Strengthening Sharia Compliance in Islamic Banking Institutions in Indonesia

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Islamic banking is a system that eliminates the interest-based transactions in every financial activity and replaces it with Sharia principles. Sharia compliance is the main differentiator between Islamic and conventional economics. This research employs the library research method, using literature as the primary source of data related to the theme of this paper. The author emphasizes the importance of the presence of Sharia Supervisory Board (DPS) as the authority overseeing Sharia compliance in Islamic banking in Indonesia, with clear responsibilities and roles regulated through strict legal provisions. To enhance the role of DPS, the researcher recommends three aspects: firstly, the need for a more comprehensive standardization of DPS competencies; secondly, the clear regulation of independence issues; and thirdly, the standardization and systematic implementation procedures of Sharia audits at the national level.

Keywords: Islamic Banking, shariah compliance, and sharia supervision board

Introduction

Islamic banking (Hasibuan, 2002) is a financial institution that operates in accordance with Sharia principles or, in other words, operates based on Islamic laws (Al-Qur'an and Hadith). The presence of Islamic banks is considered a solution to the conflict between interest and riba (usury) in conventional banks because Islamic banks do not use riba in their operations. Riba or interest is prohibited as it signifies excess or surplus, which is considered unjust. The main objective of Islamic banks (Suhendi, 283) is to avoid interest or money multiplication practiced by conventional banks.

Over time, Islamic banking in Indonesia has shown significant progress year by year. According to data from the OJK (Financial Services Authority) as of September 30, 2016, total assets of Islamic banks reached IDR 331.76 trillion, growing by 17.58% annually. This growth is supported by the third-party funds (DPK) totaling IDR 263.52 trillion, growing by 20.16% annually. The market share of Islamic banking assets compared to the national banking system has reached 5.31%.

Although the data above indicates promising development in Islamic banking in Indonesia, the industry still faces numerous challenges. The rapid growth of Islamic banking has not been accompanied by strict Sharia compliance supervision by regulatory institutions. Sharia compliance is the core differentiator between Islamic and conventional banks. Its implementation is essential for Islamic institutions, including Islamic banks, to fulfill their public accountability and adhere to Sharia principles. To maintain its essence as a halal and blessed institution, Islamic banks must not compromise on their Sharia values while pursuing profit.

Furthermore, according to Setiawan (2006), the application of Sharia operational systems in Islamic banking is still limited by economic distortions, such as a lack of strong oversight and careful regulation in the financial system. Thus, Sharia compliance remains distorted in some contexts of application in Islamic banks. Chapra (2008) also explains that Islamic banking, as one of the intermediary institutions, has not fully changed its social structure to establish mutual recognition, familial roles, and religious Sufi bonds that build trust and maintain stakeholder relationships. This has resulted in the Islamic bank's dual role as shahibul maal (capital provider) and mudharib (manager) not being fully implemented, especially in providing guidance and education to the public.

Bank Indonesia, as the regulatory authority for Islamic banking in Indonesia, strives to promote strong and financially healthy Sharia banking practices that adhere to Sharia principles. Therefore, it is expected that Islamic banks will comply with good corporate governance principles, including transparency, accountability, responsibility, freedom, fairness, and adherence to Sharia provisions (shariah compliance).

According to Zainal, Sharia compliance (Arifin, 2009) in Islamic banks is the application of Islamic principles, Sharia, and traditions in financial transactions, banking, and related businesses. It is the bank's commitment to abide by Sharia principles in every operational aspect. Adrian Sutedi further explains that Sharia compliance in Islamic banks covers not only products but also systems, techniques, and the company's identity. This includes the company's culture, including dress code, decoration, and image, as one aspect of Sharia compliance in Islamic banks. The aim is to create a collective morality and spirituality, which, when combined with the production of goods and services, will support an Islamic way of life.

Hence, it is crucial to strengthen the supervision of Sharia compliance in the Islamic financial industry. The compliance function, as an ex-ante (preventive) measure, ensures that policies, provisions, systems, procedures, and business activities conducted by Islamic banks are in line with Bank Indonesia Regulation Number 13/2/PBI/2011, the Fatwa of DSN, and relevant legislation. This is done to control the operational aspects of Islamic banking and to prevent banks from deviating from Sharia principles and to minimize banking risks.

The National Sharia Council of the Indonesian Council of Ulama (DSN-MUI) through the Sharia Supervisory Board (DPS) is responsible for ensuring the maximal fulfillment of Sharia principles in the economic sector, especially in Islamic banking. However, in practice, the supervision conducted by DPS has not been fully effective and shows some Sharia violations in Islamic banks. These violations result from the suboptimal role and function of DPS or a lack of supervision, which damages the image and credibility of the Islamic banks in the eyes of the public, leading to a decline in public trust. Therefore, it is crucial to optimize the role of DPS in Islamic banks.

Methods

This research employs the library research method (literature study). The data sources for this study are primarily literary materials related to the theme of this writing. Therefore, to gather the necessary data for this research, the author conducted searches on literary materials such as articles, journals, books, and literature related to the discussion of this problem, which were then examined and analyzed. The analysis (Azwar, 1999) is conducted using a descriptive analytical approach, meaning the researcher aims to describe and solve the investigated problem.

Findings dan Discussion

Talking about *sharia compliance* actually talking about the uniqueness and difference between Islamic banks and conventional banks. Because the essence of implementing sharia compliance is the uniqueness and characteristic of Islamic values in these institutions. In several ways Islamic banks and conventional banks have similarities, especially in terms of the technical side of receiving money, transfer mechanisms, general requirements in opening deposits and in obtaining financing (Salman, 2012). However, there are fundamental differences (principles) between Islamic banks and conventional banks, namely :

Table 1. The difference between Islamic banks and conventional banks

Characteristics	Sharia Bank System	Conventional Bank System
Business Framework	Based on Islamic values as a Philosophical Foundation	Economic Principles (western) serve as a Philosophical Foundation

	Becoming *Maslahah* as a goal to achieve *Falah*	Business activities are based on Optimal profit orientation
Legal Foundation	Abandon all forms of activity that are contrary to religious values	Banking Law
	Banking Law	
Yield Rewards	Profit Sharing Principles and clear profit margins	flower system
	Agreed together	Fluctuate and according to interest rates
Transaction Form	A clear contract in accordance with the mutual agreement	Money may be used as desired
	Uphold the rights and obligations according to the contract	
Business Sector	Real Sector Financing Optimization	Financial sector and derivatives market
	Seeing the characteristics of businesses and companies that comply with sharia	All companies and businesses that are considered profitable
Fine	Taken in accordance with the principles of education and affirmation	Taken according to the offense committed
	Counted as non-income (non-halal income)	Calculated as part of the bank's income
Dispute resolution	Court	Court
	Sharia Arbitration Board	Arbitration
Business relationship	Partnership	Creditors and Debtors
	Trade and seller	
Service	Islamic Business Ethics	Material profit oriented business ethics
Supervision	Prudential Management	Prudential Management
	Sharia Management	

Source: (Sumar'in, 2012)

Seeing the details and the differences between Islamic banks and conventional banks, it is the responsibility of all parties to maintain and supervise so that Islamic banks adhere to Islamic principles and values. Supervision is one of the management functions. There is supervision to ensure the implementation of an activity consistently, so that the objectives of the activity can be achieved properly. Guarding and supervising in the Islamic view is carried out to straighten out what is not straight, correct what is wrong, and justify what is right.

Supervision in Islam has characteristics including: material and spiritual supervision, monitoring not only managers, but also Allah SWT, using the right method according to Islamic principles that uphold human dignity. With these characteristics, it can be understood that implementing various plans that have been agreed upon will be responsible not only to world leaders but also to Allah SWT. On the other hand, supervision in the Islamic concept prioritizes using a humane approach, an approach imbued with Islamic values and responsibility.

Supervision (*control*) in Islamic teachings is at least divided into two things, namely *First* , control that comes from oneself which comes from monotheism and faith in Allah SWT. Someone who believes that Allah is watching over His servant, then he will act carefully.

Second , an oversight will be more effective if the oversight system is also carried out from outsiders. It can come from the leadership, which concerns the tasks delegated, suitability of completion and planning, and others. Therefore the application of sharia *compliance* is a mechanism of one unit in all activities of Islamic banks. Although implementation is the responsibility of DPS, it does not mean that the role of other units is neglected in implementing sharia *compliance* .

Sharia compliance (*sharia compliance*) is a form of fulfilling all sharia principles in institutions that have the form, characteristics, integrity and credibility of sharia banks. Sharia compliance is the embodiment of values, behavior and actions that support the creation of Islamic bank compliance with all Islamic sharia provisions, which in this case is in terms of Islamic banking regulations described in Law Number 21 of 2008 concerning Islamic banking. The law is a support for institutional strengthening in providing services and trust to the public in the existence of Islamic banks.

The function of sharia compliance in sharia banking is closely related to the role and function of the sharia supervisory board in each sharia financial institution. Sharia compliance (*shariah compliance*) has international standards compiled and determined by the *Islamic Financial Service Board* (IFSB) where sharia compliance is part of institutional governance (*corporate governance*).

Sharia application *compliance* in sharia banking is actually delegated to one sharia institution. This institution is a key element that functions as a regulator in issuing policies, regulations, work procedures that are carried out in the practice of the Islamic banking world. The instrument is the Sharia Supervisory Board (DPS). In Indonesia, the first level of supervision is called the Sharia Supervisory Board (DPS) and the next level of supervision at the national level is called the National Sharia Council (DSN) (Hafidhuddin & Tanjung, 2003).

The sharia supervisory board (DPS) is established through the approval of the National Sharia Council (DSN) which is a body specially formed by the Indonesian Ulema Council (MUI). DSN is an institution that functions to carry out MUI tasks in dealing with issues related to the activities of Islamic financial institutions. The DSN consists of several Islamic scholars, practitioners, and economic experts who were previously appointed and appointed by the MUI with a management term of five (5) years. The DSN has the responsibility of ensuring or overseeing sharia compliance, both in products and in the operations of the sharia financial industry itself. To support the members of the sharia board in carrying out their duties, the DSN prepares the necessary rules, related to membership qualifications, duties and obligations, recognition of issued fatwas, as well as their independence from various interventions from various parties.

The DSN's task is to oversee the products of Islamic financial institutions so that they comply with the provisions in sharia. Therefore, DSN makes rules in the form of *guidelines* by reviewing, exploring, and formulating sharia values and principles which are in the form of fatwas to be used as guidelines in transaction activities and analysis of products and services in Islamic financial institutions. In detail, the following are the duties and powers of the DSN (Yahya et al, 2009), namely:

1. provide or withdraw recommendations for names to sit as DPS members at an Islamic financial institution;
2. issuing fatwas on types of financial activities;
3. issue fatwas on sharia financial products and services;
4. supervising the implementation of the fatwas that have been applied.

The DPS, which is an extension of the DSN, will have a role as a guardian of sharia *compliance* in the operations of the sharia financial institutions it oversees. The main function of DPS is to act as an adviser and adviser to directors, heads of sharia business units and heads of sharia branch offices on matters related to sharia aspects, and also as a mediator between sharia financial institutions and DSN in communicating proposals and suggestions for the development of products and services from sharia financial institutions that require studies and fatwas from DSN.

DPS has an important role in minimizing and avoiding the possibility of deviations from *sharia compliance* . Through this supervision, DPS is expected to be able to help evaluate and detect the extent to which sharia compliance is implemented and to what extent deviations have occurred in evaluating sharia compliance by the sharia financial industry with sharia principles. The existence of DPS is expected to be able to focus on developing and overseeing the sharia financial industry for the products issued and the operations concerned that they supervise so that they always run according to the principles that exist in the sharia corridor.

The duties of the Sharia Supervisory Board (DPS) are to provide advice and suggestions to the directors and supervise bank activities so that they comply with sharia principles. In the elucidation of Article 32 paragraph (4) matters regarding a) the scope, duties and functions of the Sharia Supervisory Board; b) the number of members of the Sharia Supervisory Board, must be regulated in a Bank Indonesia Regulation.

According to AAOIFI Standards (Ayub, 2009), DPS members must consist of at least three sharia scholars. who are appointed based on the General Meeting of Shareholders (GMS) and do not have concurrent positions as consultants in all Sharia Commercial Banks and Sharia Business Units. This is necessary because the DPS as an independent body can be free from conflicts of interest. In carrying out its duties, it is regulated in Article 46 PBI No.11/33/PBI/2009 concerning the Implementation of GCG for Sharia Commercial Banks and Sharia Business Units. Following are the duties and responsibilities of the DPS :

1. The DPS must carry out its duties and responsibilities in accordance with GCG principles.
2. DPS duties and responsibilities are to provide advice and suggestions to the Board of Directors and supervise bank activities so that they comply with sharia principles.
3. 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. supervising the development process of the Bank's new products;
   c. request a fatwa from the National Sharia Council for new Bank products that do not yet have a fatwa;
   d. conduct periodic reviews of the fulfillment of sharia principles on the mechanisms for raising funds and channeling 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.
4. DPS is required to submit a semiannual DPS Supervision Report which is submitted to Bank Indonesia no later than two months after the end of the said semester period. In his report, a statement was made that the bank he supervised was running in accordance with sharia provisions. This statement is then contained in the bank's financial statements.

5. In terms of performance, the duties of DPS may be heavier than the Board of Commissioners. This can be seen from the number of meetings that must be held by the DPS compared to the Board of Commissioners. In Article 49 paragraph 1 of PBI No.11/33/PBI/2009 concerning GCG Implementation for Sharia Commercial Banks and Sharia Business Units it is stated that DPS meetings must be held at least once a month. Meanwhile for the Board of Commissioners it must be held at least once in two months

Regarding the process of overseeing sharia compliance, the process of overseeing sharia compliance by DPS follows the rules set by the *Accounting And Auditing Organization for Islamic Financial Institutions* (AAOIFI) and *the Islamic Financial Services Board* (IFSB), which emphasizes supervision before the business is run (*ex ante*) and after the business is run (*ex post*).

The Sharia Supervisory Board (DPS) has major duties and responsibilities and functions as part of *the stakeholders* , because they are the protectors of the rights of investors and entrepreneurs who place their faith and trust in financial institutions. In the author's analysis, there are at least 3 (three) strategic issues that must be corrected in relation to DPS duties, namely competency and qualification issues, independent issues, and problems with the implementation of sharia audit procedures.

First, the problem of competence and qualification is a major problem that should really be addressed. Facts in the field found that the appointment of the DPS was not based on their knowledge, so that the supervisory function of the DPS was not optimal, as a result deviations from sharia practices were possible and occurred frequently. Therefore, the selection system, competencies and qualifications for DPS must be standardized by the OJK, this is with the hope that DPS will truly be chosen people who have qualifications and competencies both in economics and religious knowledge, especially regarding sharia that are relevant in supporting their work as internal supervisors in sharia banks.

The mistake of Islamic banks in Indonesia to appoint DPS, namely to appoint people who are very well-known in Islamic organizations or well-known in Islamic sciences (not shari'ah), but who are not competent in the field of Islamic banking and finance is a Latin danger that must be eliminated immediately. DPS for some banks is only used as a promotional tool to introduce the bank. Some DPS do not understand Islamic banking operations and are not optimal in supervising Islamic banks.

This reality is actually beneficial for Islamic banking management, because they are more free to do whatever they want, because the supervision is very loose. However, in the long term, this is actually detrimental to the Islamic economic movement, not only for the Islamic bank concerned, but also for the economic movement and Islamic banking as a whole and the progress of Islamic banking in the future. Because it is not strange if there are still many Indonesian people who view that Islamic banks are the same as conventional banks

The Fiqh ability possessed by DPS is not matched by the ability and knowledge in the field of banking which is also a common thing that is found from several DPS, so there is a possibility that DPS will be positioned into two options. *First* , DPS will always adhere to sharia principles and adhere to fiqh principles, so that from a banking business perspective, it is unthinkable how to sell products that customers are interested in so that products cannot compete in the market so that product marketing will also be affected. *Second* , if DPS does not know the banking cycle as a whole and does not carry out optimal supervision, this will benefit management because they are freer to do whatever they want, because their supervision is very loose. In the long term, these two options will be detrimental to the future movement of the Islamic economy. Therefore, in the author's analysis, the selection and appointment system for DPS must be evaluated by the OJK, in an effort to maintain sharia *compliance* in sharia banking.

The second is the issue of Independence, that the Sharia Supervisory Board (DPS) is a party that provides guarantees to the public for the purity of sharia values in Islamic financial institutions, but on the other hand they are also faced with objectivity and independence as employees who also receive facilities and salaries from the bank. The interrelatedness of this structure causes DPS to find it difficult to be mentally independent to provide objective oversight of the products and operations of the bank concerned. Although, this can be subjectively done individually, it is relatively difficult to measure and prove.

Furthermore, the independence of DPS from DSN. Currently, several DPS also serve as administrators in the DSN. This condition will lead to a conflict of interest when the DPS with dual positions submits a fatwa request to the DSN. Ideally, the separation of DSN and DPS is as shown between BI or OJK and banks, where there are no BI or OJK employees who make regulations who are also employees at the bank. Therefore, it is necessary to regulate how the DPS should be an autonomous body separate from bank management, that they are parties who receive facilities from the OJK or BI, not from the bank directly. In addition, there is a need for strict rules on the DPS to act independently, and not be part of the DSN because they are the party that should be appointed by the DSN and not part of the DSN.

The third is the issue of procedures for implementing sharia audits, that the development of sharia banking is something that deserves appreciation, but on the other hand it should also be followed by the application of the principle of prudence (prudential) *in* each of its main activities related to problematic financing (NPF), which must be minimized. The desire to continue to develop and obtain greater profits must be balanced with thoroughness and prudence in managing banking funds so that the development of sharia banking can continue to maintain stability. So that related to the problem of procedures for implementing sharia audits, it must also be really considered in maintaining the credibility of DPS in a banking institution.

In addition, the third problem related to the procedure for carrying out a sharia audit is also related to the problem of contracts and financing procedures. That Islamic banking is very susceptible to principal errors related to contract issues and financing procedures. Target demands, better profit levels, as well as performance appraisal at each branch of a shari'ah bank, which is still dominantly based on financial performance, will encourage actors and practitioners to violate shari'ah provisions. This will be more vulnerable to occur in sharia banks with low levels of sharia supervision. Therefore, it is not surprising that there are still many sharia violations committed by sharia banking institutions, especially banks that convert to sharia or open sharia business units. Therefore, in an effort to maintain and improve sharia compliance procedures in a bank, the management or OJK must make strict rules regarding internal audit standards carried out by DPS.

Referring to Makmur's opinion in conducting supervision there are several techniques that must be considered so that the main DPS supervision carried out can run optimally, including (Makmur, 2011):

1. Monitoring under surveillance. Monitoring is carried out directly or indirectly, so that the planned program can be implemented properly.
2. Supervised inspection. Examination techniques under supervision must be able to provide clear information or statements containing the truth.
3. Assessment under supervision. Assessment as part of supervision must be carried out honestly and fairly. His main soul is truth, because judgment will have a very negative effect.
4. Interviews under supervision. Interviews under supervision are carried out in order to obtain information so that supervisors can determine a belief in the truth in the implementation of an activity in accordance with the initial plan.
5. Observation under surveillance. This is done to prove between the observed data and what actually happened.
6. Under surveillance analysis. Any data obtained from the results of supervision must be analyzed to determine the quality of the work carried out by work units.
7. Reporting under supervision. As we know that every implementation of activities in various institutions always provides reports of what has been done, as well as in supervision.

Further referring to the opinion of Agustianto (2017), in order for DPS and DSN to have an optimal and significant role, there are at least five important things that must be of mutual concern:

1. MUI determines the classification of expertise of parties who can be appointed as DSN or DPS members. 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 PBI (Bank Indonesia Regulation), 2010 concerning *Good Corporate Governance* of Islamic Commercial Banks and UUS. One of its contents regulates the role and position of the Sharia Supervisory Board. According to the PBI, a consultant for an Islamic bank may not become a Sharia supervisory board, this aims to create a pattern of fair relations between consultants, DPS and Islamic banks. During the transitional period, when Indonesia still lacked human resources, the DSN MUI and Bank Indonesia had made various breakthrough programs and activities in order to increase the number of human resources who are experts in the field of Islamic economics, such as certification, annual meetings, seminars, workshops and so on.
3. The supervisory model of DPS after the release of the PBI on Islamic Bank GCG is truly active and productive. In this supervisory model, DPS is carried out by a shari'ah department in a shari'ah bank. With this model, the sharia expert is on duty *full time* , supported by technical staff who assist in the sharia supervision tasks outlined by the department's ahi sharia. If this model is applied functionally, then DPS tasks as desired by DSN can be realized. If DPS violates PBI and has been reminded three times, then for 10 years, that person may not become DPS.
4. The DPS position should be on the same level as the Commissioner. so that his role and position is very strong. This provision should be included in the Sharia Banking Act. If the Sharia Supervisory Board is separated from Bank Indonesia/Financial Services Authority, then as a result, they work under the supervision only part-time. Whereas Islam demands professionalism and seriousness in every job, including in supervision.
5. Fifth, there have been many proposals from regional figures so that shari'ah banks have DPS in the regions. This is in line with the expansion of sharia banking branch offices to various provinces, even districts/cities. This suggestion is positive and needs to be supported, so that the application of shari'ah principles is more secure in the regions.

Conclusion

The Sharia Supervisory Board (DPS) as the authority responsible for overseeing sharia compliance in Islamic banking in Indonesia has a crucial and central role regulated through stringent legal provisions. Considering the rules, regulations, and practices within Islamic banking institutions, the DPS is key to the implementation and supervision of sharia compliance. The position of the DPS is crucial in ensuring the establishment of sharia compliance, which is a fundamental element in the existence and sustainability of the Islamic financial industry.

Several recommendations made by the researcher, especially concerning the three main focal points for optimizing the role of the DPS in Islamic banks, include: firstly, standardizing competencies, which involves ensuring that DPS members have updated and qualified competencies. Secondly, addressing the issue of independence, which should be clearly regulated in both OJK (Financial Services Authority) and the internal policies of Islamic banks. And thirdly, standardizing the procedures for conducting sharia audits on a national level across all Islamic banking institutions..

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