizational arrangements in which Islamic Financial Institutions ensure that “there is effective independent oversight of Sharia compliance with the issuance of relevant Sharia statements, dissemination of information and reviews of internal Sharia compliance”.¹⁶ In line with the IFSB guidelines, the supervisory and governance structure at Islamic Bank is expected to include an SSB consisting of qualified scholars in Fiqh al Muamalat. They are appointed by shareholders and report to the board of directors, with responsibility for certification. And monitor financial contracts, transactions and activities of Islamic banks on behalf of stakeholders and clients to ensure that they comply with Sharia; an internal sharia review process, which is carried out by an independent department to monitor, evaluate and produce reports on sharia compliance; and; Periodic Sharia review covering policies and transactions, which form the basis of the Sharia Supervisory Board report. DPS is mandated to research and supervise the legality of Islamic bank operations so that it is always by sharia principles.¹⁷

DPS is "an independent body placed by the National Syari'ah Council (DSN) in syari'ah banking and financial institutions. Members of DPS must consist of

¹⁴ Aldira Maradita, “Karakteristik Good Corporate Governance Pada Bank Syariah Dan Bank Konvensional”, *Yuridika*, Vol. 29 No 2, 2014, p. 195.

¹⁵ Bhartesh Ramprakash kasi dan Najdat Mahmood, “Composition and Working of the Sharia Supervisory Boards in Bahrain’s Islamic Banks”, *Economy*, Vol. 6, No. 2, 2019, p. 77.

¹⁶ Evony Silvino Violita, Gustining Handarbeni, “Analisis Efektivitas Dan Tinjauan Audit Syariah Dalam Pelaksanaan Dan Pengawasan Kepatuhan Syariah Pada Bank Syariah”, *JRB-Jurnal Riset Bisnis*, Vol. 1, No. 1, 2017, p. 48.

¹⁷ Muhammad Ayub, *Understanding Islamic Finance*, diterjemahkan oleh Aditya Wisnu Pribadi, PT Gramedia Pustaka Utama, Jakarta, 2009, p. 52.



experts in the field of syari'ah muamalah who also know about banking economics".¹⁸ "DPS is an extension of the national Sharia Board which is given the task and authority to oversee bank operations and sharia financing products, the concept adopted by Malaysia is possible to apply in Indonesia, to strengthen the authority for sharia compliance. Unlike Malaysia in Indonesia, the position of SSB is an internal organ that is parallel to the board of commissioners in a sharia bank".¹⁹

The legal basis for DPS in Indonesia is regulated in "Law Number 21 of 2008 concerning Sharia Banking", from now on referred to as the Sharia Banking Law, specifically regarding DPS is regulated in Article 32. Article a quo stipulates that "The determination of DPS members is carried out by the General Meeting of Shareholders (GMS) after DPS members receive a recommendation from the National Sharia Council (DSN). DSN is an autonomous body of the Indonesian Ulema Council (MUI) which is chaired ex officio by the chairman of the MUI. To carry out the daily work, the DSN Daily Executing Body was appointed. "DPS must conduct a sharia review to check the extent to which Islamic bank activities are by sharia principles. So, DPS can ensure that Islamic banks are in line with sharia principles as reflected in the fatwas, rules and guidelines issued by DPS. Therefore DPS has made a major contribution to the success of the Islamic banking industry as it has succeeded in gaining shareholder and public trust in Islamic bank compliance. in sharia".²⁰

The first Government Regulation regarding DPS is in Government Regulation No.72 of 1992, which explains that a bank operating under sharia principles is required to have a DPS in charge of providing supervision of its products to run according to sharia. To maximize the supervisory role by DPS, MUI formed a National Sharia Council which deals explicitly with Islamic finance issues

¹⁸ Fitra Nelli, *Op.Cit*, p. 88.

¹⁹ Taufik Kurrohman, *Op Cit*, p. 54.

²⁰ Fitra Nelli, *Op. Cit*, p. 87.



in Indonesia with the DSN-MUI Decree Number: 03 of 2000 concerning Guidelines for Determining DPS Members.

The legal status of DPS is contained in Law no. 21 of 2008 concerning Syari'ah Banking, Chapter V third part, Article 32 of the Islamic Banking Council states:

1. DPS must be established in Sharia Banks and Conventional Commercial Banks having Sharia Business Units (UUS).
2. DPS, as referred to in paragraph (1), shall be appointed by the General Meeting of Shareholders on the recommendation of the Indonesian Ulema Council
3. DPS, as referred to in paragraph (1), is in charge of providing advice and suggestions to the board of directors as well as supervising Bank activities by Sharia Principles.
4. Further provisions concerning the establishment of DPS as referred to in paragraph (1) are regulated by a Bank Indonesia Regulation.

"Regarding the mechanism for the appointment and implementation of duties and responsibilities of the Sharia Supervisory Board for Sharia Commercial Banks, it is contained in Bank Indonesia Regulation Number 11/03/2009 concerning Article 35 Sharia Commercial Banks which reads":

- (1) DPS has the duty and responsibility of providing advice and suggestions to the Board of Directors as well as supervising Bank activities to comply with Sharia Principles.
- (2) The implementation of DPS duties and responsibilities as referred to in paragraph (1) includes, among others:
 - a) assess and ensure compliance with sharia principles on operational guidelines and products issued by the Bank;
 - b) supervise the Bank's new product development process;



- c) requesting a fatwa from the National Sharia Board for new bank products for which there is no fatwa;
- d) conduct regular reviews on the fulfilment of sharia principles on the mechanism for raising funds and channelling funds as well as bank services, and
- e) request data and information related to sharia aspects from the Bank's work units in the context of carrying out their duties. Meanwhile, UUS is clarified by Regulations.

According to Andi Prabowo, there are three reasons why the Syari'ah Supervisory Board has an important role in syari'ah banks, namely;²¹ Determining the level of credibility of a shari'ah bank, being the main element in creating shari'a compliance assurance, and being one of the main pillars in implementing good corporate governance (GCG) of a shari'ah bank. To see the scope of supervision of SSB, it can also go through the Sharia Supervisory Board Structure in Indonesia, as follows;²²

- 1) SSB in the corporate structure is at the same level as the function of commissioners as supervisors of the Board of Directors.\
- 2) If the function of the commissioner is the supervisor in terms of management performance, SSB shall supervise management, about the implementation of the system and products so that they are by Islamic sharia.
- 3) Responsible for the moral development of all employees based on the Islamic guidance system that has been programmed annually.
- 4) Participate in monitoring violations of Islamic values within the company.

²¹ Ikhsan Al Hakim, "Penyelesaian Sengketa Ekonomi Syariah di Pengadilan Agama", *Pandecta Jurnal Ilmu Hukum*, Vol. 9, No. 2, 2014, p. 271.

²² Rahma Yudi Astuti, "Analisa Kinerja Dewan Pengawas Syariah di Bank Syariah", *Al-Tijarah*, Vol. 1, No. 2, 2015, p. 204.



- 5) Responsible for new employee sharia selection conducted by the Sharia Bureau.

Responsibilities of the Sharia Supervisory Board

SSB in Islamic banking has a significant and strategic role in sharia supervision in Islamic banking. DPS is responsible for ensuring all products and procedures of Islamic banks comply with sharia principles. Due to its essential role in SSB, the two laws in Indonesia include the need for SSB in sharia-based companies and Islamic banking institutions, namely; "Law No. 40 of 2007 regarding Limited Liability Companies and Law No. 21 of 2008 concerning Islamic Banking. Therefore, juridically, SSB in banking institutions has an influential position because its presence is significant and strategic".²³

"Optimizing the role of SSB is very important to ensure every transaction is by sharia principles that refer to the al-Qur'an and Sunnah, in this case, the fatwa of the National Sharia Council of the Indonesian Ulama Council. The basic guidelines for the DSN MUI Chapter IV paragraph (2) state that the MUI DSN issues a fatwa that binds the DPS in every Islamic financial institution and becomes the basis for the parties to take related legal actions, namely based on the fatwa issued by the MUI DSN referred to by the DPS. 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 to oversee the implementation of the fatwa referred to by financial institutions in Indonesia. Also, the role of SSB and DSN is not only to supervise the operations of Islamic financial institutions but also to have a bigger role, namely to support the growth and development of Islamic finance and economy in Indonesia."²⁴

The existence of DPS as mentioned in Article 32 of Law no. 21 of 2008, in principle, SSB should be established in Islamic banks and conventional banks that

²³ Bagya Agung Prabowo dan Jasri Bin Jamal, *Op. Cit*, p. 118.

²⁴ *Ibid*, p. 119.



have sharia business units, they are appointed by the General Meeting of shareholders on the recommendation of the Indonesian Ulema Council. SSB is assigned to provide advice to directors and supervise bank activities to comply with sharia principles.²⁵

"Under this regulation, it is clear that the DPS position is strong and largely determines the development of Islamic banks and Islamic business units". DPS 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, a sharia institution must be a free institution consisting of scholars related to science and Islamic law. SSB can also consist of other experts in the field of Islamic financial institutions with the scientific knowledge of Islamic law related to commercial transactions. SSB is entrusted with the task of directing, researching and supervising the activities of Islamic financial institutions to ensure that it complies with sharia regulations and principles."²⁶

The mechanism of the supervisory and work functions by the Sharia Supervisory Board in Sharia Financial Institutions

Functions and Roles of the Sharia Supervisory Board

AAOIFI defines "DPS as an independent institution or specialized legal expert in Fiqh Muamalat. However, members of the DPS can be apart from fiqh experts, but have expertise in Islamic financial institutions and muamalah fiqh. SSB financial institutions are required to direct, review, and supervise the financial activities of the institutions so that it can be ensured that financial institutions comply with the rules and principles of Islamic sharia. The function of DPS is to study and make recommendations for new products from the bank or Islamic

²⁵ *Loc. Cit.*

²⁶ *Ibid*, p. 120.



financial institution that it supervises. So, DPS serves as the first filter before the product is reviewed and has a fatwa issued by the national sharia board."²⁷

AAOIFI has provided standards for DPS, composition and related aspects such as rules, reports, and so on. According to this standard, Islamic finance is an independent institution consisting of scholars related to science and Islamic law. SSB may also consist of other experts in the field of Islamic financial institutions with knowledge of Islamic jurisprudence related to commercial transactions. SSB is mandated to direct, observe, and supervise the activities carried out by Islamic financial institutions to ensure that the supervised institutions comply with sharia rules and principles. To implement Islamic Financial Institutions (LKS) in the sharia route, their activities are always supervised by DPS.²⁸

The status of DPS exists in every LKS organizational structure, thus making LKS different from conventional financial institutions. DPS is responsible for ensuring that all LKS products and activities comply with sharia principles. DPS is believed to ensure that LKS adhere to Islamic rules and principles.²⁹ Based on the MUI DSN Decree No. Kep-98 / MUI / III / 2001 concerning the Management of the National Sharia Council - Indonesian Ulema Council (DSN-MUI) for the period of 2000-2005 that the National Sharia Council (DSN) The roles of DPS include :

- a) Conduct periodic supervision on Islamic financial institutions;
- b) Submit proposals for the development of sharia financial institutions to the management of the institution concerned and to the National Sharia Council (DSN);

²⁷ Farida Ismi Trihapsari dan Burhanudin Harahap, "Sharia Supervisory Board (DPS)'S Supervision On Sharia Micro Financial Institution Of Baitul Maal Wat Tamwil (BMT) In Sukoharjo Regency", *International Journal of Business, Economics and Law*, Vol. 18, No. 5, 2019, p. 53.

²⁸ Warkum Sumitro, *Asas-Asas Perbankan Islam dan Lembaga-Lembaga Terkait*, RajaGrafindo Persada, Jakarta, 2004, p. 18.

²⁹ Suryani, "Industri Perbankan Syariah dalam Cerminan Aspek Sharia Governance", *Jurnal Ecomomica*, Vol.5, No. 1, 2014, p. 104.



- c) Report the development of products and operations of sharia financial institutions that it supervises to the National Sharia Board (DSN) at least 2 (two) times in 1 (one) fiscal year; and
- d) Summing up issues that require discussion with the National Sharia Council (DSN).

Meanwhile, according to the decision of the National Sharia Council - Indonesian Ulema Council (DSN-MUI) Number 03 of 2000, the special duties of DPS are:

- a) Confirming that zakat funds are calculated correctly, reported transparently and distributed evenly to zakat recipients;
- b) Responsible for conveying an opinion that Islamic banks have played their social role in society or not;
- c) Researching and making recommendations about new products from the banks under supervision;
- d) Acting as the first filter on a product before being examined and challenged by the National Sharia Council (DSN); and
- e) Make periodic statements that the bank under supervision is running by sharia regulations. This statement is then published in the relevant bank's annual report.

Regarding the duties of DPS, it is explained in article 47, namely:

- a) Provide advice and suggestions to the Board of Directors and supervise bank activities in accordance with the principles of syari'ah.
- b) Duties which include, among others:
 - 1) Assess and ensure compliance with the sharia principles of operational guidelines and products issued by the bank.
 - 2) Overseeing the bank's new product development process.
 - 3) Requesting a fatwa from DSN-MUI for new bank products for which there is no fatwa



- 4) Conduct regular reviews on compliance with the principles of syari'ah on the mechanism for raising funds and channeling funds as well as bank services.
- 5) Requesting data and information related to syari'ah aspects from bank work units in the context of carrying out their duties ”.
- 6) Submit reports on the results of DPS supervision on a semi-annual basis. Then regarding the obligations of DPS, regulated in article 48 and article 49, namely " : Provide sufficient time to carry out their duties and responsibilities optimally, SSB meetings must be held at least once a month, DPS meeting decisions are made based on deliberation to reach consensus and are written in the minutes of the meeting and well documented, the minutes of the meeting can be included in the setting opinion (if any).

In addition to obligations, there are rights that must be fulfilled by DPS, namely:

- a) Access data and information as well as clarification to management.
- b) Call and hold the related management accountable.
- c) Issue a syari'ah opinion or other form of decision.
- d) Receive rewards and facilities.

Thus it can be concluded that the duties and functions of the Sharia Supervisory Board (DPS) are: "The main task of DPS is to supervise the business activities of Islamic financial institutions in order to comply with the provisions and principles of sharia that have been written by the DSN". The main functions of DPS are:

- a. As advisors and advisers to the board of directors, sharia business unit leaders and sharia branch office heads on matters related to sharia aspects.
- b. As a mediator between Islamic financial institutions and DSN in communicating proposals and suggestions for product and service



development from Islamic financial institutions that require studies and fatwas from the DSN "":³⁰ Primary Duties, To supervise bank business activities to comply with the provisions and principles of sharia, referring to the DSN-MUI fatwa or the Complications of Sharia Economic Law (KHES). Work duties at the bank, DPS daily work policy line follows the DSN fatwa, which is the highest authority in issuing fatwas regarding the suitability of bank products and services with the provisions of sharia principles.

On the other hand, "the role of the ulama in encouraging economic and financial growth and development of society is vital. Informal institutions such as the DPS and DSN, the role of ulama is demanded to be more dynamic and proactive by referring to existing regulations. The role of DPS and DSN is not only to oversee the operations of shari'ah financial institutions but to have an even more significant role, namely to contribute to the growth and development of Syariah financial and economic development in Indonesia. Apart from being a supervisor, the Syari'ah Supervisory Board also plays a role:"³¹

- a) Advisor, which provides advice, inspiration, thoughts, suggestions and consultations for the development of innovative products and services for global competition.
- b) Marketer, which is to become a strategic partner to increase the quantity and quality of the Islamic financial institution (LKS) industry through mass communication to provide motivation, explanation and public education as a preparation for human resources, socialization, community & networking building and other strategic roles in the form of social relations (public relationship).

³⁰ Dahlan, Ahmad, *Bank Syariah Teoritik, Praktik, Kritik, Yogyakarta*, Kalimedia, 2018, p. 209.

³¹ Fitra Nelli, *Op. Cit*, p. 91.



- c) Supporters, namely providers of various supports and supports both networking, thoughts, motivation, prayers and others for the development of banking and the shari'ah economy.
- d) Player, namely as a player and actor of the shari'ah economy either as the owner, manager, depository customer/investor or channelling and financing partner/customer.

"Paying attention to the role of SSB according to AAOIFI and DSN-MUI, the role of DPS in implementing the principles of Good Corporate Governance (GCG) in Islamic banks is as follows":

- 1) Directing, namely providing direction, thoughts, suggestions, and advice to the board of directors of a sharia bank regarding matters related to the aspects of sharia.
- 2) Reviewing, namely observing, examining, reviewing, and assessing the implementation of the DSN fatwa in Islamic bank operations.
- 3) Supervising, namely, carrying out supervisory duties both actively and passively on implementing the DSN fatwa on Islamic bank operations.
- 4) Marketing, namely conducting socialization and education to the public about Islamic banking through media already running in the community, such as sermons, majelis ta'lim, pengajian-pengajian.

"The implementation of GCG in Islamic banks is based on five principles: transparency, accountability, responsibility, professionalism, and fairness. To apply these five principles, Islamic banks must comply with Islamic principles. Therefore, the role of SSB in implementing GCG is vital, namely monitoring and ensuring that a sharia bank in its operations is by sharia principles.³² The Sharia Supervisory Board in the company structure is at the same level as the function of the

³² Ismail, *Perbankan Syariah*, Cetakan Kedua, Kencana Prenada Media Group, Jakarta, 2013, p. 23.



commissioner as the supervisor of the board of directors. As for the authority, namely:³³

- 1) Supervise management about the implementation of systems and products so that they are by Islamic law
- 2) Responsible for building the morals of all employees based on the Islamic coaching system that has been programmed every year.
- 3) Monitor violations of Islamic values within the company.
- 4) Responsible for the sharia selection of new employees carried out by the sharia bureau.

Sharia Supervisory Board Working Mechanism

The working mechanism of the Sharia Supervisory Board (DPS) is:³⁴

- 1) The Sharia Supervisory Board conducts periodic supervision of Islamic financial institutions under its supervision.
- 2) The Sharia Supervisory Board is obliged to submit proposals for developing Sharia financial institutions to the leadership of the institution concerned and the National Sharia Council.
- 3) The Sharia Supervisory Board reports the development of products and operations of the sharia financial institutions that it supervises to the National Sharia Board at least twice and for one fiscal year.
- 4) The Sharia Supervisory Board formulates problems that require discussion of the National Sharia Council.

In order for DPS and DSN to have an optimal and significant role, according to Agustianto, there are at least five important things that must be of mutual concern:³⁵

³³ Abdullah Amrin, *Asuransi Syariah: Keberadaan dan Kelebihannya di Tengah Asuransi Konvensional*, Cet.1, PT Elex media komputindo, Jakarta, 2016, p. 230.

³⁴ Muhammad, *Bank Syariah Analisis Kekuatan, Peluang, Kelemahan dan Ancaman*, Cetakan Pertama, Ekonosia, Yogyakarta, 2006, p. 14

³⁵ *Ibid*, p. 93.



(1) "MUI determines the expertise classification of parties who can be appointed as members of the DSN or DPS. As in Sudan, Abdallah (1994) states that members of the department of Fatwa and Research (DFR) and the Higher Sharia Supervisory Board (HSSB) are people who have expertise in the fields of Sharia (Islamic Jurisprudence), law and economics (accounting) ".

(2) "Bank Indonesia has issued a 2010 PBI (Bank Indonesia Regulation) concerning Good Corporate Governance for Islamic Commercial Banks and UUS. One of its contents is to regulate the role and position of the Sharia Supervisory Board. According to the PBI, a sharia bank consultant cannot become a Sharia Supervisory Board; this is aimed at creating a fair relationship pattern between the consultant, SSB, and Islamic banks". "It's an unfair step; if a syari'ah bank consultant is also a DPS, then the automatic consultant product proposal will be accepted by the DPS because the DPS is the consultant itself. This, of course, will raise public doubts about the independence of DSN itself, even though the actual working mechanism between DSN and DPS is separate and different".

(3) "The post-PBI supervision model on the GCG of Islamic Banks is active and productive. In this supervisory model, DPS is carried out by a syari'ah department in a syari'ah banking. Under this model, sharia experts are on duty full time, supported by technical staff who form the sharia supervisory tasks outlined by the department's sharia experts. If this model is implemented functionally, SSC tasks as desired by DSN can be realized. If DPS violates PBI and has been reminded three times, then for ten years, that person cannot become DPS".

(4) "The position of DPS should be equal to that of the Commissioners so that its role and position are powerful. This provision should be included in the Shari'ah Banking Law. If the Syari'ah Supervisory Board is separated from Bank Indonesia / the Financial Services Authority, then. As a result, they work in this supervision, only part-time. Whereas Islam demands professionalism and seriousness in every job, including in supervision".



(5) "There have been many suggestions from local leaders so that syari'ah banks have DPS in the regions. This is in line with the expanding syari'ah banking branch offices to various provinces, even districts/cities. The suggestion is positive and needs to be supported so that the implementation of syari'ah principles is more secure in the regions".

"Based on the discussion as mentioned above, the role and function of SSB in Islamic banking are vital, including providing direction, thoughts, suggestions, and advice to the board of directors of Islamic banks on matters related to aspects of sharia. Observe, examine, review, and assess the implementation of the DSN fatwa in Islamic bank operations. Carry out supervisory duties both actively and passively on implementing the DSN fatwa in Islamic bank operations. To disseminate and educate the public about Islamic banking through media that are already running in the community, such as sermons, majelis ta'lim, recitation-recitation."³⁶

"There are still many shortcomings in the implementation of the roles and functions of DPS. As is the case above, DPS supervision is weak because the DPS does not supervise banking operations daily. As a result, there is a fundamental error: the loss of values from Islamic banking products. It also required DPS human resources (HR) who understand the world of economics, finance, and accounting in addition to the science of religion and muamalah fiqh. Finally, the most important thing is the independence of DPS from Islamic banking itself. DSN-MUI, as an independent institution responsible for sharia banking, should be in charge of DPS as part of the form of DSN supervision of Islamic banking operations."³⁷

Due to a lack of decisiveness and weak supervision of the DPS, fraud was committed by several Bank Syariah Mandiri individuals, resulting in losses for customers and customers' distrust of saving at Bank Syariah Mandiri. Thus, based on the duties, functions, and authorities of the DPS, ideally, DPS can optimally

³⁶ *Ibid*, p. 94.

³⁷ Warkum Sumitro, *Asas-Asas Perbankan Islam dan Lembaga-Lembaga Terkait*, RajaGrafindo Persada, Jakarta, 2004, p. 18.



overcome the non-validity of shari'ah principles in Syari'ah Banking and overcome the possibility of unfair transactions in Syari'ah Banking. However, for SSB to carry out its duties effectively and by the mandate assigned to it, according to the author, SSC must be genuinely independent. This means that the SSB and the bank under supervision may not have a relationship, which means that SSB may not work independently. So far, the salaries and work facilities of the DPS are covered and paid by the shari'ah bank where the DPS is located. This, presumably, could make SSB work less professionally; even worse, DPS might be intervened by the bank.³⁸

The risk of non-compliance with sharia has severe consequences for Islamic banks and the industry, hence requiring adequate supervision and a sharia governance framework. Over the past two decades, efforts have been made in several countries to develop sharia governance frameworks for Islamic banks, in line with the standards and guidelines issued by two international standard-setting bodies, the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), are headquartered in Bahrain and the Islamic Financial Standards Board (IFSB), headquartered in Malaysia.³⁹

Mujahidin said that the tools needed in the framework of bank supervision and control, namely:⁴⁰ Internal control system (SPI), risk management function, regulations for increasing information disclosure, appropriate accounting systems, sharia satisfaction assurance mechanisms, and internal audit (financial health and sharia compliance).

"The weak role and function of the Sharia Supervisory Board (DPS) is not only due to the independence of DPS, but regulations regarding sanctions imposed on sharia banks that violate sharia provisions are not strictly enforced so that Islamic

³⁸ Edy Mulyanto, "Perjanjian Leasing Dan Ijarah Suatu Kajian Komparatif Kitab Undang-Undang Hukum Perdata Dan Hukum Islam", *Jurnal Surya Kencana Satu : Dinamika Masalah Hukum dan Keadilan*, Vol. 10 No. 2 Oktober 2018, p. 37.

³⁹ Bhartesh Ramprakash kasi and Najdat Mahmood, *Op. Cit*, p. 77.

⁴⁰ Mujahidin, Akhmad, *Hukum Perbankan Syariah*. Jakarta, PT Rajagrafindo Persada, 2016, p. 167.



banks that violate sharia provisions only receive public moral sanctions that do not. It can be measured. However, violations of sharia compliance can reduce public confidence in Islamic banks. In implementing sharia compliance, it must also be oriented towards achieving actualized Islamic maqasid values to educate individuals, upholding justice, and benefit. This achievement can be realized if Islamic banking regulations support the establishment of a favorable climate for the achievement of a socially just economy, by the economic ideals of Pancasila."⁴¹

Sri Edi Swasono explained "the concept of sharia economics which is oriented towards the values of Pancasila, he explains that the Sharia Economy is thus in line with the state constitution in fighting for Islamic values and the compatibility of Islamic economics with the Pancasila economy." in the effort to build only Islamic banks, then usury is only viewed in terms of banking interest only⁴². "Ribawi economic life thrives in a broadly exploitative economic system, which allows for a systemic trade-off for the poor and the weak which is subordinated and discriminated against, allowing brutalizes laissez-faire in a broad sense, which they ignore—weakened by the euphoria in developing Islamic banks, without paying attention to the need for a usurious economic system restructuring and reconstruction. "⁴³ Efforts that can be made to optimize the role of the Sharia Supervisory Board (DPS) in Islamic banks are, first, by establishing institutional independence of the sharia compliance authority; second, enforce clear sanctions for violations of sharia compliance by making clear and measurable regulations; third, strict selection of DPS members.

CONCLUSIONS

⁴¹ Adrian Sutedi, "Pasar Modal Syariah: Sarana Investasi Keuangan Berdasarkan Prinsip Syariah", Sinar Grafika, Jakarta, 2011, p. 68.

⁴² Khotibul Umam, "Pelarangan Riba Dan Penerapan Prinsip Syariah Dalam Sistem Hukum Perbankan Di Indonesia", *Mimbar Hukum*, Vol. 29, No. 3, 2017, p. 298.

⁴³ Heri Sudarsono, *Bank dan Lembaga Keuangan Syariah Deskripsi dan Ilustrasi*, Cetakan Keempat, Yogyakarta, Ekonisia, 2007, p. 41.



DPS has two tasks that serve as benchmarks for the existence of its supervision of sharia business units in Indonesia. The task is any other way; The main task of DPS is to "supervise bank business activities by the provisions and principles of sharia, referring to the DSN-MUI fatwa or the Complications of Sharia Economic Law (KHES). Other DPS duties are job duties at the bank. Namely, DPS daily work policy line following the DSN fatwa, which is the highest authority in issuing fatwas regarding the suitability of bank products and services with the provisions of sharia principles. DPS as an extension of the DSN has also contributed to the growth and development of Islamic economics and finance in Indonesia. Problems that occur in Sharia Banks are the result of carelessness and indecisiveness in DPS members so that it makes it difficult for prospective customers to believe in Islamic Financial Institutions.

SUGGESTION

It is necessary to optimize the role of "SSB in Islamic banks, namely, first, by establishing institutional independence of sharia compliance authorities; second, enforcing clear sanctions for violations of sharia compliance by making clear and measurable regulations; third, strict selection of DPS members".

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