

The Implementation of Sharia Principle in Bank Products as Corporate Identity of Sharia Bank

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Abstract—This research aimed at describing the effect of implementing sharia principle in substance and structure of sharia banking legal system on sharia bank products in Indonesia and formulating the implementation model of sharia principles on sharia bank products associated with the corporate identity of sharia banks in Indonesia. This research used descriptive analytical with a normative juridical approach with documentation study, interviews, and FGD as data collection techniques, and normative qualitative methods as data analysis technique. The result showed that the influence of implementing sharia principle on legal system including sharia banks' substance and structure towards sharia banks products in Indonesia was very large. Regarding substance, the implementation of sharia principle on products could result in invalid transactions. Regarding structure, the effect of implementing sharia principles on products could weaken the authority of DSN-MUI and DPS as a reference institution in the implementation of sharia principles in banking. The implementation model of sharia principles on sharia bank products currently maintains a good corporate identity of sharia banks, but in practice it still does not reflect the expected corporate identity.

Keywords—*corporate identity; sharia bank; sharia principle*

I. INTRODUCTION

The results of research conducted by Imaniyati and Nurhasanah regarding the implementation of sharia principle in sharia banking law system (substance, structure, and culture) showed that the implementation of sharia principles in sharia banking legal system in Indonesia based on Legal Theory approach, according to Laurence Firedman, is not optimal yet [1]. Based on Legal Theory, legal consists of substance, structure, and culture. The legal substance includes legislation, structure is an institution that will enforce legislation, and culture is a culture of society, in the form of society's understanding and acceptance to the law.

Related to substance, sharia principles have been regulated in legislation, namely Law Number 10 Year 1998 concerning Banking and Law Number 21 Year 2008 concerning Sharia Banking [2]. The regulation of sharia principles in Law Number 21 Year 2008 is more complete and more detailed, and provides limits on the prohibition of Sharia Bank Business (UBS, Usaha Bank Syariah) activities that fulfill the elements of usury, maysir, gharar, haram and zalim. In addition, Law

Number 21 Year 2008 gives authority to National Sharia Council-Indonesia Ulama Councils (DSN-MUI, Dewan Syariah Nasional-Majelis Ulama Indonesia) to implement sharia principles in the form of fatwas, which will become an operational guideline for sharia banks in implementing sharia principles and sanctions for banks that violate sharia principles. To conduct the mandate of law, the DSN-MUI has made a fatwa relating to the contracts that will be used in sharia bank products. However, to support sharia principles in terms of regulations, there are still many arrangements regarding sharia banks referring to commercial bank regulations, such as rules on taxes, mortgages, fiduciary, and auctions.

Regarding the structure, law enforcement of sharia principles starts with regulators, namely Financial Services Authority (*OJK, Otoritas Jasa Keuangan*), which makes regulations for financial institutions including sharia banking consisted of three types, namely the Sharia Commercial Bank (BUS, Bank Umum Syariah), Sharia Business Unit (UUS, Unit Usaha Syariah), and rural banks (BPRS, Bank Perkreditan Rakyat Syariah). Supervision in the implementation of sharia compliance is conducted by Supervisory Board (DP, Dewan Pengawas) as an institution that must exist in every type of sharia bank and OJK. In connection with the legal relationship of a sharia bank with a customer is bound by a contract. Contracts creation can be carried out by bank and customer, or through a notary contract, which is made by and in front of the notary. The settlement of sharia bank disputes with customers can be conducted through two alternatives, namely Arbitration and Alternative Dispute Resolution (AAPS, Arbitrase dan Alternatif Penyelesaian Sengketa) that is National Sharia Arbitration Agency (BASYARNAS, Badan Arbitrase Syariah Nasional) or through a court institution. The court that examines sharia economic disputes, including sharia banks, is Religious Court. This is regulated in Law Number 6 Year 2009 concerning Religious Court. Therefore, it is important to conduct further research on the effect of implementation of sharia principles in sharia bank legal system on sharia bank products in Indonesia [3].

This research aimed at describing the effect of implementing sharia principles in substance and structure of sharia bank legal system on sharia bank products in Indonesia and formulating the implementation model of sharia principles