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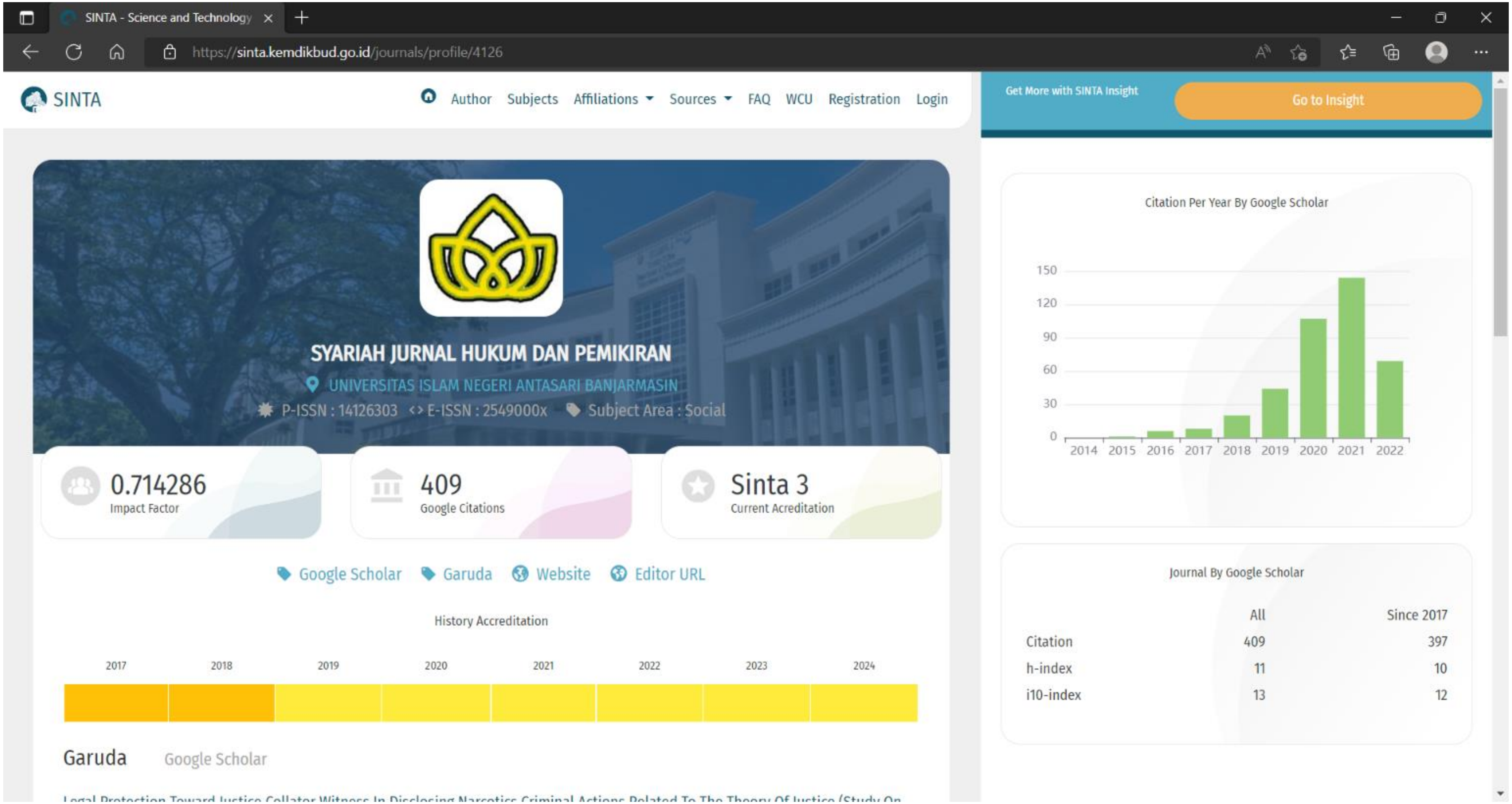
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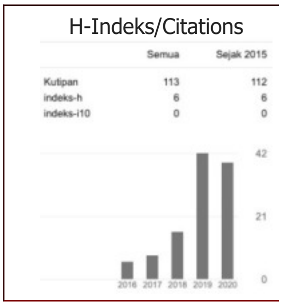

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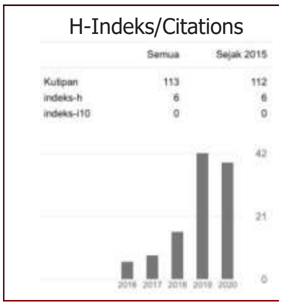

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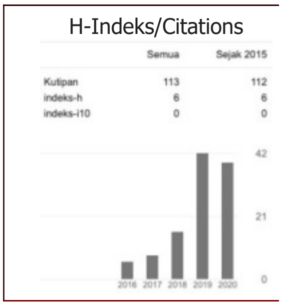

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THE EXISTENCE OF SHARIA SUPERVISORY BOARD IN SHARIA FINTECH: LEGAL BASIS AND PROBLEMATIC IN INDONESIA

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Abstrak: Kehadiran Dewan Pengawas Syariah merupakan bagian dari industri keuangan syariah tak terkecuali pada Fintech Syariah. Penelitian ini dilakukan untuk mengetahui urgensi dan tantangan eksistensi Dewan Pengawas Syariah pada Fintech Syariah di Indonesia serta landasan hukumya. Metode pendekatan yang digunakan dalam penelitian ini adalah yuridis normatif. Hasil penelitian menyimpulkan bahwa Dewan Pengawas Syariah merupakan salah satu bentuk utama kepatuhan syariah di setiap industri keuangan syariah termasuk di Fintech Syariah di dalamnya untuk mematuhi ketentuan syariah yang menjadikan pengawasan syariah sebagai bagian yang tidak terpisahkan dari kepatuhan syariah (*sharia compliance*). Kehadiran Dewan Pengawas Syariah memilki tantangan keterbatasan sumber daya manusia yang ahli dalam bidang ekonomi Islam, serta anggapan bahwa Dewan Pengawas Syariah hanya sebagai objek pelengkap yang tidak terlalu penting perannya. Selain itu, karena Fintech Syariah belum memiliki regulasi tersendiri, maka dasar hukum Dewan Pengawas Syariah pada Fintech Syariah menggunakan norma dalam peraturan perundang-undangan yang lebih umum seperti Undang-Undang Perseroan Terbatas maupun Peraturan Otoritas Jasa Keuangan yang mengatur mengenai Tata Kelola Perusahaan Yang Baik Bagi Perusahaan Pembiayaan.
Kata Kunci: fintech, syariah, dewan pengawas syariah.

Abstract: The existence of the Sharia Supervisory Board is part of the Islamic financial industry, including Sharia Fintech. This research was conducted to determine the urgency and challenges of the existence of the Sharia Supervisory Board on Sharia Fintech in Indonesia and its legal basis. The approach method used in this research is normative juridical. The results of the study conclude that the Sharia Supervisory Board is one of the main forms of sharia compliance in every Islamic financial industry including in Sharia Fintech to comply with sharia provisions which make sharia supervision an integral part of sharia compliance. The presence of the Sharia Supervisory Board poses the challenge of limited human resources who are experts in the field of Islamic economics, as well as the assumption that the Sharia Supervisory Board is only a complementary object whose role is not too important. In addition, because Sharia Fintech does not yet have separate regulations, the legal basis for the Sharia Supervisory Board on Sharia Fintech uses norms in more general laws such as the Limited Liability

Company Law and Financial Services Authority Regulations which govern Good Corporate Governance for Financing Companies.
Keywords: fintech, sharia, sharia supervisory board.

INTRODUCTION

In line with the population of Muslims in the world which is very large and continues to grow rapidly, the Islamic financial industry continues to move forward as an important part of the global financial industry. This influence also reaches into the financial industry in Indonesia.

Since the establishment of Bank Muamalat Indonesia in 1991, the number of Islamic financial institutions has continued to grow and develop until today. Until 2017, Indonesia has become a country with the largest number of Islamic financial institutions in the world. Indonesia already has more than 5000 Islamic financial institutions consisting of 34 Sharia Banks, 58 Takaful or Islamic insurance operators, 7 Sharia Venture Capital, 163 Sharia Rural Banks, 4,500-5,500 Sharia Cooperatives or Baitul Maal wat Tamwil (BMT), and one sharia pawnshops.[1]

In line with the times accompanied by advances in technology, the financial sector is also affected by information technology in the development of its services. One that has emerged in the current era is information technology-based financial institutions or what is often referred to as financial technology (fintech) institutions. However, of the many fintech institutions that have sprung up both in the world and in Indonesia, not too many Sharia Fintech institutions have participated in enlivening the Indonesian finance industry. Until now (February 2020) there are only 11 Sharia Fintech institutions that have registered status with the Financial Services Authority (OJK) and 1 Sharia Fintech institution that has obtained OJK permits, namely PT. Ammana Fintek Syariah (Ammana).[2]

Unlike Islamic Banking which already existed, Sharia Fintech are still relatively young. The relatively new existence of Sharia Fintech is directly proportional to the limited regulations governing it. Until now, there has been no regulation from the state authority that specifically regulates Sharia Fintech.

One of the most important things in the concept of Islamic economics that needs to be regulated is related to sharia compliance. Referring to practices in the sharia banking industry, that the fulfillment of sharia

[1] Kementerian PPN/BAPPENAS, "Lembar Fakta Komite Nasional Keuangan Syariah (KNKS) Dan Master Plan Arsitektur Keuangan Syariah Indonesia (Master Plan Aksi)," 2017.

[2] OJK, "Statistik Fintech Lending Periode Februari 2020," 2020, https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/fintech/Pages/Statistik-Fintech-Lending-Periode-Februari-2020.aspx.

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OPEN DEFECATION FREE IN KARTIASA VILLAGE IN THE ERA OF REGIONAL AUTONOMY: IMPLEMENTATION AND BARRIERS

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Abstrak: Tujuan penelitian ini untuk menganalisis keterlibatan Pemerintah Desa Kartiasa dalam melaksanakan salah satu program Sanitasi Total Berbasis Masyarakat (STBM), yaitu *Open Defecation Free (ODF)* pada era otonomi daerah saat ini. Penelitian ini berfokus pada bagaimana bentuk keterlibatan Pemerintah Desa ODF pada wilayah Kabupaten Sambas, yaitu Desa Kartiasa, serta faktor penghambat pelaksanaan program ODF. Tulisan penelitian ini bersifat empiris, dan untuk memperoleh data melakukan obesevasi dan wawancara. Hasil penelitian ditemukan bahwa Pemerintah Desa Kartiasa dalam melaksanakan program ODF berdasarkan pada Surat Edaran Bupati Sambas Nomor 440/16/Dinkes tentang Pelaksanaan Program Sanitasi Total Berbasis Masyarakat. Faktor penghambat pelaksanaan ODF oleh Pemerintah Desa Kartiasa yaitu rendahnya kesadaran masyarakat untuk hidup bersih, rendahnya pengetahuan masyarakat akan nilai kesehatan, tidak ada peraturan desa, terbatasnya sarana dan prasarana, dan tidak ada pengawasan
Kata Kunci: Pemerintah Desa, *Open Defecation Free*, Otonomi Daerah

Abstract: The purpose of this study was to analyze the involvement of the village government in implementing one of the Community-Based Total Sanitation (STBM) programs, namely Open Defecation Free (ODF) in the current era of regional autonomy. This research focuses on how the form of ODF Village Government involvement in the Sambas Regency area, namely Kartiasa Village, as well as the inhibiting factors for the implementation of the ODF program. The writing of this research is empirical, and to obtain data, we conduct observations and interviews. The results showed that the Kartiasa Village Government in implementing the ODF program was based on the Sambas Regent Circular Number 440/16/Dinkes concerning the Implementation of the Community-Based Total Sanitation Program. The inhibiting factors for the implementation of ODF by the Kartiasa Village Government are low community awareness to live clean, low community knowledge of the value of health, no village regulations, limited facilities and infrastructure, and no supervision
Keywords: Village Government, Open Defecation Free, Regional Autonomy.

The Existence Of Sharia Supervisory Board In Sharia Fintech: Legal Basis And Problematic In Indonesia

by Ro'fah Setyowati

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Abstrak: Kehadiran Dewan Pengawas Syariah merupakan bagian dari industri keuangan syariah tak terkecuali pada Fintech Syariah. Penelitian ini dilakukan untuk mengetahui urgensi dan tantangan eksistensi Dewan Pengawas Syariah pada Fintech Syariah di Indonesia serta landasan hukumya. Metode pendekatan yang digunakan dalam penelitian ini adalah yuridis normatif. Hasil penelitian menyimpulkan bahwa Dewan Pengawas Syariah merupakan salah satu bentuk utama kepatuhan syariah di setiap industri keuangan syariah termasuk di Fintech Syariah di dalamnya untuk mematuhi ketentuan syariah yang menjadikan pengawasan syariah sebagai bagian yang tidak terpisahkan dari kepatuhan syariah (*sharia compliance*). Kehadiran Dewan Pengawas Syariah memilki tantangan keterbatasan sumber daya manusia yang ahli dalam bidang ekonomi Islam, serta anggapan bahwa Dewan Pengawas Syariah hanya sebagai objek pelengkap yang tidak terlalu penting perannya. Selain itu, karena Fintech Syariah belum memiliki regulasi tersendiri, maka dasar hukum Dewan Pengawas Syariah pada Fintech Syariah menggunakan norma dalam peraturan perundang-undangan yang lebih umum seperti Undang-Undang Perseroan Terbatas maupun Peraturan Otoritas Jasa Keuangan yang mengatur mengenai Tata Kelola Perusahaan Yang Baik Bagi Perusahaan Pembiayaan.
Kata Kunci: fintech, syariah, dewan pengawas syariah.

Abstract: The existence of the Sharia Supervisory Board is part of the Islamic financial industry, including Sharia Fintech. This research was conducted to determine the urgency and challenges of the existence of the Sharia Supervisory Board on Sharia Fintech in Indonesia and its legal basis. The approach method used in this research is normative juridical. The results of the study conclude that the Sharia Supervisory Board is one of the main forms of sharia compliance in every Islamic financial industry including in Sharia Fintech to comply with sharia provisions which make sharia supervision an integral part of sharia compliance. The presence of the Sharia Supervisory Board poses the challenge of limited human resources who are experts in the field of Islamic economics, as well as the assumption that the Sharia Supervisory Board is only a complementary object whose role is not too important. In addition, because Sharia Fintech does not yet have separate regulations, the legal basis for the Sharia Supervisory Board on Sharia Fintech uses norms in more general laws such as the Limited Liability

Company Law and Financial Services Authority Regulations which govern Good Corporate Governance for Financing Companies.
Keywords: fintech, sharia, sharia supervisory board.

INTRODUCTION

In line with the population of Muslims in the world which is very large and continues to grow rapidly, the Islamic financial industry continues to move forward as an important part of the global financial industry. This influence also reaches into the financial industry in Indonesia.

Since the establishment of Bank Muamalat Indonesia in 1991, the number of Islamic financial institutions has continued to grow and develop until today. Until 2017, Indonesia has become a country with the largest number of Islamic financial institutions in the world. Indonesia already has more than 5000 Islamic financial institutions consisting of 34 Sharia Banks, 58 Takaful or Islamic insurance operators, 7 Sharia Venture Capital, 163 Sharia Rural Banks, 4,500-5,500 Sharia Cooperatives or Baitul Maal wat Tamwil (BMT), and one sharia pawnshops.[1]

In line with the times accompanied by advances in technology, the financial sector is also affected by information technology in the development of its services. One that has emerged in the current era is information technology-based financial institutions or what is often referred to as financial technology (fintech) institutions. However, of the many fintech institutions that have sprung up both in the world and in Indonesia, not too many Sharia Fintech institutions have participated in enlivening the Indonesian finance industry. Until now (February 2020) there are only 11 Sharia Fintech institutions that have registered status with the Financial Services Authority (OJK) and 1 Sharia Fintech institution that has obtained OJK permits, namely PT. Ammana Fintek Syariah (Ammana).[2]

Unlike Islamic Banking which already existed, Sharia Fintech are still relatively young. The relatively new existence of Sharia Fintech is directly proportional to the limited regulations governing it. Until now, there has been no regulation from the state authority that specifically regulates Sharia Fintech.

One of the most important things in the concept of Islamic economics that needs to be regulated is related to sharia compliance. Referring to practices in the sharia banking industry, that the fulfillment of sharia

[1] Kementerian PPN/BAPPENAS, "Lembar Fakta Komite Nasional Keuangan Syariah (KNKS) Dan Master Plan Arsitektur Keuangan Syariah Indonesia (Master Plan Aksi)," 2017.

[2] OJK, "Statistik Fintech Lending Periode Februari 2020," https://www.ojk.go.id/id/kanal/iknb/data-dan-statistik/fintech/Pages/Statistik-Fintech-Lending-Periode-Februari-2020.aspx.

compliance cannot be separated from the supervisory function carried out by the Sharia Supervisory Board.[3]

Apart from supervision, one of the functions and roles of Sharia Supervisory Board in Islamic banking has a strong relationship with Islamic banking risk management, namely reputation risk, which in turn affects other risks, such as liquidity risk. Sharia compliance violations that are allowed by Sharia Supervisory Board will clearly damage the image and credibility of Islamic banking in the eyes of the public, thereby reducing public confidence in Islamic banking.[4]

However, the special arrangements that already exist in Islamic banking are not found in Islamic fintech in Indonesia. The absence of regulations that specifically regulate Islamic Fintech causes legal uncertainty not only for users of Islamic Fintech services, but also for players in the industry. One of the reasons is that the role of sharia supervisors is also ineffective because there are no specific regulations regarding the role and authority of sharia supervisors to ensure Sharia Fintech services are in accordance with sharia principles.[5]

Related to the legal issues above, it is very important and relevant to conduct research on the existence of the Sharia Supervisory Board in Sharia Fintech in Indonesia. Based on the explanation, the problem formulations to be discussed are: 1) What is the urgency of the Sharia Supervisory Board on Sharia Fintech in Indonesia and its challenges? How is the legal basis for the existence of the Sharia Supervisory Board on Sharia Fintech in Indonesia?

The purpose of the study is to explain the urgency Sharia Supervisory Board on Sharia Fintech in Indonesia and to find out the legal basis for the existence of the Sharia Supervisory Board on Sharia Fintech in Indonesia.

METHOD

This research uses a normative juridical approach method. The normative juridical approach is legal research carried out by examining library materials or secondary data as the basic material to be studied by conducting a search of the regulations and

[3] Ika Prastyaningsih and Syamsuri, "Relevansi Pengawasan Islam (Hisbah) Terhadap Peran Dewan Pengawas Syariah Dalam Implementasi Syariah Complaince Perbankan Syariah," *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Islam* 3, no. 1 (2018): 1–14.

[4] 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): 113–29, doi:10.20885/iustum.vol24.iss1.art6.

[5] Nurhasanah and Indra Rahmatullah, "The Legal Protection of Sharia Financial Technology in Indonesia (Analysis of Regulation, Structure and Law Enforcement)," *International Journal of Advanced Science and Technology* 29, no. 3 (2020): 3086–97.

literatures related to the problem under study.[6]

The research specification used in this research is descriptive analytical. Analytical descriptive is a method used to describe an ongoing condition or situation whose aim is to provide data about the object of research so that it is able to explore ideal things, then analyze it based on legal theory or applicable laws and regulations.[7]

In this legal research, primary legal materials are used which include the Limited Liability Company Law and the Financial Services Authority Regulation. In addition to primary legal materials, this research also uses secondary legal materials between various kinds of books, scientific works and the results of previous research.

RESULTS AND DISCUSSION

Eksistence of the Sharia Supervisory Board on Sharia Fintech in Indonesia and its Challenges

Sharia fintech as a sharia financial institution must apply the provisions of Islamic sharia in its operations. In 2018, the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) issued a fatwa related to Sharia Fintech through fatwa number: 117 / DSN-MUI / II / 2018 concerning Information Technology-Based Financing Services Based on Sharia Principles. With the existence of the DSN-MUI fatwa that supports the operation of Sharia Fintech, it is hoped that it will always make Sharia Fintech an option in doing activities in the world of fintech related to peace that is guaranteed to be halal because it is based on sharia principles with the rules issued by the DSN-MUI.[8]

However, the DSN-MUI fatwa is not a positive legal rule in the order of Indonesian legislation. Fatwas are recommendations that can be adhered to or not. Because of its position as a recommendation, non-compliance with a fatwa does not receive legal sanctions.[9] Thus the fatwa does not have a coercive nature which makes the parties concerned are obliged to implement the fatwa.

However, as a business industry that places more emphasis on the aspects of public trust, Islamic financial institutions will completely lose their reputation in the community if their business practices indicate a violation of sharia principles.[10]

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6 Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)* (Jakarta: Rajawali Pers, 2001).

7 Zainudin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009).

8 Hida Hiyanti et al., "Peluang Dan Tantangan Fintech (Financial Technology) Syariah Di Indonesia," *Jurnal Ilmiah Ekonomi Islam* 5, no. 3 (2020): 326–33, doi:10.29040/jiei.v5i3.578.

9 Diana Mutia Habibaty, "Peranan Fatwa Dewan Syariah Nasional Majelis Ulama Indonesia Terhadap Hukum Positif Indonesia," *Jurnal Legislasi Indonesia* 14, no. 04 (2017): 447–54.

10 Umam Khotibul, "Urgensi Standarisasi Dewan Pengawas Syariah Dalam Meningkatkan Kualitas Audit Kepatuhan Syariah," *Jurnal Perhimpunan Mahasiswa Hukum Indonesia Cabang Daerah Istimewa Yogyakarta* 1, no. 2 (2015): 114–38.

For this reason, it is very important to have a supervisory function in Sharia Fintech so that its operations can fulfill sharia compliance in accordance with the DSN-MUI fatwa.

Reflecting on the sharia banking industry in Indonesia which first existed, the supervisory function of sharia compliance in sharia banking is carried out by the Sharia Supervisory Board. As one of the unique features in Islamic banking, the existence of the Sharia Supervisory Board is the gatekeeper to ensure sharia implementation and compliance in their institutions. Each member of the Sharia Supervisory Board must review and assist sharia banking products and operations that comply with Sharia rules and principles.[11]

The presence of the Sharia Supervisory Board is one of the main forms of sharia compliance in every Islamic bank financial industry and non-bank Islamic financial industry to comply with sharia regulations which make sharia supervision an integral part of sharia compliance.[12] Thus Sharia Fintech as one of the financial institutions included in the non-bank financial industry also in principle must have a Sharia Supervisory Board as part of fulfilling sharia compliance.

The main roles of the Sharia Supervisory Board in every Islamic financial institution are: 1) Provide advice and suggestions to the board of directors, sharia business unit heads and branch office heads of sharia financial institutions on matters relating to sharia aspects; 2) To supervise, both actively and passively, especially in implementing the DSN-MUI fatwa; 3) Provide direction / supervision of products / services and business activities in accordance with sharia principles; 4) As a mediator between Islamic financial institutions and DSN-MUI in communicating proposals and suggestions for product and service development from Islamic financial institutions that require studies and fatwas from DSN-MUI.[13]

As is the case with Islamic banking, the existence of the Sharia Supervisory Board for Sharia Fintech in Indonesia is related to problems that have already existed in its application to Islamic banking.

One of the classic problems that exist in Islamic economics as stated by Muhamad Ali Jum'ah is the difficulty of getting human resources who master the field of Islamic

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[11] Isni Andriana, Universitas Sriwijaya, and Rusnah Muhamad, "The Professionalism of Sharia Supervisory Boards: Issues and Challenges," *Australian Journal of Basic and Applied Sciences*, no. October (2015): 26–30.

[12] Ro'fah Setyowati, Bagas Heradhyaksa, and Ismail Suardi Wekke, "Sharia Compliance in the Islamic Banking Percepetion in Indonesia," *International Journal of Innovation, Creativity and Change* 5, no. 2 (2019): 1608–20.

[13] Prastyaningsih and Syamsuri, "Relevansi Pengawasan Islam (Hisbah) Terhadap Peran Dewan Pengawas Syariah Dalam Implementasi Syariah Complaince Perbankan Syariah."

law and are experts in the field of economics and finance.[14] In addition, limited human resources have resulted in a member of the Sharia Supervisory Board usually serving concurrently a professional or concurrent position by being a member of the Sharia supervisory board at another place, a lecturer, or concurrently a member of the DSN-MUI.[15] This makes the functions of the Sharia Supervisory Board in Islamic financial institutions can not perform optimally.

Another problem that often occurs is that the sharia supervisory board is only considered as a complementary object in Islamic financial institutions so that the structure is only filled without using the right size and criteria.[16] This will have an impact on the lack of attention to the recommendations produced by the Sharia Supervisory Board so that its function and role are as if neglected.

Apart from that challenges above, the urgency of the existence of a Sharia Supervisory Board in Sharia Fintech is very necessary considering the existence of Sharia Fintech has become an alternative to fulfill the financing needs of the community.

By reflecting on its application in the Islamic banking industry, the implementation of the Sharia Supervisory Board in Sharia Fintech in Indonesia must be done by looking at the existing reality. However, every problem actually has a solution that can be a way out. Herein lies the importance of cooperation between the relevant stakeholders.

Some of the stakeholders that can be mapped are the government and its policies or regulations, the Sharia Fintech industry itself, educational and research institutions, banks and financial institutions, venture capital, internet network providers, the Sharia Supervisory Board (DPS) and DSN-MUI. All these stakeholders have a decisive role in the development of Sharia fintech in the future.[17]

The government can anticipate the problem of limited human resources to fulfill the role of the Sharia Supervisory Board in cooperation with education and training institutions (such as university) and the MUI to encourage the growth of sharia economists.

In parallel with this, the support of firm regulations from the government that also accommodates the opinions and views of

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[14] H. Rahman Ambo Masse, "Dewan Pengawas Syariah Dan Profesionalisme Sumber Daya Manusia," *DIKTUM: Jurnal Syariah Dan Hukum* 16, no. 2 (2018): 147–70, doi:10.35905/diktum.v16i2.616.

[15] Prastyaningsih and Syamsuri, "Relevansi Pengawasan Islam (Hisbah) Terhadap Peran Dewan Pengawas Syariah Dalam Implementasi Syariah Complaince Perbankan Syariah."

[16] Ibid.

[17] Aam Slamet Rusydiana, "Bagaimana Mengembangkan Industri Fintech Syariah Di Indonesia? Pendekatan Interpretive Structural Model (ISM)," *Al-Muzara'ah* 6, no. 2 (2019): 117–28, doi:10.29244/jam.6.2.117-128.

stakeholders in this industry will greatly support the healthy development of Sharia fintech.

Legal Basis for the Existence of the Sharia Supervisory Board in Indonesia

In the applicable law in Indonesia, the existence of the Sharia Supervisory Board appears for the first time in Article 109 of Law Number 40 of 2007 concerning Limited Liability Companies (Company Law).

The article stipulates that:

(1) In addition to having a Board of Commissioners, a company that carries out business activities based on sharia principles must have a Sharia Supervisory Board.

(2) The Sharia Supervisory Board as referred to in paragraph (1) consists of one or more sharia experts who are appointed by the GMS on the recommendation of the Indonesian Ulema Council.

(3) The Sharia Supervisory Board as referred to in paragraph (1) is tasked with providing advice and suggestions to the Board of Directors as well as supervising the Company's activities to comply with sharia principles.

The provisions in Article 109 of the Company Law are general in nature for all business entities in the form of Limited Liability Companies that carry out activities based on sharia principles. Thus, basically Article 109 of the Company Law is a general norm which forms the legal basis for the existence of the Sharia Supervisory Board for all business entities in the form of Limited Liability Companies that conduct their business based on sharia principles.

The legal existence of the Sharia Supervisory Board is subsequently applied to the sharia banking industry. In sharia banking institutions, the supervisory function of sharia compliance is carried out by the Sharia Supervisory Board as mandated in Article 32 of Law Number 21 of 2008 concerning Sharia Banking. This provision is the basis for requiring all sharia banks and conventional banks that have sharia business units to form a Sharia Supervisory Board which is tasked with providing advice and advice to the board of directors and supervising bank activities to comply with Sharia Principles.

In contrast to Islamic banking which already has specific regulations, Sharia Fintech does not yet have its own regulations. For fintech in general, OJK as a financial supervisory institution has issued POJK 77/2016 as a legal umbrella that regulates information technology-based lending and borrowing services. All fintechs must comply with the provisions contained in these regulations including Sharia Fintech considering that currently there is only such an overarching regulation. Thus, because the regulations in POJK 77/2016 are general in nature, in this POJK there are no detailed regulations regarding Sharia Fintech including the aspects of supervision of sharia compliance.

Apart from POJK 77/2016, Sharia Fintech must also comply with the Financial Services Authority Regulation Number 30 of 2014 concerning Good Corporate Governance for Financing Companies (POJK 30/2014). This regulation basically can be used as a legal basis for the obligation to have a Sharia Supervisory Board on Sharia Fintech which in Article 32 POJK 30/2014 regulates:

(1) Sharia Financing Companies and Sharia Business Units are required to have a Sharia Supervisory Board.
(2) The Sharia Supervisory Board as referred to in paragraph (1) shall consist of 1 (one) or more sharia experts who are appointed by the General Meeting of Shareholders on the recommendation of DSN-MUI.
(3) The Sharia Supervisory Board as referred to in paragraph (1) shall be appointed at the GMS and set forth in a notary deed.

POJK 30/2014 not only mandates the establishment of a Sharia Supervisory Board for sharia financing institutions, but the POJK also regulates duties and authorities, criteria, and restrictions. However, the regulations related to the Sharia Supervisory Board in POJK 30/2014 are still very normative and general in nature. This can be seen in the regulation in Article 36 which stipulates that the Sharia Supervisory Board must meet the following criteria:

a. is able to act in good faith, honestly and professionally;
b. able to act in the interests of the Sharia Financing Company, Sharia Business Unit and / or other Stakeholders;
c. prioritizing the interests of the Sharia Financing Company, Sharia Business Unit and / or other Stakeholders over personal interests;
d. able to make decisions based on independent and objective assessments for the benefit of the Company.

Although the regulations regarding the Sharia Supervisory Board in POJK 30/2014 are very normative, these regulations can be used as the legal basis for the existence of the Sharia Supervisory Board in Sharia Fintech.

In addition, the norms governing the existence of the Sharia Supervisory Board can be used as a reference for the authorized party in formulating further regulations regarding Sharia Fintech.

CONCLUSION

Sharia fintech as a sharia financial institution must meet the provisions of Islamic sharia in its operations. The presence of the Sharia Supervisory Board is one of the main forms of sharia compliance in every sharia financial industry, both banking and non-banking, including in Sharia Fintech to comply with sharia regulations which make sharia supervision as an integral part of sharia compliance. As happened in Islamic banking, the problem of limited human resources and the lack of awareness of the important role of the presence of the Sharia Supervisory Board are challenges that exist in the Sharia Fintech industry. Nonetheles, by cooperation between the relevant stakeholders in the industry such as goverment, educational and research institutions, DSN-MUI, Sharia Fintech itself, even bank and Islamic financial institutions could create and encourage sharia economist. Other than that, the support of firm regulations from the government that also accommodates the opinions and views of stakeholders in this industry will greatly support the healthy development of Sharia fintech.

Sharia fintech does not yet have its own regulations in Indonesia. This makes the legal basis for the Sharia Supervisory Board on Sharia Fintech must be explored through the norms in the scattered laws and regulations. The Limited Liability Company Law and Financial Services Authority Regulation concerning Good Corporate Governance for Financing Companies is the legal basis for the existence of the Sharia Supervisory Board in Sharia Fintech. Although it is general and normative, the norms governing the existence of the Sharia Supervisory Board in existing laws and regulations can be used as a reference for the authorized party in formulating further regulations regarding Sharia Fintech. This regulation is needed to provide legal certainty and avoid stagnation in the industry in the future.

SUGGESTION

The government and stakeholders need to work together to encourage the availability of professional human resources to fill the Sharia Supervisory Board position in the growing Sharia Fintech. In addition, the government or OJK needs to immediately issue special rules regarding Sharia Fintech by listening to input from related stakeholders. Finally, researchers understand that this paper is not yet perfect, therefore researchers hope that other researchers can improve and develop this research to better contribute to the development of science.

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