

Legal Institutions Facilitating Institutions as Determinants of Banking Operational Policy Direction

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Abstract

This study aims to examine the role of bank facilitating institutions and their functions in relation to the policy of banking business activities in Indonesia in carrying out the management system and work system of the bank. In this study the authors used explanatory qualitative research methods, data were obtained from official sources related to information regarding the roles and functions of facilitating institutions with Islamic banking financial institutions as well as from book reference sources and other relevant references. The author finds that overall the bank facilitator institution plays an important role as an institution that supports the running of Islamic bank activities in a proportional and orderly manner. And the authors found that according to LPS information, so far there have been no Islamic banks, especially those that have failed banks or banks whose existence needs to be saved. The essence of the role and function of the facilitating institution is very closely related to financial institutions. And each institution has different authorities, functions and duties in supervising, overseeing, protecting, resolving problems, issuing fatwas related to bank products and regulations regarding work systems. The main function of the bank facilitating institution is to support bank business activities so that they run effectively and in a sound and orderly manner.

Keywords: Facilitating Institution, Banking System



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INTRODUCTION

The activities of financial institutions cannot be separated from money. Money has long been used in everyday life and is a major need in economic movement. The financial system is an economic order in a country that plays a role and carries out activities in various financial services provided by financial institutions. The facilitating institutions include Bank Indonesia (BI), the Financial Services Authority (OJK), the National Sharia Council of the Indonesian Ulema Council (DSN MUI), the Indonesian Accounting Association (IAI), the Sharia Supervisory Board (DPS), the National Sharia Arbitration Board. (Basyarnas), Deposit Insurance Agency (LPS), and Jamkrindo.

Something can be said to be effective if it is in accordance with what is desired. This means that the achievement of the thing in question is the achievement of the goal of carrying out actions to achieve this. Effectiveness can be interpreted as a process of achieving a predetermined goal. A business or activity can be said to be effective if the business or activity has achieved its goals. It is undeniable, at present, the most important need for the government is to develop a policy framework to introduce e-government initiatives, including the creation of new strategies and legalization that involve all stakeholders in society. In a number of highly regulated countries, regulatory policies are ineffective and tend to encourage corrupt practices and make citizens powerless.

Poor regulation distorts a country's economic competitiveness; Understanding the real costs of regulation is something that deserves attention in order to be able to compete in the global economy. Unfortunately, a number of governments in several countries often only think

about the costs of implementing regulations, only a few have calculated the impact of regulations on citizens and the business world. Only a few also pay attention to the need for management capacity development, especially those related to the ability to formulate, implement, and predict the impact of a regulation. It is important that those who make regulations are given adequate training in order to understand the impact of the work they are doing.

Indonesia is also one of the countries in ASEAN that is currently intensively implementing an Islamic banking and financial system. In contrast to Malaysia, which uses a state driven approach, the Islamic banking industry in Indonesia is more driven by the community (market driven). So the results are also different, Islamic banking currently only has a market share of around 4.8% of all national banking. Islamic banking in Indonesia has experienced accelerated growth momentum since the enactment of Law Number 21 of 2008 concerning Islamic Banking (Rama: 2015).

RESEARCH METHODS

In terms of methodology, this research uses a qualitative approach and descriptive analysis method. Qualitative research is research that is descriptive in nature and tends to use analysis. Process and meaning (subject perspective) are emphasized in qualitative research. Qualitative research examines the perspective of participants with strategies that are interactive and flexible. Qualitative research is aimed at understanding social phenomena from the participant's point of view. Thus, the meaning of qualitative research is research that is used to examine the conditions of natural objects where the researcher is the key instrument (Hermawan: 2019). The descriptive-qualitative method is a qualitative description of facts, data, or material objects that are not in the form of a series of numbers, but are expressions of language or discourse (whatever the form is) through precise and systematic interpretation (Wibowo: 2010). The type of research in the preparation of this research is a normative research method in which researchers will examine the study of documents that have been obtained, namely using secondary data such as laws and regulations, court decisions, legal theory, and can be in the form of opinions of figures. As for the primary data that the researchers obtained through official websites such as from Bank Indonesia, the Financial Services Authority, the Global Islamic Finance Report.

RESEARCH RESULTS AND DISCUSSION

The financial system in Indonesia is carried out with a dual system, namely conventional and sharia. From the point of view of fulfilling sharia principles, the authority lies with the National Sharia Council of the MUI while institutionally in financial institutions that operate according to sharia, Bank Indonesia, OJK, and the Ministry of Finance carry out supervision from an operational perspective. Various types of Islamic financial institutions consist of Islamic banks, BPRS, Islamic Insurance, Islamic Capital Markets, Sharia Pawnshops, Islamic Finance, Hiwalah, Islamic Pension Funds, Zakat Institutions and Waqf Institutions. The contents of the fatwa are included in positive law in the form of laws, then technically included in Bank Indonesia Regulations (PBI), Minister of Finance Decrees, OJK Decrees which legally formally form the legal basis for the current practices of financial institutions.

According to the Decree of the Minister of Finance of the Republic of Indonesia No.792 of 1990, financial institutions are all bodies whose activities are in the financial sector, collecting and distributing funds to the public, especially to finance company investments. Meanwhile, according to some experts, Dahlan Siamat argues that financial institutions are business entities whose wealth is mainly in the form of financial assets or claims compared to non-financial

assets or real assets. Syarif Wijaya defines financial institutions as institutions related to the use of money and credit or institutions related to the process of channeling deposits to investment. Kasmir defines a financial institution as any company engaged in the financial sector, raising funds, channeling funds or both.

In general, financial institutions act as financial intermediaries. Financial intermediary institutions based on their ability to collect funds from the public can be grouped into two groups, namely depository financial institutions and non-depository financial institutions. Depository financial institutions collect funds directly from the public in the form of deposits, for example: demand deposits, savings or time deposits received from savers or surplus units. can come from companies, governments and households that have excess income after deducting it for consumption needs. Financial institutions that offer services like this are banks.

Facilitating institutions that have close links with financial institutions, especially Islamic banking, include Bank Indonesia (BI), the Financial Services Authority (OJK), the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), the Indonesian Accounting Association (IAI), the Sharia Supervisory Board (DPS), National Sharia Arbitration Board (Basyarnas), Deposit Insurance Agency (LPS), and Jamkrido Syariah. Regarding the relationship and function of the facilitating institution towards banking, it will be described as follows:

1. Bank Indonesia (BI). Bank Indonesia is the parent of all banks and has the task of printing official state money in rupiah, and maintaining the stability of the rupiah. In addition, Bank Indonesia is responsible for the circulation of money in Indonesia, which is used as a reference for maintaining the stability of money in circulation so that inflation does not occur. Likewise, it has something to do with bank financial institutions such as Islamic banking. This is the main focus of the function of Bank Indonesia towards Islamic banks, namely regulating the financial smoothness system in Islamic banks, regulating the system and supervising the activities of Islamic banks. Another function is to provide assistance to Islamic banks that are experiencing a crisis or bankruptcy. If the sharia banks under the auspices of Bank Indonesia experience a crisis or bankruptcy, Bank Indonesia will assist by providing funding assistance so that these banks can resume their business activities and can reorganize their financial system. Bank Indonesia also has the authority to issue licenses or revoke business licenses for Islamic banks. Islamic banking has a relationship with Bank Indonesia, why? Bank Indonesia as the monetary authority and financial system stability continues to participate in the economic and financial development of sharia banking together with relevant stakeholders, with reference to the principles and values of sharia economics and finance with the dimensions of fairness, transparency, productivity and good governance (governance).
2. Financial Services Authority (OJK). The Financial Services Authority (OJK) is an independent institution that is free from interference from other parties. OJK has the functions, duties and authorities in regulation, supervision, inspection and investigation as referred to in the law. The initial idea of establishing the OJK itself was so that financial institutions, especially those in the service sector, could be implemented in a fair, open, transparent, orderly manner, and be able to create a stable financial system and protect customers as consumers of these Islamic financial institutions. However, there is a main focus in the relationship and function of the OJK towards Islamic financial institutions in the form of regulation and supervision of licensing, investigations, permits for establishment of Islamic bank financial institutions, release of new bank offices, work plans, asset ownership, management and HR systems, mergers, and has the authority to revoke Islamic bank financial institution license and has the right to impose administrative sanctions on parties who violate the law in the implementation of economic activities. Islamic financial institutions together with the OJK

have shown that the Islamic banking industry is experiencing increasingly rapid growth. Supervision of sharia banking is more comprehensive and effective in line with the increase in market players, product or service variants, as well as technological advances that are increasingly innovative and complex. This is for the sake of realizing a sound Islamic banking system and to support the achievement of financial system stability and economic growth in general.

3. The National Sharia Council of the Indonesian Ulema Council (DSN-MUI). The National Sharia Council of the Indonesian Ulama Council or better known as DSN-MUI is an institution established by MUI in 1999 which has the function of carrying out MUI tasks in advancing the people's economy, as well as handling issues related to the activities of bank and non-bank Islamic financial institutions. bank. DSN-MUI also plays a role in assisting institutions such as Bank Indonesia, the Ministry of Finance and other institutions in forming regulations or provisions for Islamic financial institutions. One of the main tasks of the DSN-MUI is to study, explore and formulate the values and principles of Islamic law (shariah) in the form of fatwas to be used as guidelines for transaction activities in Islamic financial institutions. In more detail, the DSN-MUI is in charge
 - a. Developing the application of sharia values in every economic activity, especially in daily activities and financial activities.
 - b. Establish fatwas for all forms of financial activities.
 - c. Establish fatwas on sharia financial products and services.
 - d. Supervise the fatwas that have been issued.DSN also has working mechanisms such as:
 - a. Implement the draft fatwa submitted by the DSN-MUI Daily Executing Agency.
 - b. Conduct plenary meetings once every three months if necessary.
 - c. Make a statement that is included in the annual report (annual report) notifying that the relevant Islamic financial institution has or has not complied with sharia provisions based on a fatwa issued by the DSN-MUI.
4. Sharia Supervisory Board (DPS). In summary, the Sharia Supervisory Board, known as the DPS, is a representative of the DSNMUI for Islamic financial institutions to supervise Islamic financial institutions under their supervision, which has the obligation to provide proposals for the development of Islamic financial institutions to the heads of the financial institutions concerned and to DSNs. Also reporting the development of products and operational systems of Islamic financial institutions which takes place at least twice in one fiscal year. DPS has very significant duties and responsibilities in Islamic banks. Among the duties of DPS are as follows:
 - a. DPS assesses and ensures sharia compliance in all sharia bank business activities, starting from raising funds, distributing financing, and sharia bank financial services. Every Islamic bank product must be based on the DSN-MUI fatwa.
 - b. supervise the development of new Islamic bank products to comply with the DSN-MUI fatwa, then the DPS makes an opinion and requests a fatwa for the new product of the Islamic bank.
 - c. DPS conducts periodic reviews of compliance with sharia principles.The implementation of DPS duties is fully regulated in the GCG (Good Corporate Governance) reports of sharia banks which are reported once a year. The GCG report strengthens the position of Islamic banks as financial institutions that have good corporate governance with indicators of transparency, professionalism, fairness and responsibility. In carrying out its duties, DPS is assisted by the Shariah Compliance Department of Islamic banks which has a tiered supervisory function starting from the head office, area branch offices, main branch

offices, to sub-branch offices. The Shariah Compliance Department ensures that all Islamic bank contract documents comply. In addition, DPS also conducts training and seminars related to contracts for sharia bank products which are carried out at each branch office. The financing is carried out by the Sharia Supervisory Board when the Sharia Supervisory Board conducts a sample test which is held annually in eight or nine Islamic bank branch offices throughout Indonesia. Supervision activities carried out by the DPS run systematically and are outlined in the supervisory report once every semester and are detailed in the GCG reports of Islamic banks. Islamic bank GCG reports which contain DPS reports are published regularly by Islamic banks on their official website every year, so that they can be accessed easily by the public.

5. Indonesian Institute of Accountants (IAI). The Indonesian Association of Accountants or commonly abbreviated as IAI is a professional organization that oversees professional accountants in Indonesia, always plays an active role in increasing the growth of the sharia economy in Indonesia. IAI realizes that sharia transactions have their own uniqueness so that they require sharia accounting standards. Therefore, the IAI Financial Accounting Standards Board (DSAK) issued the first sharia accounting standards in Indonesia. The Sharia Accounting Committee (KAS) is a committee formed by IAI to formulate sharia accounting standards. This committee was formed since October 2005 from various elements, including the Financial Accounting Standards Board of the Indonesian Accounting Association (DSAK-IAI), DSN-MUI, Bank Indonesia, BAPEPAM, Indonesian Sharia Banking Association (ASBISINDO), Indonesian Sharia Insurance Association (AASI) and academics . Until 2007 KAS-IAI had produced a draft in accordance with sharia rules which was then approved by DSAK and entered into force on January 1, 2008 or the accounting year ending in 2008. The establishment of SAK-syariah aims to enable the sharia economy in Indonesia to develop and run well . In financial reports, Islamic banks have a lot of Islamic contracts in their products. Each contract has specificity in determining income or profit, so PSAKs are needed that support sharia financial reports at sharia banks. The management of sharia financial reports that comply with these PSAKs can strengthen the trust of sharia banks in the community. PSAK sharia accounting is based on the basic sharia framework. The purpose of sharia financial reports using sharia accounting is:
 - a. Increasing compliance with sharia principles in all transactions and business activities.
 - b. Information on sharia entity compliance with sharia principles, if there is information on assets, liabilities, income and expenses that are not in accordance with sharia principles and how they are acquired and used.
 - c. Information to help evaluate the fulfillment of sharia entity responsibilities towards the mandate in securing funds, investing them at a reasonable rate of return
 - d. Information regarding the level of return on investment obtained by investors and owners of temporary syirkah funds; and information regarding the fulfillment of social function obligations of sharia entities.
6. National Sharia Arbitration Board (Basyarnas). Basyarnas or the National Sharia Arbitration Board is an institution that assists in the settlement of disputes between Islamic Financial Institutions and customers in accordance with the procedures of sharia law. Usually customers who have disputes with Islamic financial institutions will come to basyarnas before coming to the district court because this method is the most effective and efficient method. Establishment of Basyarnas in law number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. And through the Decree of the MUI Leadership Council No. Kep-09/MUI/XII/2003 dated 24 December 2003 regarding Basyarnas, which is a legal institution (sharia arbitration) in Indonesia that has the authority to examine and decide on

muamalah disputes that arise in the trade, services, industry and finance sectors. In fact, all DSN MUI fatwas regarding muamalah (civil) relations always end with the provision: "if one party does not fulfill its obligations or there is no dispute between the two parties, then the settlement will be carried out through the National Sharia Arbitration Board after no agreement is reached through deliberation . Basyarnas' position in resolving disputes in Islamic banks is vital, given the many cross disputes that occur between customers and Islamic banks. These cross-disputes often occur due to the lack of clarity and lack of understanding by customers regarding the financing of Islamic bank products. In this case Basyarnas has an interest in resolving disputes that occur according to sharia law. However, it is rare for customers who have disputes with Islamic banks to use Basyarnas as a dispute resolution medium

7. Deposit Insurance Corporation (LPS). As mandated in Law No. 24 of 2004 concerning the Deposit Insurance Corporation, the Deposit Insurance Corporation is obliged to continue to expand relations with stockholders to explain the implementation of all duties and functions. The deposit insurance run by LPS also guarantees Islamic bank customer deposits. Public funds placed by customers at Islamic banks, namely in the form of demand deposits and savings under wadiah contracts, or savings and deposits under mudharabah contracts, the risk of which is borne by the bank, as well as other types of deposits permitted by the Banking Supervisory Agency are also guaranteed by LPS. applicable. LPS has other duties besides carrying out customer deposit guarantees at Islamic banks, namely formulating, establishing and implementing policies for settlement of Failing Banks that do not have a systematic impact. And carry out the handling of Failing Banks that have a systemic impact. What is meant by a Failing Bank here is a Bank that is unable to account for all forms of customer deposits and is responsible for the risks that occur to the Bank. Even so, until now there has been no sharia bank rescued by the Deposit Insurance Agency (LPS). In addition to guaranteeing sharia banks, LPS also often conducts off-site monitoring of sharia banking performance and risk, which is part of LPS' duties and promotes banking system stability. LPS also regularly communicates with bank supervisors, especially banks that have the largest assets and banks that, according to LPS analysis, have problems with the system in carrying out their duties.
8. Jamkrindo Syariah (Jamsyar). Jamkrindo Syariah is a State-Owned Enterprise engaged in the field of financing guarantees and is the pioneer of sharia guarantees in Indonesia. Jamkrindo Syariah started underwriting activities for financing Islamic financial institutions in 1997, through the cooperation of Bank Muamalat. Jamkrindo Syariah was established on September 19, 2014 with the vision "to become a leading sharia guarantee company that supports the development of the national economy." Jamkrindo Syariah also has the function of providing sharia guarantees for business and business development in sharia banking in Indonesia. Guaranteeing financing to Jamsyar is expected to mitigate the risk of default on customers. Failure to pay (non-performance financing) is a matter of serious concern to Islamic banks, because it can disrupt the financial performance of Islamic banks.

Based on the roles and functions of each Islamic bank facilitating institution above, it shows that Islamic banks as financial institutions must be very careful (prudential principal) in carrying out their business activities. BI as the central bank is in charge of supervising Islamic banks in a macro-prudential manner, while OJK is in charge of supervising Islamic banks in a micro-prudential manner. Previously, BI was only responsible for supervising Islamic banks in a macro-prudential and micro-prudential manner. After the OJK was established, this authority was divided into two. OJK's duties are more specific in supervising Islamic banks in terms of the soundness of their financial performance. OJK must ensure that Islamic banks do not

experience high amounts of non-performing financing, because if an Islamic bank experiences a lot of NPF, it can have a systemic impact and disrupt the national financial system. Then the DSN-MUI is tasked with issuing fatwas related to Islamic bank products, both fundraising products, financing products, and bank financial service products.

The products rolled out must be based on the DSN-MUI fatwa. DSN-MUI must also respond to the Islamic banking business model which continues to experience development. Then the duties of DPS, DPS are representatives of DSN-MUI, DPS members in Islamic banks mostly come from members of DSN-MUI, this phenomenon is considered reasonable because the capacity and competence of DPS members must understand and master DSN-MUI fatwas related to products - sharia banking products. The DPS is tasked with providing advice and direction to the directors of Islamic banks, and ensuring that Islamic banks carry out their business activities based on fatwas from the DSN-MUI. The core of the DPS' task is to ensure that Islamic banks comply (comply with the rules). IAI has a role to regulate the financial statements of sharia banks in accordance with sharia PSAKs. The number of contracts in Islamic banks determines how to present, assess and measure a financial transaction that occurs. For this reason, IAI has a very strategic role in modeling Islamic financial reports for Islamic banks.

Islamic financial reports in Islamic banks must contain elements of brotherhood (ukhuwah), justice (is), benefit (masalahah), balance (tawazun), and universalism (syumuliyah). The next institution is Basyarnas. Basyarnas is tasked with facilitating cross disputes that occur between customers and Islamic banks. Basyarnas will decide cases between disputing parties based on the principles of Islamic law, so that each disputing party will receive justice and peace. Even though currently, cross-dispute cases experienced by customers are rarely resolved through Basyarnas. Then LPS and Jamsyar. The function of these two institutions is in principle the same, namely guaranteeing the safety of bank funds. The difference is that LPS guarantees deposit funds while Jamsyar guarantees bank financing funds. Islamic banks must guarantee these funds in order to mitigate the risks that occur.

Thus it can be understood that Islamic banks as financial institutions are very prudent institutions in carrying out their business, considering that the funds managed by banks are very large, and the accountability is very heavy, on the other hand banks must also be healthy so that their financing distribution activities can make a large contribution to community economic development.

CONCLUSION

Facilitating institutions that have close links to financial institutions, particularly Islamic banking, include Bank Indonesia (BI), the Financial Services Authority (OJK), the National Sharia Council of the Indonesian Ulema Council (DSN MUI), the Sharia Supervisory Board (DPS), and the Guarantee Agency. Deposits (LPS). Each institution has different authorities, functions and duties in supervising, overseeing, protecting, solving problems, making regulations regarding work systems in banking. Its main function is to help accelerate economic development in Indonesia, especially to strengthen banking companies in Indonesia.

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