

CHAPTER I

INTRODUCTION

1.1 BACKGROUND OF STUDY

Organizations in the financial sector based on Islamic Sharia, such as Baitul Mal Wa Tamwil (BMT), are known as Islamic financial institutions (LKS). LKS has a Sharia Supervisory Board (DPS) that differentiates it from other conventional financial companies.¹ In carrying out these Sharia principles, some must be responsible for their smooth running and compliance. The position of DPS exists within every organizational structure of Islamic Financial Institutions (LKS), which is a characteristic of these institutions.²

BMT stands for Baitul Maal Wat Tamwil, an economic institution whose journey is based on Sharia principles and cooperative principles. BMT aims to improve the economic quality of the welfare of members, in particular, and society in general.³ BMT offers a variety of financial products such as financing, deposits, and investments in Islamic law.

The primary objective of BMT is to encourage the economy of the general public, particularly at the micro and small levels, especially for individuals who are unable to access conventional banking services. By providing productive financing that can help improve people's living standards, BMT also strives to help reduce poverty.⁴

¹Akhmad Faozan, 'OPTIMALISASI PERAN DEWAN PENGAWAS SYARIAH PADA LEMBAGA KEUANGAN SYARIAH', El-Jizya: Jurnal Ekonomi Islam, Vol.2, No.1 (2014), h. 23–40.

²Nurul Huda dan Mustafa Edwin Nasution, *Current Issues Lembaga Keuangan Syari'ah*, (Jakarta, Kencana Prenada Media Grup, 2009), h.208.

³Sudjana & Rizkison, "Peran Baitul Maal Wat Tamwil (BMT) dalam Mewujudkan Ekonomi Syariah yang Kompetitif", Jurnal Ilmiah Ekonomi Islam, Vol.6, No.02 (2020), h.185-194.

⁴Bank Indonesia, BMT: *Konsep, Prinsip, dan Peranannya dalam Perekonomian Syariah* (Jakarta: Bank Indonesia, 2016).

BMT In carrying out its objectives, BMT has a supervisory board whose role is to supervise and oversee Islamic financial products and services provided to the community, which must be in accordance with Islamic law.

The Sharia Supervisory Board (DPS) is an independent institution entrusted by the National Sharia Council (DSN) to implement and supervise the implementation of Sharia principles in Indonesian Islamic financial institutions (LKS).⁵ The definition of the Sharia Supervisory Board (DPS) according to the Decree of the MUI Board of Directors concerning the Composition of the DSN-MUI Management No. Kep-98/MUI/III/2001 explains: *The Sharia Supervisory Board is a body in an Islamic financial institution and is tasked with supervising the implementation of DSN decisions in the Islamic financial institution. The Sharia Supervisory Board was appointed and dismissed from the Sharia Financial Institution according to the GMS after receiving a recommendation from DSN.*⁶

DSN-MUI Decree Number 03 of 2000 concerning Guidelines for the Implementation of the Determination of Members of the Sharia Supervisory Board regulates an increase in the effectiveness of supervision carried out by the Sharia Supervisory Board (DPS). The duties of this DPS have also been regulated in Law No. 21 of 2008 Article 32, which states that the Sharia Supervisory Board must be formed in Sharia Banks and Conventional Commercial Banks.⁷

Several Islamic financial institutions and banks in East Java have DPS that consist of experts in Islamic law and Sharia economics. These legal experts are empowered to ensure that their operations are in accordance with the Sharia. For example, Bank Indonesia and the Financial Services Authority (OJK)

⁵ Akhmad Faozan, 'OPTIMALISASI PERAN DEWAN PENGAWAS SYARIAH PADA LEMBAGA KEUANGAN SYARIAH', El-Jizya : Jurnal Ekonomi Islam, Vol.2, No.1 (2014), h. 23–40.

⁶ Abdul Karim Munthe, Ichsan Suryo Pramadhani, and Rahmat Indera Satrya, 'Peran Dewan Pengawas Syariah Dalam Pemenuhan Syariah Compliance Oleh Lembaga Keuangan Syariah', JILS, Vol.2, No.3 (2019), h. 1–27.

⁷ Pemerintah Indonesia, Undang-Undang No. 21 tentang Perbankan Syariah (Lembaran Negara RI Tahun 2008; Sekretariat Negara: Jakarta, 2008).

regularly monitor these organizations to comply with Sharia principles, including those in the East Java region.⁸

In general, there is no data on the exact number of DPS in LKS in East Java Province, depending on the number of Islamic financial institutions operating in the region.⁹ Each institution, such as Islamic banks, Islamic insurance, and Islamic financing institutions, usually has one or more DPS members who are competent in their fields.

However, several examples of DPS in Islamic financial institutions in East Java can help provide an overview of the existence of DPS in the region. For example, at BMT Al-Falah, Madiun, there are 3 DPS. The number of DPS at BMT Hasanah Ponorogo is 3 persons.¹⁰ In East Java, several DPS are spread across various institutions, and the number continues to grow in line with the growth of the Islamic finance industry in the province.

Faozan states that his research indicates the role of DPS in Sharia Financial Institutions (LKS) is crucial and entails substantial responsibilities. The reason for this is that one of their responsibilities is to supervise and ensure that the Islamic financial institutions under their supervision function in alignment with sharia principles. DPS must also ensure Sharia compliance in the Islamic financial institutions they supervise. With good supervision, Sharia products can be used in accordance with the rules set by the National Sharia Council to strive for Sharia financial services to be in line with Islamic Sharia rules. Therefore, becoming a DPS must have a good character and a good

⁸Otoritas Jasa Keuangan (OJK), "Peraturan OJK Nomor 55/POJK.03/2016 tentang Dewan Pengawas Syariah pada Lembaga Keuangan Syariah", diakses pada 3 Februari 2025, www.ojk.go.id.

⁹*Ibid.*

¹⁰ Syarifatun Nisa', "ANALISIS PERANAN DEWAN PENGAWAS SYARIAH DALAM USAHA MENJAMIN KEPATUHAN SYARIAH PADA LEMBAGA KEUANGAN SYARIAH DI BMT HASANAH JABUNG, PONOROGO", skripsi Institut Agama Islam Negeri (IAIN Ponorogo) (2018).

understanding of fiqh muamalah, finance, and economics to be able to carry out these duties well.¹¹

Based on research conducted by Nur Hayati, the challenges faced by DPS in the implementation of Sharia principles in BMT in East Java are mentioned. One of the problems is that DPS frequently lack significant influence over BMT managerial choices due to insufficient support awareness from BMT management regarding the importance of the DPS role. In addition, communication between DPS and management often does not run smoothly, which can hinder the effective implementation of supervision.¹²

Likewise, based on Muhammad Rizky's research finding, the function of the Sharia Supervisory Board in maintaining compliance with Sharia principles in BMT is still lacking, emphasizing the problem of unclear duties and authority of DPS in several BMTs. One of the main issues was the imbalance between the role of supervision and operational management, which caused the DPS to be unable to perform its duties optimally.¹³

Based on another phenomenon, quoted from the news of Detik Central Java¹⁴, On November 22, 2023, many customers from BMT with the initials H reported to the Rembang Resort Police because their savings could not be disbursed. According to the customer, BMT H is considered unprofessional because he cannot manage finances. From this, it can be concluded that the role of DPS is crucial in supervising BMT products offered to customers and financial circulation at BMT.

¹¹ Akhmad Faozan, 'OPTIMALISASI PERAN DEWAN PENGAWAS SYARIAH PADA LEMBAGA KEUANGAN SYARIAH', El-Jizya : Jurnal Ekonomi Islam, Vol.2, No.1 (2014), h. 23–40.

¹² N. Hidayati, "Tantangan Dewan Pengawas Syariah dalam Implementasi Prinsip Syariah pada BMT di Jawa Timur", Jurnal Bisnis dan Keuangan Syariah Vol.18, No. 3 (2021), h. 102–118.

¹³ M. Rizky, "Evaluasi Fungsi Dewan Pengawas Syariah di BMT: Studi Kasus di Jawa Timur", Jurnal Hukum dan Keuangan Syariah Vol.12, No. 1 (2022), h. 67–83.

¹⁴ <https://www.detik.com/jateng/berita/d-7050998/tabungan-tak-bisa-cair-nasabah-bmt-di-rembang-ramai-ramai-ngadu-ke-polisi>, diakses pada tanggal 22 Januari 2025.

Based on another phenomenon, quoted from the news of Detik Central Java¹⁵, On April 1, 2024, several customers held a demonstration at BMT Mitra Umat, Pekalongan. According to the customer's report, the money stored in BMT cannot be disbursed. Some customers consider BMT no longer healthy. From the news, it can be concluded that the role of DPS is very important in supervising BMT products offered to customers and maintaining the health of transactions that occur at BMT.

The less optimal role of DPS in BMT is often associated with the low quality and performance of DPS which is considered to lack an understanding of the BMT operational system and mechanism. Therefore, it is important to optimize the role of the Sharia supervisory board so that Sharia financial institutions can operate in accordance with Sharia principles and do not damage the trust of Sharia financial institutions in the eyes of the public and many practices of Sharia financial institutions that are not in accordance with Islamic Sharia provisions.¹⁶

This research has a novel aspect in terms of ideas that will examine BMT under the auspices of Islamic boarding school foundations and employs a methodological approach that utilizes juridical qualitative methods, analyzing the subject from a legal standpoint.

This research is highly significant, as it has not been conducted previously, and it is examined based on the law, which is mandatory for all Indonesian citizens to follow as stipulated in the legal framework.

The researcher chose this place because the BMT is under the auspices of the Islamic boarding school foundation, which, of course, must be in accordance with Islamic values in each product and activity, so it must have a DPS that is in accordance with what has been regulated in the existing MUI

¹⁵ <https://www.detik.com/jateng/berita/d-7272839/tak-bisa-tarik-tabungan-nasabah-geruduk-bmt-mitra-umat-pekalongan>, diakses pada tanggal 22 Januari 2025.

¹⁶ Ruslan Abdul Ghofur, "Konstruksi Akad Dalam Pengembangan Produk Perbankan Syariah Di Indonesia", Jurnal Al-Adalah Vol.12, No. 3 (2015), h. 504

Law and Fatwa. "This BMT was created within the framework of the Pondok Gontor Kopontren," stated Ustadz Masykur as DPS BMT La Tansa Gontor.¹⁷

Based on the above explanation, the researcher is interested in conducting direct research on the role of the Sharia supervisory board and the importance of this role in supervising Sharia products at BMT La-Tansa Gontor, Ponorogo. Therefore, the main study discussed in this title is the Analysis of the Role of the Sharia Supervisory Board on Sharia Financial Products at BMT La Tansa Gontor Ponorogo (Reviewed from Law No. 21 of 2008).

1.2 PROBLEM FORMULATION

1. What is the role of the Sharia Supervisory Board in supervising Sharia products at BMT La Tansa Gontor, Ponorogo based on Law No. 21 of 2008?
2. What is the Supervision Mechanism of the Sharia Supervisory Board on sharia products at BMT La Tansa Gontor, Ponorogo based on Law No. 21 of 2008?

1.3 RESEARCH OBJECTIVES

The researcher conducted this research activity to present accurate data that could provide benefits and solve problems. Based on this, this study had the following objectives:

1. To analyze the role of DPS in supervising BMT La Tansa Gontor, Ponorogo based on Law No. 21 of 2008.
2. To analyze the Supervision Mechanism of the Sharia Supervisory Board at BMT La Tansa Gontor, Ponorogo based on Law No. 21 of 2008.

¹⁷Masykur, Wawancara, (BMT La Tansa Gontor, 25 Januari 2025).

1.4 RESEARCH BENEFITS

1. Theoretically:

This research is useful for increasing the insight and knowledge of authors, study programs, faculties, universities, and the general public regarding the role of DPS and the supervision mechanism for Sharia products at BMT La Tansa Gontor, Ponorogo. In addition, it can enrich the literature on DPS and Sharia supervision in pesantren-based microfinance institutions (BMT), especially in East Java.

2. Practically:

This research is advantageous for the management and Sharia Supervisory Board at the Sharia Financial Institution and other Sharia Financial Institutions. This research is also useful for advancing the Islamic finance industry in Islamic financial institutions at local and national levels.

1.5 LITERATURE REVIEW

The first research, a study by Hesti Anardianti in 2021 entitled "The Effectiveness of Supervision of the Sharia Supervisory Board on Murabahah Products at KSU BMT Al-Iqtihady Pagesangan Mataram" was conducted using a qualitative descriptive analysis method. This study concludes that Dps Task, including overseeing murabahah products' management according to Sharia principles, is functioning properly, offering guidance on murabahah products, monitoring the marketing practices that comply with Sharia principles, and analyzing issues as per Sharia principles when problems arise. Although Dps at Bmt Pangesangan are rarely present, Dps still open online communication so that the advice, prevention, and anticipation given by Dps to the management of murabahah products

continue to run in accordance with the sharia corridor that has been determined.¹⁸

According to Julian Syah in his thesis "Analysis Of The Role Of The Sharia Supervisory Board In Improving The Quality Of Operational Performance At Bmt Sabilil Muttaqien Gisting Tanggamus," in 2020 which was researched using the Descriptive Qualitative method, it can be concluded that: first, the duties of the Sharia Supervisory Board at BMT Sabilil Muttaqien Gisting Tanggamus have been carried out well. This is evident through the execution of relevant responsibilities, such as assessing and ensuring the fulfillment of Sharia principles to operational guidelines and products issued by banks; supervising the development process of new bank products to comply with the DPS-DSN fatwa; requesting a fatwa to DSN-MUI for new products of banks that do not yet have a fatwa; conducting periodic reviews of the fulfillment of Sharia principles on the mechanism for collecting funds and distributing funds as well as bank services; and requesting data and information related to Sharia aspects from the bank's work units in the context of carrying out their duties. Second, the Sharia supervisory board at BMT Sabilil Muttaqien Gisting significantly contributes to enhancing operational performance; however, this role is not optimal. This occurred because the DPS should routinely and actively supervise BMT Sabilil Muttaqien, but supervision is only carried out when the BMT has problems.¹⁹

According to Dedi Ardiansyah Lubis in his thesis "Analysis Of The Role Of The Sharia Supervisory Board On Bmt Mandiri Abadi Syariah" in 2021, which was researched using a qualitative method, it can be concluded that the Sharia Supervisory Board plays a crucial role in solving problems

¹⁸ Hesti Anardianti, "Efektifitas Pengawasan Dewan Pengawas Syariah pada Produk Murabahah di KSU BMT Al-Iqtihady Pagesangan Mataram", skripsi Universitas Islam Negeri (UIN) Mataram (2021)

¹⁹ Julian Syah, *Analisis Peran Dewan Pengawas Syariah Dalam Meningkatkan Kualitas Kinerja Operasional di BMT Sabilil Muttaqien Gisting Tanggamus*, skripsi Universitas Islam Negeri (UIN) Raden Intan Lampung (2020)

that occur between customers and BMT Mandiri Abadi Syariah. The Sharia Supervisory Board is very influential in BMT Mandiri Abadi Syariah where every contract in the existing product is supervised by the Sharia Supervisory Board, and in addition to being a supervisor, the Sharia Supervisory Board also becomes a mediator or solver of problems that exist between customers and BMT Mandiri Abadi Syariah if the problem cannot be solved or overcome by BMT Mandiri Abadi Syariah and the customer concerned.²⁰

According to Muhammad Syarif Hidayatullah, in a journal entitled "Strategies for Optimizing the Role of DPS in Enforcement of Sharia Principles in Sharia Financial Institutions" in 2022, which was researched using a qualitative method, it can be concluded that the Sharia Supervisory Board (DPS) has a central and urgent role in maintaining Sharia compliance in Sharia Financial Institutions (LKS) with supervisory and advisory performance that will see the compatibility between the practice of LKS products and the concept of Islamic financial transactions that have been fatwached by DSN-MUI. If there is a problem in LKS, it must optimize the role of DPS by actively socializing the role of DPS, the appointment of DPS which must prioritize capabilities with DPS who master the science of Sharia economic law (fiqh muamalah) and Sharia economics (Islamic-based contemporary economics and finance), and lastly by strengthening the position of DPS which should be separate from LKS, which is the object of supervision, such as making DPS part of the OJK with the existence of a Sharia compliance unit in the OJK.²¹

According to Zulbaidah in her research journal titled "Analysis of the Concept of Independence of the Sharia Supervisory Board in the Application of Sharia Principles in the Sharia Banking Environment" in

²⁰ Dedi Ardiansyah Lubis, *Analisis Peran Dewan Pengawas Syariah Pada BMT Mandiri Abadi Syariah*, skripsi Universitas Muhammadiyah Sumatera Utara Medan (2021)

²¹ Muhammad Syarif Hidayatullah, *Strategi Mengoptimalkan Peran DPS Dalam Penegakkan Prinsip Syariah di Lembaga Keuangan Syariah*, Jurnal Bilancia Vol.16, No.1, 2022.

2023, which was researched using a qualitative method, it can be concluded that supervision in Sharia Banking is carried out to ensure the compliance of all bank operations with Sharia principles and rules, namely by issuing fatwas, rules, and directives in fiqh matters using Guidelines for Management in Operating Islamic Banks. Regarding independence, members of the Sharia Supervisory Board must not be employees of Islamic banks. Although it was appointed by the General Meeting of Shareholders in terms of approval, it must come from the National Sharia Council. Like other supervisory bodies, the Sharia Supervisory Board has a work system and certain duties. There is no influence from the directors, commissioners, or employees in Sharia Banking, which can shake the decision of the Sharia Supervisory Board to assess fund distribution activities and internal audits on Sharia compliance reports in Sharia Banking.²²

Based on the explanation above, this research is original, both methodologically and novel. The similarity between this study and others is that they both discuss the Sharia Supervisory Board. The difference between this study and other studies is that this study focuses more on the role of DPS and its supervisory work mechanism for Islamic financial products offered in Islamic financial institutions, especially BMT La Tansa Gontor which is reviewed from Law No. 21 of 2008, and this research uses a juridical qualitative method.

1.6 RESEARCH METHODS

1.6.1 Type of Research

The type of research used in this study was juridical qualitative. Legal research is used to analyze legal phenomena and emphasizes an in-

²² Zulbaidah, *Analisis Konsep Independensi Dewan Pengawas Syariah dalam Penerapan Prinsip Syariah di Lingkungan Perbankan Syariah*, Jurnal Ekonomikas45 Vol.10, No.2, 2023.

depth understanding of existing legal phenomena through interviews, observations, and analysis of relevant documents and regulations.²³

Qualitative research is based on the natural background as a primary source of data, and researchers are key instruments. As explained by Lexy J. Moleong, qualitative research is a procedure that produces descriptive data in the form of written or oral words from people whose behavior can be experienced.²⁴

This research will concentrate on examining how DPS fulfills its responsibilities based on the provisions of Law No. 21 of 2008 at BMT La Tansa Gontor.

1.6.2 Object of Research

The researcher will conduct research at BMT LaTansa Gontor in Ponorogo. The choice of the location for this election is because the BMT is one of the largest BMTs in Ponorogo, which is based on Islamic boarding schools and has Islamic financial products supervised by the Sharia Supervisory Board.

1.6.3 Data Source

The data sources in this study consist of primary data and secondary data.

a. Primary Data

Primary data for this study was obtained from informants based on the results of interviews and observations from the object of the research, namely BMT La Tansa Gontor Ponorogo. The informants in this study were DPS at BMT La Tansa Gontor, BMT staff involved in the operation of Sharia products, and BMT customers who used BMT services.

²³Imam Sugiarto, *Metode Penelitian Hukum Kualitatif* (Yogyakarta: Pustaka Pelajar, 2016).

²⁴ Lexy J. Moleong, *Metodologi Penelitian*, hlm. 327

b. Secondary Data

Secondary data were obtained from various sources related to the research theme, such as books, articles, journals, theses, and additional sources. Related research sources including pertinent laws and regulations, such as Law No. 21 of 2008, DSN-MUI fatwas related to Islamic financial products, and other literature that discusses Sharia supervision in Islamic financial institutions.

1.7 DATA COLLECTION TECHNIQUES

To obtain accurate data at the research site, the researcher used the following data-collection techniques:

a. Observation

Heru states that observation is deliberate and directed process of observing a case study or learning sequentially and in alignment with its the purpose. The recording of observation activities is called observation results. The results of these observations can be explained in detail, precisely, accurately, thoroughly, objectively, and effectively. This observation was obtained from an overview of the data on the Role of the Sharia Supervisory Board at BMT La Tansa Gontor Ponorogo.

Observations will focus on how the Sharia Supervisory Board supervises Sharia products offered by BMT La Tansa Gontor, as well as the interaction between DPS and management to ensure compliance with Sharia principles.

The observation was conducted over a period of 1 month by observing and monitoring how the DPS supervises the BMT, how the BMT staff serves its customers, the agreements used between the BMT staff and customers, and several other BMT products.

b. Interview

Interviews were useful for gathering research data. An interview is an interaction between the interviewer and interviewee through direct communication. This is a face-to-face conversation between the interviewer and the source of information, where the interviewer directly asks about the object of the research that has been planned. In this study, the researcher held interviews with DPS, BMT La Tansa Gontor staff, and customers.

The interviews will be conducted in a semi-structured manner with several main questions that lead to the role of DPS in product supervision, as well as the challenges faced in carrying out its duties by Law No. 21 of 2008. The question refers to the theoretical framework and Law No. 21 of 2008.

The interview was conducted with Mr. Masykur Hasan as the DPS at BMT La Tansa Gontor for 2 hours, with Mr. Faris Daffa as the staff of BMT for 1 hour, and with several other customers.

c. Documentation

Research was conducted on information documented in recordings, such as images, sounds, writings, or others. This method was used to collect data that was already available in the document record. Its function is to support and complement data obtained through observations and interviews.

The documentation collected included DPS meeting minutes, BMT La Tansa Gontor's annual report, and documents related to supervision and sharia products offered.

1.8 DATA ANALYSIS TECHNIQUE

Data analysis is one way of systematically searching for and compiling data, concluding and presenting the data so that it is easy to understand. After data collection, the next step is to analyze the data and

draw conclusions from the data that have been obtained or collected. The researcher descriptively wrote the data.

Descriptive research is research that aims to describe or make a description of the facts or relationships of phenomena that have been investigated and then analyzed. The technical analysis used is data collection, and the next step is to analyze the data and draw conclusions from the data that have been obtained or collected. In this study, the author will explain the role of DPS in supervising Sharia products at BMT La Tansa Gontor based on Law No. 21 of 2008.

After collecting the data, the first step was to transcribe the results of the interviews and observations. Then, the data will be analyzed using a qualitative descriptive approach to describe the role of DPS in the supervision of Sharia products and the challenges faced in the implementation of Law No. 21 of 2008.

1.9 SYSTEMATICS OF DISCUSSION

CHAPTER I: In the main section, the author presents the entire research process and its analysis which is arranged in four chapters. Each chapter consists of several sub-sub-chapters, including: the first chapter contains an overview as a guide to the discussion of this research globally which includes the background of the problem, the formulation of the problem, the objectives and benefits of the research, the literature review, the theoretical framework, the research methodology and the systematics of the discussion.

CHAPTER II: Theoretical Foundations. This chapter explains the theoretical framework that explains the basic concepts of Sharia finance, the definition of the Sharia Supervisory Board and BMT, the legal basis of the Sharia Supervisory Board, and the theory of Sharia supervision.

CHAPTER III: Results and Discussion section describes the subject and object of the research as well as the results of the research analysis.

CHAPTER IV: The conclusion consists of the conclusion of this study, as well as suggestions for this study, bibliography, and appendix.

