

THE ROLE OF THE SHARIAH SUPERVISORY BOARD IN LAW ENFORCEMENT ISLAMIC BANKING: CHALLENGES AND SOLUTIONS

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ABSTRACT

The Islamic finance industry in Indonesia had experienced rapid development in recent decades, supported by the world's largest Muslim population, conducive regulations, and public awareness of the importance of sharia principles in the economy. Islamic banking, as one of the main pillars, faced complex challenges in law enforcement, including product innovation, limited human resources, and infrastructure supervision. This study used a qualitative method based on literature studies to analyze the role of supervisory authorities in overcoming these challenges. The results showed that strengthening regulations, improving human resource competencies, harmonizing international standards, and implementing modern supervisory technology are the main solutions to increase the effectiveness of supervision. In addition, developing a legal culture and public awareness were also needed to support the sustainability of the Islamic finance industry. With a comprehensive approach, Islamic banking was able to contribute more to national and global economic stability.

Keywords: *Islamic Banking, Supervisory Authorities, Law Enforcement, Shariah Compliance, Challenges and Solutions*

I. INTRODUCTION

The Islamic financial industry in Indonesia has grown rapidly in the last decade. This is indicated by the increasing number of Islamic financial institutions operating in the country, ranging from Islamic banking, Islamic insurance, Islamic capital markets, to Islamic microfinance institutions. In addition, Islamic financial products are also increasingly diverse, ranging from savings, financing, investments, to other innovative products. Along with this development, market interest in Islamic financial services is also increasing, both from individuals and corporations. The growth of the Islamic financial industry in Indonesia cannot be separated from various supporting factors, such as increasing public awareness of the importance of implementing Islamic principles in economic and financial aspects, support from government policies through conducive regulations, and the role of Islamic financial institutions themselves in developing products and services that are in accordance with market needs. The Islamic financial industry is believed to have bright prospects in the future along with economic growth and improving the standard of living of the Indonesian people.(Sauri 2023).

The development of Islamic banking in Indonesia has shown significant growth since the 1990s. With the largest Muslim population, Indonesia has great potential in developing Islamic economics and finance. Islamic banking offers services that comply with Islamic principles, as well as a fairer and more ethical alternative banking system.

In the context of Islamic economics, Islamic banks' compliance with sharia principles also has significant implications for the concepts of risk sharing and economic justice.(Abraham et al. 2024). Sharia principles, such as the prohibition of usury and speculation, aim to create economic justice and equality. Failure of Islamic banks to comply with these principles can disrupt the economic balance and cause social inequality. Therefore, compliance with sharia principles is essential to achieving economic and social justice.

The development of the global Islamic financial system has shown significant growth in the last two decades, with Islamic banking being one of its main pillars. Amidst increasingly complex economic dynamics, the presence of Islamic banking not only provides an alternative for people who want financial services based on Islamic principles, but also becomes an integral part of the national financial system that contributes to economic stability.

The Sharia Supervisory Board (SSB) has an important role in examining aspects of sharia financial products to ensure their compliance with sharia principles. First, the SSB will review the structure of the contracts used, ensuring that the contracts are in accordance with sharia provisions and free from elements of usury, gharar, and maysir. Furthermore, the SSB will review the transaction mechanisms applied, ensuring that each stage of the transaction is in accordance with sharia provisions and free from prohibited practices, such as speculation and ambiguity. The SSB will also review the use of funds, ensuring that the funds will be used for purposes that are halal and beneficial to the community. (Sauri 2023).

Along with the development of the Islamic banking industry, the role of supervisory authorities is becoming increasingly important. Complex Islamic banking products and services must comply with Islamic regulations and principles, thus requiring more comprehensive supervision compared to conventional banking.

Indonesia, as a country with the largest Muslim population, has great potential in the development of Islamic banking. The growth of assets, financing, and third-party funds shows a positive trend. However, this potential also presents challenges for supervisory authorities to ensure healthy growth.

The framework for Islamic banking supervision in Indonesia has undergone significant changes. Initially under Bank Indonesia, supervision is now under the Financial Services Authority (OJK), which has a broader mandate. This transition brings a paradigm shift in the supervisory approach to greater integrity.

Law enforcement in Islamic banking has a unique dimension, as it must consider both positive law and Islamic law. This creates challenges in developing a comprehensive regulatory framework.

The success of Islamic banking supervision is determined by the ability of the supervisory authority to face challenges and implement appropriate solutions. This requires commitment and collaboration from all stakeholders in the Islamic banking ecosystem. An in-depth study of the role of the supervisory authority in enforcing Islamic banking law is very relevant to formulating a more effective and adaptive supervision strategy.

The refinement of Islamic banking provisions cannot be separated from the sources of Islamic law, both dogmatic regulations based on the Qur'an and Sunnah and other regulations in the form of *ijtihad* results as an explanation of the verses of the Qur'an and Sunnah. Dogmatic regulations are fixed, binding and do not

accept *ijtihad* and will not experience changes, while *ijtihad* can accept changes and is subject to the development of the times.(November 2022).

The increasing use of digital technology in banking also opens up opportunities for various forms of cybercrime. Identity theft, cyber fraud, and attacks on customer data are some of the main threats that Islamic banking must face in this digital era. These attacks can cause major financial losses, both for customers and for the banking institution itself. In addition, cybersecurity incidents can damage the bank's reputation, reduce customer trust, and affect the stability of the financial system as a whole.(Ray et al. 2024).

Banking financial institutions are one of the most dominant business activities and are very much needed in the economic activities of modern society. Based on this fact, Muslims feel the need to establish banking institutions that can meet the needs of the Muslim community to be able to use banking services that are free of usury.(Ilyas 2021)

Therefore, Islamic banks must take proactive steps to strengthen their security systems. Implementation of advanced security technologies such as data encryption, multi-factor authentication, and threat detection systems should be a top priority. In addition, education and training for customers on how to protect themselves from cyber threats is also very important. With a comprehensive and collaborative approach, Islamic banks can better face the challenges of this digital era, ensuring customer security and trust are maintained.(Ray et al. 2024).

According to(Alhalimi and Andrini 2024)The Islamic banking sector in Indonesia has shown significant growth over the past two decades, making significant contributions to the national financial system. This progress has been largely influenced by Law No. 21 of 2008 on Islamic Banking, which sets the foundation for Islamic banking operations in Indonesia. Islamic banks provide alternative financial services that are in line with the beliefs of the majority of Indonesia's Muslim population. This expansion is also in line with Indonesia's goal of becoming a global hub for the Islamic financial industry. However, with rapid growth, efforts to supervise and control Islamic banking operations have become increasingly complex, posing special challenges for regulators and industry players to ensure compliance with Islamic principles while maintaining financial stability. Islamic banking supervision in Indonesia is shaped by a "dual banking system," in which Islamic banks operate side by side with conventional banks under a common regulatory framework. This structure requires adaptive

supervisory mechanisms, balancing banking prudential standards with specific Islamic principles that guide Islamic financial transactions.

II. LITERATURE REVIEW

The development of Islamic banking in Indonesia has shown significant growth in the last two decades. According to Sauri (2023), this growth has been driven by several factors such as increasing public awareness of the importance of implementing sharia principles in economic and financial aspects, as well as supportive government policies through conducive regulations. This aligns with Alhalimi and Andriani's (2024) statement that the Islamic banking sector has made important contributions to the national financial system, especially after the enactment of Law No. 21 of 2008 concerning Islamic Banking.

The Sharia Supervisory Board (DPS) plays a crucial role in supervising Islamic banking operations. Sauri (2023) explains that DPS is tasked with examining aspects of Islamic financial products, including contract structures, transaction mechanisms, and the use of funds to ensure compliance with sharia principles. Nur (2022) adds that the refinement of Islamic banking provisions must refer to Islamic law sources, both dogmatic and *ijtihad* results.

In the context of the digital era, Ray et al. (2024) identify various cybersecurity challenges faced by Islamic banking, including identity theft, cyber fraud, and attacks on customer data. These challenges require the implementation of advanced security technology and customer education to protect against cyber threats.

Abraham et al. (2024) emphasize the importance of Islamic banks' compliance with sharia principles in the context of Islamic economics, particularly regarding the concepts of risk-sharing and economic justice. Meanwhile, Arsyad and Sodik (2014) discuss the increasing complexity of supervision along with technological advancement and digitalization.

Akram and Kurniawan (2024) analyze law enforcement aspects in banking, including the importance of appropriate sanctions to provide deterrent effects. They also highlight the need for improvements in various aspects, including legal substance, law enforcement institutions, legal culture, and legal infrastructure. Ilyas (2021) affirms that banking financial institutions are dominant business activities and highly needed in modern economics, thus encouraging Muslims to establish banking institutions that comply with sharia principles.

III. METHODOLOGY

In the study on the Role of Supervisory Authorities in Enforcing Islamic Banking Law, the approach used is a qualitative method with a focus on literature studies. This method involves collecting and analyzing data from various relevant journals and scientific articles to understand the role of supervisory authorities and the challenges faced in the context of Islamic banking. By analyzing the existing literature, researchers can identify key themes and find solutions proposed by previous researchers.

Next, content analysis will be applied to evaluate the content of the articles that have been collected. This method allows researchers to extract important information and group data based on certain categories, such as the challenges faced by the supervisory authorities and the steps taken to address these issues. In this way, researchers can gain deeper insight into the dynamics that occur in the enforcement of Islamic banking law.

Finally, this study will also consider case studies that have been published in journals to provide concrete examples of how supervisory authorities operate in specific situations. By combining the results of the literature review, content analysis, and case studies, this study aims to provide a comprehensive picture of the role of supervisory authorities, the challenges faced, and solutions that can be applied to improve the effectiveness of law enforcement in Islamic banking.

IV. RESULTS AND ANALYSIS

A. Challenges of the role of supervisory authorities in enforcing Islamic banking law

1. Product and Service Complexity

Islamic banking faces major challenges related to the complexity of the products and services offered. Some important things to note are:

a. Increasingly Diverse Product Innovations

- ✓ The emergence of various new products that combine several sharia contracts (hybrid contracts).
- ✓ Complex product structures require in-depth analysis to ensure compliance with sharia principles.

- ✓ A thorough understanding of aspects of muamalah fiqh and modern banking practices is required.
- ✓ There are challenges in assessing the risks of new products that have no precedent.

b) Encouraging Sharia Conformity Assessment

- ✓ There are variations in the interpretation of sharia principles.
- ✓ Limitations in setting clear boundaries between permitted and prohibited practices.
- ✓ The complexity of assessing the elements of gharar, riba, and maysir in modern products.
- ✓ The challenge in ensuring that the implementation of the contract is in accordance with the applicable fatwa.

c) Limitations of Standardization

- ✓ There is no comprehensive standardization for Islamic banking products.
- ✓ The variation in practices among Islamic banks complicates the supervision process.
- ✓ Clear parameters are needed to assess sharia compliance.
- ✓ The challenge of aligning international standards with local practices.

2. Human Resources

The human resources aspect is an important challenge in the supervision of Islamic banking, which includes:

a) Limitations of Dual Competence

- ✓ The number of supervisors who have a deep understanding of conventional and sharia banking is still minimal.
- ✓ There is a gap between the need and availability of human resources who have sharia certification.
- ✓ The challenge in understanding the technical aspects of banking and sharia principles simultaneously.
- ✓ Specialization in various areas of supervision is required.

b) Capacity Development Needs

- ✓ Industry dynamics require continuous knowledge updates.

- ✓ The complexity of understanding contemporary Islamic financial products.
- ✓ Specific training is required for risk-based supervision.
- ✓ Challenges in developing effective monitoring methodologies.

c) **Inter-Institutional Coordination**

- ✓ assist in aligning perspectives between OJK and DSN-MUI.
- ✓ Challenges in integrating prudential and sharia supervision.
- ✓ There is a need for effective communication mechanisms between institutions.
- ✓ Potential overlapping authority in supervision.

1. **Infrastructure Monitoring**

Challenges in infrastructure include several important aspects:

a) **Technology Limitations**

- ✓ An integrated information system is needed for better supervision.
- ✓ Challenges in implementing modern surveillance technology.
- ✓ Limitations in conducting real-time monitoring.
- ✓ Significant investment in technology is required.

b) **Standardization of Procedures**

- ✓ Variation in oversight procedures between regions and institutions.
- ✓ assist in developing universal standards.
- ✓ Challenges in measuring the effectiveness of supervision.
- ✓ Measurable parameters are needed in supervision.

c) **Harmonization of Regulations**

- ✓ The complexity of aligning regulations at the national and international levels.
- ✓ Challenges in adapting Basel standards for Islamic banking.
- ✓ A comprehensive regulatory framework is needed.
- ✓ Dynamics of regulatory changes that affect the supervision process.

2. **Operational Challenges**

a) **Reporting System**

- ✓ Complexity in developing standard reporting formats.
- ✓ An integrated reporting system is required.
- ✓ Challenges in verifying the accuracy of reports.
- ✓ Limitations in real-time data analysis.

b) **Risk Management**

- ✓ Complexities in identifying risks specific to Islamic banking.

- ✓ Challenges in developing a sharia risk assessment model.
- ✓ A specific methodology is required for sharia risk.
- ✓ satisfaction in measuring the impact of reputational risk related to sharia compliance.

c) **Law enforcement**

- ✓ The challenge in determining appropriate sanctions for sharia violations.
- ✓ Complexities in the litigation process related to Islamic banking.
- ✓ An effective settlement mechanism is needed.
- ✓ Limited legal precedent in Islamic banking cases.

The challenges in banking supervision are increasingly complex along with advances in technology and digitalization. Innovations such as digital banking and fintech bring great benefits, but also give rise to new risks such as cybercrime, customer data protection, and unfair competition. In this context, POJK Number 5 of 2024 is present as an effort to adjust banking supervision policies to remain relevant and responsive to developing dynamics.⁵ In addition, effective supervision is also key to preventing financial crises that can have a broad impact on economic and social stability. This regulation not only focuses on the compliance aspect, but also encourages banks to have good governance, adequate risk management, and readiness to face various potential threats in the future.(Arsyad and Sodik 2014).

Challenges in Islamic Banking Supervision The complexity of Islamic banking supervision stems from the need to implement both Islamic compliance and prudential supervision effectively. One major issue is the human resource competency gap; Islamic banking supervisors require dual expertise in conventional banking and Islamic law, a combination that is currently limited. This gap affects the depth and quality of supervision, especially as the Islamic banking sector grows and its product offerings become more complex. Another challenge is the technological infrastructure that has become critical to effective supervision in today's digital economy. The rapid advancement of financial technology (fintech) and digital banking services requires Islamic banks to adapt to and integrate new technologies. However, the current technological infrastructure in Islamic banks, as well as the supervisory systems that monitor them, are often not sophisticated enough to seamlessly integrate with fintech innovations. These limitations can lead to regulatory delays, creating potential risks for Islamic banks struggling to keep

up with technological demands and consumer expectations.(Alhalimi and Andrini 2024).

Banking is a system that has a strategic role in development, especially to support the escalation of a country's economic growth. Damage to public trust in banks can have direct implications on the rise and fall of the country's economy. For this reason, things that have the potential to harm banks and the public need to be addressed, even avoided. The imposition of sanctions on perpetrators of crimes or violations needs to be considered carefully as a repressive and preventive effort.(Akram and Kurniawan 2024).

According to(Akram and Kurniawan 2024)The imposition of criminal sanctions on banking actors has actually been regulated in Banking Law No. 10 of 1998. However, it is unfortunate that the imposition of criminal sanctions threatened for perpetrators of banking crimes, including internal bank frauds, still does not provide a sufficient deterrent effect and even the number of cases is increasing day by day. This is because the criminal sanctions are still only in the form of fines and imprisonment which can only be categorized as minor criminal sanctions.

These challenges require a comprehensive and coordinated approach from various stakeholders. Strengthening the Islamic banking supervision system must take this complexity into account to develop effective and sustainable solutions.

B. Solutions to the Role of Authorities in Enforcing Islamic Banking Law

According to(Akram and Kurniawan 2024)To overcome the challenges in enforcing Islamic banking law, there are several solutions that must be considered, including:

a. Legal Substance Improvement

To provide certainty to society as a whole, laws are made with a specific purpose. One of the characteristics inherent in law, especially the rules in written law, is the certainty itself. Without the value of certainty in the substance of its formation, the law will lose its relevance.

b. Improvement of Law Enforcement Institutions

Law enforcers, such as judges, prosecutors, police, advocates, and the OJK are groups that have an important role in enforcing the law in the banking sector. It is very important to have a professional attitude, integrity, morality, knowledge, and independence in the field of law and

the field they handle. Any rule will be in vain if it is not accompanied by qualified law enforcers. According to Prof. Muladi, the low quality of human resources for law enforcers, both intellectually and morally, is one of the causes of the declining quality of law enforcement in Indonesia. Therefore, immediate improvements are needed to ensure that the interests of each individual can be met proportionally. This is also very relevant for the OJK, which has the authority to regulate and supervise the banking sector.

In addition, related to the limited quantity of human resources owned by OJK, especially those in certain regional areas, the bureaucratic flow is very limited and slow. There are only 17 investigators in the center to carry out the duties of OJK. With the addition of personnel, there will certainly be an acceleration in the resolution of cases, so of course with a much larger number of people it will be able to provide a more massive resolution of cases.

However, the previous policy made it difficult because OJK Investigators were not employed by OJK itself, but were assigned by OJK. Therefore, it is necessary to update the related regulations so that they can provide the ability to add investigators from OJK's own institutions, with the aim of increasing the effectiveness of this authority.

c. Legal Culture Improvement

Strengthening the legal culture in the process of eradicating banking crimes as a step to uphold the principle of the rule of law is important. Efforts or procedures to control fraud, crime, or violations that are deviant can be carried out by companies or organizations through fraud prevention. According to the Association of Certified Fraud Investigators, there are three main steps used to prevent fraud:

1. Maintain and build a culture of high ethics and honesty through tone at the top, by creating a positive environment for workers, recruiting and promoting the right employees, providing appropriate training, recognition and discipline;
2. Evaluate anti-fraud processes and internal controls by analyzing, taking action, and implementing effective actions;
3. Building an effective monitoring system to prevent fraud.

Internal control plays a crucial role in preventing crime in the banking sector. One of these control measures is carried out by the

Compliance Department. This covers the risk of legal sanctions, financial losses and reputational damage resulting from failure to comply with applicable laws, regulations and banking practices imposed by the Bank. In October 2013, the Bank for International Settlements (BIS) issued an Advisory Note on Bank Compliance Functions. This note sets out several principles that banks must have in order to carry out their compliance functions properly.

d. Development of Legal Infrastructure

In the context of criminal politics, Bank Indonesia has taken preventive and mitigation measures against banking crimes through DIMP. To carry out prevention, the steps taken include increasing cooperation and coordination with related units at Bank Indonesia, such as the Directorate of Bank Supervision, the Directorate of Regulation and Banking, and the Directorate of Banking Licensing and Information. In addition, Bank Indonesia provides information to the Bank Directorate and the Directorate of Banking Licensing and Information about perpetrators of banking crimes so that the assessments made are accurate and appropriate. Bank Indonesia also utilizes the Director Communication Forum to disseminate information about banking crimes to existing banks.

e. Increasing Public Awareness

Public awareness of the dangers of banking crimes, especially internal bank fraud practices, needs to be increased. There needs to be an understanding among the public that the increasing cases of fraud can disrupt the stability of banking finances and will have a systemic impact that not only harms the interests of the bank but also has a direct impact on society. Bank Indonesia as the country's central bank has standards or models of governance

Companies designed to be adopted by financial institutions to prevent fraud in the banking sector. This standard is known as Good Corporate Governance (GCG) as a management system for banks created to maximize bank productivity processes, protect stakeholders, and ensure compliance with regulations, laws, and general ethical standards. One of the most effective methods to combat practices that are contrary to GCG is to implement a whistleblowing system.

The whistleblowing system is an integral part of a company's internal control designed to detect violations. Through this mechanism, internal parties of the company are given a forum to report acts that violate laws and regulations, codes of ethics, and various conflicting interests, including fraudulent behavior.

Implementation of these solutions requires long-term commitment and good coordination between various stakeholders. A phased and planned approach is needed to ensure the effectiveness of the implementation and sustainability of the Islamic banking supervision system.

V. CONCLUSION AND RECOMMENDATION

This study highlights the importance of the role of supervisory authorities in ensuring sharia compliance and the stability of the sharia financial system in Indonesia. The main challenges faced include product complexity, limited human resources, and inadequate supervisory infrastructure. To overcome these challenges, strategic steps are needed such as improving regulations, increasing human resource capacity, harmonizing international standards, and implementing modern supervisory technology. In addition, strengthening legal culture and increasing public awareness are important elements in supporting the sustainability of the sharia financial industry. With an integrated approach, sharia banking can face the challenges of the digital era and provide significant contribution to the national economy.

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