

Sharia Supervisory Board Practices in Conducting Operational Supervision in Sharia Microfinance Institutions

Hamdah Rosalina¹ Fajriya Zakiyah² Adilia Rahayu³ Frida Tis'a Zamzamiyah⁴ Ade Muhammad Ismail⁵ Rijal Izharuddin⁶

¹ Sekolah Tinggi Ekonomi Islam SEBI (Email: rosalinahamdah@gmail.com)

² Sekolah Tinggi Ekonomi Islam SEBI (Email: fajriyazaki@gmail.com)

³ Sekolah Tinggi Ekonomi Islam SEBI (Email: adiliarahayu24@gmail.com)

⁴ Sekolah Tinggi Ekonomi Islam SEBI (Email: fridatisazamzamiyah@gmail.com)

⁵ Sekolah Tinggi Ekonomi Islam SEBI (Email: ademuhamadismailsaleh@gmail.com)

⁶ Sekolah Tinggi Ekonomi Islam SEBI (Email: rizhhar@gmail.com)

ABSTRACT

This research aims to explain the practice of the Sharia Supervisory Board in conducting operational supervision at Baitul Maal wat Tamwil (BMT). This research uses a qualitative approach based on primary data obtained from semi-structured interviews with speakers as a Sharia Supervisory Board in one of Baitul Maal wat Tamwil in Indonesia that already has a certificate as a sharia supervisory board from MUI and has a long track record in conducting Sharia supervision. The analysis is compiled based on transcripts of interviews with the key informants equipped with literature studies as well as related regulations. The results of this study prove that in practice, the Sharia Supervisory Board supervises operations as well as provides understanding through consultation with BMT customers and employees. The result of such supervision is sharia compliance opinions reported to the relevant parties periodically, namely two times a year, and the supervisory mechanism refers to guidelines issued by the DSN-MUI and the Ministry of Cooperatives and SMEs. The competence that must be mastered by the Sharia Supervisory Board is related to its knowledge in the field of contemporary fiqh muamalah as well as transactions contained in the Islamic financial industry. The obstacles faced by the Sharia Supervisory Board in carrying out its duties are the lack of understanding of BMT customers and employees on sharia principles and the absence of specific regulations governing product codification in BMT

Keywords: sharia supervisory board (SSB), sharia compliance, baitul maal wat tamwil

INTRODUCTION

Islam as a religion in which regulates the concept of human life comprehensively and universally including the subject of muamalah, able to provide answers with the many established Islamic financial institutions as a solution to the conventional financial system (Budiono, 2017). Indonesia owns 13% of the world's Muslim population, about 87% of the population converts to Islam.

In recent decades, the development of Islamic financial institutions in Indonesia has been quite rapid. Starting from the MUI workshop that recommended the establishment of Sharia banks in 1990, in this case, the first Sharia Commercial Bank namely Bank Muamalat in 1992 (OJK, 2017) and continues to roll until now.

As a reflection of the existence of sharia banks, especially for micro and small entrepreneurs have not been able to provide solutions because of their bankable nature, bound by rigid regulations (Febrian & Mardian, 2017). Research conducted by the Indonesian Banking Development Institute (LPPI) in 2015, there are about 60-70% of SMEs have not been able to

get access to financing from banks (Sarwono, 2015). The presence of sharia microfinance institutions as intermediation for all elements of society, especially micro and small entrepreneurs to get access to financing (Wardiwiyono, 2012).

Statistically, the number of sharia microfinance institutions registered with the Financial Services Authority (OJK) in the second quarter of 2020 amounted to 77, consisting of 76 sharia cooperatives and 1 limited liability company with asset ownership of 488 M (OJK, 2020). With a considerable asset, Sharia microfinance institutions can provide financing of as much as 1.9% of all banking credit in Indonesia (Mujiono, 2017).

The sharia microfinance institution here is Baitul Maal wat Tamwil (BMT). If seen from the ownership of legal entities, including, among others, the Sharia Financial Services Cooperative (KJKS) and the Foundation (Fadillah, 2018; Marimin, 2014) while out there who has no legal entity. The role of BMT was initially as the manager of Zakat, Infak, and Sedekah (ZIS) which then increased its role in utilization by financing especially to the lower class community (KNEKS, 2015).

The fundamental difference between conventional and sharia microfinance institutions lies in specific transactions and implementing sharia compliance principles in its operations that require avoiding the practice of *riba*, *gharar*, *maysir*, *tadlis*, and other prohibited things in Islamic sharia (Zainul Anwar & Yunies Edward, 2016). The risks experienced by BMT in addition to the risk of material losses arising from financing transactions, as well as the risk of violations of Sharia law (Wibowo, 2015). This aspect of sharia compliance must be owned by Islamic financial institutions in carrying out their business operations (Mardian et al., 2020). Sharia compliance as a fundamental which is a system with a special emphasis on sharia aspects based on the provisions of the legislation, as well as relevant internal rules and policies (Pradita & Mulawarman, 2016).

Of course, this cannot be taken for granted without the strategic role of the Sharia Supervisory Board (DPS) in BMT as a supervisor of consistency, and implementation of sharia compliance (Irianto, 2018). Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 16 /Per/M.KUKM/IX/2015 concerning the Implementation of Sharia Savings and Financing Business Activities by Cooperatives, shall have a Sharia Supervisory Board. The National Sharia Council-Majelis Ulama Indonesia (DSN-MUI) is authorized to issue fatwas and the Sharia Supervisory Board (DPS) is a mandated party to ensure the fulfillment of sharia compliance in the economic sector (Mardian, 2019).

According to AAOIFI in governance standard for Islamic Financial Institutions (GSIFI) revealed that the role of DPS (Hamza, 2013) include, directing, reviewing, and supervising the activities of Sharia Financial Institutions to ensure all its operational activities are following sharia rules and principles.

Sharia Supervisory Board has as the holder of the supervisory authority for sharia compliance has responsibilities regulated in the legislation. DPS position is very influential on the creation of sharia compliance which is the main thing in business continuity, especially for Islamic financial institutions (Nurhisam, 2016).

Through effective supervision in detecting problems arising related to the implementation of sharia compliance can provide control in BMT operations that can then improve performance and have an influence on the sustainability of BMT to give the public confidence in BMT (Zubair, 2016). BMT must optimize the role of DPS, not only to supervise sharia compliance of available products but also in creating new products so that people can make decisions to transact in BMT (Wijaya et al., 2019).

However, another fact that conducting operational supervision of BMT has not been effective, because of the lack of competence owned by the Sharia Supervisory Board (Kusuma, 2017). There are still BMT that violate sharia principles such as treating the interest system

(Susilowati, 2018). BMT also does not have specific regulations governing its operations and is still subject to the ministry of cooperatives and SMEs (Dewi, 2017). BMT should have its legal umbrella because of its operational focus on sharia principles.

From the background description above, this study aims to find out how the practices carried out by the Sharia Supervisory Board in conducting operational supervision in Sharia Micro Finance Institutions (MFIs).

LITERATURE REVIEW

Institutional Theory

Institutional Theory is a statement of the characteristics of a deeper and more flexible social structure (Scott, 1987). Kusumawardani et al.,(2017) argue that the specificity of institutional theory is contained in the paradigm of norms in the form of regulation, legitimacy, way of thinking, and all socio-cultural phenomena consistent with the implementation of instruments in the organization. Thus, the institutional theory is considered to be able to explain better about operations in Islamic Financial Institutions.

Chapra & Ahmed, (2002) believes that in the absence of control instruments or governance procedures, the general public's trust in the legitimacy of Sharia banks and the validity of Sharia bank products will decrease. In this case, the sharia supervisory board is associated with the internal governance structure of the organization and acts as an internal monitoring authority within the institution independently.

Where as according to (Karbhari et al., 2020) institutional theory is a leading theory compared to agency theory, stakeholder theory, and stewardship theory. This is because institutional theory can explain better operational guidelines and procedures in Islamic financial institutions. Explanation in this theory by outlining the roles and authorities of various stakeholders together with regulators, institutions, a board of directors, sharia supervisory board, and management.

Sharia Supervisory Board

Sharia Supervisory Board is an institution tasked with operational supervision and its practices in Islamic financial institutions to remain consistent and compliant with sharia principles (Mujib, 2017).

Sharia Supervisory Board as an independent body that has four main activities in conducting supervision, namely revising the articles of association and internal policies (revision); issue a religious decree (fatwa) before Sharia financial institutions launch products to the public (issuing); review new products and contracts to ensure compliance with sharia (reviewing) and report opinions to related parties (Garas & Pierce, 2010).

Sharia Supervisory Board is a representative of the National Sharia Council (DSN) placed in Islamic financial institutions, in conducting its supervision following a fatwa issued by the MUI, formulating problems that require ratification by the DSN and reporting business activities and development of sharia financial institutions supervised to DSN with a minimum of 1 year (Zulfah et al., 2017).

According to Faozan, (2015) some of DPS roles in supervising compliance with sharia principles in BMT are as follows:

1. **Directing**, namely giving, briefing, thinking, means, and advice to BMT management on sharia aspects.

2. **Reviewing**, namely observing, reviewing and assessing the implementation of the DSN-MUI fatwa on BMT operations.
3. **Supervision**, namely carrying out supervisory duties both actively and passively on the implementation of the DSN-MUI fatwa on BMT operations.
4. **Mediating**, namely as an intermediary between BMT and DSN in communicating proposals along with suggestions on the development of products and services that require studies and fatwas by DSN.
5. **Marketing**, namely socializing and educating the public about BMT through existing media in the community such as in lectures and pulpits.
6. **Supporting**, namely providing support, either in the form of networking, thinking, motivation, or prayer for the development of BMT and sharia economy.
7. DPS becomes a customer of storage and distribution of funds in BMT and other Islamic financial institutions.

Sharia Supervisory

As an intermediation institution, BMT must implement supervision on sharia compliance. This action is carried out to ensure that a sharia financial institution in carrying out its operations based on sharia principles is applied thoroughly. Through this supervision, it is expected that the implementation of the intermediation function by Islamic financial institutions remains based on sharia principles (Sula et al., 2014). In carrying out the supervisory duties, DPS must have scientific qualifications in the field of fiqh muamalah as well as modern Islamic economics and finance (Hidayat, 2016).

The concept of sharia supervision in Islamic financial institutions has been mentioned in the sharia foundation contained in (QS. Ali Imran: 104) and (QS. Fushilat: 33) which means as follows:

"And let a party of you call upon the good, and call upon the good, and prevent evil, and it is they who are successful." (QS. Ali Imran: 104).

"And who is better in speech than he who calls to Allah and does good works, and says, "I am of those who submit." (QS. Fushilat: 33).

Baitul Maal wat Tamwil (BMT)

Baitul Maal is an Islamic financial institution that has activities to collect and distribute ZISWAHID funds (zakat, infak, sedekah, waqf, and grants) that are non-profit oriented. Meanwhile, Baitul Tamwil is an informal Islamic financial institution whose operational activities are profit-oriented through profit-share rewards based on the sharia system (Dzikrulloh & Permata, 2016). Therefore, (Ascarya et al., 2015) define that Baitul Maal Waa Tamwil (BMT) is an institution consisting of two terms, baitul maal (rumah uang) and baitul tamwil (rumah pembiayaan).

BMT form based on legal status is distinguished into 3 in (Masyithoh, 2016) namely:

1. In the form of Sharia Financial Services Cooperative (KJKS) which is subject to the legal umbrella of Law No. 25 of 1992 on Cooperatives, and in its business activities is subject to the Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia / Per / [M.KUKM](#) / IX / 2015.
2. BMT which belongs to the foundation is subject to the regulations related to cooperatives that have previously been described as well as Law No. 28 of 2004 on Amendments to Law No. 16 of 2001 on the Foundation.

3. BMT in the form of Self-Help Group Mayarakat (KSM) is subject to Law No. 17 of 2013 on Community Organizations.

METHOD

This research uses a qualitative approach. The primary data used in this study was obtained through a semi-structured interview with a key informant, namely a member of the Sharia Supervisory Board who has experience in conducting supervision in several Sharia Microfinance Institutions in Indonesia. The informant has been certified as DPS by DSN-MUI and is also very competent in the field of fiqh muamalah as well as mastery of transactions in the financial industry.

Besides, to support the interview results, secondary data obtained through literature studies through literature materials from books, legislation, and other scientific literature by the problems examined so that conclusions can be drawn.

RESULT AND DISCUSSION

Sharia Supervision Practices

From the resource person's explanation, Sharia supervision is part of sharia audit, but only covers aspects of sharia compliance rather than thorough in terms of examination of financial statements that have capabilities in the field of accounting. For financial audits in Islamic financial institutions are carried out by internal audits as well as independent audits such as KAP which is involved in the field.

"... Yes, part of the sharia audit... if the sharia audit is everything, from the accountant and so on.."

"... DPS enables as an internal supervisor because it enters the cooperative organ, then there are internal auditors and independent auditors or outside parties who examine related to its accounting..."

The resource person gave an explanation related to sharia supervision practices carried out in BMT. In this explanation, sharia supervision carried out by each Sharia Supervisory Board varies depending on the condition of BMT and DPS only provides input on the design of products with sharia principles. Ideally, all operational activities should be review by DPS. However, due to the limitations of DPS in one institution becomes not optimal.

"...Provide opinions on sharia financing products, become a consultant if there are questions, conduct construction to employees and customers. If there is a consultation request, yes we answer. If we do not check the financing files that are already running, if something is not appropriate we remind it not to repeat it. Ideally, the entire agreement is in DPS study but it is not possible because of the limitations of DPS energy in one institution."

The main function of the Sharia Supervisory Board lies in the supervision of existing products in the form of sharia conformity opinions and new sharia opinions. All of that is intended in the surveillance report. Furthermore, the report is reported in one year twice to the relevant parties.

".... supervise the existing products and already running to ensure between the design of the product that has been approved early with the implementation in the field yes so there is a DPS function supervising the running operations.."

".... if he issued a new product that previously did not exist it must get approval from DPS in review first yes it's called sharia opinion. It is following the fatwa products to be run ..."

"... so the report of the results of supervision between products that have been made with implementation in the field is called sharia conformity opinion ... This we evaluate later at the end of the semester it's twice a year it should be that usually once a year ..."

"... DPS supervision report if at the OJK and in BPRS there is already a news format of the meeting event there is a working paper DPS that I use in BMT ..."

There are similar ways of monitoring sharia compliance by DPS with auditors in auditing, namely using samples and evidence in the form of documents or data.

"... for example checking the contract document in 6 months minimum 3 customers who ensure how the implementation of the product carried out, next also sampling 3 customers financing 3 DPK customers. For this deposit there are various, there are depositors there are members of mandatory deposits, and principal deposits there are deposits. In essence, there are 3 minimum financing documents and 3 funding documents, then operational documents..."

".. the first legal documents of his agency because if illegal is more dangerous, and the second check third party funds yes savings deposits and other it is his SOP so the requirements, there is a mechanism that for example the calculation of his revenue share then bonus taken from revenue or of all there is nothing there. and both forms of his contract, if the financing we ask for the contract with his SOP, later as the key implemented with its implementation .."

Procedure for Appointment of Sharia Supervisory Board

The procedure for the appointment of the sharia supervisory board, in the RAT of sharia microfinance institutions in the form of cooperatives, can come from members and outside members, following POJK No. 61/POJK.05/2015 on Business Licensing and MicroFinance Balance.

"... For the cooperative it is enough at the annual member meeting and DPS it can be from members and can be from outside members yes after the annual member meeting ..."

However, another problem found is that there are still at least DPS that have legality and certification from MUI so that in appointing DPS appointed directly by sharia microfinance institutions or related BMT.

"... Ideally, through the RAT if the candidates are many, but because DPS who have legality and certificates from the MUI is a little so we immediately choose. So far there is no mechanism for selection, but directly pointed..."

Competencies Required by Sharia Supervisory Board

The main competency that must be possessed by a Sharia Supervisory Board is related to knowing the science of fiqh muamalah and understanding of fatwas issued by DSN-MUI.

"... if the competence is clear about fiqh muamalah. Both conventionally and contemporarily today. Then there is the reference AAOIFI and fatwa DSN MUI ..."

Furthermore, in conducting Sharia supervision, the Sharia Supervisory Board must have a certificate issued by MUI. To obtain the certificate, sharia supervisory board candidates must meet the requirements provided by MUI and participate in training organized by DSN-MUI Institute.

"... requirements to be a member of the Sharia Supervisory Board, one of which is mandatory Sharia scholars, if the number is not met for example I will as an accounting economics scholar that the second must attend training at the DSN Institute. if graduated from the new DSN institute can register as a cooperative DPS.."

Obstacles Faced by Sharia Supervisory Board in Conducting Sharia Supervision

Some of the obstacles faced are the lack of knowledge of customers and BMT administrators in the sharia sector. Besides, no regulation specifically regulates standardization related to the codification of products such as Sharia banking that has been regulated in POJK. BMT does not yet have it so it is still subject to the Regulation of the Minister of Cooperatives and Small and Medium Enterprises.

"... BMT customers BMT management's understanding of sharia is minimal, so plus we do not have technical instructions implementing fatwa in the field is not there So must translate directly What the fatwa looks like ..."

"... DPS asked for a customer purchase note, yes while the customer never gave a note to BMT if buying goods will be represented and that's an obstacle because our understanding of financing actually should not have to use a memorandum to make sure it is transferred to the supplier.."

".. standardization of their products is different from banking at the OJK that there've been product codification if in BMT does not exist, there is also a regulation of the minister of cooperatives about institutional yes for KSPPS ..."

CONCLUSION

From the results of the discussion, the study concluded that there are differences in roles between the Sharia Supervisory Board and sharia auditors in Indonesia. Sharia Supervisory Board only supervises BMT operations on sharia compliance. In practice, the Sharia Supervisory Board must have competence in the field of fiqh muamalah as well as transactions related to the Islamic financial industry.

To become a Sharia Supervisory Board, it is mandatory to attend training organized by DSN-MUI Institute to obtain certification as DPS. Another obstacle faced by a Sharia Supervisory Board in BMT is the lack of understanding of BMT customers and employees related to sharia principles and there is no regulation governing product codification in BMT.

Acknowledgement

This research only focuses on the practice of the sharia supervisory board in conducting its supervision at Baitul Maal wat Tamwil, especially in Cooperatives save loans and Sharia Financing. For further research, it can be done in other Islamic financial institutions. As an evaluation for stakeholders in improving the performance of Islamic financial institutions.

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