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The Role of Otoritas Jasa Keuangan (Financial Services Authority) in Supervising Sharia Banking Products in Indonesia

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Abstract: The number of cross-sectorial issues within the monetary administrations segment counting Islamic keeping money, which incorporates ethical measures, need of ideal security of monetary administrations, and the arrangement for monetary framework solidness progressively and almost the supervision. The source of ethical harm within the administration of the economy empowers the establishment of modern supervision teach, more responsible and includes a more tightly work in directing the money related framework so that it can way better ensure the accomplishment of monetary framework solidness. Based on that, Financial services authority (OJK) was shaped. Different directions that have been and will be made by the OJK related to Islamic keeping money are anticipated to be able to supply security for the Islamic managing an account industry as well as spur the improvement of Islamic managing an account in Indonesia. More comprehensive and viable supervision of sharia keeping money is required in conjunction with the increment in showcase players, item / benefit variations, and expanding

Keywords: Financial services authority; product; sharia banking.

I. Introduction

Managing an account plays an imperative part within the national advancement handle. The most action of a bank's commerce is to pull back reserves specifically from the open within the frame of stores and channel them back to the open within the frame of credit and / or financing, which are regulated both through the banking regulations themselves and other relevant laws. Communities in developed and developing countries really need banks as a place to conduct financial transactions. People in developed and developing countries consider banks as a safe financial institution in carrying out various kinds of financial activities (Ishmael, 2011: 29).

One very significant development is the emergence of sharia-based banks. The birth of Islamic banking is an effort to transform *muamalah* fiqh into the laws and regulations, as seen in Law no. 7 of 1992 concerning Banking, Law no. 10 of 1998 concerning Amendment to Law no. 7 of 1992 concerning Banking, and Law no. 21 of 2008 concerning Sharia Banking, as well as several Bank Indonesia Regulations between 1992 and 2008. The legislation of Law is a demand for reality, because until 2008 in Indonesia there were many Islamic banks. The first bank whose operations are based on sharia principles is Bank Muamalat Indonesia which was founded in 1991 (Karim, 2006:22). Bank Muamalat Indonesia originated from Bank Sula Bakti (BSB), a subsidiary of the former Bank Mandiri Bank Dagang Negara (BDN), which was converted to a Sharia Bank. (Judge, 2011: 9).

The establishment of Islamic banks precedes the establishment of regulations is something unique, because it is not supported by special rules regarding Islamic banking as a legal umbrella. Islamic banks were established in 1991 while the rules on profit sharing were

set in 1992. The uniqueness of this bank lies in the system that is the basis of bank operations, namely the system of profit and loss sharing, overriding the interest system. The existing banks at that time referred to Law Number 14 of 1967 concerning Banking Fundamentals, which stated; all banks in carrying out their business activities adhere to the interest system. (Judge, 2011: 9).

Banks with any system certainly face very complex problems related to the financial system itself and those related to ethical risk, the need of ideal security of monetary administrations, and the disturbance of money related framework solidness progressively empower the require for the foundation of a supervisory institution within the coordinates monetary administrations segment (Hermansyah, 2005: 214). The establishment of the OJK is needed to overcome the global financial complexity of the threat of crisis. On the other hand, the formation of OJK is the government's commitment in financial sector reform in Indonesia. The government has a high commitment and carrying out a mandate to carry out reforms in the financial sector (Anonymous, www.radiansystem.com, accessed 24 April 2016).

The source of moral hazard practices boils down to the fact that there is a lack of coordination and there is no information exchange between financial institution supervisors. Both BAPEPAM (Capital Market Management Agency), Bank Indonesia and the Ministry of Cooperatives, so far do not have protocols that allow the three institutions to exchange information. As a result, the detection of moral hazard practices carried out between markets is difficult to detect, if not impossible. (Hermansyah, 2005: 215). Supervision of cash related teach in Indonesia has been carried out by 3 (three) organizations, particularly the Benefit of Cooperatives, BAPEPAM and Bank Indonesia. Supervision of bank financial teach, checking commercial banks, natural banks and Islamic banks, is carried out by Bank Indonesia. Supervision of non-bank financial institutions (LKNB) is split into two, namely non-cooperative LKNB overseen by BAPEPAM financial institutions, while cooperative LKNB are overseen by the Ministry of Cooperatives.

Potential damage to business ethics, this condition means it is caused by irregularities so supervision is needed. The practice in banking in general and Islamic banks which are discussed in this paper so that it can be stated that the actors in various sectors and institutions, finance, can even be done by the banking customers themselves. This is what is called a weakness of the system of financial institutions (Hermansyah, 2005: 215)

Benefits to the reorganization of the organ structure of the Institute which makes regulations and oversees the various functions and tasks of the financial services sector so that it covers various lines such as insurance, the banking sector, pension funds and other financial services. Financial system stability is related to the structure or mechanism of cooperation or effective coordination so that it will produce a good financial system. The financial management is generally known as the Financial Services Authority which is accommodated in Law Number 21 of 2011.

26 II. Review of Literature

Law Arrangement of the Financial Services Authority

The OJK is a regulatory and supervisory institution that is directly connected to all kinds of financial industry services. OJK is a new institution established under Law No. 21 of 2011. The institute was established to conduct surveillance of the financial services industry in an integrated manner (Anonymous, www.radiansystem.com, accessed 24 April 2016). As

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stated in the General Explanation of Law no. 21 of 2011 concerning the Financial Services Authority, OJK as an institution that makes regulations and oversees the tasks of the financial services sector, insurance business, so that it will create stability in a financial system that must have integrated goals. 2

Based on Article 1 no. 1 of Law no. 21 of 2011 concerning the Financial Services Authority, it explains that:

"The Financial Services Authority, is an institution that is independent and free from interference from other parties, which has the functions, duties and authority to regulate, supervise, examine and investigate as referred to in this Law." 24

The point is Article 2 paragraph 2 of the rules regarding OJK regulates that OJK is an independent institution and is free from various party interventions except for the form of regulation in law. OJK carries out its authority outside the government so that it becomes an affection in running the agency based on independence.

To guarantee the financial services sector, OJK runs it based on the principles of accountability, transparency, justice to maintain the stability of financial activities. Including to protect the public and consumers (Lestari, 21012: 558).

Historically, the idea of establishing a special institution to conduct banking supervision has been raised since the enactment of Act Number 23 of 1999 concerning Bank Indonesia. The Act explained that the supervision task of the bank would be carried out by an independent financial services sector supervisory agency, and was formed by law. Command of Article 34 section (1) of the Bank Indonesia Act stipulates that the errand of administering banks will be carried out by an autonomous budgetary benefit segment supervisory office by issuing arrangements relating to the usage of bank supervisory obligations. In his clarification it was expressed that the institution capacities, among others, administering banks etc. The command of Article 34 section (1) of the BI Law emphasizes that the institution to act as a supervisory board can issue arrangements relating to the usage of bank supervision assignments in coordination with BI.

The foundation of OJK Law is planning to isolated the keeping money supervision work from the central bank to an free body or institution superior the central bank. The legitimate premise for the partition of the supervisory work is Article 34 Law no. 3 of 2004 concerning Alterations to Lawno. 23 of 1999 concerning Bank Indonesia which states: 1. The task of regulating the Bank will be carried out by an free money related advantage section supervisory office, and formed by Law. 2. Foundation of a supervisory institution as implied to in area (1), will be carried out no a short time later than December 31, 2010. Supervision is being carried out on banks and other budgetary administrative segment companies which incorporate protections, annuity reserves, securities, wander capital, and fund companies, as well as other bodies that conduct open support administration (Iqbal, 2012: 334).

On the other hand, economists express their opinions on Financial Services Authority, that the OJK is absolutely formed to anticipate the complexity of the global financial system. However, the OJK Bill must be discussed simultaneously with other Financial Draft Bill packages, such as the Financial System Safety Net Bill, the Capital Market Draft Bill and amendments to Bank Indonesia Law, Insurance and Pension Funds. The establishment of OJK is needed to overcome the global financial complexity from the threat of crisis. On the other hand, the formation of OJK is the government's commitment in financial sector reform in Indonesia. The government has a high commitment and carrying out a mandate to carry out reforms in the financial sector (Anonymous, www.radiansystem.com, accessed 24 April 2016).

Other reasons for the foundation of OJK are the progressively complex and changed money related benefit items, the rise of indications of conglomerations of budgetary benefit companies, and the globalization of the budgetary administrations industry. In expansion, one of the reasons for the arrangement of OJK is since the government considers Bank Indonesia as the central bank has fizzled in supervising the keeping money division. The disappointment was seen when the financial emergency hit Indonesia beginning in mid-1997, a number of banks that were at that time were exchanged.

6 Functions, Duties and Powers of the Financial Services Authority

The work of the OJK has been directed in Law no. 21 of 2011 concerning the Money related Administrations Specialist, based on Article 5 the OJK capacities to organize a coordinates control and supervision network for all exercises within the monetary administrations segment. Concurring to Article 6 of Law no. 21 Year 2011 concerning the Monetary Administrations Specialist, it states that "The OJK carries out the regulatory and supervisory duties of:

- a. Financial service activities in the Banking sector;
- b. Financial service activities in the Capital Market sector; and
- c. Financial services activities in the insurance sector, pension funds, financial institutions and other financial service institutions."

III. Discussion

Economic globalization and trade liberalization have become the demands and needs of countries in the world today. From time to time, competition becomes tighter, especially in gaining market opportunities and world trade transactions. In addition to posing increasingly competitive challenges, economic globalization and trade liberalization also provide open opportunities for each country to develop its economic capabilities which are expected to follow the demands of economic globalization and free trade in the world. (Sugianto, 2014: 1). One element of the development of globalization in the world is banking. Banking institutions are the core of the financial system of each country. Bank may be a monetary institution that's a put for people, private trade substances, state-owned ventures, and indeed government educate to spare the stores they have. Through loaning exercises and different administrations given, banks serve financing needs and dispatch installment framework instruments for all divisions of the economy (Hermansyah, 2005: 18).

Fully the arrangement of OJK Act was based on Law no. 3 of 2004 concerning Bank Indonesia. This is often explicitly directed within the arrangement of Article 34 of Law no. 3 of 2004 concerning Bank Indonesia which commands the foundation of a monetary administrations division supervisory institution that incorporates banks, protections, annuity reserves, securities, wander capital and financing companies as well as other substances that work community finance administration. Some time recently the birth of Budgetary Administrations Specialist, concurring to Law no 21 of 2008 concerning Sharia Managing an account, it gave specialist to Bank Indonesia to direct and administer sharia banks and sharia banks in Indonesia. Setting up a sharia bank or shaping a Sharia Commerce Unit, and changing over routine banks to sharia banks must get consent from Bank Indonesia. (Ahdeini, 2014: 99). Supervision conducted by OJK is certainly distinctive from the presence of the National Sharia Board. The direness of building up a National Sharia Board that will suit a assortment of problems / cases that require a fatwa in arrange to get the closeness and dealing with of each Sharia Supervisory Board in Islamic budgetary

institutions.

The National Sharia Board was shaped by the Indonesian Ulama Board with the assignment of ³²overseeing and coordinating Islamic monetary educate to energize the application of Islamic money related educate to empower the application of Islamic lessons in financial and money related exercises. The National Sharia Committee is portion of the Indonesian Ulama Chamber. (Sjahdeini, 2014: 108). The National Sharia Committee suits different issues / cases that require fatwa in arrange to get the same in taking care of by each ⁴ Sharia Supervisory Board within the Islamic budgetary educate. The task of DSN is to help related parties such as the Service of Fund, Bank Indonesia, and others in drafting directions / arrangements for Islamic budgetary teach (Sjahdeini, 2014: 108).

The improvement of the sharia keeping money framework in Indonesia is carried out inside the system of a dual-banking framework or a double managing an account framework inside the system of the Indonesian Keeping money Engineering (API), to show elective managing an account administrations that are getting to be more total to the individuals of Indonesia. Taken together, the Islamic keeping money framework and routine keeping money synergistically bolster broader mobilization of open stores to upgrade financing capabilities for national financial divisions. The characteristics of the sharia managing an account framework that works based on the rule of benefit sharing give an elective keeping money framework that's commonly advantageous to the open and banks, as well as highlighting angles of reasonableness in exchanges, moral speculation, advancing the values of fellowship and brotherhood in generation, and dodging theoretical exercises in money related transactions. The Islamic keeping cash industry in Indonesia into the category of monopolistic market. The levels of the Islamic keeping cash industry of Bank BNI, Bank BRI, Bank Panin and Bank Bukopin are monopolistic promote while Bank Muamalat and Bank Mandiri are facilitated towards a joint forcing commerce show publicize inside the position of long-term concordance (Siregar, 2019). By giving a assortment of items and assorted managing an account administrations with more changed monetary plans, Islamic managing an account has gotten to be a solid elective to the managing an account framework and can be delighted in by all classes of Indonesian individuals without exemption (The Monetary Administrations Specialist, www.OJK .go.id, gotten to 24 April 2016).

Within the setting of overseeing the large scale economy, the far reaching utilize of ¹⁸ different Islamic money related items and rebellious will be able to fortify the relationship between the budgetary division and the genuine segment and make agreement between the two divisions. The progressively broad utilize of Islamic items and disobedient in expansion to supporting open money related and commerce exercises will moreover diminish theoretical exchanges, subsequently supporting in general money related framework soundness, which in turn will contri²²e altogether to accomplishing medium-long-term cost solidness. With the sanctionin⁸ of Law No.21 of 2008 concerning Sharia Keeping money issued on July 16, 2008, the advancement of the national Islamic managing an account industry progressively has an satisfactory legitimate premise and will empower its development indeed quicker. With its amazing advance in improvement, which has accomplished an normal resource development of more than 65% per year within the final five a long time, it is anticipated that the part of the Islamic banking industry progressively has an satisfactory lawful premise and will empower its development indeed speedier. With its amazing advance in improvement, which has accomplished an normal resource development of more than 65% per year within the final five a long time, it is anticipated that the part of the Islamic keeping money industry in supporting the national economy will be indeed more critical.

The improvement of sharia managing an account is coordinated to supply the most prominent advantage to the community and contribute ideally to the national economy. Subsequently, the course of national sharia managing an account advancement continuously alludes to other vital plans, such as the Indonesian Managing an account Engineering, the Indonesian Monetary Framework Design, and the National Medium-Term Improvement Arrange and the National Long-Term Improvement Arrange. Hence the development of Islamic managing an account could be a portion and movement that bolsters the accomplishment of key plans on a bigger scale at the national level." Diagram for Improvement of Sharia Managing an account in Indonesia" contains the vision, mission and targets for the advancement of sharia keeping money as well as a set of key activities with clear needs to reply the most challenges and accomplish targets inside the following 10 a long time, specifically accomplishing a critical share of the sharia keeping money showcase through developing the part of Islamic managing an account in national, territorial and international financial exercises, in conditions of the starting to make integration with other sharia budgetary divisions.

By seeing the nearness of OJK afterward, it can be aiming to kill the mishandle of control (mishandle of control) which has tended to rise. Since in Monetary Administrations Specialist, the oversight and administrative capacities are made independently. Indeed in spite of the fact that the OJK encompasses a administrative and supervisory work in one body, its capacities will not cover, since the OJK will organizationally comprise of seven commissioners. The Chair of the Board of Commissioners will name three individuals of the board of commissioners, each speaking to managing an account, capital markets and non-bank money related educate. The specialist of keeping money supervision by Bank Indonesia will be diminished, but Bank Indonesia still goes with supervision. On the off chance that all this time, the miniaturized scale and large scale prudential are at Bank Indonesia, the OJK will center on taking care of the prudential smaller scale.

The transfer of the banking supervision function to the OJK was carried out because initially there was an assessment that bank supervision conducted by BI had been ineffective, so that by harmonizing and synchronizing various laws and regulations concerning supervision of financial institutions, it was expected that the oversight function of financial institutions, especially banks which are now held by OJK can be increased and done fairly to all institutions that are supervised. If this is not immediately responded, it is feared that the supervision of financial institutions, especially banks, is the same as that done by BI so that it does not solve the problem, but what happens is to transfer the same problem to other institutions formed with so many state budgets. The reason for the separation is to avoid the possibility of a conflict of interest between the task of maintaining monetary stability and the task of bank supervision. (Department of Assessment and Action of the 2014 BEM FEUI Strategies, www.kastratfeui.wordpress.com, accessed 24 April 2016).

The supervision aspect carried out by Financial Services Authority will be increasingly complex, including micro prudential aspects that prioritize the soundness of financial institutions specifically (soundness of financial institutions) and macro prudential aspects, namely aspects of overseeing financial system stability. For this reason, patterns of coordination between institutions need to be developed so that overlap can be minimized between institutions and loophole regulation and supervision (Department of Study and Action of the 2014 Strategic Action BEM FEUI, www.kastratfeui.wordpress.com, accessed 24 April 2016. In carrying out its function as an institution that carries out supervision of the banking sector, OJK has the authority to supervise banks in Indonesia so that they continue to

carry out activities in a healthy manner and are able to maintain the interests of the public as users of banking services (micro prudential). Finally, OJK must ensure that banks in Indonesia must remain in a healthy financial and performance condition and can increase public confidence in the banking industry. (BEM FEUI 2014 Department of Study and Action Strategies, www.kastratfeui.wordpress.com, accessed 24 April 2016).

The transfer of authority of banking supervision from BI to OJK does not make BI immediately release all responsibility of banking supervision to Financial Services Authority. The OJK is focused on regulating and supervising the micro prudential scope, namely direct supervision of individual banks, while BI has authority in macro prudential supervision, which is more directed to the entire banking system used by BI for consideration in taking monetary policy. However, what happened was that the boundary between micro prudential authority by OJK and macro prudential by BI was unclear, which was feared would have an impact on the poor performance of financial institutions in the region due to dualism of leadership.

Furthermore, the regulator in this case Bank Indonesia (BI) and the OJK must carry out strict supervision and must take full responsibility if the customer becomes a victim of banking / financial institution crime. OJK which also oversees Islamic banking is required to have a high level of morality because the religious values that are used as references for Islamic banking are based on these noble religious values. The responsibility of the OJK is certainly not only in the world but also hereafter as believed by every Muslim related to sharia banking activities.

In the Islamic banking organizational structure, there is one thing that needs to be considered, namely the position and authority of sharia supervisory board which in each sharia bank is appointed or appointed by the board of directors, whereas sharia supervisory board is tasked with overseeing the operational activities of sharia banks. This procedure is certainly not Islamic in the sense of those who will supervise but are actually appointed by those who are supervised. The rules regarding sharia supervisory board in the structure of sharia banking need to get Financial Services Authority's attention as the party having authority to regulate the implementation of sharia banking in accordance with religious noble values. Sharia supervisory board should be included in the OJK section which has the authority to oversee Islamic banking so that the sharia supervisory board is held by the OJK not by the bank concerned. This is to realize the principles of professionalism that is good corporate governance while certainly fulfilling religious values that uphold morality.

As a new independent state institution in Indonesia, the OJK is expected to be able to carry out one of Bank Indonesia's tasks in conducting banking supervision. The task of bank supervision, especially in the context of creating a healthy banking system and in the end can encourage the effectiveness of monetary policy. Over the past two decades the national Islamic economy has continued to develop. Sharia economic activity is not only in the banking and non-banking financial institutions sector, but also in other real sectors such as education, trade, fashion, creative industries, UMKM, and investment.

The development of the national sharia economy can be reflected in the growth of activities in the sharia banking sector, sharia insurance, sharia capital markets, sharia microfinance institutions, and zakat management. In the sharia banking sector, in the last five years, the growth rate of sharia banking, both in terms of assets, financing, and third party funds, shows an increasing trend. OJK as the supervisor of the financial industry, is expected to make policies and regulations far better than it is today, so that it can encourage the progress of the national financial industry. In order for this institution to be credible, OJK is

expected to undertake several steps in the financial industry. First, applying consistently prudential regulations that apply internationally, second, regulating financial instruments and markets, and third, developing transparency and building supporters to create a 'market discipline'. Along with the presence of the OJK and the promising growth of Islamic financial institutions, OJK is certainly expected to be able to provide even stronger impetus, so that the growth rate and health of Islamic financial institutions are better than at present.

In the 2011 Global Islamic Financial Report assessment, Indonesia ranks fourth in the country that has potential and is conducive to the development of the Islamic financial industry after Iran, Malaysia and Saudi Arabia. By looking at several aspects in the calculation of the index, Indonesia is projected to be ranked first in the next few years. This optimism is in line with the pace of institutional expansion and accelerated growth of Islamic banking assets which is very high, coupled with the increasing volume of sukuk issuance.

In the global constellation, the value of sharia financial industry assets in Indonesia in 2013 will rise 24 percent from the previous year to USD 27.7 billion and is expected to continue to rise so that in 2014 it is projected to be USD 33.9 billion or up 22 percent. With these developments, the Islamic Finance Country Index for Indonesia will continue to improve to number 5 in 2013 and is expected to become number 4 in 2014. Financial Services Authority Law No. 21 of 2011 does not explicitly explain the blueprint for developing the Islamic banking industry. This is different from Bank Indonesia which already has a Directorate of Islamic Banking. Therefore, the assumption arises that the growth of Islamic banking may be hampered, because the Financial Services Authority's organizational structure does not explicitly mention the form of development, regulation, supervision and research on Islamic financial services.

Although there are pros and cons about the existence of the OJK on Islamic banking, but it must be known that the supervisory structure in Islamic banking consists of two systems. So far, Bank Indonesia has not been effective in creating sharia banking institutions that are free from stakeholder intervention in implementing sharia principles, so that with the Financial Services Authority, it is expected that supervision of sharia banking performance will run in a balanced manner, in addition to internal supervision, there will also be external supervision by the Financial Services Authority. In practice, there are still many sharia banks that provide financial services wrapped in sharia contracts, but in substance not sharia, so that it has the potential to cause harm to customers. OJK as an authority that holds full authority over supervision, regulation, investigation and consumer protection in facing these conditions must be able to provide legal certainty and protection for customers of Islamic financial institutions.

IV. Conclusions

The presence of the Monetary Administrations Authority in the managing an account world, particularly sharia managing an account isn't as it were as a supervisory institution for bank exercises, but is anticipated to be able to supply illumination for extending of sharia managing an account in Indonesia. Different directions that have been and will be made by the OJK related to Islamic banking are anticipated to be able to supply security for the Islamic keeping money industry as well as goad the improvement of Islamic keeping money in Indonesia. The national sharia managing an account industry appears progressively quick growth. More comprehensive and successful supervision of sharia keeping money is required together with the increment in showcase players, item / benefit variations, and progressively inventive and complex mechanical progressions. This is often for the realization of a sound Islamic keeping money framework to back the accomplishment of budgetary framework

solidness and national financial development in common. Amid this time the presence of the OJK for Islamic managing an account has not felt its presence. The OJK Law is still noiseless on sharia-based money related administrations. The reason is, in this OJK Law, the word sharia is as it were found once, that's in Article 1 Common Arrangements thing no. 5.

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