

## AUTHORITY OF THE NATIONAL SHARIA COUNCIL (DSN) AND THE FINANCIAL SERVICES AUTHORITY (OJK) IN THE REGULATION OF SHAKIRA BANKS AFTER THE BIRTH OF LAW NO.21 OF 2011 LINKED TO SHARIA PRINCIPLES ACCORDING TO SHARIA BANKING LAW

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### ABSTRACT

**Objective:** After the enactment of Law No. 21 of 2011 concerning the Financial Services Authority (OJK), the supervision and regulation of Indonesia's financial sector, including Islamic banking, was transferred to the OJK. Nevertheless, Islamic banking operations must adhere to sharia principles, supervised by the National Sharia Council (DSN) of the Indonesian Ulema Council. This study explores the division of authority between the OJK and DSN in regulating Islamic banks, focusing on their conformity with sharia principles as outlined in Law No. 21 of 2008 concerning Sharia Banking.

**Theoretical Framework:** Theoretically, this research is grounded in the duality of regulatory oversight—secular and religious—emphasizing the coexistence of financial system integrity and sharia compliance. Employing a juridical-normative method, the study analyzes statutory laws, DSN fatwas, and their application within the regulatory framework.

**Method:** This study uses a juridical-normative approach to analyze the relationship between the Financial Services Authority (OJK) and the National Sharia Council (DSN) in the regulation and supervision of Islamic banking. This approach focuses on normative studies of relevant laws and regulations, such as Law No. 21 of 2011 concerning the Financial Services Authority, Law No. 21 of 2008 concerning Sharia Banking, as well as fatwas issued by DSN.

**Results and Discussion:** The Result and discussion reveal that while the OJK holds comprehensive regulatory and supervisory authority, DSN retains pivotal control as the interpreter and guarantor of sharia compliance. This dual authority reflects a nuanced balance between maintaining financial system stability and ensuring adherence to Islamic legal principles.

**Research Implications:** The implications of this research underscore the importance of clear, collaborative mechanisms between the OJK and DSN to avoid regulatory overlaps or inconsistencies. Furthermore, this study emphasizes the unique dual-regulatory model as a hallmark of Indonesia's Islamic banking system, contributing to the discourse on harmonizing secular and religious financial governance.

**Originality/Value:** The originality of this research lies in its juridical-normative approach to analyzing the interplay between OJK's supervisory role and DSN's authority, offering insights into optimizing regulatory practices in Islamic banking.

**Keywords:** OJK, DSN, Islamic banking, sharia principles, Law No. 21 of 2011, Sustainable Development Goals (SDGs).

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## 1 INTRODUCTION

The transformation of financial sector regulation in Indonesia was marked by the birth of Law No. 21 of 2011 concerning the Financial Services Authority (OJK). This regulation overhauls the supervisory structure of the financial sector, which was previously separate, into an integrated system under one institution, namely the OJK. The goal is to create a supervisory system that is more effective, efficient, and able to respond to global economic dynamics. As an independent institution, OJK is responsible for regulating and supervising the entire financial services sector, including Islamic banking. However, the existence of Islamic banks has its own peculiarities because the implementation of its operations must be in accordance with sharia principles, which is supervised by the National Sharia Council (DSN) under the Indonesian Ulema Council (MUI).

Prior to the establishment of the OJK, the authority to regulate and supervise Islamic banks was in the hands of Bank Indonesia (BI). Bank Indonesia acts as a monetary authority as well as a supervisor of the banking sector, including Islamic banks. In carrying out supervision over Islamic banks, BI closely coordinates with DSN to ensure that Islamic bank products and services are in accordance with sharia principles. DSN is responsible for issuing fatwas that are the basis for the operation of Islamic financial products. This supervision model allows DSN to play a strategic role in maintaining sharia compliance in the banking sector.

After the formation of the OJK, there have been significant changes in the governance of Islamic banking supervision. The authority to regulate and supervise Islamic banks previously held by BI was fully transferred to the OJK. Nevertheless, the obligation of Islamic banks to comply with the DSN fatwa remains valid, as stipulated in Law No. 21 of 2008 concerning Islamic Banking. DSN fatwa is the main reference in the development of sharia products and



services, while OJK ensures that its implementation runs in accordance with applicable regulations.

The synergy between OJK and DSN is a key element in ensuring that the operations of Islamic banks remain in accordance with sharia principles and banking regulations. DSN establishes fatwas that are normative, while OJK has executive authority to adopt the fatwa into technical regulations. For example, the OJK regulates the licensing mechanism for sharia products based on the relevant DSN fatwa. This shows that these two institutions have a complementary relationship in maintaining the integrity of the Islamic financial system.

However, this transformation also presents its own challenges. One of them is the potential for overlapping authority between the OJK and DSN. In some cases, the interpretation of sharia fatwas by the OJK in the context of banking regulations can cause differences of opinion with DSN. Therefore, close coordination is needed between the two institutions to avoid legal uncertainty that can interfere with the development of Islamic banking in Indonesia.

In addition, one of the aspects of concern is the effectiveness of supervision of sharia compliance in Islamic banks. Although DSN is responsible for the sharia aspect, the implementation of its operational supervision is carried out through the Sharia Supervisory Board (DPS) which is placed in each Islamic bank. DPS functions as an extension of DSN to ensure the implementation of fatwas at the micro level. However, the success of DPS supervision is highly dependent on regulatory support and supervision from the OJK as the main supervisory authority.

In the context of regulation, Law No. 21 of 2011 gives the OJK broad authority to regulate and supervise the financial services sector. However, in terms of Islamic banking, the OJK must accommodate the unique characteristics of sharia regulated by DSN. This arrangement is in line with sharia principles that emphasize the importance of conformity of financial products with Islamic values, such as the prohibition of *riba*, *gharar*, and *maisir*.

Along with the development of the Islamic banking industry, the role of OJK and DSN has become increasingly crucial. The OJK is not only tasked with supervising the financial health of Islamic banks, but must also ensure that the



innovation of Islamic products remains within the legal corridor. On the other hand, DSN is faced with the challenge of accelerating the issuance of fatwas in accordance with market needs without ignoring sharia principles.

In conclusion, the transformation of financial regulations through the establishment of the OJK has brought major changes in the governance of Islamic banking supervision. Synergy between OJK and DSN is the main prerequisite for maintaining a balance between sharia compliance and financial system stability. With good coordination, Islamic banking in Indonesia has a great opportunity to grow and contribute to the national economy, as well as become a model for the development of Islamic finance at the global level.

In the context of the Islamic financial system and banking in Indonesia, regulation is a very crucial aspect to ensure the conformity of banking practices with sharia principles. The birth of Law No. 21 of 2011 concerning the Financial Services Authority (OJK) provides new challenges in the regulation and supervision of Islamic banking. The role of the National Sharia Council (DSN) as a body that has authority in determining fatwas on Islamic financial products and services is also important to study in this context. This study aims to understand the extent to which the authority of DSN and OJK can complement each other in regulating Islamic banking, as well as how these arrangements are in line with sharia principles regulated in Law No. 21 of 2008 concerning Islamic Banking.

## 2 BASIC CONCEPTS AND THEORETICAL FOUNDATIONS

### 2.1 DEFINITION AND PURPOSE OF SHARIA BANKING

Islamic banking is a banking system based on sharia principles, namely Islamic legal rules sourced from the Qur'an, Hadith, ijma', and qiyas. The basic principles of Islamic banking include the prohibition of usury, gharar (uncertainty), and maisir (gambling), as well as the enforcement of justice through a profit and loss sharing system. According to **Chapra (2009)**, Islamic banking aims to create economic stability and social justice based on Islamic values.





### 2.1.1 Sharia Principles in banking regulation

In Law No. 21 of 2008 concerning Sharia Banking, it is explained that all Islamic banking activities must be in accordance with sharia principles as determined by DSN. This includes financing products such as mudharabah (business partnership), musharakah (profit sharing), murabahah (buying and selling with profit margins), and others. **Dusuki and Abdullah (2007)** stated that this arrangement is an important basis in realizing the integrity and public trust in the Islamic financial system.

### 2.1.2 Role and function of the National Sharia Council (DSN)

DSN is an institution under the auspices of the Indonesian Ulema Council (MUI) with the main task of establishing fatwas related to Islamic financial products and services. Based on **Hasan (2011)**, the fatwa issued by DSN is binding for Islamic financial institutions and is the main guideline in their operations. The role of DSN is seen as essential in maintaining sharia compliance and ensuring that product innovation does not deviate from Islamic values.

### 2.1.3 The birth of the Financial Services Authority (OJK)

The establishment of the OJK through Law No. 21 of 2011 gives this institution a mandate to supervise all activities in the financial services sector, including Islamic banking. According to **Ascarya (2013)**, the OJK functions as an independent regulator and supervisor that aims to protect consumers and maintain the stability of the national financial system. In the context of Islamic banking, OJK works with DSN to ensure that supervision and regulation are aligned with sharia principles.



## 2.2 AUTHORITIES OF DSN AND OJK AFTER THE BIRTH OF THE OJK LAW

### 2.2.1 DSN-OJK integration and collaboration

After the formation of the OJK, there is a more structured division of authority in the regulation and supervision of Islamic banking. DSN still has the authority to determine sharia fatwas, while the OJK is tasked with implementing the fatwa in the form of regulation and supervision. As stated by **Rizqullah (2015)**, this integration aims to increase efficiency in the management of the Islamic financial sector while ensuring better sharia compliance.

### 2.2.2 Obstacles in implementation

One of the challenges in regulating Islamic banking is the potential for overlapping authority between DSN and OJK. For example, in some cases, there are differences in interpretation regarding the application of sharia fatwas in the financial sector. Research by **Zulkifli *et al.* (2020)** shows that the lack of coordination between the two institutions can cause ambiguity in the implementation of regulations.

### 2.2.3 Efforts to strengthen regulations

In practice, OJK and DSN seek to strengthen synergy through the preparation of joint regulations, such as OJK Regulations (POJK) which refer to DSN fatwas. This is in line with the recommendation from **Kassim (2016)**, which emphasizes the importance of harmonization between regulators and sharia scholars to create a competitive and sharia-compliant sharia financial system.



## 2.3 SHARIA PRINCIPLES AND THEIR IMPLEMENTATION IN SHARIA BANKING

### 2.3.1 Regulatory alignment with Sharia principles

Sharia principles demand fairness, transparency, and sustainability in every banking activity. In this case, DSN's role as a guardian of sharia principles is very strategic. The DSN fatwa is the main reference in ensuring that the products and services offered by Islamic banks do not conflict with Islamic values. **Ahmed (2011)** highlighted that sharia-based regulations not only increase the credibility, but also the competitiveness of the Islamic banking industry at the global level.

### 2.3.2 Challenges of Sharia compliance

In the global context, many countries face challenges in ensuring sharia compliance in the financial sector. Research by **Bakar and Norizatun (2019)** shows that one of the main obstacles is the lack of a deep understanding of sharia principles among financial industry players. In the case of Indonesia, DSN has a unique role in bridging this gap through fatwas and technical guidance to the industry.

### 2.3.3 The impact of regulation on the growth of islamic banking

A study by **Farooq and Ahmed (2017)** shows that clear and consistent regulation contributes significantly to the growth of Islamic banking. In the Indonesian context, the arrangements made by the OJK and DSN have encouraged the creation of innovative Islamic financial products that are competitive and remain in accordance with sharia. This theoretical study shows that the existence of DSN and OJK as institutions that have authority in regulating Islamic banking in Indonesia is an important element in supporting the growth of this industry. The collaboration between DSN and OJK ensures that every Islamic banking product and service is not only in accordance with sharia principles, but also meets strict regulatory standards. Challenges such as



the potential for overlapping authority and differences in interpretation of sharia principles need more attention. For this reason, efforts are needed to strengthen coordination between DSN and OJK, including through the establishment of a clearer framework in the implementation of regulations. In addition, thorough training and education on sharia principles in the financial sector is also important to improve the understanding and compliance of all stakeholders.

### 3 METHODOLOGY

This study uses a juridical-normative approach to analyze the relationship between the Financial Services Authority (OJK) and the National Sharia Council (DSN) in the regulation and supervision of Islamic banking. This approach focuses on normative studies of relevant laws and regulations, such as Law No. 21 of 2011 concerning the Financial Services Authority, Law No. 21 of 2008 concerning Sharia Banking, as well as fatwas issued by DSN. The purpose is to understand the legal position, role, and authority of each institution within the applicable legal framework.

The data in this study was obtained through literature studies that included primary legal documents, such as DSN laws and fatwas, as well as secondary documents, such as journals, books, and scientific articles that discussed Islamic banking and related regulations. The analysis is carried out through the method of legal interpretation, which is interpreting legal provisions based on the basic principles contained in the regulations. In addition, normative comparisons are used to examine the synergy between the law and DSN fatwas in the regulation of Islamic banks.

The results of the analysis are expected to provide a comprehensive picture of the division of authority between OJK and DSN in the context of Islamic banking. This juridical-normative approach allows for the identification of potential overlapping powers and the evaluation of whether the existing legal framework has optimally reflected sharia principles. Thus, this research can contribute to the development of more synergistic and effective regulations in supporting the growth of the Islamic banking industry in Indonesia.

## 4 RESULTS AND DISCUSSIONS

### 4.1 OJK'S AUTHORITY IN THE REGULATION AND SUPERVISION OF SHARIA BANKING

The Financial Services Authority (OJK) has the main authority to regulate and supervise the entire financial services sector, including Islamic banks, as explained in Articles 6 and 7 of Law No. 21 of 2011. This role includes the responsibility for maintaining the stability and integrity of the financial sector by ensuring compliance with applicable regulations. In the context of Islamic banking, OJK has several main functions:

1.1 Granting operational permits for Islamic banks. As an authority institution, the OJK is responsible for granting business licenses to newly established Islamic banks or new product development permits for Islamic banks that are already operating. This process involves an in-depth evaluation of the bank's readiness to meet technical and sharia requirements.

1.2 Oversee governance, risk management, and regulatory compliance. OJK conducts continuous supervision to ensure that Islamic banks apply the principles of Good Corporate Governance, adequate risk management, and compliance with banking rules and sharia principles.

1.3 Supervise Islamic financial products. OJK ensures that the products and services offered by Islamic banks are in accordance with the fatwa issued by DSN. This includes the evaluation and supervision of contracts used in Islamic financial products.

Although the OJK has a comprehensive supervisory authority, the implementation of Islamic bank operations and products still relies on the DSN fatwa to ensure compliance with sharia principles. Therefore, the OJK acts as a regulator and technical supervisor, while DSN acts as a guardian of sharia compliance.



## 4.2 DSN'S AUTHORITY IN SAFEGUARDING SHARIA PRINCIPLES

The National Sharia Council-Indonesian Ulema Council (DSN-MUI) is the institution authorized to determine fatwas related to the business activities of Islamic financial institutions, including Islamic banking. Based on Article 26 of Law No. 21 of 2008 concerning Sharia Banking, all operational activities of Islamic banks must refer to the fatwa issued by DSN.

The main role of DSN in safeguarding sharia principles includes:

2.1 Giving fatwas related to sharia contracts. DSN is responsible for determining the conformity of contracts used in Islamic banking products, such as murabahah, mudharabah, and ijarah, with sharia principles. These fatwas are the legal basis that must be followed by Islamic banks in designing and offering financial products.

2.2 Supervising the implementation of sharia principles through the Sharia Supervisory Board (DPS). DSN has a network of sharia supervisors at the micro level through the DPS, which is placed in each Islamic financial institution. DPS is tasked with ensuring that the implementation of Islamic bank business activities is in accordance with the DSN fatwa.

With this authority, DSN becomes the main guardian of sharia values in the Islamic financial system. Its role not only provides a legal basis, but also reflects a commitment to uphold sharia principles in economic activities.

## 4.3 AUTHORITY SYNERGY BETWEEN OJK AND DSN

The relationship between OJK and DSN in regulating Islamic banking is complementary. DSN has the normative authority to set sharia standards through fatwas, while OJK is responsible for integrating the fatwa into the technical regulations of Islamic banking. This synergy is seen in the following mechanisms:

3.1 Adoption of DSN fatwa by OJK. The fatwa issued by DSN is the main reference for the OJK in drafting technical regulations related to Islamic banking. For example, in the development of new products, Islamic banks must obtain approval from the OJK based on a fatwa issued by DSN.





3.2 Coordination in supervision. OJK supervises the compliance of Islamic banks with banking regulations and ensures the implementation of the DSN fatwa in the operations of Islamic banks. On the other hand, DSN through DPS continues to monitor the implementation of sharia principles at the operational level.

This synergy aims to create a consistent and effective regulatory system, so that it is able to support the development of the Islamic banking industry without violating sharia principles.

#### 4.4 ALIGNMENT OF ARRANGEMENTS WITH SHARIA PRINCIPLES

The regulation of authority between the OJK and DSN has so far been in line with sharia principles which are the main foundation of Islamic banking. This alignment can be seen from:

4.1 Recognition of DSN fatwa as an operational legal basis. All products, services, and business activities of Islamic banks must comply with the DSN fatwa, thus ensuring that economic activities remain in accordance with Islamic values.

4.2 Layered supervision through OJK and DPS. OJK conducts macro supervision of regulatory and stability aspects, while DPS is tasked with supervising sharia compliance at the micro level. This system creates a strong control mechanism to maintain the integrity of Islamic banking.

However, there are some challenges in implementing this arrangement. One of them is the potential for overlapping authority between the OJK and DSN, especially in the implementation of complex regulations. In addition, the lack of technical understanding at the implementation level sometimes creates a gap between regulation and implementation.

To overcome these challenges, stronger synergy is needed through the preparation of more detailed technical regulations and more intensive collaboration between the OJK, DSN, and DPS. This is important to ensure that Islamic banking in Indonesia continues to grow sustainably and still adheres to sharia principles.





## 5 CONCLUSION

The regulation and supervision of Islamic banking in Indonesia involves two main institutions, namely the Financial Services Authority (OJK) and the National Sharia Council-Indonesian Ulema Council (DSN-MUI), with complementary roles and authorities. OJK is tasked with regulating and supervising the technical, governance, and compliance of Islamic banks with banking regulations, while DSN is responsible for maintaining the operational conformity of Islamic banks with sharia principles through fatwas and supervision through the Sharia Supervisory Board (DPS).

The synergy between these two institutions can be seen from the recognition of the DSN fatwa as the basis for regulating sharia products adopted by the OJK into technical regulations. However, there are challenges in the form of potential overlapping authority and gaps in the implementation of sharia principles. Therefore, it is necessary to strengthen coordination, prepare more detailed regulations, and increase technical understanding at the implementation level to overcome these obstacles.

The alignment between the regulation and sharia principles that has been running so far shows that the Islamic banking system in Indonesia has a solid foundation to support the sustainable development of the Islamic finance industry. With better synergy between OJK and DSN, Islamic banking is expected to be able to contribute more to national economic stability and growth.



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