

The Authority of the Supervisory Board in Realizing the Principles of Good Corporate Governance Judging from the Law Number 21 of 2008 concerning Islamic Banking

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Abstract

This research is a type of normative research that uses secondary data sources and analyzes data with qualitative analysis methods in the form of sentence descriptions that are easily understood by readers. Based on the results of the research that the Sharia Supervisory Board is usually placed at the level of the Board of Commissioners in each bank. This is to ensure the effectiveness of any opinion given by the Sharia Supervisory Board. Therefore, the determination of the members of the Sharia Supervisory Board is usually carried out by the General Meeting of Shareholders (GMS), after the members of the Sharia Supervisory Board have received a recommendation from the National Sharia Council. Whereas the authority of the Sharia Supervisory Board is to ensure and supervise the conformity of bank operational activities to fatwas issued by DSN, to assess sharia aspects of operational guidelines, and products issued by banks. That the role of the Sharia Supervisory Board is very important to carry out the principles of good corporate governance because those who deal with an Islamic bank need guarantees that the bank conducts transactions in accordance with Islamic law.

Keywords: Authority, Sharia Supervisory Board, Good Corporate Governance Principles, Sharia Banking.

INTRODUCTION

Indonesian banking regulations are developing very rapidly from time to time. This change in the banking regulatory framework was influenced, among other things, by the development of global financial and banking services, as well as the emergence of a variety of new banking products and banking services. One of the significant changes in Indonesian banking regulations is the dualism of banking law, with the enactment of Law Number 21 of 2008 concerning Sharia Banking (Islamic Banking Law), which is side by side with Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking (Banking Law).¹

Indonesian banking regulations must continue to be refined, because in the midst of a slowing economic growth cycle, as well as an unfavorable global situation, the financial services sector can play an important role in accelerating economic growth. The financial services sector can increase the capacity of the economy if it is used optimally, so that higher and higher quality growth is achieved, while higher economic growth is a must in order to be able to absorb additional labor and improve people's living standards, and this is in accordance with the objectives of banking and financial services. Syariah banking.²

¹ Lastuti Abubakar dan Tri Handayani. 2017. "Telaah Yuridis terhadap Implementasi Prinsip Kehati-hatian Bank dalam Aktivitas Perbankan Indonesia". *Jurnal De Lega Lata*. Volume 2 Nomor 1. Januari-Juni Medan: Fakultas Hukum Universitas Muhammadiyah Sumatera Utara, hlm. 68. Istilah "perbankan" berarti segala sesuatu mengenai bank. Lihat Departemen Pendidikan Nasional. 2008. *Kamus Besar Bahasa Indonesia Pusat Bahasa*. Jakarta: PT. Gramedia Utama, hlm. 135-136.

² Pasal 4 Undang-undang Nomor 10 Tahun 1998 tentang Perubahan Undang-undang Nomor 7 Tahun 1992 tentang Perbankan, menentukan bahwa Perbankan Indonesia bertujuan menunjang pelaksanaan pembangunan nasional dalam rangka meningkatkan pemerataan, pertumbuhan ekonomi, dan stabilitas nasional kearah peningkatan kesejahteraan rakyat banyak. Pasal 3 Undang-undang Nomor 21 Tahun 2008 tentang Perbankan Syariah, menentukan bahwa Perbankan Syariah bertujuan menunjang pelaksanaan pembangunan nasional dalam rangka meningkatkan keadilan, kebersamaan, dan pemerataan kesejahteraan rakyat.

Efforts to realize the objectives of Islamic banking must of course be supported by good corporate governance, and based on Article 34 paragraph (1) of the Sharia Banking Law, it has been determined that Islamic banks are required to implement good governance, which includes the principles of transparency, accountability, responsibility, professionalism, and fairness in carrying out their business activities, therefore Islamic banks are required to develop internal procedures regarding the implementation of good governance principles. Based on Article 2 paragraph (1) of Bank Indonesia Regulation Number 11/33/PBI/2009 concerning Implementation of Good Corporate Governance for Sharia Commercial Banks and Sharia Business Units, it is also determined that banks are required to implement good corporate governance in every business activity at all levels or levels. organization.

The implementation of corporate governance in banks must of course refer to the bank's internal policies and procedures. Policies and procedures aim to encourage banks to continue to increase their growth through business practices that are in accordance with applicable regulations, develop technology needed for bank progress, anticipate every risk so as to avoid unexpected events, and increase management responsibility. The mechanism for implementing corporate governance in Islamic banks is supervised by a supervisory board, and its existence must be established in every Islamic bank, because based on Article 32 of the Sharia Banking Law, it has been determined that a sharia supervisory board must be established in a sharia bank which is appointed by a general meeting of shareholders on the recommendation of the Assembly. Indonesian Ulemas, and their duties are to provide advice and advice to the board of directors, as well as to supervise bank activities in accordance with sharia principles.

RESEARCH METHODS

A study cannot be said to be research if it does not have a research method because the purpose of research is to reveal a truth in a systematic, methodological and consistent manner.³ The research method used is normative juridical research, namely legal research conducted by examining library materials or secondary data..⁴ Soerjono Soekanto stated that there are 5 scopes of legal research, namely research on legal principles, legal systematics, level of legal synchronization, legal history and comparison.⁵ Judging from its nature, this research is descriptive analytical, which describes all the symptoms and facts and analyzes the current legal problems⁶ relating to the exercise of the rights of suspects and defendants while serving a period of detention. This study uses an empirical juridical approach, namely an approach by conducting an assessment and analysis of the authority of the supervisory board in realizing the principles of good corporate governance in terms of Law Number 21 of 2008 concerning Islamic Banking.

RESULTS AND DISCUSSION

The Position of the Islamic Bank Board in Realizing the Principles of Good Corporate Governance

In line with the development of Islamic financial institutions, scholars are increasingly being demanded to participate in providing input for the progress of these institutions, the Indonesian Ulema Council (MUI) formed the National Sharia Council (DSN) which is considered an efficient step to coordinate ulama in responding to issues that arise. related to economic or

³ Rahimah, R., & Koto, I. (2022). Implications of Parenting Patterns in the Development of Early Childhood Social Attitudes. *International Journal Reglement & Society (IJS)*, 3(2), 129-133.

⁴ Koto, I., & Faisal, F. (2021). Penerapan Eksekusi Jaminan Fidusia Pada Benda Bergerak Terhadap Debitur Wanprestasi. *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 4(2), 774-781.

⁵ Zainuddin, Z. (2022). Implementation Of The Change Of The Chairman Of The Labuhan Batu Selatan Regional People's Representative Council. *International Journal Reglement & Society (IJS)*, 3(1), 11-18.

⁶ Winarno Surakhmad, *Dasar dan Teknik Research* (Bandung: Tarsito, 1978), hal. 132

financial matters. In addition, DSN is expected to function as a driving force for the application of Islamic teachings in economic life. Therefore, DSN participates proactively in responding to the development of Indonesian society in the economic and financial fields.

The highest Sharia authority in Indonesia is in the National Sharia Council-Indonesian Ulema Council, which is an independent institution in issuing fatwas related to all Islamic Sharia issues, both worship and muammalah issues, including economic, financial and banking issues. The duties of the DSN-MUI in finance and banking are in principle no different from the duties of the Malaysian NSAC which is the only authority body that provides advice to institutions related to the operation of Islamic banking or other Islamic financial institutions, coordinates sharia issues regarding finance and sharia banking, and analyze and evaluate sharia aspects of schemes or new products proposed by banking institutions and other Islamic financial institutions.⁷

The existence of the DSN-MUI outside the structure of the Central Bank makes this fatwa authority independent, more credible, and nationally recognized in issuing decisions and fatwas related to sharia issues faced by banks and other Islamic financial institutions. However, due to the variety of affairs handled by DSN-MUI and the absence of special specialization in the fields of economics, finance, and Islamic banking, DSN-MUI's response to the problems faced by Islamic financial institutions is less responsive and late in meeting market needs.

In an effort to purify the services of Islamic financial institutions so that they are truly in line with the provisions of Islamic sharia, the existence of a Sharia Supervisory Board (DPS) is absolutely necessary. DPS is a key institution that ensures that the operational activities of Islamic financial institutions are in accordance with sharia principles. Referring to the Decree of the National Sharia Council No. 3 of 2000, that the Sharia Supervisory Board (DPS) is part of the relevant sharia financial institution, and its placement is subject to the approval of the National Sharia Council (DSN).⁸

Good governance in Islamic banking is certainly inseparable from the relationship between the Bank and the Customer. Sharia bank customers based on Article 16 of the Sharia Banking Law are those who use the services of a sharia bank and/or UUS. Sharia Bank customers are divided into:

1. Depositing customer, is a customer who places his/her funds in a Sharia Bank and/or UUS in the form of a deposit based on an agreement between the sharia bank or UUS and the customer concerned,
2. Investor customer, is a customer who places their funds in a sharia bank and/or UUS in the form of an investment based on an agreement between the sharia bank and UUS and the customer concerned,
3. Customer receiving the facility is a customer who obtains a fund facility or its equivalent, based on sharia principles,

The GCG principle is a principle that must be a guideline for the Sharia Supervisory Board in carrying out its duties and authorities. Article 47 paragraph (1) of Bank Indonesia Regulation Number 11/33/PBI/2009 explains the duties and responsibilities of the Sharia Supervisory Board”.

A good and firm supervisory system is certainly an important motor for the achievement of good corporate governance. Because a company, even though it is in the form of sharia, does not always carry out structured activities in accordance with applicable regulations, moreover

⁷ Ascarya. 2007. *Akad dan Produk Bank Syariah*. Jakarta: RajaGrafindoPersada, halaman 206.

⁸ Irwan Misbach, “Kedudukan Dan Fungsi Dewan Pengawas Syariah Dalam Mengawasi Transaksi Lembaga Keuangan Syariah Di Indonesia”, dalam *Jurnal Manajemen Ide dan Inspirasi* Vol. 2 No. 1 Tahun 2015.

a good governance does not only spur on aspects of activities that are routinely carried out, but also concerns the morals and ethics of company employees who work, especially Again, a Sharia Bank is a bank based on Islamic Sharia which should have beautiful and good morals and ethics.

In order to carry out sharia banking activities, the Government has provided a legal umbrella, such as the issuance of Law Number 21 of 2008 concerning Sharia Banking, regulations issued by the Financial Services Authority (OJK) and the principles of the National Sharia Council (DSN) which must run by Islamic Banks. The hope for the enforcement of sharia principles that must be carried out by Islamic banks requires supervision which until now has been carried out by the Sharia Supervisory Board (DPS). The existence of DPS is what distinguishes it from conventional banks. DPS is independent and has the same position as the Board of Commissioners.

The Role of the Sharia Bank Supervisory Board in Realizing the Principles of Good Corporate Governance

The principle of good corporate governance or it can also be called good corporate governance (GCG) is a goal that certainly wants to be realized in every company that stands especially in Indonesia, in this study a company engaged in economics and finance, namely Islamic banking. GCG is one of the objectives of the establishment of the Sharia Supervisory Board (DPS). Before knowing more about the obstacles in the implementation of the authority of the Sharia Supervisory Board in Realizing corporate governance, it is better to explore what Good Corporate Governance (GCG) is.

Corporate Governance (CG) is a relatively new issue in the world of business management. In general, CG is related to the relationship system and mechanism that regulates and creates appropriate incentives between parties who have an interest in a company so that the company in question can achieve its business goals optimally. In other literature it is stated that GCG means a process and structure that is used to direct and manage business and corporate accountability with the main objective of increasing share value in the long term while taking into account the interests of other stakeholders. The above understanding can further be explained that, GCG is nothing but a problem regarding the company's processing process which conceptually includes the application of the principles of transparency, account ability, fairness and responsibility.

Good Corporate Governance which is intended and achieved by Islamic Banking through the authority of DPS as a supervisor is also hampered by the lack of response to DPS which should be a supervisor that is feared by Sharia Banking. Basically, to achieve good corporate governance in Islamic banking, there must be good cooperation from supervisors such as DPS and DSN with the company concerned.

CONCLUSION

The Sharia Supervisory Board is usually placed at the level of the Board of Commissioners in each bank. This is to ensure the effectiveness of any opinion given by the Sharia Supervisory Board. Therefore, the determination of the members of the Sharia Supervisory Board is usually carried out by the General Meeting of Shareholders (GMS), after the members of the Sharia Supervisory Board have received a recommendation from the National Sharia Council. From this it is known that the difference between Islamic financial institutions and non-syari'ah financial institutions is the existence of DPS in each of these institutions. The number of DPS in each financial institution is three people. If the function of the commissioner is supervisor in relation to management performance, then DPS supervises management in relation to the implementation of systems and products in order to remain in accordance with Islamic sharia.

It should be added that the position of DPS in Islamic banks also serves as a guarantor that the banks they supervise run in accordance with sharia principles. The authority of the Sharia Supervisory Board is to ensure and supervise the conformity of bank operational activities to the fatwa issued by the DSN, to assess sharia aspects of operational guidelines and products issued by banks, to provide opinions from sharia aspects to the overall implementation of bank operations in bank publication reports, to review products and new services for which there is no fatwa to request a fatwa from the DSN, submit the results of the sharia supervision report for at least 6 months to the directors, commissioners, DSN and BI (now OJK).

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