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Kotak Masuk



Mursyid Djawas 25/10/2023

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Bukti konfirmasi review dan hasil review pertama

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Nadhilah Filzah

4 Apr

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×

Dear
Muammar Arafat Yusmad
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Assalamu alaikum warahmatullah wabarakatuh

We have reached a decision regarding your submission to Samarah: Jurnal Hukum Keluarga dan Hukum Islam, "Revitalization Supervision in Enhancement Compliance in Indonesia".

Our decision is to: revision required

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Title:

Title reflects the essence of the content of the article (content, method, novelty):

The title of this article should mention "Bank Islam" and "Malaysia" because they substantially address both aspects. So, the title: "Revitalization Supervision Islamic Banking in Enhancement Compliance in Indonesia and Malaysia"

Abstract:

Abstract contains problem of research, method, and result:

The abstract has shown the problem of research results and conclusions. However, the research methods, theories / approaches and data analysis techniques used are not mentioned. Please add the research method.

Originality:

The originality of the subject matter, and the manuscript would be of interest to the the scholar of Islamic countries in general and specifically in Indonesia

The substance of this article contains authenticity and novelty because it presents data, and analysis that is relatively different from other articles. Likewise, it was discussed about the development of Islamic banking supervision in Malaysia. Therefore, this article will attract scholars and researchers in Indonesia and the world at large, including in Southeast Asia.

The Depth of Literature:

Whether the article draws on an appropriate range and depth of literature (if not please indicate which sources of literature should be included by the author in future)

:

The references used are good enough, however. It still needs to be added, especially international journal articles with Scopus putation. Literature review can also be added to the introduction.

Finding Presentation:

Whether the findings presented are subjected to suitable analysis and sound conclusions drawn

The findings and conclusions of the study are in accordance with the data and analysis presented in the article, although in some parts it still needs to be added analysis and discussion.

Implications for understanding the study of Islamic family law and Islamic law in Islamic countries in general and specifically in Indonesia:

The arguments and research results from this article will contribute to Islamic banking in Indonesia and Malaysia that Southeast Asia and the Muslim world in general. This article also nicely advises the government to give a role to the Sharia Supervisory Board (DPS) and the Financial Services Authority (OJK), so that the institution has broader authority.

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This article writing technique needs to adjust to the samarah journal template, see the notes in the article manuscript.

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Dokumen Catatan Manuscript Reviewer A:

Revitalization Supervision in Enhancement Compliance in Indonesia

Abstract: This research is motivated by the social fact that the operational activities of Islamic banks that have been going on for three decades in Indonesia with the implementation of dual banking systems are almost no different from conventional banks. The thing that distinguishes the bank is only its sharia "brand". In the vast zone of the national banking industry, the position of Islamic banks is still a "follower" of conventional banks and its market share is only around 6.65%. The focus of this research is on the Islamic bank supervision system by DPS, the Sharia Bank Compliance Directorate, and OJK in carrying out supervisory functions in accordance with their fields of duty. The results showed that there are a number of problems in Islamic bank supervision institutions that make supervisory performance not optimal and pose potential legal risks for the bank. The roles of DPS, the Directorate of Sharia Bank Compliance, and OJK, which run separately and are not well coordinated, create overlapping aspects of Islamic bank supervision. This study recommends the need to amend UURI No. 21 of 2008 concerning Sharia Banking by giving attributive authority to DPS to sanction Islamic banks that are proven to violate sharia principal compliance and the need for the establishment of OJK regulations on Islamic banking audit instruments.

Keywords: Revitalization, Sharia Bank Supervision, DPS, OJK.

Introduction

Yusuf Hamka's statement that Islamic banks are "cruel" and "extortionist" went viral and drew mixed responses. This was said as Yusuf Hamka's response to the disgraceful actions of unscrupulous employees of Islamic banks who asked for funds of around 20.4 billion as compensation fines when he wanted to pay off his debts at Islamic bank. His good faith to pay off his debt actually received an unpleasant response from the bank. Yusuf Hamka obtained murabahah financing with a ceiling of IDR 834 billion from a syndication of seven banks, namely 1 Islamic bank and 6 Sharia Business Units (UUS) to work on toll road projects in West Java through P.T. Citra Marga Lintas Jabar (CMLJ) which he leads.

Sharia banks as intermediary institutions in carrying out their business activities must comply with sharia principles and comply with applicable laws and regulations. Supervision of the fulfillment of sharia principles and compliance of Islamic banks with good corporate governance through Islamic bank supervision entities, both internally and externally, is carried out in a comprehensive and integrated manner. Internal supervision of Islamic banks is carried out by the Sharia Supervisory Board (DPS) and the Director in charge of the compliance function and compliance work unit. Externally, supervision of Islamic banks is the authority of the Financial Services Authority (OJK) established under UURI No. 21 of 2011. Supervision carried out on Islamic banks is important so that Islamic banks avoid legal risks that may occur related to bank policies.¹ Internal supervision of sharia banks is carried out by the Sharia Supervisory Board (DPS) and the Director in charge of compliance function and unit Work compliance. By external sharia banking supervision becomes authority The Financial Services Authority (OJK) was formed based on UURI No. 21 of 2011. Supervision carried out towards Islamic banks; it is important to avoid Islamic banks from risk possible law _happen related with bank policy.

The phenomenon that occurs in the Islamic banking environment that raises the view that the operational activities of Islamic banks are not in accordance with sharia and are the same as conventional banks, cannot be left alone. There must be a clear difference between Islamic banks and conventional banks so as not to cause a continuous negative stigma. A number of studies that the author found on

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Commented [MOU4]: The substance of this article contains authenticity and novelty because it presents data, and analysis that is relatively different from other articles. Likewise, it was discussed about the development of Islamic banking supervision in Malaysia. Therefore, this article will attract scholars and researchers in Indonesia and the world at large, including in Southeast Asia.

Commented [MOU5]: The arguments and research results from this article will contribute to Islamic banking in Indonesia and Malaysia that Southeast Asia and the Muslim world in general. This article also nicely advises the government to give a role to the Sharia Supervisory Board (DPS) and the Financial Services Authority (OJK), so that the institution has broader authority.

¹ Rusdan, R. (2016). Urgensi Manajemen Pengawasan Risiko Bank Syariah. *PALAPA*. <https://doi.org/10.36088/palapa.v4i2.26>

Islamic banking supervision in Indonesia appear to be carried out partially, such as supervision by Islamic banks by DPS or other institutions.

The discourse on Islamic bank supervision is an interesting topic considering that the operational activities of Islamic banks simultaneously apply compliance with sharia principles as well as general principles in the governance of banking institutions. External and internal institutions of Islamic bank supervision, duties and functions, as well as supervision of Islamic banks are the units of analysis in this study. This paper aims to complete the understanding of the duties and functions of each Islamic bank supervision institution and specifically aims to avoid gaps between one research and another on Islamic bank supervision so that the understanding of aspects of Islamic banking supervision is more comprehensive.

The data used in this paper is the primary data source in the form of laws and regulations governing the duties and authorities of Islamic bank supervision institutions. The data is related to the performance of Islamic bank supervision institutions, and a number of reports from trusted media about the current context of Islamic bank business activities in Indonesia. The secondary data used are sourced from the results of previous research relevant to this study. A number of other supporting data come from activity reports that the author has in the form of tables and figures.

The source of information in this study comes from a number of textbooks, circulars, and news related to Islamic banking industry activities which are selected and reduced in accordance with research needs directly related to Islamic bank supervision in Indonesia. These sources of information are then classified by examining the duties and authorities of Islamic bank supervision institutions.

The data collection process begins with data documentation, then a desk review of the data is carried out and then continued by mapping the potential weaknesses of Islamic bank supervision institutions in line with the dynamics of the development of the national Islamic banking industry. A number of reports on the work of Islamic bank supervision institutions become a reference for researchers to verify the suitability of Islamic bank supervision tasks based on applicable laws and regulations and identify whether there has been overlapping in the implementation of supervision in practice. The next step is data analysis by following the stages in the form of data display in the form of tables, figures, and graphs that have been documented. Data categorization is also carried out according to the theme to identify the implementation of Islamic bank supervision duties in line with sharia principles and applicable laws and regulations.

In order for Islamic banks to avoid legal risks and negative impacts of legal problems that will hit them in the future, strict supervision of the bank is needed. Legal risk cannot be avoided, but can be controlled in risk management. Islamic banks, like banking institutions in general, also require a number of measurable procedures and achievements that can be used to identify, monitor, and control legal risks arising from an Islamic bank's business activities, or also known as risk management.

The role of Sharia Banking in Service Finance

The development of the Islamic economy has strengthened the role of Islamic banking in various sectors of people's lives. Various business transactions in the community use Islamic banking service facilities, both as a place to store funds and financing businesses as well as a means to accelerate payment system mechanisms in all economies. The Islamic banking system is based on the principles of Islamic law which refer to the Qur'an and Hadith. The Islamic banking system was introduced to provide halal financial services and based on Islamic law to the Muslim community aiming to enable these institutions to contribute to the achievement of Islamic socio-economic goals. Sharia Banking also provides fund disbursement. If the distribution of funds in conventional banking is called credit distribution, then in the Islamic banking system it is called financing. The source of financing at Islamic Banks depends on the source of Third-Party Funds (DPK). Thus, the more funds collected from deposits, the higher the level of distribution of funds to the community so that it will determine the level of profitability.

Sharia financing principles based on profit sharing (mudharabah), financing based on the principle of capital participation (musharakah), the principle of trading in goods based on profit (murabahah), capital financing based on pure banking principles, without alternatives (ijarah), or alternative transfer of ownership of goods rented from banks by other parties (ijarah waliqtina). In line with that, broadly speaking, financing in Islamic banking is divided into three categories based on the purpose of its use, namely (1) financing transactions aimed at owning goods carried out with the principle of buying and selling; (2) financing transactions aimed at obtaining services are carried out on a lease principle; (3) financing transactions for cooperative efforts aimed at obtaining goods and services at once with the principle of profit sharing. Factors that can affect sharia financing are profit sharing rate, Third Party Funds (DPK), NPF (Non-Performing Financing), FDR (Finance to Deposit Ratio), and Return on Asset (ROA). In the implementation of financing, Islamic banks must fulfill two aspects, namely the Shar'i Aspect and the Economic Aspect, profits can be divided equally according to mutual agreement.

Obligations that must be fulfilled by Sharia Banks

Sharia banks are required to form DPS whose duty is to provide advice and advice to the directors and supervise bank activities in order to comply with sharia principles. Sharia principles are Islamic legal principles in banking activities based on fatwas issued by the institution authorized to issue fatwas in the field of sharia in this case is the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). DSN-MUI made an important decision on DPS, namely DSN-MUI Decree No. 3 of 2000 concerning the Implementation of the Determination of Sharia Supervisory Board Members in Islamic Financial Institutions. The scope of DPS's duties as supervision of Islamic bank activities is very broad, which includes draft contacts, Islamic banks' compliance with DSN-MUI's fatwas related to their products, and the implementation of their contracts. In this principle, supervisory activities are emphasized on matters that are deviations from sharia principles that must be met.

Execution Task Supervision of Sharia Banks by DPS

No.	ADVICE AND SUGGESTIONS	No.	SUPERVISION
1.	Give Sharia opinion on activity collecting funds and distributing funds as well service banking services. Special DPS opinion Formatter This become something mandatory requirements filled with deep BVIS frame fulfillment report audit process requirements finance annually by the Auditor.	1.	Analyze reports submitted and/ or requested by the Board of Directors, executors Audit functions and functions Obedience For know quality implementation fulfill menttop sharia principles activity collecting funds and distributing funds as well service banking services. On several occasions, the Sharia Supervisory Board carried out sampling tests coordination with the internal audit and compliance work unit forcollect data and information before the picking test the implemented. That thing It is intended that DPS has complete data and informationso that more focus in give a test
2.	Give direction and reinforcement material "contract and product Islamic banking" to Bank employee with conducting training and sharia	2.	Set number of test picks (samples) of transactions to be carried out checked with notice quality implementation fulfillment sharia principles of each

	studies for increase understanding and at the same time accept possible input repair quality sharia aspects		activity.
3.	At the moment carrying out sampling tests DPS conducting dialogue with Bank leaders and employees for analyze more in obstacles related business and operations with aspects of sharia so can confirmed suitability with sharia principles	3.	Inspect document tested transactions pick (sample) for know fulfillment sharia principles as required in applicable internal bank regulations. Focus DPS inspection is to aspects of sharia (shariah compliance), including: Suitability contract used, Filled with elements contract on a financing scheme, Inspection against SP3, contracts, and deeds notarial
		4.	Do inspection, observation, request, information and/or confirm at ionto the bank and or customers for strengthen results inspection document
		5.	Conduct a review of applicable internal provisions related sharia aspects if there is indication non conformity implementation sharia compliance

Source: Law Number 21 of 2008 Concerning Sharia Banking.

Shariah Bank Supervision by the Shariah Supervisory Board (DPS)

Sharia banking as a business entity that becomes part from system banking national that provides facility supporter regulation and certainty law Good in pattern institutional, productive, servicen or consistent operations with Sharia principles.² In the process, Sharia banking in Indonesia always supervised by the DPS, the Sharia Supervisory Board. DPS is responsible for ensure all Sharia banking products and procedures are appropriate Sharia principles. DPS matters are regulated by law Number 40 of 2007 Article 109, states : 1. Running company based business sharia principles in additionhas a Board of Commissionershas a Sharia Supervisory Board ; 2. Sharia Supervisory Board as follows referred to in paragraph (1) consists ofona person who is an expert in sharia ormore appointed by the above GMS recommendation Indonesian Ulama Council (MUI); 3. Sharia Supervisory Board as referred to in paragraph (1) is instructions and advice to Directors and supervising Company activities for obey Islamic principles.³ DPS it self is an independent body placed by the National Sharia Council (DSN) in a sharia bank. In carrying out duties, DPS is mandatory following the DSN fatwa regarding suitability bank products and services with sharia provisions and principles. Task mainly is supervising activity business institute on Islamic finance to be compliant with existing sharia provisions and principles fatwa by DSN.⁴

² Nurdin, N., Pettalongi, S. S., & Yusuf, K. (2018). Knowledge Management Model in Syariah Banking. *Proceedings - 2018 5th International Conference on Information Technology, Computer and Electrical Engineering, ICITACEE 2018*, 293–298. <https://doi.org/10.1109/ICITACEE.2018.8576980>

³ Prabowo, B. A., & Jamal, J. Bin. (2017). Peranan Dewan Pengawas Syariah terhadap Praktik Kepatuhan Syariah dalam Perbankan Syariah di Indonesia. *Jurnal Hukum IUS QUIA IUSTUM*, 24(1), 113–129. <https://doi.org/10.20885/iustum.vol24.iss1.art6>

⁴ Arifin, M., & Nasutian, B. (2015). The Dynamics Study of Regulations on Syariah Banking Indonesia. *International Journal of Humanities and Social Science* , 5 (3), 237–242.

However, in the practical process, a number of DPS members are negligent his duties and obligations say that DPS members sometimes involved in decisions far pragmatic from sharia values. Often decision pragmatic This aim for chasing profit. So that in a number of DPS cases are frequent sacrifice idealism, independence, justice and truth Forget "profit".⁵ Optimization The role of DPS is very important for ensure every transaction in accordance referring sharia principles to the Koran and Sunnah. With there by for reduce practices fraud optimization functions, duties and authority of DPS, are required steps revitalization or empowerment, fine from corner competence, integrity, et cits independence (Mutia et al., 2019) .⁶ Revitalization Alone refers to resur rection or build repeat a values (social, cultural, religious, economic) become something more relevant. According to KBBI, revitalization means process, method, and action turn on returns something the previous thing not enough empowered. In life social, revitalization aim for build or create repeat missing values or not yet structured with good. DPS revitalization is possible done with (1) Regulations so that DPS members must elected and appointed as well as given incentives by the government No company related; (2) There is a system certification issued competencies institution competent, credible and professional.⁷

Sharia banking is a business entity that becomes part from system banking national that provides facilities support regulation and certainty law Good in pattern institutional, productive, service nor consistent operations with Sharia principles.⁸ Sharia principles in accordance with provisions of Law no. 21 of 2008 Article 1 paragraph 11. In Sharia banking, principles transaction done in accordance with *fiqh Muamalah*.⁹ In line with It was in 1992, the first sharia bank in Indonesia was Bank Muamalat Indonesia. Muamalat Bank is pioneer Islamic banking in Indonesia. Based on data from Bank Indonesia assets Islamic banking already reached 179 trillion or about 4.4% of assets banking national and Party Funds Third (DPK) reached 137 trillion.¹⁰ Other characteristics of Islamic banking are operate with principle for results (Mudarabah) with No exists interest (riba) due interest (riba) in sharia law is prohibited.¹¹ Apart from providing service halal finance for people Muslims, system banking Sharia expected can give contribution to achievement objective social (humanity) system Islamic economics.¹² In line with that's, effort For realize values Sharia above with form a DPS (Sharia Management Council) in the structure Sharia Financial Institution organization.¹³

⁵ Iska, S. (2012). Revitalisasi Dewan Pengawas Syariah (DPS) Pada Lembaga Ekonomi Syariah. *JURIS*, 11(1).

⁶ Mutia, E., Jannah, R., & Rahmawaty, R. (2019). *Islamicity Performance Index of Islamic Banking in Indonesia*. 292 (Aug), 424–436. <https://doi.org/10.2991/age-18.2019.65>

⁷ Iska, S. (2012). Revitalisasi Dewan Pengawas Syariah (DPS) Pada Lembaga Ekonomi Syariah. *JURIS*, 11(1).

⁸ Nurdin, N., Pettalongi, SS, & Yusuf, K. (2018). Knowledge Management Model in Sharia Banking. *Proceedings - 2018 5th International Conference on Information Technology, Computer and Electrical Engineering, ICITACEE 2018*, 293–298. <https://doi.org/10.1109/ICITACEE.2018.8576980>

⁹ Muhaimin, Husni, L., & Wira, L. (2021). Authoritative Institution In Disputes Resolution In The Conversion Of Conventional Bank To Sharia Bank. *Journal of Legal, Ethical and Regulatory Issues*, 24(4), 1–8.

¹⁰ Roziq, A., Firman, D. P., & Kartika. (2019). Defining Variables For Sharia Bank Shares In Indonesia. *International Journal of Scientific & Technology Research*, 8(07).

¹¹ Wahyudi, S., Nofendi, D., Robiyanto, R., & Hersugondo, H. (2018). Factors affecting return on deposit (ROD) of Sharia banks in Indonesia. *Business: Theory and Practice*, 19(Muhammad 2005), 166–176. <https://doi.org/10.3846/BTP.2018.17>

¹² Sanosra, A., Surachman, S., Moeljadi, M., & Indrawati, N. K. (2017). Construction the meaning Sharia bank for Indonesia Santri community. *International Journal of Economic Research*, 14(18), 279–288.

¹³ Imaniyati, N. S., Nu'man, A. H., & Jamilah, L. (2019). Analysis of the role and responsibility of Sharia supervisory board (DPS) on Sharia compliance supervision in Islamic banks in Indonesia. *Journal of Legal, Ethical and Regulatory Issues*, 22(3), 1–12.

The duties of DPS are operate its function as written sharia supervisor in Article 47 paragraphs (1) and (2) Bank Indonesia Regulation Number 11/33/PBI/2009 concerning Application *Good Corporate Governance* for Sharia Commercial Banks and Sharia Business Units, in matter This consist sabove: (1) supervise General Sharia Bank activities are in accordance with sharia principles, in matter create and implement; development product; mechanism collection and distribution of funds and bank services; and ask information related from each work unit related obedience aspects of sharia inevery his duties; (2) provide advice to Directors about management of General Sharia Banks so that they are in line with principle prudence and sharia; (3) to berepresentative of Sharia Bank in communicate and request product fatwato DSN-MUI (National Sharia Council of the Indonesian Ulema Council) and became representative of Sharia Bank in matter delivery Report DPS supervision per semester to Bank Indonesia. DPS members themselves must own competent and capable understand provisions Islamic jurisprudence assource Islamic law at once understand law positive national as source law, which is both become base law sharia banking operations.¹⁴ Disclosure DPS reports are very important for preparation report annual sharia banking due the information is very comprehensiv e as well as can reduce exists non conformity practices sharia banking.¹⁵

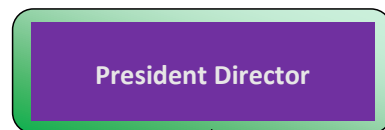
Referring to the table implementation task supervision of sharia banks by DPS, there is a number of problems in implementation DPS duty in supervise sharia banks, among others:

- a. Absence of authority granted in a way attributive in the Sharia Banking Law. DPS doesn't own authority for drop penalty to sharia banks whenever in activity its operation shappen violation on sharia principles.
- b. DPS doesn't independent in carry outhis task.
Sharia banking is mandatory for form the existing DPS in Islamic banking structure and financing activityits operations. DPS supervises sharia banks that finance activity its operations.
- c. DPS not yetbe equipped with sharia audit procedures and standards.

Supervision of Sharia Banks by the Directorate Sharia Bank Compliance

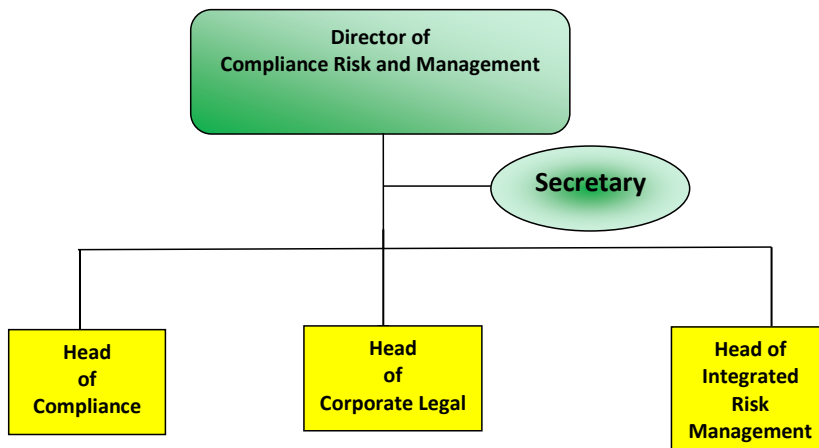
In line with mandate Constitution Sharia Banking, use realize implementation of GCG in sharia banks, then directors must ownleast function: (1) function as internal audit, (2) function management risk and committee monitor risk, and (3) function compliance. When functions carried out by the Director Compliance and Management BMI risk walking in a way effective, then performance organization will increase. Based onprovisionArticle 4 and Article 5 of the OJK Regulations concerning Implementation Function Compliance with Commercial Banks, Islamic banks is mandatory owndirector in charge function compliance and shapingunit Work compliance.

Structure Organization Director Compliance and Management BMI Risk



¹⁴ Muda, I. (2017). The effect of supervisory board cross-membership and supervisory board members' expertise to the disclosure of supervisory board's report: Empirical evidence from Indonesia. *European Research Studies Journal*, 20(3), 702–716. <https://doi.org/10.35808/ersj/738>

¹⁵ Djumardin, & Isnaini, A. M. (2018). The existence of Sharia Supervisory Board in maintaining the purpose of sharia principles in Sharia Banking. *Journal of Legal, Ethical and Regulatory Issues*, 21(3), 2018.

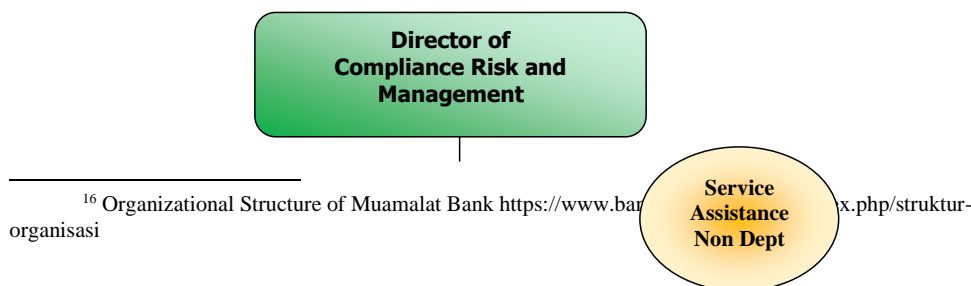


Data Source: Organizational Structure of Muamalat Bank¹⁶

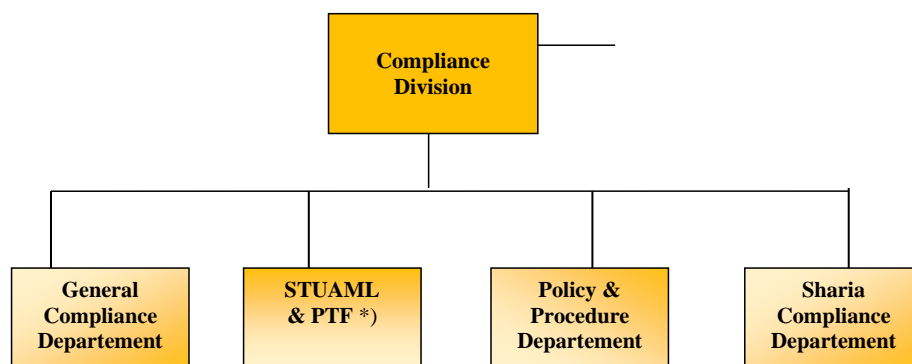
From the chart above seen that Director Compliance and Management BMI risks are responsible answer to president director. Director obedience supervise direct three divisions below his control that is Head of Compliance Division, Head of Corporate Law Division, and Head of Management Division Risk Integrated. Functions compliance, legal and corporate, and management management risk is for ensure Islamic bank management complies with governance Sharia compliant banking with sharia principles, 5 identifying potentials risk like risk financing, market risk, risk liquidity, riskoperational, risk law, risk reputation, risk strategic, risk compliance, risk return results, and risks investing and making steps mitigation to potency risks, and control risk business sharia banking integrated. Management division review results risk will become consideration directors intaking decisionend.

Recommendation from the management division risk Nonature binding, soif the management division risk No recommend something application sharia financing, then business units Still can continue the process and deliver agreement on submission financing. On the situation this, when director compliance and management risk looking that risk on plan agreement something sharia financing bigor difficult mitigated or potential detrimental to the bank or violate GCG principles, principles banking prudence and/or principle know customers, then Director Compliance and Management BMI risks can cancel application financing.

Structure Organization of the BMI Compliance Division



¹⁶ Organizational Structure of Muamalat Bank <https://www.bankmuamalat.com/id/struktur-organisasi>



Data Source: Special Task Unit for Anti Money Laundering and Prevention for Terrorist Financing

Structure the Compliance Division organization which is under supervision Director Compliance and Management BMI risks have one field service non-departmental assistance and three departments in accordance with the field namely: Department General Compliance, Department Policies and Procedures, and Department Sharia Compliance, as well as one unit task (task force), namely Anti-Money Laundering and Prevention Task Force Funding Terrorism. Problems that occur in supervision Islamic bank compliance is problem regulations and audit standards, and limited human resources for auditors, and not exists audit framework established by the Government.

Supervision of Sharia Banks by the Financial Services Authority (OJK)

OJK is institution independent and free from mix hand the other party owns it functions, duties and authority _in regulation, supervision, inspection and investigation in the sector service finance. Establishment of OJK based on UURI No. 21 of 2011 is implementation of UURI No. 3 of 2004 concerning Bank Indonesia which mandates formation a institution independent in regulation and supervision sector service finance. By philosophical task institution This is join in succeeding development economy national level supported by governance good governance (good *corporate governance*) with principles (1) Independence, (2) Openness (transparency), (3) Accountability (*accountability*), (4) Accountability (*responsibility*) and (5) Fairness (*fairness*) which are generally consistent do improvements one very component in system economy national. One component important in system economy national is system finances and all activity service running finance's function intermediation for various activity productive inside economy national.

Based on OJK Regulation no. 46/POJK.03/2017 concerning on the Implementation Function Commercial Bank Compliance, Functions Obedience is series action or character steps preventive (*ex-ante*) for ensure that policies, provisions, systems and procedures, as well as activity the efforts carried out by the Bank have in accordance with provision Financial Services Authority and provisions regulation legislation in Sharia principles for sharia commercial banks and sharia business units, as well as ensure Bank compliance with commitments made by the Bank to Financial Services Authority and/ or authority other authorized supervisor .

Obedience in Fulfillment Sharia Principles and Procedures Sharia Bank Operations

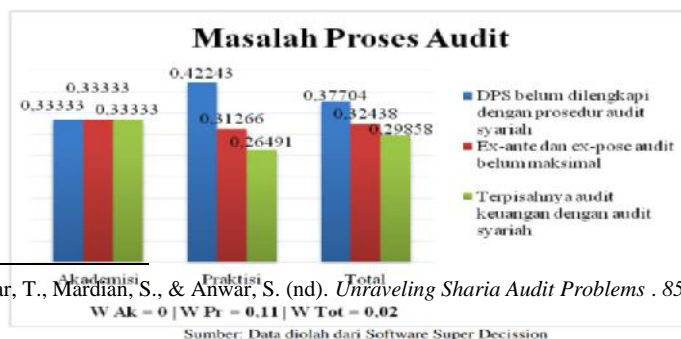
In line with objective development national for reach creation public fair and prosperous based on principle democracy economy, develop system Islamic banking based on values justice, togetherness, equality and appropriate benefits with sharia principles. Applicability *dual banking systems* in system banking national make public own diverse choice for use product sharia banking. Fulfillment Sharia

principles are the obeyed principle Islamic law in activity Sharia banking is based on fat was issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI).

Refer to the Sharia Banking Law and table implementation DPS duties, then there is a number problem in implementation The duties of DPS members are:

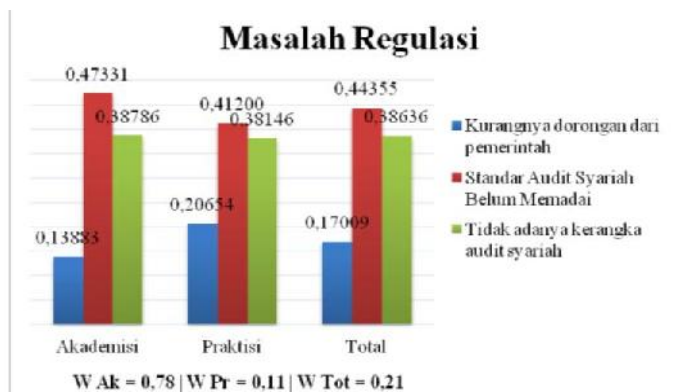
- Absence of authority granted in a way attributive in the Sharia Banking Law. In one mandatory DPS side formed by sharia banks, on the other hand DPS is mandatory for supervising sharia banks for ensure fulfillment sharia principles in activity its operations.
- DPS doesn't independent in carry out this task. Sharia banking is mandatory form an internal DPS Islamic banking structure. This thing become dilemma Because DPS position is located within the internal sharia bank. In one the Islamic bank side finances activity DPS operations in chair and members of the DPS, on the other hand the DPS is in charge for supervising Islamic banks in fulfillment sharia principles. Deep DPS position structure of this sharia bank become dilemma.
- DPS doesn't independent in carry out tasks' supervision. DPS not yet be equipped with sharia audit procedures and standards. Based on the graph is about sub aspect ranking problems with the sharia audit process, academics and practitioners give evaluation that DPS has not be equipped with sharia audit procedures and standards with the value is 0.37704 which is significant. This becomes the main problem in the sharia audit process.¹⁷

Graph 1. Sub Aspect Ranking Results Sharia Audit Process Problems



¹⁷ Akbar, T., Mardian, S., & Anwar, S. (nd). *Unraveling Sharia Audit Problems* . 858 , 101–123.

Graph 2. Sub Aspect Ranking Results Problem Sharia Audit Regulations



Data Source: Parse Sharia Audit Problems

Based on the graph above, regarding sub aspect ranking problems with regulations, academics and practitioners give evaluation with a total assessment of 0.44355 which means that on aspect problem regulations is sharia audit standards yet adequate.

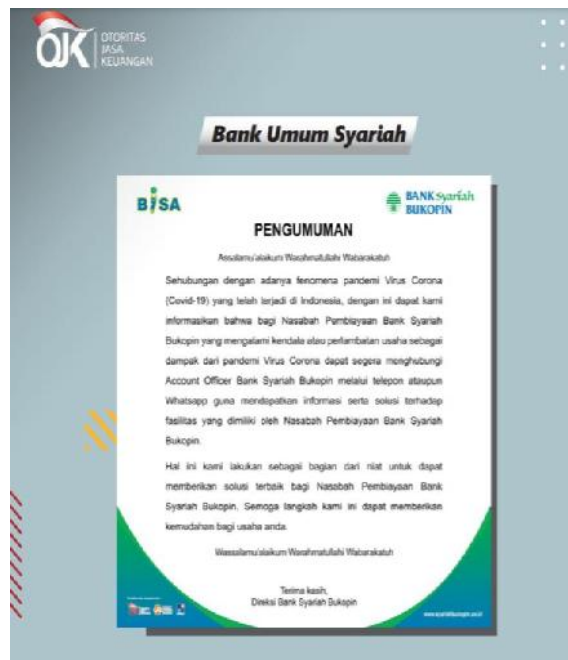
Sharia Bank Compliance with Regulations Government

In 2020 in report annually with theme “Resilience for Quality Economic Recovery” OJK is committed for guard stability sector service financial and supportive National Economic Recovery (PEN).¹⁸ OJK ensures that performance Islamic banking does not disturb with policy restructurisation financing to customers affected by the Covid-19 pandemic. However, there by need also be wary of restructuring. In the pandemic situation that hit Indonesia at this time in this case, OJK is obliged ensure performance Islamic banking does not disturb with policy Government for restructurisation financing. OJK supports policy government as effort for lighten up burden customers debtors affected by the Covid-19 pandemic.¹⁹

¹⁸FSA. (2020a). *2020 Annual Report* (2020 (ed.))

¹⁹Akbar, T., Mardian, S., & Anwar, S. (nd). *Unraveling Sharia Audit Problems*. 858, 101–123.

Figure 1. Announcement Letter from Sharia Bank as Response For Affected Customers Covid-19 pandemic



Data Source: OJK Sharia Banking Data Update 31 March 2020²⁰

Table 2. List of Islamic Bank Providers Restructuring for Debtors Financing Those Affected Covid-19 Pandemic

No.	ISLAMIC BANK	POLICY FORM
1.	Bank Mandiri Syariah	1. Mandiri Syariah provides relaxation (lightening) towards facility financing to customers affected by the Covid-19 pandemic form delay payment installments and/or giving relief margin payments forshort results time and conditions customized with sector economics, criteria and conditions customers with still refers to POJK provisions.

²⁰FSA. (2020b). *Sharia Commercial Bank Update 31 March 2020* .

		<p>2. Relaxation (relief) of financing can give after there is agreement between customers with the appropriate Bank with sector economics, criteria and conditions affected customers Covid-19 outbreak.</p> <p>3. Customers can submit application relaxation (lightening) with contact the Mandiri Syariah Relationship Manager/Staff serving customers during this without must come to the bank for avoid contact physical.</p>
2.	BNI Syariah	<p>1. Giving relief in form restructurisation delay payment debt</p> <p>2. Adjusted restructuring/relief with condition and type effort.</p>
3.	BRI Syariah	<p>1. Affected customers the impact is to contact the Account Officer or Micro Account Officer at the BRI syariah Branch Office nearest for get information and solutions about financing Customer.</p> <p>2. This thing be delivered for lighten up Customer Financing in line with national economic stimulus.</p>
4.	Bukopin Sharia Bank	Delivery information and solutions for customers affected pandemic
5.	Bank NTB Syariah	<p>1. Appeal to paythe loan appropriate time</p> <p>2. Delivery information and solutions for customers affected pandemic</p>
6.	Permata Syariah Bank	<p>1. Give relaxation inform delay payment obligation</p> <p>2. Give relaxation inform relief payment</p> <p>3. Customer must submit application to Bank Permata Syariah</p> <p>4. During submission still processed, customer still must pay appropriate time</p>
7.	Bank Muamalat Indonesia	<p>1. Customer submit application relief</p> <p>2. Relief can be givenafter the bank does verification to customers</p> <p>3. Relief given in accordance regulations issued by OJK</p>
8.	Bank Mega Syariah	<p>1. Customer submit application relief to BMS</p> <p>2. BMS supports policy Government as a stimulus for customers affected by the Covid-19 pandemic</p>
9.	BJB Sharia	<p>1. BJB customers contact the account officer can given solutions and information</p> <p>2. BJB Syariah supports stimulus policies like customers affected by the pandemic restore economy national</p>
10.	BTPN Syariah	1. BTPN Syariah understands condition

		difficulties faced by customers due to the Covid-19 pandemic 2. Customers should contact the community officer to get solution
11.	Sharia Net Bank	1. BNS can give relaxation on facility financing to customers inform delay obligation payment 2. Relaxation can be given after there is an agreement between the customer and the bank are in agreement with criteria and condition affected customers. 3. Customer can submit relaxation with contact the BNS relations manager without must come to BNS office
12.	BCA Syariah	1. BCA Syariah appeals customers to follow recommendation government through application protocol health preventing covid-19 with transaction using mobile banking, internet banking, and ATM without must come to BCA Syariah office 2. Affected customers can consult and search solution best with contact the account officer
13.	Bank Panin Dubai Syariah	Affected customers can consult a relationship manager for get information and solutions more continue.

Data Source: *Updated Sharia Commercial Bank Data*²¹

Government policy for give restructurisation for customers Islamic banking as an economic stimulus national arranged in OJK Regulation no. 11 of 2020 concerning to National Economic Stimulus as Policy *Countercyclical* Impact Spread of Coronavirus Disease 2019. In OJK regulations there are transanctions imposed to sharia banks if abuse policy restructuring, deploying customer data information, type loans, ceilings financing until quality loan.

Shariah Banking Governance in Malaysia

Malaysia is a country that practices a dual-banking system which is the conventional banking system and the Islamic banking system which is carried out in banking institutions (Section 27 of the Islamic Financial Services Act 2013 (Act 759). The Islamic financial in Malaysia is a regulated industry. As for the Islamic banking sector, it is managed by Bank Negara Malaysia (BNM).²²

Since the establishment of the Islamic banking system in 1983, this banking system has been regulated by several laws enacted by Parliament and regulations issued by Bank Negara. The National

²¹ FSA. (2020b). *Sharia Commercial Bank Update 31 March 2020*

²² Abd Rasid, A.H, Yaakob, S.E., Mat Zain, M.N. 2021. Keperluan Tadbir Urus Syariah di Industri Kecil dan Sederhana (IKS): Satu Tinjauan Literatur. *Journal of Contemporary Islamic Law*, (2021) Vol. 6(2): 65-75

Bank Act 2009 is a law that is the main basis for enabling the National Bank to carry out its functions.²³ In addition, the act also details the scope of Bank Negara's jurisdiction, including administrative aspects and executive powers. To ensure syariah compliance in every operation of the Islamic banking industry in Malaysia, section 51 of the National Bank Act 2009 has empowered the Bank Negara to establish a Shariah Advisory Council which is the highest and sole authority for ensuring syariah law.²⁴

Bank Negara Malaysia's Shariah Advisory Council (MPS) was established in 1997 as the highest authority in deciding all Shariah matters related to the Islamic banking industry. MPS acts as the final arbiter in the interpretation of Shariah principles related to the affairs and practices of Islamic banking and takaful and fosters uniformity in the interpretation of Shariah among the Shariah committees in each Islamic financial institution.²⁵ The MPS mandate as provided under section 52 of the Bank Negara Malaysia Act 2009 (the Act) is as follows (BNM, 2010; BNM 2019):²⁶

1. Determine the Shariah law regarding Islamic banking.
2. Advising Bank Negara on Shariah issues related to Islamic financial business, Bank activities or transactions.
3. Giving advice to Islamic financial institutions or other persons as provided under any written law.

To illustrate the importance of the role of the MPS, the appointment of its members is done by the Yang di-Pertuan Agong from among those who are qualified in the field of Shariah, or those who have knowledge or experience in Shariah, banking, finance, law, or other related fields. An important development under this Act is the necessity for courts and arbitrators to consider MPS decisions that have been issued and refer Shariah issues to MPS to obtain a decision. All MPS decisions in such cases are binding on Islamic financial institutions, courts, and arbitrators. This development is an important step because previously MPS decisions only bind arbitrators, while courts are not bound. This will enhance the more consistent application of Shariah decisions, and thereby guarantee certainty and finality on Shariah issues related to the application and practice of Islamic finance.²⁷

The diagram below is a summary of the Shariah Governance Framework Model for Islamic Financial Institutions in Malaysia.

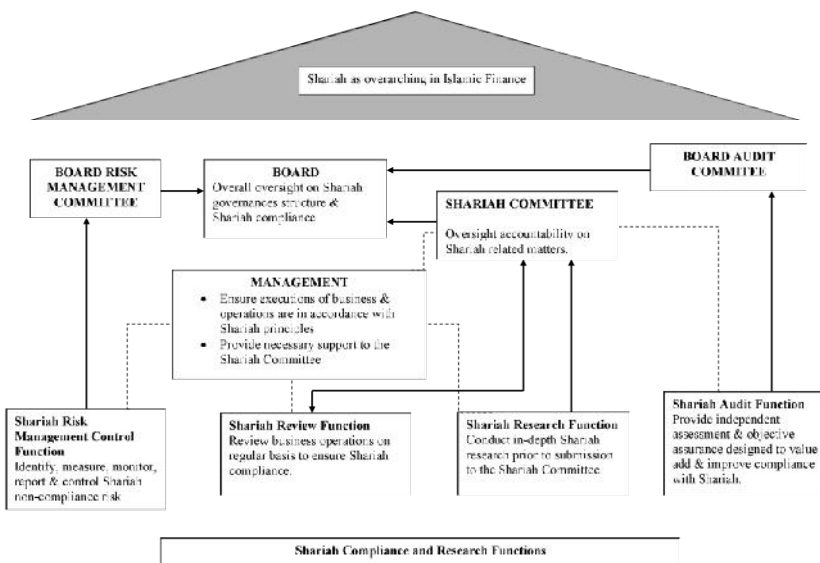
²³ Kunhibava, Sherin. (2015). "Shariah Governance of Islamic Banks in Malaysia Shariah Governance of Islamic Banking in Malaysia," no. January 2012 (2015).

²⁴ Mohd Arif, M.I.A., & Makrom, Ruzian. (2018). Struktur Tadbir Urus Syariah dalam Sistem Perbankan Islam: Analisis Perbandingan Antara Malaysia dan Indonesia. (2018) 22 JUUM 1 – 9

²⁵ Mohd Arif, M.I.A., & Makrom, Ruzian. (2018). Kelestarian Prinsip-prinsip Muamalat dalam Sistem Perbankan Islam di Malaysia: Rangka Kerja Tadbir Urus Syariah. (2018) JUUM (ISU KHAS/SPECIAL ISSUE) 19 – 37

²⁶ Bank Negara Malaysia. 2010. Shariah Governance Framework 2010; Bank Negara Malaysia. 2019. Shariah Governance Policy Document 2019.

²⁷ Mohd Arif, M.I.A., & Makrom, Ruzian. (2018). Struktur Tadbir Urus Syariah dalam Sistem Perbankan Islam: Analisis Perbandingan Antara Malaysia dan Indonesia. (2018) 22 JUUM 1 – 9



Source: Shariah Governance Framework 2010.

In forming the framework, the Bank has referred to the Guiding Principles on the Shariah Governance System for Institutions offering Islamic Financial Services issued by the Islamic Financial Services Board (IFSB) in December 2009 and the implementation of appropriate practices in countries that has a fast-growing Islamic banking and finance sector.²⁸

The framework basically aims to strengthen the Shariah governance process, decision making, accountability and independence. To strengthen the Shariah compliance function, the need for internal Shariah assessments and Shariah audits will be introduced, supported by appropriate risk management processes and capabilities in Shariah research. The implementation of the framework is expected to contribute towards creating a stronger and more stable Shariah governance framework in Islamic financial institutions and further promote Shariah compliance in the organization.

Under the framework, the board of directors will be responsible for comprehensive Shariah oversight of Islamic financial institutions and for the implementation of effective Shariah governance structures, policies, and processes. However, the board of directors must recognize the independence of the Shariah committee and always support the decision of the Shariah committee regarding aspects of Shariah in the operation of a financial institution (BNM, 2010; BNM 2019).²⁹

²⁸ Ismail, A.H, Tubari, M.F., Nor Jamal, N., Othman, A., 2019. Aplikasi Kerangka Kerja Tadbir Urus Shariah Dalam Agensi Mengurus Zakat di Melaka. Jurnal Pengurusan dan Penyelidikan Fatwa Journal of Fatwa Management and Research | Jurnal Pengurusan dan Penyelidikan Fatwa Vol. 17 No.2 2019 (Special Edition).

²⁹ Bank Negara Malaysia. 2010. Shariah Governance Framework 2010; Bank Negara Malaysia. 2019. Shariah Governance Policy Document 2019.

1. Determine the Shariah law regarding Islamic banking.
2. Advising Bank Negara on Shariah issues related to Islamic financial business, Bank activities or transactions.
3. Giving advice to Islamic financial institutions or other persons as provided under any written law.

Although this framework specifically does not require an Islamic financial institution to appoint a Shariah expert among the members of its board of directors, they are encouraged to appoint a member with deep knowledge of Shariah to act as a 'liaison' between the board of directors and the Shariah committee.³⁰

The board of directors shall provide reasonable remuneration to the Shariah committee commensurate with their accountability, duties, and responsibilities. The role and function of the Shariah committee has been expanded from just giving advice to taking on higher responsibilities. The Shariah Committee is now responsible for implementing Shariah decisions covering the entire Islamic financial institution. In line with its position, the Shariah committee must have direct access to the board of directors. The Shariah Committee must also report directly to the Bank if it finds an issue of Shariah non-compliance in an Islamic financial institution that is not dealt with effectively and adequately by the Islamic financial institution concerned.³¹

To support the board of directors and the Shariah committee duties, the senior management of an Islamic financial institution is responsible for promoting a strong culture of Shariah compliance within the organization, including implementing best practices in Shariah governance that includes all aspects of the institution's operations. Senior management is also responsible for ensuring that all submissions to the Shariah committee are only made after sufficient research and supported by in-depth studies on Shariah issues, structuring products, and documentation. This aspect requires the development of internal Shariah research capabilities supported by sufficient knowledge and resources to conduct effective research.³²

In conclusion, the Shariah governance framework in Malaysia has evolved in line with the ever-changing market situation, namely the governance structure at the level of the Islamic financial system, and in each Islamic financial institution has been enhanced and strengthened to ensure Shariah compliance. The effectiveness of the implementation of this new Shariah governance framework will continue to increase the confidence of stakeholders and the integrity of the Islamic financial industry, thereby reducing the risk of Shariah non-compliance and in the medium term, contributing towards continued financial stability.

Conclusion

Findings most importantly from this study is, it turns out if there are several numbers of problems with the institution sharia banking supervision that makes performance supervision become non maximum and give birth potency happen risk law for Islamic banks. The role of institutions sharia bank supervision, DPS, Directorate Sharia bank compliance, and OJK running individually or not coordinating make overlapping the overlap aspect proper supervision become realm respective tasks accordingly duties and functions. This study recommends necessity of amendment to UURI No. 21 of 2008 concerning to Sharia Banking with give authority in a way attributive to DPS forgive penalty to a proven sharia bank violate obedience Sharia principles, necessity made OJK regulations regarding sharia banking audit

Commented [MOU6]: The findings and conclusions of the study are in accordance with the data and analysis presented in the article, although in some parts it still needs to be added analysis and discussion.

³⁰ Triyanta, A. 2009. Implementasi Kepatuhan Syariah dalam Perbankan Islam (Syariah) (Studi Perbandingan antara Malaysia dan Indonesia). Jurnal Hukum No. Edisi Khusus Vol. 16 Oktober 2009: 209 – 228

³¹ Nurhasliza, Musafar Hamed, L.B., Mohammad Suhaimi, A.F, Furqani, H. 2023. Perbandingan Kerangka Tadbir Urus Perbankan Islam di antara Indonesia dan Malaysia. Journal of Management and Muamalah.Vo. 13, No.1, June.

³² Nurhasliza, Musafar Hamed, L.B., Mohammad Suhaimi, A.F, Furqani, H. 2023. Perbandingan Kerangka Tadbir Urus Perbankan Islam di antara Indonesia dan Malaysia. Journal of Management and Muamalah.Vo. 13, No.1, June

instrument. This study own limitations on research scale that does not approach comparison (comparative) approach and approach conceptual (conceptual approach).

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Catatan Reviewer B:

Title:

Title reflects the essence of the content of the article (content, method, novelty):

The substance of this study is interesting and fits the focus of the journal of samarah, especially sharaih economics and Islamic law. The discussion of Islamic banks or Islamic economics has become quite widely discussed at the national level in Indonesia and even at the international level. This study, which discusses the supervision carried out by OJK and DPS, is very likely to be published in international journals such as Samarah.

Abstract:

Abstract contains problem of research, method, and result

In abtsrak relatively still a small number of words, please add a maximum of 300 words.

Originality:

The originality of the subject matter, and the manuscript would be of interest to the the scholar of Islamic countries in general and specifically in Indonesia:

The theme and focus of this study will attract legal scholars, especially observers of Islamic banking or Islamic economics because this article presents new developments of Islamic economics in Indonesia and Malaysia. Especially in Indonesia, OJK is an institution formed by the post-reform government that forms various institutions for democratic change, including politics and economics.

The Depth of Literature:

Whether the article draws on an appropriate range and depth of literature (if not please indicate which sources of literature should be included by the author in future)

References used in this article can still be added by referring to Scopus journal articles. please add.

Finding Presentation:

Whether the findings presented are subjected to suitable analysis and sound

conclusions drawn

This article succeeds in explaining the findings and research results in accordance with article standards in the Scopus international journal.

Implications for understanding the study of Islamic family law and Islamic law in Islamic in Islamic countries in general and specifically in Indonesia:

The theme and focus of this study will attract legal scholars, especially observers of Islamic banking or Islamic economics because this article presents new developments of Islamic economics in Indonesia and Malaysia. Especially in Indonesia, OJK is an institution formed by the post-reform government that forms various institutions for democratic change, including politics and economics.

Technical writing:

Articles must be in accordance with the surrounding style and journal template:

Please provide an explanation for each table, so that readers can understand the table being explained
(see manuscript pages 9 and 10)

Additional comment for the author:

Ok

Is the article qualified for publication?

Please indicate your suggestion whether this article is qualified for Samarah:

Minor Revision

Samarah: Jurnal Hukum Keluarga dan Hukum Islam
<http://jurnal.ar-raniry.ac.id/index.php/samarah>

Dokumen Catatan Manuscript Reviewer B:

Revitalization Supervision in Enhancement Compliance in Indonesia

Abstract: This research is motivated by the social fact that the operational activities of Islamic banks that have been going on for three decades in Indonesia with the implementation of dual banking systems are almost no different from conventional banks. The thing that distinguishes the bank is only its sharia "brand". In the vast zone of the national banking industry, the position of Islamic banks is still a "follower" of conventional banks and its market share is only around 6.65%. The focus of this research is on the Islamic bank supervision system by DPS, the Sharia Bank Compliance Directorate, and OJK in carrying out supervisory functions in accordance with their fields of duty. The results showed that there are a number of problems in Islamic bank supervision institutions that make supervisory performance not optimal and pose potential legal risks for the bank. The roles of DPS, the Directorate of Sharia Bank Compliance, and OJK, which run separately and are not well coordinated, create overlapping aspects of Islamic bank supervision. This study recommends the need to amend UURI No. 21 of 2008 concerning Sharia Banking by giving attributive authority to DPS to sanction Islamic banks that are proven to violate sharia principal compliance and the need for the establishment of OJK regulations on Islamic banking audit instruments.

Keywords: Revitalization, Sharia Bank Supervision, DPS, OJK.

Introduction

Yusuf Hamka's statement that Islamic banks are "cruel" and "extortionist" went viral and drew mixed responses. This was said as Yusuf Hamka's response to the disgraceful actions of unscrupulous employees of Islamic banks who asked for funds of around 20.4 billion as compensation fines when he wanted to pay off his debts at Islamic bank. His good faith to pay off his debt actually received an unpleasant response from the bank. Yusuf Hamka obtained murabahah financing with a ceiling of IDR 834 billion from a syndication of seven banks, namely 1 Islamic bank and 6 Sharia Business Units (UUS) to work on toll road projects in West Java through P.T. Citra Marga Lintas Jabar (CMLJ) which he leads.

Sharia banks as intermediary institutions in carrying out their business activities must comply with sharia principles and comply with applicable laws and regulations. Supervision of the fulfillment of sharia principles and compliance of Islamic banks with good corporate governance through Islamic bank supervision entities, both internally and externally, is carried out in a comprehensive and integrated manner. Internal supervision of Islamic banks is carried out by the Sharia Supervisory Board (DPS) and the Director in charge of the compliance function and compliance work unit. Externally, supervision of Islamic banks is the authority of the Financial Services Authority (OJK) established under UURI No. 21 of 2011. Supervision carried out on Islamic banks is important so that Islamic banks avoid legal risks that may occur related to bank policies.¹ Internal supervision of sharia banks is carried out by the Sharia Supervisory Board (DPS) and the Director in charge of compliance function and unit Work compliance. By external sharia banking supervision becomes authority The Financial Services Authority (OJK) was formed based on UURI No. 21 of 2011. Supervision carried out towards Islamic banks; it is important to avoid Islamic banks from risk possible law _happen related with bank policy.

The phenomenon that occurs in the Islamic banking environment that raises the view that the operational activities of Islamic banks are not in accordance with sharia and are the same as conventional banks, cannot be left alone. There must be a clear difference between Islamic banks and conventional banks so as not to cause a continuous negative stigma. A number of studies that the author found on

Commented [MOU1]: The substance of this study is interesting and fits the focus of the journal of samarah, especially sharia economics and Islamic law. The discussion of Islamic banks or Islamic economics has become quite widely discussed at the national level in Indonesia and even at the international level. This study, which discusses the supervision carried out by OJK and DPS, is very likely to be published in international journals such as Samarah.

Commented [MOU2]: In abstrak relatively still a small number of words, please add a maximum of 300 words.

Commented [MOU3]: The theme and focus of this study will attract legal scholars, especially observers of Islamic banking or Islamic economics because this article presents new developments of Islamic economics in Indonesia and Malaysia. Especially in Indonesia, OJK is an institution formed by the post-reform government that forms various institutions for democratic change, including politics and economics.

¹ Rusdan, R. (2016). Urgensi Manajemen Pengawasan Risiko Bank Syariah. *PALAPA*. <https://doi.org/10.36088/palapa.v4i2.26>

Islamic banking supervision in Indonesia appear to be carried out partially, such as supervision by Islamic banks by DPS or other institutions.

The discourse on Islamic bank supervision is an interesting topic considering that the operational activities of Islamic banks simultaneously apply compliance with sharia principles as well as general principles in the governance of banking institutions. External and internal institutions of Islamic bank supervision, duties and functions, as well as supervision of Islamic banks are the units of analysis in this study. This paper aims to complete the understanding of the duties and functions of each Islamic bank supervision institution and specifically aims to avoid gaps between one research and another on Islamic bank supervision so that the understanding of aspects of Islamic banking supervision is more comprehensive.

The data used in this paper is the primary data source in the form of laws and regulations governing the duties and authorities of Islamic bank supervision institutions. The data is related to the performance of Islamic bank supervision institutions, and a number of reports from trusted media about the current context of Islamic bank business activities in Indonesia. The secondary data used are sourced from the results of previous research relevant to this study. A number of other supporting data come from activity reports that the author has in the form of tables and figures.

The source of information in this study comes from a number of textbooks, circulars, and news related to Islamic banking industry activities which are selected and reduced in accordance with research needs directly related to Islamic bank supervision in Indonesia. These sources of information are then classified by examining the duties and authorities of Islamic bank supervision institutions.

The data collection process begins with data documentation, then a desk review of the data is carried out and then continued by mapping the potential weaknesses of Islamic bank supervision institutions in line with the dynamics of the development of the national Islamic banking industry. A number of reports on the work of Islamic bank supervision institutions become a reference for researchers to verify the suitability of Islamic bank supervision tasks based on applicable laws and regulations and identify whether there has been overlapping in the implementation of supervision in practice. The next step is data analysis by following the stages in the form of data display in the form of tables, figures, and graphs that have been documented. Data categorization is also carried out according to the theme to identify the implementation of Islamic bank supervision duties in line with sharia principles and applicable laws and regulations.

In order for Islamic banks to avoid legal risks and negative impacts of legal problems that will hit them in the future, strict supervision of the bank is needed. Legal risk cannot be avoided, but can be controlled in risk management. Islamic banks, like banking institutions in general, also require a number of measurable procedures and achievements that can be used to identify, monitor, and control legal risks arising from an Islamic bank's business activities, or also known as risk management.

The role of Sharia Banking in Service Finance

The development of the Islamic economy has strengthened the role of Islamic banking in various sectors of people's lives. Various business transactions in the community use Islamic banking service facilities, both as a place to store funds and financing businesses as well as a means to accelerate payment system mechanisms in all economies. The Islamic banking system is based on the principles of Islamic law which refer to the Qur'an and Hadith. The Islamic banking system was introduced to provide halal financial services and based on Islamic law to the Muslim community aiming to enable these institutions to contribute to the achievement of Islamic socio-economic goals. Sharia Banking also provides fund disbursement. If the distribution of funds in conventional banking is called credit distribution, then in the Islamic banking system it is called financing. The source of financing at Islamic Banks depends on the source of Third-Party Funds (DPK). Thus, the more funds collected from deposits, the higher the level of distribution of funds to the community so that it will determine the level of profitability.

Sharia financing principles based on profit sharing (mudharabah), financing based on the principle of capital participation (musharakah), the principle of trading in goods based on profit (murabahah), capital financing based on pure banking principles, without alternatives (ijarah), or alternative transfer of ownership of goods rented from banks by other parties (ijarah waliqtina). In line with that, broadly speaking, financing in Islamic banking is divided into three categories based on the purpose of its use, namely (1) financing transactions aimed at owning goods carried out with the principle of buying and selling; (2) financing transactions aimed at obtaining services are carried out on a lease principle; (3) financing transactions for cooperative efforts aimed at obtaining goods and services at once with the principle of profit sharing. Factors that can affect sharia financing are profit sharing rate, Third Party Funds (DPK), NPF (Non-Performing Financing), FDR (Finance to Deposit Ratio), and Return on Asset (ROA). In the implementation of financing, Islamic banks must fulfill two aspects, namely the Shar'i Aspect and the Economic Aspect, profits can be divided equally according to mutual agreement.

Obligations that must be fulfilled by Sharia Banks

Sharia banks are required to form DPS whose duty is to provide advice and advice to the directors and supervise bank activities in order to comply with sharia principles. Sharia principles are Islamic legal principles in banking activities based on fatwas issued by the institution authorized to issue fatwas in the field of sharia in this case is the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). DSN-MUI made an important decision on DPS, namely DSN-MUI Decree No. 3 of 2000 concerning the Implementation of the Determination of Sharia Supervisory Board Members in Islamic Financial Institutions. The scope of DPS's duties as supervision of Islamic bank activities is very broad, which includes draft contacts, Islamic banks' compliance with DSN-MUI's fatwas related to their products, and the implementation of their contracts. In this principle, supervisory activities are emphasized on matters that are deviations from sharia principles that must be met.

Execution Task Supervision of Sharia Banks by DPS

No.	ADVICE AND SUGGESTIONS	No.	SUPERVISION
1.	Give Sharia opinion on activity collecting funds and distributing funds as well service banking services. Special DPS opinion Formatter This become something mandatory requirements filled with deep BVIS frame fulfillment report audit process requirements finance annually by the Auditor.	1.	Analyze reports submitted and/ or requested by the Board of Directors, executors Audit functions and functions Obedience For know quality implementation fulfill menttop sharia principles activity collecting funds and distributing funds as well service banking services. On several occasions, the Sharia Supervisory Board carried out sampling tests coordination with the internal audit and compliance work unit forcollect data and information before the picking test the implemented. That thing It is intended that DPS has complete data and informationso that more focus in give a test
2.	Give direction and reinforcement material "contract and product Islamic banking" to Bank employee with conducting training and sharia	2.	Set number of test picks (samples) of transactions to be carried out checked with notice quality implementation fulfillment sharia principles of each

	studies for increase understanding and at the same time accept possible input repair quality sharia aspects		activity.
3.	At the moment carrying out sampling tests DPS conducting dialogue with Bank leaders and employees for analyze more in obstacles related business and operations with aspects of sharia so can confirmed suitability with sharia principles	3.	Inspect document tested transactions pick (sample) for know fulfillment sharia principles as required in applicable internal bank regulations. Focus DPS inspection is to aspects of sharia (shariah compliance), including: Suitability contract used, Filled with elements contract on a financing scheme, Inspection against SP3, contracts, and deeds notarial
		4.	Do inspection, observation, request, information and/or confirm at ionto the bank and or customers for strengthen results inspection document
		5.	Conduct a review of applicable internal provisions related sharia aspects if there is indication non conformity implementation sharia compliance

Source: Law Number 21 of 2008 Concerning Sharia Banking.

Shariah Bank Supervision by the Shariah Supervisory Board (DPS)

Sharia banking as a business entity that becomes part from system banking national that provides facility supporter regulation and certainty law Good in pattern institutional, productive, servicen or consistent operations with Sharia principles.² In the process, Sharia banking in Indonesia always supervised by the DPS, the Sharia Supervisory Board. DPS is responsible for ensure all Sharia banking products and procedures are appropriate Sharia principles. DPS matters are regulated by law Number 40 of 2007 Article 109, states : 1. Running company based business sharia principles in additionhas a Board of Commissionershas a Sharia Supervisory Board ; 2. Sharia Supervisory Board as follows referred to in paragraph (1) consists ofona person who is an expert in sharia ormore appointed by the above GMS recommendation Indonesian Ulama Council (MUI); 3. Sharia Supervisory Board as referred to in paragraph (1) is instructions and advice to Directors and supervising Company activities for obey Islamic principles.³ DPS it self is an independent body placed by the National Sharia Council (DSN) in a sharia bank. In carrying out duties, DPS is mandatory following the DSN fatwa regarding suitability bank products and services with sharia provisions and principles. Task mainly is supervising activity business institute on Islamic finance to be compliant with existing sharia provisions and principles fatwa by DSN.⁴

² Nurdin, N., Pettalongi, S. S., & Yusuf, K. (2018). Knowledge Management Model in Syariah Banking. *Proceedings - 2018 5th International Conference on Information Technology, Computer and Electrical Engineering, ICITACEE 2018*, 293–298. <https://doi.org/10.1109/ICITACEE.2018.8576980>

³ Prabowo, B. A., & Jamal, J. Bin. (2017). Peranan Dewan Pengawas Syariah terhadap Praktik Kepatuhan Syariah dalam Perbankan Syariah di Indonesia. *Jurnal Hukum IUS QUIA IUSTUM*, 24(1), 113–129. <https://doi.org/10.20885/iustum.vol24.iss1.art6>

⁴ Arifin, M., & Nasutian, B. (2015). The Dynamics Study of Regulations on Syariah Banking Indonesia. *International Journal of Humanities and Social Science* , 5 (3), 237–242.

However, in the practical process, a number of DPS members are negligent his duties and obligations say that DPS members sometimes involved in decisions far pragmatic from sharia values. Often decision pragmatic This aim for chasing profit. So that in a number of DPS cases are frequent sacrifice idealism, independence, justice and truth Forget "profit".⁵ Optimization The role of DPS is very important for ensure every transaction in accordance referring sharia principles to the Koran and Sunnah. With there by for reduce practices fraud optimization functions, duties and authority of DPS, are required steps revitalization or empowerment, fine from corner competence, integrity, et cits independence (Mutia et al., 2019) .⁶ Revitalization Alone refers to resur rection or build repeat a values (social, cultural, religious, economic) become something more relevant. According to KBBI, revitalization means process, method, and action turn on returns something the previous thing not enough empowered. In life social, revitalization aim for build or create repeat missing values or not yet structured with good. DPS revitalization is possible done with (1) Regulations so that DPS members must elected and appointed as well as given incentives by the government No company related; (2) There is a system certification issued competencies institution competent, credible and professional.⁷

Sharia banking is a business entity that becomes part from system banking national that provides facilities support regulation and certainty law Good in pattern institutional, productive, service nor consistent operations with Sharia principles.⁸ Sharia principles in accordance with provisions of Law no. 21 of 2008 Article 1 paragraph 11. In Sharia banking, principles transaction done in accordance with *fiqh Muamalah*.⁹ In line with It was in 1992, the first sharia bank in Indonesia was Bank Muamalat Indonesia. Muamalat Bank is pioneer Islamic banking in Indonesia. Based on data from Bank Indonesia assets Islamic banking already reached 179 trillion or about 4.4% of assets banking national and Party Funds Third (DPK) reached 137 trillion.¹⁰ Other characteristics of Islamic banking are operate with principle for results (Mudarabah) with No exists interest (riba) due interest (riba) in sharia law is prohibited.¹¹ Apart from providing service halal finance for people Muslims, system banking Sharia expected can give contribution to achievement objective social (humanity) system Islamic economics.¹² In line with that's, effort For realize values Sharia above with form a DPS (Sharia Management Council) in the structure Sharia Financial Institution organization.¹³

⁵ Iska, S. (2012). Revitalisasi Dewan Pengawas Syariah (DPS) Pada Lembaga Ekonomi Syariah. *JURIS*, 11(1).

⁶ Mutia, E., Jannah, R., & Rahmawaty, R. (2019). *Islamicity Performance Index of Islamic Banking in Indonesia*. 292 (Aug), 424–436. <https://doi.org/10.2991/age-18.2019.65>

⁷ Iska, S. (2012). Revitalisasi Dewan Pengawas Syariah (DPS) Pada Lembaga Ekonomi Syariah. *JURIS*, 11(1).

⁸ Nurdin, N., Pettalongi, SS, & Yusuf, K. (2018). Knowledge Management Model in Sharia Banking. *Proceedings - 2018 5th International Conference on Information Technology, Computer and Electrical Engineering, ICITACEE 2018*, 293–298. <https://doi.org/10.1109/ICITACEE.2018.8576980>

⁹ Muhaimin, Husni, L., & Wira, L. (2021). Authoritative Institution In Disputes Resolution In The Conversion Of Conventional Bank To Sharia Bank. *Journal of Legal, Ethical and Regulatory Issues*, 24(4), 1–8.

¹⁰ Roziq, A., Firman, D. P., & Kartika. (2019). Defining Variables For Sharia Bank Shares In Indonesia. *International Journal of Scientific & Technology Research*, 8(07).

¹¹ Wahyudi, S., Nofendi, D., Robiyanto, R., & Hersugondo, H. (2018). Factors affecting return on deposit (ROD) of Sharia banks in Indonesia. *Business: Theory and Practice*, 19(Muhammad 2005), 166–176. <https://doi.org/10.3846/BTP.2018.17>

¹² Sanosra, A., Surachman, S., Moeljadi, M., & Indrawati, N. K. (2017). Construction the meaning Sharia bank for Indonesia Santri community. *International Journal of Economic Research*, 14(18), 279–288.

¹³ Imaniyati, N. S., Nu'man, A. H., & Jamilah, L. (2019). Analysis of the role and responsibility of Sharia supervisory board (DPS) on Sharia compliance supervision in Islamic banks in Indonesia. *Journal of Legal, Ethical and Regulatory Issues*, 22(3), 1–12.

The duties of DPS are operate its function as written sharia supervisor in Article 47 paragraphs (1) and (2) Bank Indonesia Regulation Number 11/33/PBI/2009 concerning Application *Good Corporate Governance* for Sharia Commercial Banks and Sharia Business Units, in matter This consist sabove: (1) supervise General Sharia Bank activities are in accordance with sharia principles, in matter create and implement; development product; mechanism collection and distribution of funds and bank services; and ask information related from each work unit related obedience aspects of sharia inevery his duties; (2) provide advice to Directors about management of General Sharia Banks so that they are in line with principle prudence and sharia; (3) to berepresentative of Sharia Bank in communicate and request product fatwato DSN-MUI (National Sharia Council of the Indonesian Ulema Council) and became representative of Sharia Bank in matter delivery Report DPS supervision per semester to Bank Indonesia. DPS members themselves must own competent and capable understand provisions Islamic jurisprudence assource Islamic law at once understand law positive national as source law, which is both become base law sharia banking operations.¹⁴ Disclosure DPS reports are very important for preparation report annual sharia banking due the information is very comprehensiv e as well as can reduce exists non conformity practices sharia banking.¹⁵

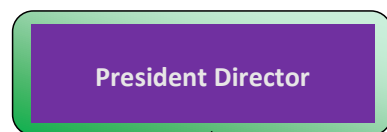
Referring to the table implementation task supervision of sharia banks by DPS, there is a number of problems in implementation DPS duty in supervise sharia banks, among others:

- a. Absence of authority granted in a way attributive in the Sharia Banking Law. DPS doesn't own authority for drop penalty to sharia banks whenever in activity its operation shappen violation on sharia principles.
- b. DPS doesn't independent in carry outhis task.
Sharia banking is mandatory for form the existing DPS in Islamic banking structure and financing activityits operations. DPS supervises sharia banks that finance activity its operations.
- c. DPS not yetbe equipped with sharia audit procedures and standards.

Supervision of Sharia Banks by the Directorate Sharia Bank Compliance

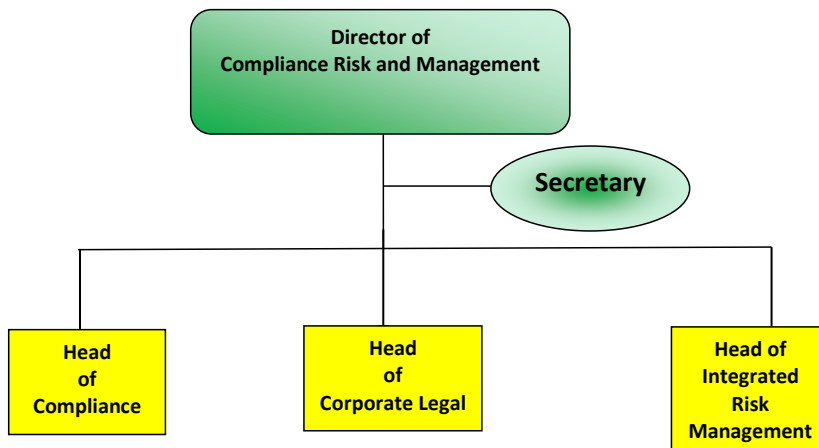
In line with mandate Constitution Sharia Banking, use realize implementation of GCG in sharia banks, then directors must ownleast function: (1) function as internal audit, (2) function management risk and committee monitor risk, and (3) function compliance. When functions carried out by the Director Compliance and Management BMI risk walking in a way effective, then performance organization will increase. Based onprovisionArticle 4 and Article 5 of the OJK Regulations concerning Implementation Function Compliance with Commercial Banks, Islamic banks is mandatory owndirector in charge function compliance and shapingunit Work compliance.

Structure Organization Director Compliance and Management BMI Risk



¹⁴ Muda, I. (2017). The effect of supervisory board cross-membership and supervisory board members' expertise to the disclosure of supervisory board's report: Empirical evidence from Indonesia. *European Research Studies Journal*, 20(3), 702–716. <https://doi.org/10.35808/ersj/738>

¹⁵ Djumardin, & Isnaini, A. M. (2018). The existence of Sharia Supervisory Board in maintaining the purpose of sharia principles in Sharia Banking. *Journal of Legal, Ethical and Regulatory Issues*, 21(3), 2018.

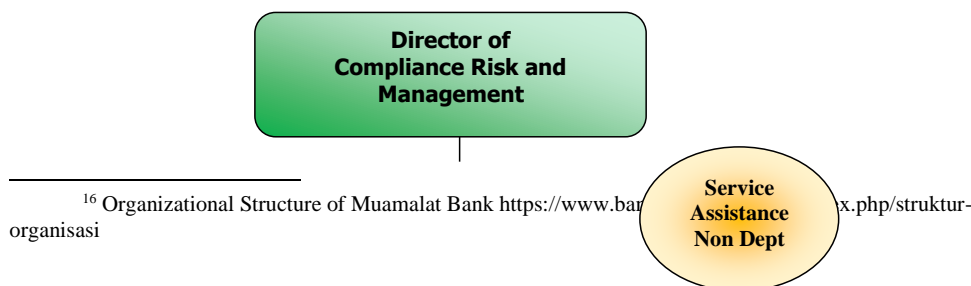


Data Source: Organizational Structure of Muamalat Bank¹⁶

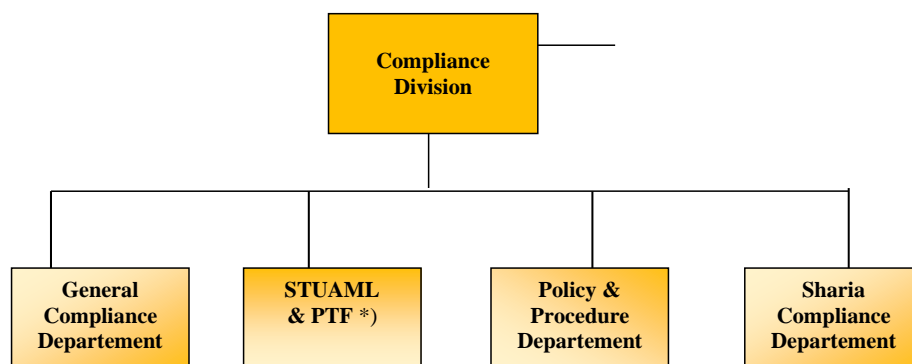
From the chart above seen that Director Compliance and Management BMI risks are responsible answer to president director. Director obedience supervise direct three divisions below his control that is Head of Compliance Division, Head of Corporate Law Division, and Head of Management Division Risk Integrated. Functions compliance, legal and corporate, and management management risk is for ensure Islamic bank management complies with governance Sharia compliant banking with sharia principles, 5 identifying potentials risk like risk financing, market risk, risk liquidity, riskoperational, risk law, risk reputation, risk strategic, risk compliance, risk return results, and risks investing and making steps mitigation to potency risks, and control risk business sharia banking integrated. Management division review results risk will become consideration directors intaking decisionend.

Recommendation from the management division risk Nonature binding, soif the management division risk No recommend something application sharia financing, then business units Still can continue the process and deliver agreement on submission financing. On the situation this, when director compliance and management risk looking that risk on plan agreement something sharia financing bigor difficult mitigated or potential detrimental to the bank or violate GCG principles, principles banking prudence and/or principle know customers, then Director Compliance and Management BMI risks can cancel application financing.

Structure Organization of the BMI Compliance Division



¹⁶ Organizational Structure of Muamalat Bank <https://www.bankmuamalat.com/id/struktur-organisasi>



Data Source: Special Task Unit for Anti Money Laundering and Prevention for Terrorist Financing

Structure the Compliance Division organization which is under supervision Director Compliance and Management BMI risks have one field service non-departmental assistance and three departments in accordance with the field namely: Department General Compliance, Department Policies and Procedures, and Department Sharia Compliance, as well as one unit task (task force), namely Anti-Money Laundering and Prevention Task Force Funding Terrorism. Problems that occur in supervision Islamic bank compliance is problem regulations and audit standards, and limited human resources for auditors, and not exists audit framework established by the Government.

Supervision of Sharia Banks by the Financial Services Authority (OJK)

OJK is institution independent and free from mix hand the other party owns it functions, duties and authority _in regulation, supervision, inspection and investigation in the sector service finance. Establishment of OJK based on UURI No. 21 of 2011 is implementation of UURI No. 3 of 2004 concerning Bank Indonesia which mandates formation a institution independent in regulation and supervision sector service finance. By philosophical task institution This is join in succeeding development economy national level supported by governance good governance (good *corporate governance*) with principles (1) Independence, (2) Openness (transparency), (3) Accountability (*accountability*), (4) Accountability (*responsibility*) and (5) Fairness (*fairness*) which are generally consistent do improvements one very component in system economy national. One component important in system economy national is system finances and all activity service running finance's function intermediation for various activity productive inside economy national.

Based on OJK Regulation no. 46/POJK.03/2017 concerning on the Implementation Function Commercial Bank Compliance, Functions Obedience is series action or character steps preventive (*ex-ante*) for ensure that policies, provisions, systems and procedures, as well as activity the efforts carried out by the Bank have in accordance with provision Financial Services Authority and provisions regulation legislation in Sharia principles for sharia commercial banks and sharia business units, as well as ensure Bank compliance with commitments made by the Bank to Financial Services Authority and/ or authority other authorized supervisor .

Obedience in Fulfillment Sharia Principles and Procedures Sharia Bank Operations

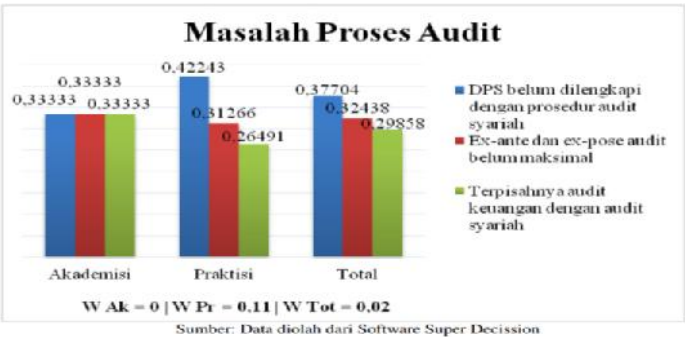
In line with objective development national for reach creation public fair and prosperous based on principle democracy economy, develop system Islamic banking based on values justice, togetherness, equality and appropriate benefits with sharia principles. Applicability *dual banking systems* in system banking national make public own diverse choice for use product sharia banking. Fulfillment Sharia

principles are the obeyed principle Islamic law in activity Sharia banking is based on fat was issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI).

Refer to the Sharia Banking Law and table implementation DPS duties, then there is a number problem in implementation The duties of DPS members are:

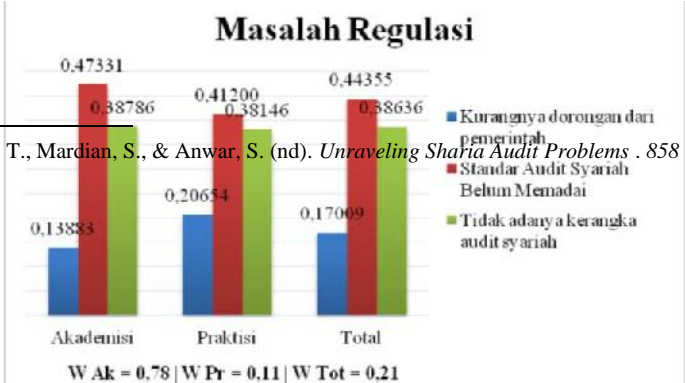
- a. Absence of authority granted in a way attributive in the Sharia Banking Law. In one mandatory DPS side formed by sharia banks, on the other hand DPS is mandatory for supervising sharia banks for ensure fulfillment sharia principles in activity its operations.
- b. DPS doesn't independent in carry out this task. Sharia banking is mandatory form an internal DPS Islamic banking structure. This thing become dilemma Because DPS position is located within the internal sharia bank. In on the Islamic bank side finances activity DPS operations in clhire chairman and members of the DPS, on the other hand the DPS is in charge for supervising Islamic banks in fulfillment sharia principles. Deep DPS position structure of this sharia bank become dilemma.
- c. DPS doesn't independent in carry out tasks' supervision. DPS not yet be equipped with sharia audit procedures and standards. Based on the graph is about sub aspect ranking problems with the sharia audit process, academics and practitioners give evaluation that DPS has not be equipped with sharia audit procedures and standards with the value is 0.37704 which is significant. This becomes the main problem in the sharia audit process.¹⁷

Graph 1. Sub Aspect Ranking Results Sharia Audit Process Problems



Commented [MOU4]: Please provide an explanation for each table, so that readers can understand the table being explained.

Graph 2. Sub Aspect Ranking Results Problem Sharia Audit Regulations



¹⁷ Akbar, T., Mardian, S., & Anwar, S. (nd). *Unraveling Sharia Audit Problems*. 858, 101–123.

Data Source: Parse Sharia Audit Problems

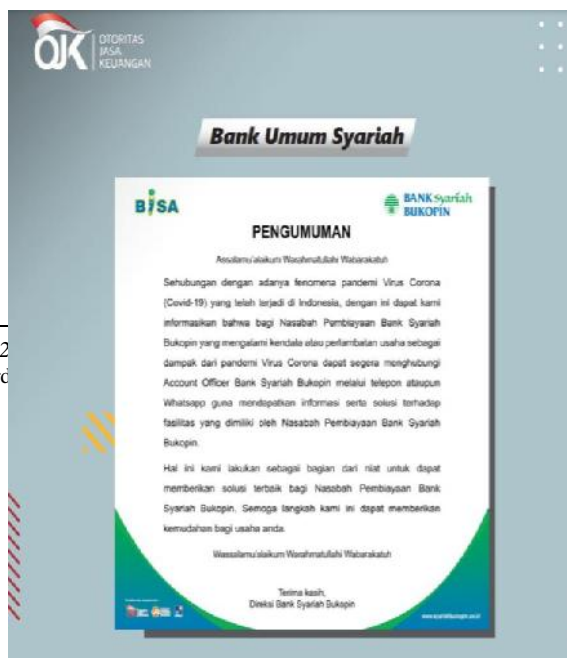
Based on the graph above, regarding sub aspect ranking problems with regulations, academics and practitioners give evaluation with a total assessment of 0.44355 which means that on aspect problem regulations is sharia audit standards yet adequate.

Sharia Bank Compliance with Regulations Government

In 2020 in report annually with theme “Resilience for Quality Economic Recovery” OJK is committed for guard stability sector service financial and supportive National Economic Recovery (PEN).¹⁸ OJK ensures that performance Islamic banking does not disturb with policy restructurisation financing to customers affected by the Covid-19 pandemic. However, there by need also be wary of restructuring. In the pandemic situation that hit Indonesia at this time in this case, OJK is obliged ensure performance Islamic banking does not disturb with policy Government for restructurisation financing. OJK supports policy government as effort for lighten up burden customers debtors affected by the Covid-19 pandemic.¹⁹

Figure 1. Announcement Letter from Sharia Bank as Response For Affected Customers Covid-19 pandemic

Commented [MOU5]: Please provide an explanation for each table, so that readers can understand the table being explained.



¹⁸FSA. (2020a). 2

¹⁹Akbar, T., Marc

Data Source: OJK Sharia Banking Data Update 31 March 2020²⁰

Table 2. List of Islamic Bank Providers Restructuring for Debtors Financing Those Affected Covid-19 Pandemic

No.	ISLAMIC BANK	POLICY FORM
1.	Bank Mandiri Syariah	<ol style="list-style-type: none"> 1. Mandiri Syariah provides relaxation (lightening) towards facility financing to customers affected by the Covid-19 pandemic form delay payment installments and/or giving relief margin payments for short results time and conditions customized with sector economics, criteria and conditions customers with still refers to POJK provisions. 2. Relaxation (relief) of financing can give after there is agreement between customers with the appropriate Bank with sector economics, criteria and conditions affected customers Covid-19 outbreak. 3. Customers can submit application relaxation (lightening) with contact the Mandiri Syariah Relationship Manager/Staff serving customers during this without must come to the bank for avoid contact physical.
2.	BNI Syariah	<ol style="list-style-type: none"> 1. Giving relief in form restructurisation delay payment debt 2. Adjusted restructuring/relief with condition and type effort.
3.	BRI Syariah	<ol style="list-style-type: none"> 1. Affected customers the impact is to contact the

²⁰FSA. (2020b). *Sharia Commercial Bank Update 31 March 2020* .

		<p>Account Officer or Micro Account Officer at the BRI syariah Branch Office nearest for get information and solutions about financing Customer.</p> <p>2. This thing be delivered for lighten up Customer Financing in line with national economic stimulus.</p>
4.	Bukopin Sharia Bank	Delivery information and solutions for customers affected pandemic
5.	Bank NTB Syariah	<p>1. Appeal to pay the loan appropriate time</p> <p>2. Delivery information and solutions for customers affected pandemic</p>
6.	Permata Syariah Bank	<p>1. Give relaxation inform delay payment obligation</p> <p>2. Give relaxation inform relief payment</p> <p>3. Customer must submit application to Bank Permata Syariah</p> <p>4. During submission still processed, customer still must pay appropriate time</p>
7.	Bank Muamalat Indonesia	<p>1. Customer submit application relief</p> <p>2. Relief can be given after the bank does verification to customers</p> <p>3. Relief given in accordance regulations issued by OJK</p>
8.	Bank Mega Syariah	<p>1. Customer submit application relief to BMS</p> <p>2. BMS supports policy Government as a stimulus for customers affected by the Covid-19 pandemic</p>
9.	BJB Sharia	<p>1. BJB customers contact the account officer can given solutions and information</p> <p>2. BJB Syariah supports stimulus policies like customers affected by the pandemic restore economy national</p>
10.	BTPN Syariah	<p>1. BTPN Syariah understands condition difficulties faced by customers due to the Covid-19 pandemic</p> <p>2. Customers should contact the community officer to get solution</p>
11.	Sharia Net Bank	<p>1. BNS can give relaxation on facility financing to customers inform delay obligation payment</p> <p>2. Relaxation can be given after there is an agreement between the customer and the bank are in agreement with criteria and condition affected customers.</p> <p>3. Customer can submit relaxation with contact the BNS relations manager without must come to BNS office</p>
12.	BCA Syariah	1. BCA Syariah appeals customers to follow recommendation government through

		application protocol health preventing covid-19 with transaction using mobile banking, internet banking, and ATM without must come to BCA Syariah office 2. Affected customers can consult and search solution best with contact the account officer
13.	Bank Panin Dubai Syariah	Affected customers can consult a relationship manager for get information and solutions more continue.

Data Source: *Updated Sharia Commercial Bank Data*²¹

Government policy for give restructurisation for customers Islamic banking as an economic stimulus national arranged in OJK Regulation no. 11 of 2020 concerning to National Economic Stimulus as Policy *Countercyclical* Impact Spread of Coronavirus Disease 2019. In OJK regulations there are transanctions imposed to sharia banks if abuse policy restructuring, deploying customer data information, type loans, ceilings financing until quality loan.

Shariah Banking Governance in Malaysia

Malaysia is a country that practices a dual-banking system which is the conventional banking system and the Islamic banking system which is carried out in banking institutions (Section 27 of the Islamic Financial Services Act 2013 (Act 759). The Islamic financial in Malaysia is a regulated industry. As for the Islamic banking sector, it is managed by Bank Negara Malaysia (BNM).²²

Since the establishment of the Islamic banking system in 1983, this banking system has been regulated by several laws enacted by Parliament and regulations issued by Bank Negara. The National Bank Act 2009 is a law that is the main basis for enabling the National Bank to carry out its functions.²³ In addition, the act also details the scope of Bank Negara's jurisdiction, including administrative aspects and executive powers. To ensure syariah compliance in every operation of the Islamic banking industry in Malaysia, section 51 of the National Bank Act 2009 has empowered the Bank Negara to establish a Shariah Advisory Council which is the highest and sole authority for ensuring syariah law.²⁴

Bank Negara Malaysia's Shariah Advisory Council (MPS) was established in 1997 as the highest authority in deciding all Shariah matters related to the Islamic banking industry. MPS acts as the final arbiter in the interpretation of Shariah principles related to the affairs and practices of Islamic banking and takaful and fosters uniformity in the interpretation of Shariah among the Shariah committees in each Islamic financial institution.²⁵ The MPS mandate as provided under section 52 of the Bank Negara Malaysia Act 2009 (the Act) is as follows (BNM, 2010; BNM 2019):²⁶

²¹ FSA. (2020b). *Sharia Commercial Bank Update 31 March 2020*

²² Abd Rasid, A.H, Yaakob, S.E., Mat Zain, M.N. 2021. Keperluan Tadbir Urus Syariah di Industri Kecil dan Sederhana (IKS): Satu Tinjauan Literatur. *Journal of Contemporary Islamic Law*, (2021) Vol. 6(2): 65-75

²³ Kunhibava, Sherin. (2015). "Shariah Governance of Islamic Banks in Malaysia Shariah Governance of Islamic Banking in Malaysia," no. January 2012 (2015).

²⁴ Mohd Arif, M.I.A, & Makrom, Ruzian. (2018). Struktur Tadbir Urus Syariah dalam Sistem Perbankan Islam: Analisis Perbandingan Antara Malaysia dan Indonesia. (2018) 22 JUUM 1 – 9

²⁵ Mohd Arif, M.I.A, & Makrom, Ruzian. (2018). Kelestarian Prinsip-prinsip Muamalat dalam Sistem Perbankan Islam di Malaysia: Rangka Kerja Tadbir Urus Syariah. (2018) JUUM (ISU KHAS/SPECIAL ISSUE) 19 – 37

²⁶ Bank Negara Malaysia. 2010. Shariah Governance Framework 2010; Bank Negara Malaysia. 2019. Shariah Governance Policy Document 2019.

- To illustrate the importance of the role of the MPS, the appointment of its members is done by the Yang di-Pertuan Agong from among those who are qualified in the field of Shariah, or those who have knowledge or experience in Shariah, banking, finance, law, or other related fields. An important development under this Act is the necessity for courts and arbitrators to consider MPS decisions that have been issued and refer Shariah issues to MPS to obtain a decision. All MPS decisions in such cases are binding on Islamic financial institutions, courts, and arbitrators. This development is an important step because previously MPS decisions only bind arbitrators, while courts are not bound. This will enhance the more consistent application of Shariah decisions, and thereby guarantee certainty and finality on Shariah issues related to the application and practice of Islamic finance.²⁷

Shariah as overarching in Islamic Finance

BOARD RISK MANAGEMENT COMMITTEE

Overall oversight on Shariah governance structure & Shariah compliance

MANAGEMENT

- Ensure executions of business & operations are in accordance with Shariah principles
- Provide necessary support to the Shariah Committee

Shariah Risk Management Control Function
Identify, measure, monitor, report & control Shariah non-compliance risk

Shariah Review Function
Review business operations on regular basis to ensure Shariah compliance

SHARIAH COMMITTEE

Oversight accountability on Shariah related matters

Shariah Research Function
Conduct in-depth Shariah research prior to submission to the Shariah Committee

Shariah Audit Function
Provide independent assessment & objective assurance designed to value add & improve compliance with Shariah

Shariah Compliance and Research Functions

In forming the framework, the Bank has referred to the Guiding Principles on the Shariah Governance System for Institutions offering Islamic Financial Services issued by the Islamic Financial

²⁷ Mohd Arif, M.I.A, & Makrom, Ruzian. (2018). Struktur Tadbir Urus Syariah dalam Sistem Perbankan Islam: Analisis Perbandingan Antara Malaysia dan Indonesia. (2018) 22 JUUM 1 – 9

Services Board (IFSB) in December 2009 and the implementation of appropriate practices in countries that has a fast-growing Islamic banking and finance sector.²⁸

The framework basically aims to strengthen the Shariah governance process, decision making, accountability and independence. To strengthen the Shariah compliance function, the need for internal Shariah assessments and Shariah audits will be introduced, supported by appropriate risk management processes and capabilities in Shariah research. The implementation of the framework is expected to contribute towards creating a stronger and more stable Shariah governance framework in Islamic financial institutions and further promote Shariah compliance in the organization.

Under the framework, the board of directors will be responsible for comprehensive Shariah oversight of Islamic financial institutions and for the implementation of effective Shariah governance structures, policies, and processes. However, the board of directors must recognize the independence of the Shariah committee and always support the decision of the Shariah committee regarding aspects of Shariah in the operation of a financial institution (BNM, 2010; BNM 2019).²⁹

1. Determine the Shariah law regarding Islamic banking.
2. Advising Bank Negara on Shariah issues related to Islamic financial business, Bank activities or transactions.
3. Giving advice to Islamic financial institutions or other persons as provided under any written law.

Although this framework specifically does not require an Islamic financial institution to appoint a Shariah expert among the members of its board of directors, they are encouraged to appoint a member with deep knowledge of Shariah to act as a 'liaison' between the board of directors and the Shariah committee.³⁰

The board of directors shall provide reasonable remuneration to the Shariah committee commensurate with their accountability, duties, and responsibilities. The role and function of the Shariah committee has been expanded from just giving advice to taking on higher responsibilities. The Shariah Committee is now responsible for implementing Shariah decisions covering the entire Islamic financial institution. In line with its position, the Shariah committee must have direct access to the board of directors. The Shariah Committee must also report directly to the Bank if it finds an issue of Shariah non-compliance in an Islamic financial institution that is not dealt with effectively and adequately by the Islamic financial institution concerned.³¹

To support the board of directors and the Shariah committee duties, the senior management of an Islamic financial institution is responsible for promoting a strong culture of Shariah compliance within the organization, including implementing best practices in Shariah governance that includes all aspects of the institution's operations. Senior management is also responsible for ensuring that all submissions to the Shariah committee are only made after sufficient research and supported by in-depth studies on Shariah

²⁸ Ismail, A.H, Tubari, M.F., Nor Jamal, N., Othman, A., 2019. Aplikasi Kerangka Kerja Tadbir Urus Shariah Dalam Agensi Mengurus Zakat di Melaka. *Jurnal Pengurusan dan Penyelidikan Fatwa Journal of Fatwa Management and Research | Jurnal Pengurusan dan Penyelidikan Fatwa* Vol. 17 No.2 2019 (Special Edition).

²⁹ Bank Negara Malaysia. 2010. Shariah Governance Framework 2010; Bank Negara Malaysia. 2019. Shariah Governance Policy Document 2019.

³⁰ Triyanta, A. 2009. Implementasi Kepatuhan Syariah dalam Perbankan Islam (Syariah) (Studi Perbandingan antara Malaysia dan Indonesia). *Jurnal Hukum* No. Edisi Khusus Vol. 16 Oktober 2009: 209 – 228

³¹ Nurhasliza, Musafar Hammed, L.B., Mohammad Suhaimi, A.F, Furqani, H. 2023. Perbandingan Kerangka Tadbir Urus Perbankan Islam di antara Indonesia dan Malaysia. *Journal of Management and Muamalah*.Vo. 13, No.1, June.

issues, structuring products, and documentation. This aspect requires the development of internal Shariah research capabilities supported by sufficient knowledge and resources to conduct effective research.³²

In conclusion, the Shariah governance framework in Malaysia has evolved in line with the ever-changing market situation, namely the governance structure at the level of the Islamic financial system, and in each Islamic financial institution has been enhanced and strengthened to ensure Shariah compliance. The effectiveness of the implementation of this new Shariah governance framework will continue to increase the confidence of stakeholders and the integrity of the Islamic financial industry, thereby reducing the risk of Shariah non-compliance and in the medium term, contributing towards continued financial stability.

Conclusion

Findings most importantly from this study is, it turns out if there are several numbers of problems with the institution sharia banking supervision that makes performance supervision become non maximum and give birth potency happen risk law for Islamic banks. The role of institutions sharia bank supervision, DPS, Directorate Sharia bank compliance, and OJK running individually or not coordinating make overlapping the overlap aspect proper supervision become realm respective tasks accordingly duties and functions. This study recommends necessity of amendment to UURI No. 21 of 2008 concerning to Sharia Banking with give authority in a way attributive to DPS forgive penalty to a proven sharia bank violate obedience Sharia principles, necessity made OJK regulations regarding sharia banking audit instrument. This study own limitations on research scale that does not approach comparison (comparative) approach and approach conceptual (conceptual approach).

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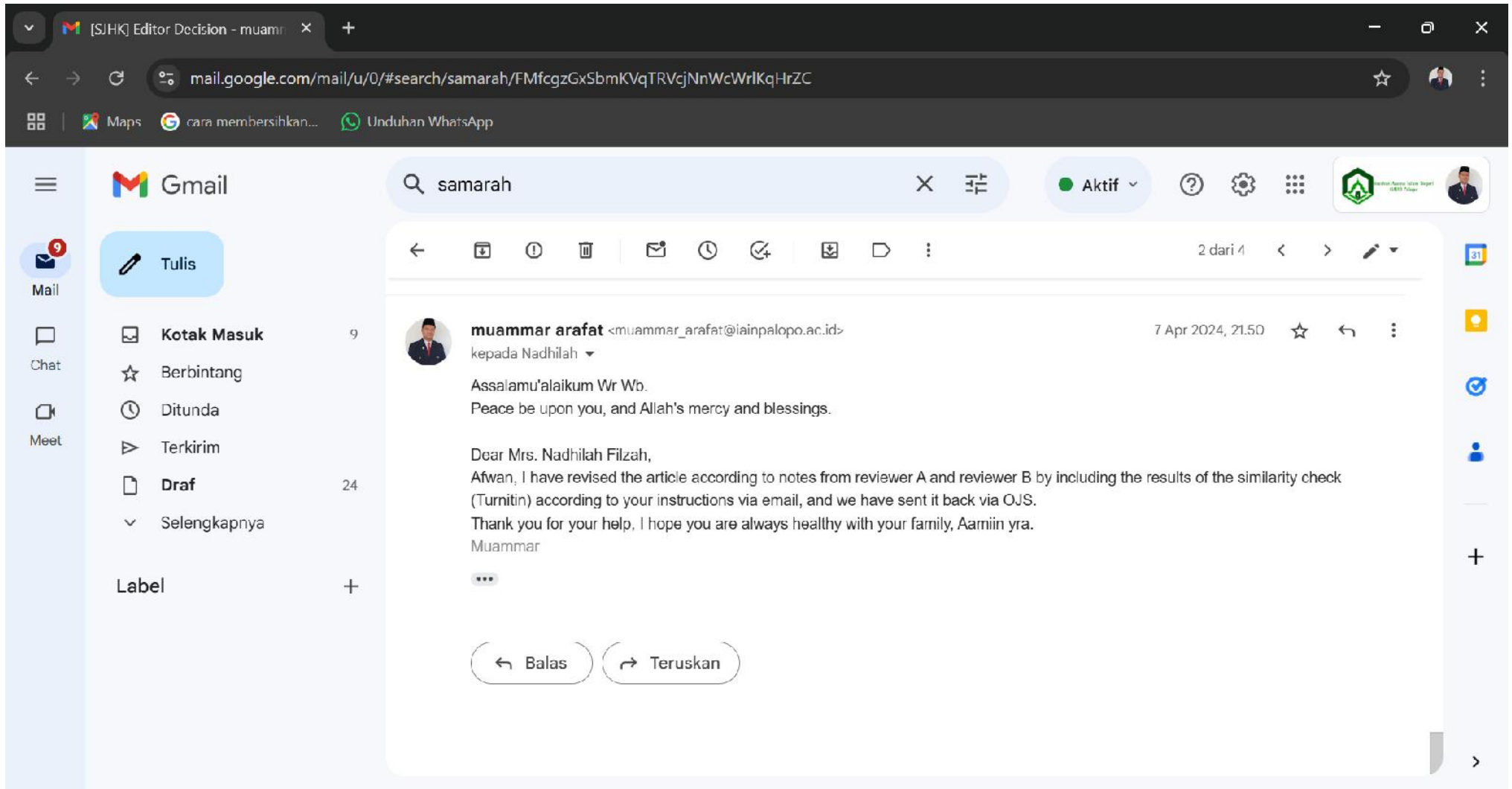
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