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Submission date: 06-Apr-2024 10:22PM (UTC-0700)

Submission ID: 2341876753

File name: ARTIKEL_SITASI_1-27.docx (1.29M)

Word count: 7508

Character count: 44545

Revitalization Supervision Islamic Banking In Enhancement Compliance In Indonesia and Malaysia

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Abstract: This study is indicated with social reality that, following three decades of dual banking system implementation in Indonesia, Islamic banks' operational activities are essentially identical with the operations of conventional banks. The thing that distinguishes is only the Shariah "brand". In the vast zone of national banking industry, Islamic banks are still being the "followers" of conventional banks with approximately 6.65% market share. The focus of study is on the Islamic bank supervision system by DPS, the Shariah Bank Compliance Directorate, and OJK in carrying out supervisory functions related to fields of duty. The study methodology implemented is a normative legal study which is involving studying norms, Shariah banking law principles, and the opinions of Shariah economic law experts to respond the legal issues faced. Observing the social phenomena of the relationship between Shariah banks and costumers as a Shariah economic ecosystem, various approaches are taken, including the statutory approach and the sociological approach. The next stage of data analysis is data display, which illustrated through tables, figures, and graphs. Data categorization was carried out relied to the theme to identify the implementation of Islamic bank supervision duties in conforming to Shariah principles and the implementation of laws and regulations. The results showed that there are several 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 Shariah Bank Compliance, and OJK, which run independently and inefficiently, create overlapping aspects of Islamic bank supervision. This study recommends amending UURI No. 21 of 2008 about Shariah Banking by giving attributive responsibility to DPS to sanction Islamic banks that proved to violate Shariah principal compliance and establishing the OJK regulations on Islamic banking audit instruments.

Keywords: Revitalization, Shariah 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, consist of 1 Islamic bank and 6 Shariah Business Units (UUS) to work on toll road projects in West Java through P.T. Citra Marga Cintas Tbk (CMLT) which he leads.

The management of Shariah banks must be carried out carefully in a Shariah economic ecosystem consisting of Shariah banks, customers, and other related parties based on the

principle of mutual benefit. There should not be any income inequality among different parties because conducting such activities has significant consequences that risk social security and contribute to the economy's stability. The previous empirical research concerned to the relationship between income inequality and crime was positive, which means that higher inequality can cause more crimes. Thus, a loss in business, as in the case of the feud between Yusuf Hamka and one of the Shariah banks in Indonesia.¹

Shariah banks as intermediary institutions in carrying out business activities should be appropriate with Shariah principles and adequate in implementing laws and rules. Supervision of the fulfillment of Shariah principles and compliance of Islamic banks with good corporate governance through Islamic bank supervision entities, both internal and external, is carried out in a comprehensive and integrated manner. The Shariah Supervisory Board (DPS), the Director in charge of the compliance function, and the compliance work together and responsible for the internal supervision of Islamic banks. Article 40 supervision of Islamic banks is the responsibility of the Financial Services Authority (OJK) which established under UURI No. 21 of 2011. Supervision carried out on Islamic banks is crucial, so that Islamic banks avoid legal risks that may happen related to bank policies.² The Shariah Supervisory Board (DPS), accompanied by the Director in charge of function compatibility and unit work compliance, are responsible for conducting internal supervision of Shariah banks. The external Shariah banking supervision becomes responsibility of The Financial Services Authority (OJK) which formed based on UURI No. 21 of 2011. Article 40 supervision carried out towards Islamic banks; it is important to avoid Islamic banks from law risk that is possible happen related with bank policy.³

The phenomenon that occurs in the Islamic banking environment that raises the view of the operational activities of Islamic banks are not in accordance with Shariah and are the same as those of conventional banks which cannot be put a side. There must be a clear difference between Islamic banks and conventional banks so as not to cause a continuous negative stigma. The researchers revealed multiple studies concerning Islamic banking supervision in Indonesia; most of them seemed only completed the study partially, such as those conducted by the DPS or other Islamic banking regulatory authorities.

Overall, Muslim and non-Muslim customers are increasingly accepting Islamic banking, which has been rising in momentum over the past three decades.⁴ Several prominent financial institutions provide Islamic banking services, including those found in non-Muslim nations, including Standard Chartered, HSBC, Citibank, and OCBC.⁴ The Indonesia's economic performance of Islamic banking industry continued to fall short of popular expectations. For three years, Indonesia's Islamic banks maintained the market share of less than 5%.⁵

¹ Prastowo and Diyah Puciyan, "Income Inequality and Regional Index of Financial Inclusion for Islamic Bank in Indonesia," *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah (Journal of Islamic Economics)* 11, no. 1 (2019): 135–152, <https://doi.org/10.15408/aiq.v11i1.23381>.

² Rusdan, Rusdan, "Urgensi Manajemen Pengawasan Risiko Bank Syariah," *PALAPA (Jurnal Studi Keislaman Dan Pendidikan)* 4, no. 3 (2016): 85–103, <https://doi.org/10.36088/palapa.v4i2.26>.

³ M. Faizul et al., "Measuring Service Quality and Customer Satisfaction in Pakistan: Evidence Based on Carter Model," *International Business Management*, 10, no. 20 (2016): 5011–16.

⁴ Asif Akhtar and Asma Zaheer, "Service Quality Dimensions of Islamic Banks: A Scale Development Approach," *Global Journal of Management and Business Study: Administration and Management* 14, no. 5 (2014): 10–20, <https://journalofbusiness.org/index.php/GJMBR/article/view/1273/1183>.

⁵ Muniaty Alsyah, "Islamic Bank Service Quality and Its Impact on Indonesian Customers' Satisfaction and Loyalty," *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah (Journal of Islamic Economics)* 10, no. 2 (2018): 367–88, <https://doi.org/10.15408/aiq.v10i2.7135>.

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

The use of the data in this study is the primary data source in form of laws and regulations which governing the duties and authorities of the 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 study relevant to this recent study. A number of other supporting data come from activity reports that the researcher 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 study needs directly related to Islamic bank supervision in Indonesia. The functions and responsibilities of Islamic bank supervisory institutions need to be investigated in order to classify these information sources.

The data collection method begins with data documentation, and then proceeds to a desk analysis of the data, and finally by mapping the potential weaknesses of Islamic bank supervision institutions in accordance with the dynamics of a national Islamic banking market. 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 is based on the implementation of laws and regulations in identifying whether there is an overlapping at the implementation of supervision in practice. The next step is data analysis by following the stages in data display through 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 Shariah principles, laws and regulations.

Hence, to avoid legal risks and negative impacts of legal problems for Islamic banks that will hit them in the future, strict supervision of the bank is needed. Legal risk can not be avoided, but can be controlled through risk management. Islamic banks, like other banking institutions in general, also require a number of measurable procedures and achievements that can be used to identifying, monitoring, and controlling legal risks which arising from Islamic banks' business activities, or also known as risk management.

The Role of Shariah Banking in Service Finance

The advancement of Islamic economy increased the importance of Islamic banking in variety of people's lives. Numerous commercial transactions in the community made by using Islamic service facilities, which serve as a location to hold funds, finance businesses, and accelerate payment system mechanisms in all economies. The Islamic banking system founded on Islamic legal concepts derived from Qur'an and Hadith. Islamic banking system was established to provide halal financial services to Muslim community while submitting to Islamic law, with the goal of empowering these institutions to contribute the attainment of Islamic socioeconomic goals. Shariah 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 level of distribution of funds to the community, so that it will determine the level of profitability.

Shariah financing principles are according to profit sharing (*mudharabah*), financing based on the principle of capital participation (*musyarakah*), the principle of trading in goods based on profit (*murabahah*), capital financing based on spare banking principles, without alternatives (*ijarah*), or alternative transfer of ownership of goods rented from banks by other parties (*ijarah wa iqtina*). In line with that, broadly discussed, financing in Islamic banking is divided into three categories based on the purpose of its use, those are (1) financing transactions aimed in owning goods which carried out the principle of buying and selling; (2) financing transactions aimed in 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. Several factors that can affect Shariah financing are profit sharing rate, Third Party Funds (DPK), NPF (Non-Performing Financing), FDR (Finance to Deposit Ratio), and ROA (Return on Asset). In the implementation of financing, Islamic banks must fulfill two aspects, namely the Shari Aspect and the economic aspect; profits can be divided equally according to the mutual agreement.

Obligations that must be fulfilled by Shariah Banks

In order to adhere to Shariah regulations, Shariah banks have to establish a DPS, whose responsibility is to oversee bank operations and provide guidance and assistance to the directors. During it relates to banking activities, Shariah principles are Islamic legal standards based on fatwas released by the National Shariah Council of the Indonesian Ulema Council (DSN-MUI), that officially researcher²² to issue fatwas through that sector. DSN-MUI made an important decision on DPS, namely DSN-MUI Decree No. 3 of 2000 concerning the Implementation of the Determination of Shariah 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 contracts, 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 Shariah principles that must be met.

Table 1: The Execution Task Supervision of Shariah Banks by DPS

No.	Advice And Suggestions	No.	Supervision
1.	Providing a Shariah-compliant opinion on activities such as fund collection, distribution, and banking services. Special DPS opinion Format, this becomes something mandatory requirements filled with deep BVIS frame fulfillment report audit process requirements finance annually by the Auditor.	1.	Doing reports which submitted or requested from the executors and board the directors. Responsibilities and functions of audit Compliance to ensure the greatest level of quality execution of menttop Shariah principles, funds have to be gathered, distributed, and financial services are required. Shariah Supervisory Board collaborated

			with internal audit and compliance work unit on multiple occasions to conduct start-up tests in order to acquire data and information prior to the implemented. That thing It is intended that DPS has complete data and information, so that it needs more focus in giving a test
2.	Give direction and reinforcement material "contract and product Islamic banking" to Bank employee with conducting training and Shariah studies for increase understanding and at the same time accept possible input repair quality Shariah aspects	2.	A predetermined quantity of test picks, or samples, of transactions are necessary completed and verified against notice, quality implementation, and submission to Shariah principles for each activity.
3.	At the time of carrying out sampling tests, DPS is holding interactions with bank leaders and workers to analyze further obstacles linked to business and operations with features of Shariah so that they may confirm suitability with Shariah principles.	3.	Inspect document-tested transactions (samples) to measure that a Shariah principle follows the requirement implementation from internal bank laws. DPS inspections focus on areas of Shariah (Shariah compliance), including: Suitability contract used, Filled with element on a financing scheme, inspection against SP3, contracts, and deeds notarial.
		4.	Conducting an inspection, observation, request, information, or confirmation at the bank or discussing with customers to enhance the results of the inspection document.
		5.	If there are any indications of disobedience with Shariah compliance implementation, review the appropriate internal policies.

Source: Law Number 21 of 2008 Concerning Shariah Banking.

Shariah Bank Supervision by Shariah Supervisory Board (DPS)

Shariah banking is a business of entity that becomes in part with national system banking that provides facility such as supporter regulation and certainty Good law in pattern institutional, productive, service or consistent operations with Shariah principles.⁶ In the process itself, Shariah banking always supervised by the DPS, the Shariah Supervisory Board. DPS is responsible for ensuring all Shariah banking products and procedures are appropriate to Shariah principles. DPS matters are regulated by law number 40 of 2007 Article 109, stated; 1. Running company based on Shariah business principles has a Board of Commissioners of Shariah Supervisory Board; 2. Shariah Supervisory Board as follows referred to in paragraph (1) consists of one person who is an expert in Shariah or more appointed by the above GMS recommendation Indonesian Ulema Council (MUI); 3. Shariah Supervisory Board as referred to in paragraph (1) is instructions and advice to Directors and supervising Company activities to obey the Islamic principles.⁷ DPS itself is an independent body placed by the National Shariah Council (DSN) in a Shariah bank. In carrying out the duties, DPS is mandatory to follow the DSN fatwa regarding suitability bank products and services with Shariah provisions and principles. The main task is supervising the institute business activity on Islamic finance to be compliant with existing Shariah provisions and principles (fatwa) by DSN.⁸

However, in the practical process Proofreader of DPS members are negligent the duties and obligations say that DPS members sometimes involved in decisions far pragmatic from Shariah values. Often the decision is pragmatic, this aim for chasing profit. So that in a number of DPS cases are frequent sacrifice idealism, independence, justice and truth to forget "profit".⁹ Optimization the role of DPS is very important for ensuring every transaction in accordance referring Shariah principles to Qur'an and Sunnah. With there by for reducing practices fraud optimization functions, duties and responsibility of DPS, are required steps of revitalization or empowerment, as well as from the corner competence, integrity, independency, etc.¹⁰ Revitalization Alone refers to assure reaction or build in repeating the values (social, cultural, religious, economic) become something more relevant.¹¹ According to KBBI, revitalization means process, method, and action turn on return something because the previous thing is not enough empowered. In social life, revitalization aimed to build or create repeated missing values or not yet structured with good. DPS revitalization is possible done with (1) Regulations so that DPS members must be elected and appointed as well as given incentives by the related

⁶ Nurdin Nurdin, Sagaf S. Pettalongi, and Khaeruddin Yusuf, "Knowledge Management Model in Syariah Banking," in *International Conference on Information Technology, Computer and Electrical Engineering, ICITACEE 2018* (Semarang, Indonesia: IEEE, 2018), 293–298, <https://doi.org/https://doi.org/10.1109/ICITACEE.2018.8576980>.

⁷ Bagya Agung Prabowo and Jasri Bin Jamal, "Peranan Dewan Pengawas Syariah Terhadap Praktik Kepatuhan Syariah Dalam Perbankan Syariah Di Indonesia," *Jurnal Hukum IUS QUIA IUSTUM* 24, no. 1 (2017): 113–129, <https://doi.org/https://doi.org/10.20885/iustum.vol24.iss1.art6>.

⁸ Muhammad Arifin and Bismar Nasution, "The Dynamics Study of Regulations on Syariah Banking Indonesia," *Muhammad Arifin Bismar Nasution* 5, no. 3 (2015): 237–42.

⁹ Syukri Iska, "Revitalisasi Dewan Pengawas Syariah (DPS) Pada Lembaga Ekonomi Syariah," *JURIS (Jurnal Ilmiah Syariah)* 1, no. 6 (2012): 14–21, <https://doi.org/http://dx.doi.org/10.31958/juris.v1i1i.1049>.

¹⁰ Sp. Evi Mulya, Rizatul Jannah, and Rahmawaty Rahmawaty, "Islamicity Performance Index of Islamic Banking in Indonesia," *Sp. Proceedings of the 1st Aceh Global Conference (AGC 2018)* (Aceh, Indonesia: Atlantis Press, 2019), 424–436, <https://doi.org/10.2991/age-18.2019.65>.

¹¹ Mutia, Jannah, and Rahmawaty.

government company; (2) There is a system certification issued competencies institution competent, credible and professional.¹²

Shariah banking is a business entity that becomes part from national banking system that provides facility support the regulation and certainty Good law in institutional, productive, service nor consistent operations with Shariah principles.¹³ Shariah principles are in accordance with provisions of Law no. 21 of 2008 Article 1 paragraph 11. In Shariah banking, transaction principles are done in accordance with *fiqh Muamalah*.¹⁴ In line with that, in 1992, the first Shariah bank in Indonesia was Bank Muamalat Indonesia. Muamalat Bank is the pioneer of Islamic banking in Indonesia. According to the data from Bank Indonesia assets of Islamic banking already reached 179 trillion or about 4.4% of assets banking national and Party Funds Third (DPK) reached 137 trillion.¹⁵ Other characteristics of Islamic banking are operate with principle for results (Mudharabah) with no exists interest (riba) due to interest (riba) in Shariah law is prohibited. Apart from providing service finance for Muslims people, Shariah banking system expected can give contribution to achievement objective social (humanity) system Islamic economics.¹⁶ In line with that's, effort For realize values Shariah above with form a DPS (Shariah Management Council) in the structure Shariah Financial Institution organization.¹⁸

The responsibilities of DPS are operating its function as written Shariah supervisor in Article 47 paragraphs (1) and (2) Bank Indonesia Regulation Number 11/33/PBI/2009 concerning to Application Good Corporate Governance for Shariah Commercial Banks and Shariah Business Units, in matter. This consist sabove: (1) supervise General Shariah Bank activities are in accordance with Shariah 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 Shariah in every his duties; (2) provide advice to Directors about management of General Shariah Banks so that they are in line with principle prudence and Shariah; (3) to be representative of Shariah Bank in communicate and request product fatwa to DSN-MUI (National Shariah Council of the Indonesian Ulema Council) and became representative of Shariah 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 Shariah banking

¹² Iska, "Revitalisasi Dewan Pengawas Syariah (DPS) Pada Lembaga Ekonomi Syariah."

¹³ Nurdin, Pettalongi, and Yusuf, "Knowledge Management Model in Syariah Banking."

¹⁴ Muhaimin, Lalu Husni, and Lalu Wira, "Researcheritative Institution In Disputes Resolution In The Conversion Of Conventional Bank To Shariah Bank," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 4 (2021): 1–8.

¹⁵ Ahmad Roziq, Prisman Dwi Prasetyo, Pesto, and Kartika, "Defining Variables For Shariah Bank Shares In Indonesia," *IJSTR (International Journal of Scientific & Technology Study)* 8, no. 7 (2019): 826–30.

¹⁶ Sugeng Wahid, Sp, et al., "Factors Affecting Return on Deposit (ROD) of Shariah Banks in Indonesia," *Business: Theory and Practice* 19 (2018): 166–76. <https://doi.org/https://doi.org/10.3846/btp.2018.17>.

¹⁷ Abadi Satosa, et al., "Construction the Meaning Shariah Bank for Indonesia Santri Community," *International Journal of Economic Study* 14, no. 1 (2017): 279–288.

¹⁸ Neni Sri Imaniy, A. Harits Nu'man, and Lina Jamilah, "Analysis of the Role and Responsibility of Shariah Supervisory Board (DPS) on Shariah Compliance Supervision in Islamic Banks in Indonesia," *Journal of Legal, Ethical and Regulatory Issues* 22, no. 3 (2019): 1–12.

operations.¹⁹ The disclosure of DPS reports are very important for preparing Shariah annual report banking due to information is very comprehensive and can reduce the exists of non conformity practices of Shariah banking.²⁰

According to the implementation table task supervision of Shariah banks by DPS, there are several problems in implementing DPS duty to supervise Shariah banks, such as:

- a. Absence of authority granted in a way attributive to the Shariah Law Banking. DPS does not have authority to waive the penalty on Shariah banks whose operations violate Shariah principles. DPS does not independent in carry out this task.
- b. Shariah banking is a mandatory form for the existing DPS in Islamic banking structure and financing activity its operations. DPS supervises Shariah banks that finance activity its operations.
- c. DPS not yet be equipped with Shariah audit procedures and standards.

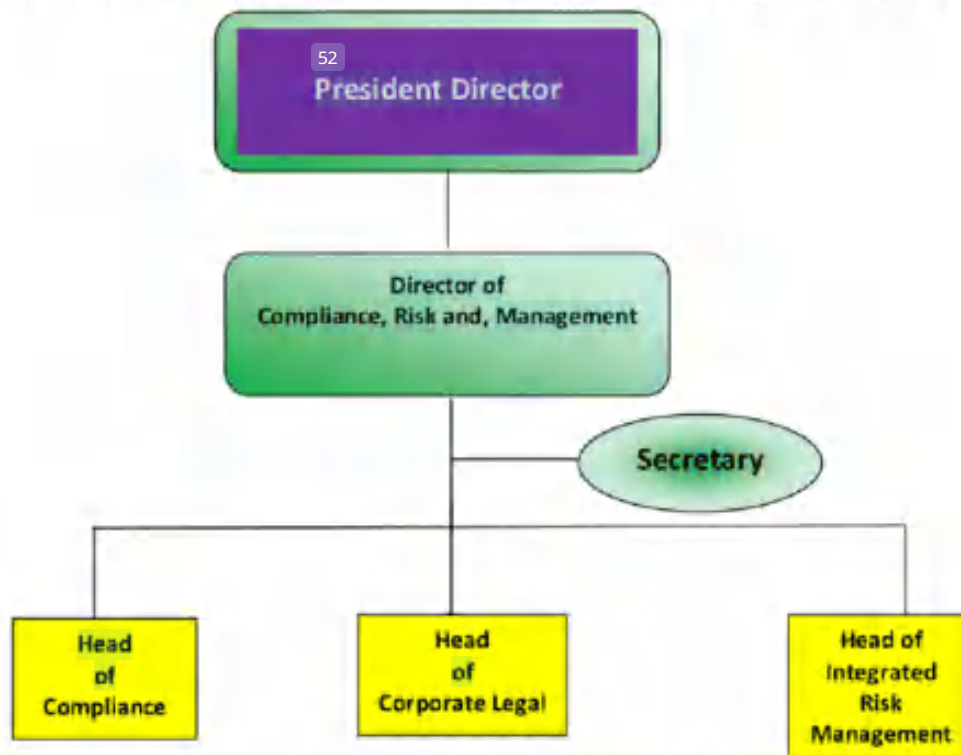
Supervision of Shariah Banks by the Directorate Shariah Bank Compliance

In line with mandate Constitution Shariah Banking, use realizes implementation of GCG in Shariah banks, and then directors should function as: (1) function as internal audit, (2) function as management risk and committee monitor risk, and (3) function as compliance. When functions carried out by the Director Compliance and Management BMI risk walking in a way effective, then performance organization will increase. Based on provision Article 4 and Article 5 of the OJK Regulations concerning to the Implementation Function Compliance with Commercial Banks, Islamic banks is mandatory own director in charge function compliance and shaping the unit work compliance.

¹⁹ Iskandar, Mada, "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 Study Studies Journal* 20, no. 3A (2017): 691-705.

²⁰ Djunardin and Atin Meriati Ismail, "The Existence of Shariah Supervisory Board in Maintaining the Purpose of Shariah Principles in Shariah Banks," *Journal of Legal, Ethical and Regulatory Issues* 21, no. 3 (2018): 1-6.

Chart 1: The Structure Organization Director Compliance and Management BMI Risk



Data Source: Organizational Structure of Muamalat Bank²¹

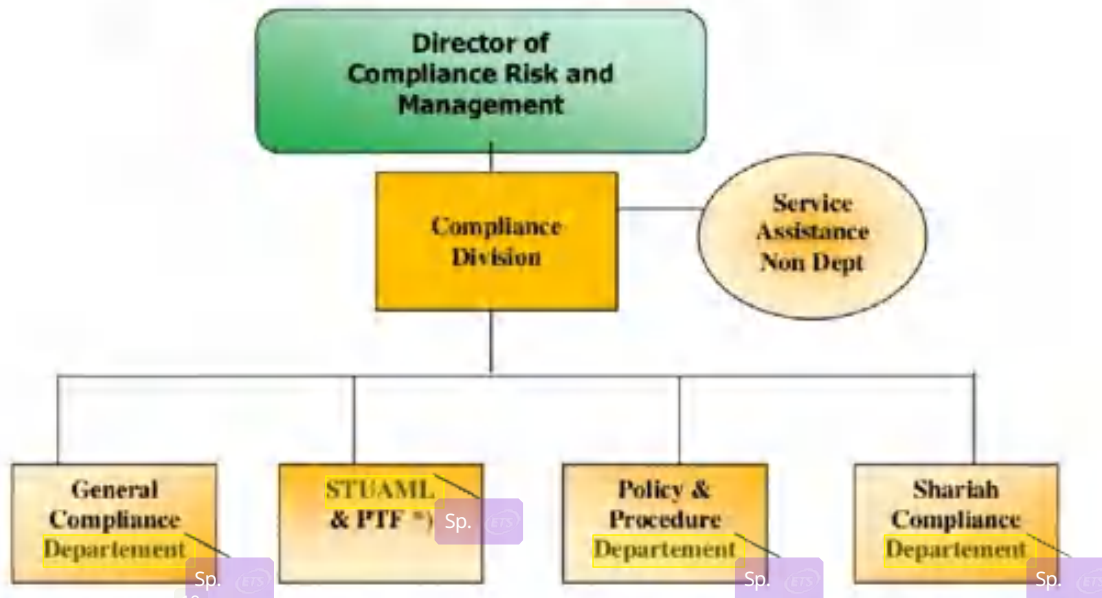
From the chart above, it can be seen that the Compliance and Management BMI risks are responsible for answering the president's questions. There are three departments under the supervision of the Director of Obedience; the Head of Compliance Division, the Head of Corporate Law Division, and the Head of Management Division Risk, which integrated and overseen Article Editor of Obedience. The purpose of compliance, legal and corporate, and management risk functions is to guarantee that Islamic bank management adheres to governance. Shariah compliant banking with Shariah principles, identifying potentials risk like financing risk, market risk, liquidity risk, operational risk, law risk, reputation risk, strategic risk, compliance risk, return results risk, and investing and making steps mitigation risks to potency risks, also controlling business Shariah banking integrated risk. Management division review results that risks will become part of consideration for directors' in taking a decision.

In addition, the recommendation from the management division risks that no nature binding, so if management division risk do not recommend something in the application of Shariah financing, then business units still continue the process and deliver agreement on submission financing. While in the situation when director compliance and management risk looking that risk on plan agreement of something, Shariah financing difficult in mitigated the

²¹ Bank Muamalat, "Organizational Structure of Muamalat Bank," Bank Muamalat, 2023, <https://www.bankmuamalat.co.id/index.php/struktur-organisasi>.

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 the financing application.

Chart 2: Structure Organization of the BMI Compliance Division



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

The Structure of the compliance division organization which is under supervision of Director Compliance and Management BMI risks which have one field service on department assistance and three departments in accordance with the field namely: Department of General Compliance, Department of Policies and Procedures, and Departments of Shariah, as well one unit task (force task), namely anti-Money Laundering and Prevention Task Force Funding Terrorism. Problems that occur in the supervision of Islamic bank compliance are the problem of regulations and standard audits, the limited of human resources for auditors, and not exists audit framework established by the Government.

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

OJK as the independent institution and free from mix-hand from the other party owns it functions, duties and authority in regulation, supervision, inspection and investigation in the sector of finance service. The establishment of OJK is related to UURI No. 21 of 2011 is the implementation of UURI No. 3 of 2004 concerning to Bank Indonesia which mandates formation as an independent institution in regulation and supervision sector service finance. By philosophical task institution, this is joined in succeeding development of national economic 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 for very components in national economy system. One of the important components in national economy system is the finances system which follows with service activity in running financial intermediation for productive activities inside the national economy.

The functions of obedience are based on OJK Regulation No. 46/POJK.03/2017, which is concerned to the implementation of the Function and Commercial Bank Compliance. The functions are preventive (ex-ante) actions steps that ensure that the bank's policies, provisions, systems, and procedures, as well as its activities, are in accordance with the Financial Services Authority and the Shariah principles for Shariah commercial banks and Shariah business units. In addition, they guarantee the bank complies with guarantees made for the Financial Services Authority or other approved supervisors.

Obedience in Fulfillment Shariah Principles and Procedures Shariah Bank Operations

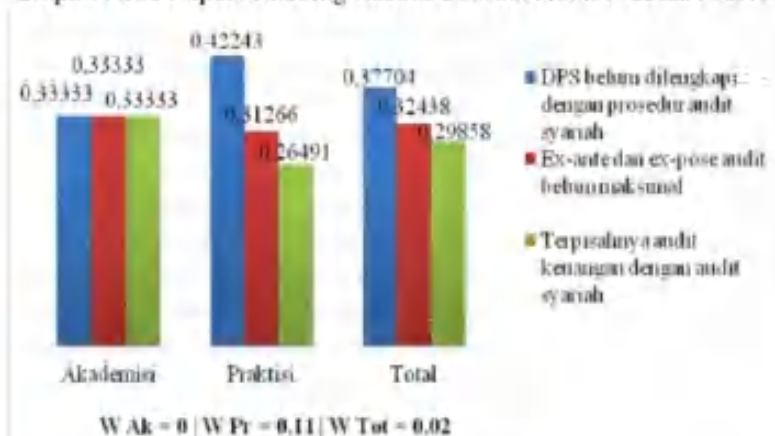
In line to the national objective development to reach the public fair and prosperous which based on the principle democracy economy, developing Islamic banking system is based on the values of justice, togetherness, equality and appropriate benefits with Shariah principles. Applicability dual banking systems in system banking national make public own diverse choice for using Shariah banking product. The satisfaction Shariah law is the rules that Muslims follow when conducting business. The National Shariah Council of the Indonesian Ulama Council released Shariah banking guidelines that are based on fat (DSN-MUI).

Referring to the Shariah Banking Law and table implementation of DPS duties, then there is a number of problems in the implementation of the duties of DPS members, those are:

- a. Absence of authority granted in a way attributive in the Shariah Banking Law. In one mandatory DPS side formed by Shariah banks, on the other hand, DPS is mandatory for supervising Shariah banks for ensuring the fulfillment of Shariah principles in activity of its operations.
- b. DPS doesn't independent in carry out this task. Shariah banking is mandatory form an internal DPS Islamic banking structure. This brings a dilemma because DPS position is located within the internal Shariah bank. The Islamic bank financial side activity DPS operations in chairmen and members of the DPS. On the other hand, the DPS is in charge for supervising Islamic banks cannot fulfill the Shariah principles. Deep, the DPS position structure of this Shariah bank become dilemma.
- c. DPS doesn't independent in carry out tasks' supervision. DPS not yet be equipped with Shariah audit procedures and standards. Based on the graph is about sub aspect ranking problems with the Shariah audit process, academics and practitioners give evaluation that DPS has not be equipped with Shariah audit procedures and standards with the value is 0.37704 which is significant. This becomes the main problem in the Shariah audit process.²²

²² Taufik Akbar, Sepky Mardian, and Syaiful Ansar, "Unraveling Shariah Audit Problems with Analytic Network Process (ANP)," *JAKS* Sp. 2 (Sp. 5): 101-23, <https://journal.sebi.ac.id/index.php/jaki/article/view/32/31>.

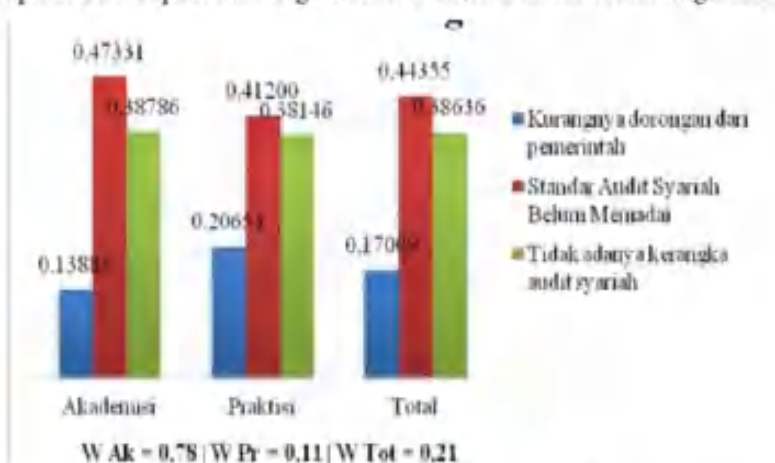
Graph 1: Sub Aspect Ranking Results Shariah Audit Process Problems



Data source: Data is processed from Super Decision software

In graph 1 regarding the Sub-Aspects of Rating Results of Shariah Audit Process Problems, academics, and practitioners identified three main problems, namely: (1) DPS is not yet equipped with standard Shariah audit instruments and procedures according to good supervision standards; (2) ex-ante and ex-poste Shariah audits are not yet optimal, and (3) there is a distinction between financial audits and Shariah audits. OJK as an institution which has attributive authority based on law to regulate, supervise and examine the performance of Shariah banks needs to establish Shariah audit instruments and procedures. Likewise, ex ante and ex pose audits need to be further optimized to support the fairness and transparency aspects in realizing good governance within the scope of Shariah banking. Financial audits and Shariah audits should not be separated because Shariah banks in all aspects of their operations as regulated in the Shariah banking law are obliged to prioritize Shariah principles.

Graph 2: Sub Aspect Ranking Results Problem Shariah Audit Regulations



Data Source: Parse Shariah Audit Problems

Three problems with Shariah regulations are shown in Graph 2 concerning Sub-Aspects of Shariah Audit Regulation Issue Results: (1) Lack of encouragement from the government; (2) inadequate Shariah audit standards; and (3) the absence of a Shariah audit framework. The duty of the government through the Ministry of Finance and *Bank Indonesia* is to work together in developing the national Shariah banking industry through fulfilling regulations which support strengthening the institutional. Likewise, Shariah audit standards and the Shariah audit framework need to be optimized through Shariah bank supervision institutions.

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 Shariah audit standards yet adequate.

Shariah Bank Compliance with Regulations Government

OJK is dedicated to safeguarding sector stability, financial assistance, and the National Economic Recovery (PEN) in 2020, as stated in their annual report through the topic "Resilience for Quality Economic Recovery."²³ OJK ensures that Islamic banking performance remains secure by reforming policy funding for customers, which was impacted by the COVID-19 outbreak. 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.²⁴

²³ Financial Services Researcherity (OJK), "2020 Annual Report," 2020, <https://www.ojk.go.id/id/data-dan-statistik/laporan-tahunan/Pages/Laporan-Tahunan-OJK-2020.aspx>.

²⁴ Akbar, Mardian, and Anwar, "Unraveling Shariah Audit Problems with Analytic Network Process (ANP)."

Figure 1: Announcement Letter from Shariah Bank as Response for the Affected



Data Source: OJK Shariah Banking Data Update 31 March 2020²⁵

Figure 1 presented a notification letter from the Shariah Commercial Bank to its customers that impacted by the COVID-19 pandemic. As a result, the customers are lost in national economic capacity, particularly in the community. Furthermore, it is following the government's policy to provide restructuring for Shariah banking customers as an effort to revive the national economy, which is regulated based on OJK Regulation No. 11 of 2020 about the National Economic stimulus as a countercyclical policy to overcome the impact of the Coronavirus Disease in 2019. In this regulation, the OJK imposed sanctions on Islamic banks if they abused restructuring policies and disseminated information on customers' data, types of loans, financing limits, and loan quality to customers.

²⁵ Financial Services Researcher (OJK), "Shariah Commercial Bank Update 31 March 2020," 2020.

Table 2: The list of Islamic Bank Providers Restructuring for Debtors Financing Those Affected Covid-19 Pandemic

No.	Islamic Bank	Policy Form
1.	<i>Bank Mandiri Syariah</i>	1. Mandiri Syariah provides relaxation (lightening) towards facility financing to the customers which impacted by the Covid-19 pandemic in form of 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.	<i>BNI Syariah</i>	1. Giving relief in through the re-structured delay payment debt. 2. Adjusted restructuring/relief with condition and type effort.
3.	<i>BRI Syariah</i>	1. Affected customers the impact is to contact the Account Officer or Micro Account Officer at the BRI <i>Syariah</i> Branch Office nearest for get information and solutions about financing Customer. 2. This thing be Article Error for lightening up Customer Financing in line with national economic stimulus.
4.	<i>Bukopin Syariah Bank</i>	Delivery information and solutions for customers affected pandemic
5.	<i>Bank NTB Syariah</i>	1. Appeal to pay the loan appropriate time 2. Delivery information and solutions for customers affected pandemic
6.	<i>Permata Syariah Bank</i>	1. Give the relaxation of the delay information of payment obligation 2. Give relaxing information in relief payment 3. Cthe customer must submit application to Bank <i>Permata Syariah</i> 4. During submission still processed, customer

		still must pay appropriate time
7.	Bank Muamalat Indonesia	1. Customers can submit application relief 2. Relief can be given after the bank does verification to customers 3. Relief given in accordance regulations issued by OJK
8.	Bank Mega Syariah	1. Customers may submit application relief to BMS 2. BMS supports the government policy as a stimulus for customer affected by the Covid-19 pandemic
9.	BJB Syariah	1. BJB customers contact the account officer can be given solutions and information 2. BJB Syariah supports stimulus policies like customers affected by the pandemic restore economy national
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 for getting solution
11.	Shariah Net Bank	1. BNS can give relaxation on facility financing to customers inform delay obligation payment 2. Relaxation can be given if there is an agreement between the customer and the banks are in agreement with criteria and conditions which affected customers. 3. Customer can submit relaxation with contact the BNS relation manager without come to BNS office.
12.	BCA Syariah	1. BCA Syariah appeals customers to follow recommendation of government through application protocol health preventing covid-19 with transaction using mobile banking, internet banking, without must come to BCA Syariah office 2. Affected customers can consult and search for solution best with contact the account officer
13.	Bank Panin Dubai Syariah	Affected customers can consult a relationship manager for getting information and solutions more continue.

Data Source: *Updated* Syariah Commercial Bank Data²⁶

²⁶ Financial Services Authority (OJK).

The government policy gave the restructurisation for Islamic banking customers as an economic Article Error rational in arrange with OJK Regulation no. 11 of 2020 due to National Economic Stimulus as Policy Countercyclical Impact Spread from Coronavirus Disease 2019. Therefore, in OJK regulations, there are transaspions imposed to Shariah banks if restructuring abuse policy, deploying customer data information, type loans, ceilings financing until quality loan.

Shariah Banking Governance in Malaysia

Regarding to the section 27 of Islamic Financial Services Act of 2013 (Act 759), Malaysia operates a dual banking system that comb Article Error traditional banking procedures with Islamic banking conducted in banking institutions. In Malaysia, the Islamic finance sector is governed while Bank Negara Malaysia (BNM) is entrusted with it.²⁷

Starting from its incepSpn in 1983, the Islamic banking industry has been supervised by Bank Negara regulations and a number of parliamentary laws. The primary legislative foundation for spe National Bank's capability to fulfill its duties remains in the National Bank Act 2009. According to the Section 27 of Islamic Financial Services Act 2013 (Act 759), Bahtain operates both conventional and Islamic banking systems, which are both conducted in banking institutions. In Malaysia, there are regulations governing the Islamic finance sector. In terms of Islamic banking, Bank Negara Malaysia (BNM) is in charge of it.²⁸ In addition, the act also details the scope of Bank NegaSp jurisdiction, including administrative aspects and executive powers. To ensure Shariah 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 while it is the highest and sole authority for ensuring Shariah law.²⁹

The Shariah Advisory Council (MPS) of Bank Negara Malaysia was founded in 1997 and serves the highest authority in determining all Shariah-related issues pertaining to the Islamic banking sector. MPS encourages consistency in the interpretation of Shariah among the Shariah committees in each Islamic financial institution and assumes the role of the ultimate adjudicator in matters connected with the operations and procedures of Islamic banking and takaful.³⁰ The MPS mandate as provided under section 52 of the Bank Negara Malaysia Act 2009 (the Act) are (BNM, 2010; BNM 2019):³¹

1. Determine the Shariah law regarding Islamic banking.
2. Advising Bank Negara on Shariah issues related to Islamic financial business, Bank activities or transactions.

²⁷ Abd Hakim Abd Rasid, Salmi Edawati Yaacob, and Mat Noor Mat Zain, "Keperluan Tadbir Urus Syariah Di Industri Kecil Dan Sederhana (IKS): Satu Tinjauan Literatur," *Journal of Contemporary Islamic Law*, 6, no. 2 (2021): 65–75, <http://www.ukm.my/jcil/>.

²⁸ Sherrin Kunhubava, "Shariah Governance of Islamic Banking in Malaysia," 2015, 20–35.

²⁹ Mohd Izzat Amsyar Mohd Arif and Ruzian Markom, "Struktur Tadbir Urus Syariah Dalam Sistem Perbankan Islam: Analisis Perbandingan Antara Malaysia Dan Indonesia," *JUUM (Jurnal Undang-Undang Dan Masyarakat)* 22, no. 1 (2018): 1–9, <http://ejournal.ukm.my/juum/issue/view/1149>.

³⁰ Mohd Izzat Amsyar, Mohd Arif and Ruzian Markom, "Kelestarian Prinsip-Prinsip Muamalat Dalam Sistem Perbankan Islam Di Malaysia: Rangka Kerja Tadbir Urus Syariah," *JUUM (Jurnal Undang-Undang Dan Masyarakat)* ISU KHAS/SPECIAL ISSUE, 2018, 19–37, <https://doi.org/https://doi.org/10.17576/juum-2018-special-02>.

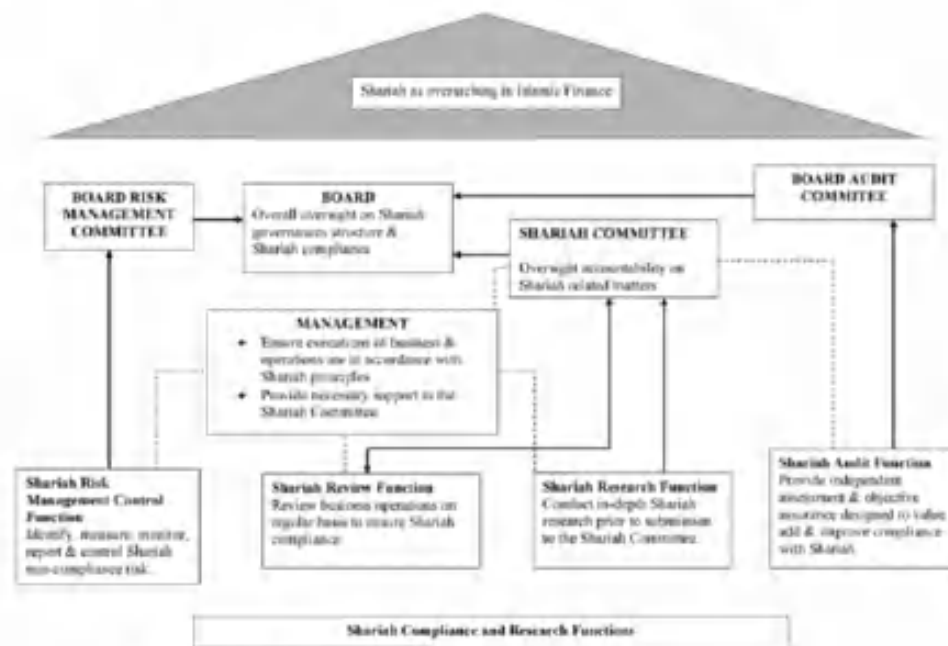
³¹ Bank Negara Malaysia, "Shariah Governance Framework 2010; Bank Negara Malaysia, 2019. Shariah Governance Policy Document 2019," 2019.

3. Giving advices to the Islamic financial institutions or other persons as provided under any written law.

In order to highlight the importance of the MPS's work, *Yang di-Pertuan Agong* appoints members who possess the necessary qualifications in the field of Shariah or who have a proficiency in banking, finance, law, or other relevant areas. The important development under this act is the necessity of the 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.³²

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

Chart 3: The Framework Model for Islamic Financial Institutions in Malaysia



Source: Shariah Governance Framework 2010.

In December 2009, Islamic Financial Services Board (IFSB) announced that the Guidance Principles of the Shariah Governance System for Institutions Offering Islamic Financial Services. The Bank utilized these guidelines in forming the framework and to

³² Arif and Markom, "Struktur Tadbir Urus Syariah Dalam Sistem Perbankan Islam: Analisis Perbandingan Antara Malaysia Dan Indonesia".

encourage the implementation of suitable practices in nations with rapidly expanding Islamic banking and finance sectors.³³

The framework's main objectives are to improve Shariah governance, accountability, independence, and decision-making. Internal Shariah assessments and Shariah audits will be required in an attempt to strengthen the Shariah compliance function. These measures will be reinforced by suitable risk management procedures and Shariah study skills. The implementation of the framework is expected to contribute in creating a stronger and more stable Shariah governance framework in Islamic financial institutions and further promote Shariah compliance.

According to the framework, the board of directors would be responsible for providing thorough Shariah oversight of Islamic financial institutions as well as implementing proper Shariah governance structures, policies, and processes. Provide a Shariah-compliant opinion on activities such as fund collection, distribution, and banking services. However, the board of directors must respect the Shariah committee's independence and constantly support the Shariah committee's decisions about parts of Shariah in the management of a financial institution (BNM, 2010; BNM 2019).³⁴

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. Advising Islamic financial institutions or other persons as provided under any written law.

Although this framework specifically did not require an Islamic financial institution to appoint a Shariah expert among the members of its board of directors, but they are encouraged to appoint a member with deep knowledge of Shariah to act as a 'liaison' between the boards of directors and the Shariah Committee.³⁵

The board of directors should provide reasonable remuneration to the Shariah committee commensurate with their accountability, duty, and responsibility. 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 also should report immediately to the Bank if it detects an issue of Shariah non-compliance in an Islamic financial institution that is not handled properly and appropriately.³⁶

The senior management of Islamic financial institution should be liable to foster strong culture of Shariah compliance within the organization, includes the implementation of best practices in Shariah governance that can be applied to every component of the institution's

³³ Abdul Halim Ismail et al., "Aplikasi Kerangka Kerja Tadbir Urus Shariah Dalam Agensi Mengurus Zakat Di Melaka," *Jurnal Pengurusan Dan Penyelidikan Fatwa Journal of Fatwa Management and Study* 17, no. 2 (n.d.): 396–409. <https://doi.org/10.33102/jfms.v17i2.291>.

³⁴ ProperNoungsara Malaysia, "Shariah Governance Framework 2010; Bank Negara Malaysia, 2019, Shariah Governance Policy Document 2019."

³⁵ Agus Priyanta, "Implementasi Kepatuhan Syariah Dalam Perbankan Islam (Syariah) (Studi Perbandingan Antara Malaysia Dan Sndonesia)," *Jurnal Hukum IUS QUIA IUSTUM* 16 (2016): 209 – 228. <https://journal.uin.ac.id/IUSTUM/article/view/387>.

³⁶ Nurhasliza Rasuli et al., "Perbandingan Kerangka Tadbir Urus Perbankan Islam Di Antara Indonesia Dan Malaysia (Comparison of Shariah Governance Framework in Islamic Banking Between Indonesia and Malaysia)," *Journal of Management & Muamalah* 13, no. 6 (2023): 44–55. <https://doi.org/10.53840/jmm.v13i1.140>.

operations. In supporting the board of directors and the Shariah committee's responsibilities, the executives have to guarantee that all presentations of Shariah committee are made only after substantial research has been completed. In addition, it is supported by detailed studies on structured products, documentation, and Shariah problems. These components are necessary for building the internal Shariah study capacities, which were backed by the expertise and resources to carry out an efficient study.³⁷

In summary, Malaysia's missing governance framework has developed to reflect the dynamic nature of the market. Specifically, each Islamic financial institution's governance structure has been reinforced and improved to guarantee Shariah compliance. By lowering the risk of non-Shariah compliance and promoting ongoing financial stability, if the new Shariah governance framework's success in implementation, it will continue to boost stakeholder confidence and the integrity of the Islamic financial sector.

Conclusion

Findings most importantly from this study is, it turns out if there are several numbers of problems with the institution Shariah banking supervision that makes performance supervision become non maximum and give birth potency happen risk law for Islamic banks. The role of Shariah bank institutions supervision, DPS, Directorate Shariah bank compliance, and OJK are running individually or not coordinating properly overlapping the overlap aspect proper supervision become realm respective tasks accordingly duties and functions. The study recommends UURI No. 21 of 2008, which deals with Shariah banking, be amended in order to grant DPS the ability to allow sanctions for Shariah banks that are proven to have violated obedience. OJK's Shariah banking requirement audits were considered as compulsory parts of Shariah principles. This study own limitations at study scale that does not approach comparison (comparative) approach and approach conceptual (conceptual approach).

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