

## THE ROLE OF THE SHARIA SUPERVISORY BOARD IN BAITUL MAL WAT TAMWIL IN INDONESIA

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**Abstract:** This research aims to find out whether the Sharia Supervisory Board (DPS) has an active and important role in Islamic economics. Sharia principles must be implemented in BMT which is based on the DSN MUI fatwa and is also supervised by the DPS to ensure its operations comply with Sharia. Therefore, DPS has an important function because it aims to monitor sharia compliance in BMT. The approach in this research uses a type of research in the form of literature study or literature study. The conclusion in this research is that the Sharia Supervisory Board is tasked with supervising the implementation of BMT's business in accordance with sharia principles and reporting the results to officials who have the authority to ratify the deed of establishment and changes to the relevant articles of association. The task of the Sharia Supervisory Board is to supervise the day-to-day operations of sharia financial institutions so that they comply with sharia provisions. At least every 6 months the Directors, Commissioners, DSN and Bank Indonesia submit reports on the results of sharia supervision. This stage is the most basic and most important because the results of this stage will become a guideline and reference for DPS in carrying out supervision of Sharia Financial Institutions.

**Keywords:** BMT, DPS, Shariah Compliance.

### Introduction

Economic prosperity is recognized by society as a basis for competitive activities which we can observe where economic development has experienced a rapid increase. This condition is characterized by the proliferation of financial institutions in Indonesia, but does not fully reflect an increase in economic prosperity (Faozan, 2015). The existence of differences in economic levels in people's lives is one of the factors that makes it difficult for people to obtain financial services to meet the needs of every economic activity in the community, especially business actors.

A non-bank financial institution that has contributed to the development of the people's economy is Baitul Mal Wat Tamwil (BMT) which is one of the sharia microfinance institutions in its activities of carrying out sharia investments and developing productive businesses to improve the economic quality of small and medium businesses. These activities can take the form of saving, collecting zakat, infaq and alms (ZIS) and distributing them according to the mandate and regulations (Soemitra, 2009). Baitul Mal wat Tamwil (BMT) aims to overcome obstacles to the operationalization of financial institutions in rural and sub-district areas (Sударsono, 2007). Baitul Mal wat Tamwil (BMT) includes the terms baitul mal and baitut tamwil. Baitul mal refers to the collection and distribution of non-profit funds, for example ZIS funds. Meanwhile, baitut tamwil refers more to the collection and

distribution of commercial funds.

BMT as a Sharia Financial Institution (LKS) is under the auspices of the Ministry of Cooperatives, so it does not have supervision and control like Sharia banks which are monitored by the Financial Services Authority (OJK). OJK routinely monitors, requires reports and looks for violations in sharia banking. Therefore, the existence of DPS at BMT becomes a forum for indirect internal audits and guidance carried out by the government. The task of DPS is to control LKS business activities regarding the implementation of sharia principles or sharia compliance (KepMenKop UKM No. 91). sharia economics. The existence of maximum and psychologically effective sharia monitoring will increase calm in transactions and activities for people who deal with BMT as well as supervisors and administrators who carry out BMT functions. For the development of sharia economics, carrying out optimal sharia supervision activities at BMT can more or less improve the condition of sharia financial institutions to be even better.

Supervision of sharia compliance at BMT is an urgent and urgent problem from the internal side of BMT, the people or in general regarding the development of the sharia economy. The existence of optimal and psychologically effective sharia supervision can increase calm in transactions and activities for people who deal with BMT as well as supervisors and managers who carry out BMT functions. Sharia supervision that is optimal in size can increase public optimism regarding sharia economic development and can reduce deviations and errors that have occurred so far. BMT must strictly follow sharia rules in its operational activities. Sharia principles must be implemented in BMT which is based on the DSN MUI fatwa and is also supervised by the DPS to ensure its operations comply with Sharia. Therefore, DPS has an important function because it aims to monitor sharia compliance in BMT.

The Sharia Supervisory Board (DPS) must periodically send reports containing the results of supervision of sharia financial institutions from various fields to the National Sharia Council (DSN) (Adam, 2018). The problem with BMT operations is that DPS has not yet mastered sharia concepts in supervising BMT operations (Pratama, 2020). Apart from that, supervisory activities are not scheduled and are rarely carried out, but managers can indirectly contact DPS via telephone call for consultation. The reason is, DPS is not only DPS in one institution but also has other positions (Pratama, 2020). This can damage the credibility of BMT and DPS (Taradifa, 2019).

From the explanation of the phenomenon above, it is clear that DPS certification is very important because with certification, the requirements have been met and you are ready to become a sharia supervisor. This condition is needed because not only is it a guarantor of the implementation of sharia principles, the credibility of sharia financial institutions can also be improved from the results of supervision carried out by DPS (Rifan, 2018).

There are three main functions of DPS in BMT, namely first, legalization and development of BMT products by carrying out studies on the contracts used, improving them so that they do not violate sharia principles. Likewise, studying and reviewing the DSN-MUI fatwa makes it possible to translate it so that new products can be created at BMT. Second, control of BMT management in implementing contracts, namely control of work activities, contract applications and management, both between managers and external parties related to BMT. Third, promoting BMT managers and leaders informally through daily communication, management meetings or regularly at formal *taushiahs* that provide global education and understanding of Islam.

However, in reality, BMT in its operations still faces violations of sharia principles.

It is suspected that some BMTs still use an interest system, many of the contracts are very close and almost similar to existing agreements in conventional financial institutions and the only difference is the terms. Some people think that there is no difference between BMT and conventional financial institutions because in reality in the field they are the same. Some of them do not want to use BMT services because they are not fully in accordance with sharia.

For example, in a murabahah contract, the full profit is determined by BMT and there is no transparency regarding prices as murabahah actually applies. Apart from that, BMT does not transfer goods to customers, but instead directly provides funds to customers through a murabahah bil wakalah contract. On the other hand, when financing mudharabah, the installments that will be deposited in the customer's BMT are determined at the start of the contract and the amount is the same every month. This condition is definitely the opposite of mudharabah which is the same as profit sharing, because actually it is not a business whose income/profits can be determined.

The forms of violations above must be eliminated or minimized in BMT. BMT must be aware that if this happens, it will face reputational risks which will give rise to a bad image and disappointment in society. If the violation is due to DPS's lack of optimal supervision regarding BMT's minimal operational understanding, then future appointments must focus on ability and no longer just look at popularity in society and charisma (Faozan, 2015)..

## **Literature Review**

### **Baitul Mal Wat Tamwil**

Sharia Microfinance Institutions (LKMS) are not much different from Sharia financial institutions. LKMS is an intermediation institution like banks in general, but operates in small and medium scale industries. LKMS has developed rapidly compared to other financial institutions in Indonesia, both sharia and conventional, in the last 15 years. LKMS that the general public is familiar with include the Sharia Financial Services Cooperative (KJKS) and Baitul Mal wat Tamwil (BMT) (Maleha, 2015).

Baitul mal can be defined as an institution that seeks to collect and distribute zakat, infaq and alms. Meanwhile, Baitut Tamwil can be defined as an institution that seeks to develop investment to improve the quality of small economic entrepreneurship in financing activities for people's economic businesses and saving. This effort cannot be separated from BMT which is a sharia-based institution that supports small-scale economies. The overall role of BMT is to manage and finance in accordance with Islamic principles (Sudarsono, 2008).

The distribution of Baitul Mal funds is special, especially the distribution of zakat funds, because zakat funds have been explicitly regulated in the Koran, namely for 8 ashnaf, namely the poor, amilin, mu'alaf, fisabilillah, gharamin, servants, and travelers. Meanwhile, non-zakat funds can be used to develop lower-class businesses, develop educational institutions, mosques and operational costs for other social institutions. BMT as Baitut Tamwil can apply three principles, namely the principle of buying and selling, the principle of non-profit and the principle of profit sharing.

The development of BMT cannot be separated from various obstacles, even though they cannot be fully exploited. In general, these obstacles are (Sudarsono, 2003):

1. BMT cannot meet the accumulated needs and finances of the community. This condition creates fast payment of obligations and financing for customers.

2. Even though it is known about the existence of BMT, there are still many who have relationships with loan sharks because people need enough money and fast service, even though the interest is high. It turns out that in many BMT places there are loan sharks. This means that BMT cannot provide sufficient services in terms of money and time..
3. Some BMTs usually find the same problems, such as customer problems. Therefore, every BMT must try to coordinate the movements of customers in difficulty.
4. BMT usually faces other competitors, namely other BMTs that must be defeated, not partners or partners in its efforts to lift society out of the economic problems it faces. This situation produces a competitive atmosphere that is not Islamic, which can even make the BMT management model more pragmatic.

In order to develop BMT, there are several recommendations that can be proposed, including:

1. BMT must focus on managing small-scale loans for micro and small businesses (under IDR 50,000,000). Customers who need larger loans should get financing from banks, both sharia commercial banks and sharia people's financing banks (BPRS). This is an effort to develop the economy at the micro and small levels.
2. BMT must periodically hold entrepreneurship training for its members (such as through lectures and meetings).
3. Cooperative departments should strive to design and finance BMT capacity building schemes that are in line with the institution's unique characteristics and social objectives.
4. Efforts to encourage people to solve problems creatively and innovatively are still low.

### **Sharia Supervisory Board**

DPS is an institution that implements fatwas issued by DSN MUI and appointed by the Indonesian Ulema Council. In order to implement sharia principles, DPS is an important benchmark for sharia financial institutions. DSN-MUI Regulation No. 3/2000 contains regulations regarding the duties and functions of DPS in Sharia financial institutions, namely:

1. The main role of DPS is to monitor the operations of sharia financial institutions to ensure that they comply with the regulations issued by the National Sharia Council.
2. The main functions of DPS are as follows:
  - a. Providing suggestions and advice regarding sharia aspects to administrators of sharia financial institutions.
  - b. Acting as an intermediary for DSN and sharia financial institutions in mediating suggestions and proposals for developing products and services for sharia financial institutions that require DSN fatwas as a basis and foundation (Aziz, Hisyam et al, 2015).

Irawan D. Soedrajat divides 3 types of DPS supervision, namely (Nurhadi, 2018):

1. Riqabah Musbaqah (Prevention); During the pre-audit, DPS reviews SOPs and policies, work plans and sharia statements.
2. Riqabah Lahiqah (Ensuring): DPS during the post audit checks the contract and product as well as the SOP.
3. Riqabah A'mal (Operational): DPS as operational controlling carries out inspections and assessments in performance monitoring.

### **METHOD**

The approach in this research uses a type of research in the form of literature study or literature study. Literature studies can be carried out by collecting references consisting of several previous studies which are then compiled to draw conclusions (Mardalis, 1999). The data analysis technique used in this research uses a content analysis method which can be used to obtain valid inferences and can be researched again according to the context (Krippendoff, 1993). In the analysis, selection, comparison, combining and sorting will be carried out so that relevant ones are found (Sabarguna, 2005). Checking between libraries and paying attention to the supervisor's comments is carried out in order to maintain the continuity of the process of evaluating, preventing and eliminating incorrect information which is a human misunderstanding that may arise due to a lack of bibliographic authors.

## **Result and Discussion**

### **The Role of the Sharia Supervisory Board in BMT Operations**

According to Article 32 of Law No.21/2008, every legal entity or company that carries out its activities based on sharia principles is required to have a DPS. DPS has a very urgent and strategic role in sharia supervision at BMT. DPS is responsible for ensuring that all procedures and products in sharia financial institutions are based on sharia principles. Because of the important role of DPS, there are 2 Indonesian laws that include DPS requirements in sharia financial institutions and sharia cooperative institutions, namely Law no. 40/2007 concerning Limited Liability Companies and Law no. 21/2008 concerning Sharia Banking. Therefore, DPS has a very strong legal position within the institution, because its existence is very strategic and urgent.

Optimizing the role of DPS is very urgent to ensure that each transaction adheres to sharia principles related to the Koran and Hadith, namely the MUI DSN Fatwa. The basic guidelines for the MUI DSN, Chapter IV paragraph 2, explain that the MUI DSN issues a fatwa that binds the DPS to each sharia financial institution and as a guide for the legal actions of the parties, namely based on the MUI DSN referred to by the DPS. The only body authorized to issue Sharia fatwas for Sharia financial transactions, products and services and monitor the implementation of these fatwas in Islamic financial institutions is DSN. Apart from that, DSN and DPS are not only tasked with monitoring the activities of sharia financial institutions, but also play a major role in contributing to the growth and development of sharia finance in Indonesia. The role of DPS is to advise the directors and monitor bank operations to ensure compliance with sharia principles.

In relation to the role of DPS and DSN, article 109 of Law no. 40/2007 states:

1. Apart from the Board of Commissioners, companies that carry out business in accordance with sharia principles must have a Sharia Supervisory Board;
2. The DPS as intended in paragraph (1) consists of one or more sharia experts appointed by the MUI and determined by the GMS.
3. DPS as referred to in paragraph (1) provides guidance and advice to the Board of Directors and monitors the running of the company so that it is based on sharia principles. According to this law, institutions established as PTs must have a DPS.

The function of DPS at BMT is to manage BMT operations based on sharia principles, evaluate and monitor the implementation of sharia principles and participate in BMT promotions. The job description includes:

1. Directing, namely providing guidance, ideas, opportunities and suggestions for BMT administrators regarding sharia aspects.



2. Reviewing, namely monitoring, investigation, review and evaluation of the implementation of the DSN-MUI fatwa in BMT business activities.
3. Supervising, namely actively or passively carrying out supervisory duties in the implementation of the DSN-MUI fatwa in BMT business activities.
4. Mediating, namely acting as an intermediary between BMT and DSN, conveying suggestions and proposals for developing products and services that require DSN studies and fatwas.
5. Marketing, namely communication and public education about BMT through platforms that have been used in social environments, for example da'wah and taklim assemblies
6. Supporting, namely support and networking, thoughts, encouragement and prayers in developing Sharia economics and BMT.
7. DPS is the customer who collects or distributes BMT funds.

### **Implementation of Shariah Compliance in BMT**

BMT is a financial institution that carries out its business activities in accordance with sharia principles. What is meant by sharia principles is the contract between the customer and the bank in accordance with the DSN MUI fatwa and supervised by the Sharia Supervisory Board (DPS). Through this supervision, DPS is obliged to obtain information regarding the application of sharia principles to institutions under its supervision, including:

1. In BMT transactions there is no element of usury

BMT is required to be free from the element of usury in its operations. The elements that contain the BMT transaction interest rate are generally:

- a. The profit that BMT takes from buying and selling transactions is based on the financing period.
  - b. The profit sharing from mudharabah transactions is calculated based on the expected income/estimated assessment results.
  - c. The income generated by BMT is in the form of profit sharing given to customers according to the ratio.
2. In BMT transactions there is no element of gharar.

BMT must be gharar-free in its business activities. The elements of gharar in BMT operations in general are:

- a. The time value of money is taken into account in determining the selling price of goods in murabahah.
- b. Musyarakah and mudharabah transactions do not have customer business income reports.
- c. BMT determines the distribution of profit sharing according to the interest equivalent value.

3. In BMT transactions there is no maisir element

BMT operations must be free from chaos in their transactions. The maisir elements that are usually used in BMT transactions are:

- a. There is no receipt for the purchase of goods by the customer in the murabahah transaction
  - b. The basis for calculating the ratio is the profit predicted in the musyarakah contract.
  - c. BMT provides prizes for customers from their share of income.
4. Doing halal business.

BMT that carries out halal business activities is if it distributes all its financing to businesses that are clearly halal.

5. Trustworthy in running the BMT Business

The management of funds that customers have entrusted to BMT must be trustful, the elements of trust include:

- a. The price of goods obtained and the margin taken are explained in the murabahah transaction at BMT.
- b. BMT gets results according to projections on musyarakah transactions.
- c. BMT provides financial reports to saving customers.

6. BMT manages zakat, infaq and alms

The elements relating to BMT in the management of zakat, infaq and trustworthy alms include:

- a. Zakat payments made by BMT are based on sharia principles.
- b. The donations and alms given by BMT are used for social activities.

### **DPS Supervision Mechanism in BMT**

According to the Decree of the MUI Leadership Council regarding the Establishment of the National Sharia Council (DSN) Number Kep-754/MUI/II/1999, the working mechanisms of the DPS include:

1. Supervision is carried out periodically in sharia financial institutions;
2. Make proposals to institutional leaders and DSN for the development of sharia financial institutions;
3. Provide reports to DSN regarding the products and operations of the institutions it supervises at least twice a year;
4. Formulate problems that require DSN supervision.

UU no. 25/1992 article 39 paragraph 1 concerning Cooperatives, supervisors are tasked with carrying out supervision and management of Cooperatives and making written reports regarding the results of their supervision. In order to carry out their duties, the supervisor has the authority to examine the records available at the Cooperative and obtain all necessary information (article 39 paragraph (2)). In article 32 of the Decree of the Minister of Cooperatives & SMEs No. 91/2004 states that the Sharia Supervisory Board is tasked with supervising the implementation of the Sharia Financial Services Cooperative/Sharia Financial Services Unit business in accordance with sharia principles and reporting the results to the official authorized to ratify the deed of establishment and changes to the articles of association of the cooperative concerned.

PBI No. 6/24/2004 in article 27 explains the duties of DPS as follows:

1. Supervise and ensure the conformity of the DSN fatwa with the operations of the sharia financial institution.
2. Adjusting the sharia principles of products issued by sharia financial institutions with operational guidelines
3. Provide opinions regarding the overall sharia aspects of the operational implementation of sharia financial institutions in published reports.
4. Request a fatwa from DSN regarding new products and services that have been studied but have not yet received a fatwa.

5. At least every 6 months the Directors, Commissioners, DSN and Bank Indonesia submit reports on the results of sharia supervision.

In carrying out supervision, the Sharia Supervisory Board (DPS) can carry out 3 (three) supervision procedures, namely as follows:

1. Procedures or stages of supervision planning

This stage is the most basic and most important because the results of this stage will become DPS's guidelines and reference in carrying out supervision of Sharia Financial Institutions (LKS). DPS makes plans related to the supervision stages it carries out at this stage. Supervision planning is adjusted to the scope of DPS supervision.

2. Carry out procedures, prepare and review audit working papers.

This stage is the operational stage of the first stage. At this stage, DPS carries out its duties based on plans that have been made to facilitate supervision, so at this stage DPS can carry out one form of supervision by reviewing audit work papers.

3. Document reports and conclusions

This stage is the final stage and the archiving stage by DPS that needs to be carried out. This is important so that every supervisory development can be monitored as material for work evaluation and consideration in determining the supervision model that will be carried out in the future (Ismanto, Kuat, 2009).

## Conclusion

The Sharia Supervisory Board is tasked with supervising the implementation of BMT's business in accordance with sharia principles and reporting the results to the official authorized to ratify the deed of establishment and amendments to the relevant articles of association. The task of the Sharia Supervisory Board is to supervise the day-to-day operations of sharia financial institutions so that they comply with sharia provisions. At least every 6 months the Directors, Commissioners, DSN and Bank Indonesia submit reports on the results of sharia supervision. This stage is the most basic and most important because the results of this stage will become a guideline and reference for DPS in carrying out supervision of Sharia Financial Institutions.

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