

Standardization of Shari'ah Compliance Establishment and Operation of Sharia Cooperatives in Indonesia

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Abstract

Sharia cooperatives have had many positive impacts on micro-businesses and have been able to help around 920 thousand micro businesses in Indonesia. However, there are still big problems in running sharia cooperatives, namely human resources that are not yet professional. Sharia cooperatives need close supervision by those who understand sharia principles. One element of assessing the soundness of sharia cooperatives is compliance. Adheres to sharia principles and always pays attention to the National Sharia Council (DSN) fatwas. Given the many problems related to operations in sharia cooperatives, the researcher considers that discussion regarding the standardization of the establishment and operation of sharia cooperatives is very much needed. to be a benchmark for the level of sharia compliance in its operations. Therefore this research will examine the standardization of the establishment and operation of sharia cooperatives as analyzed from the DSN-MUI fatwa number.141/DSN-MUI/VII/2021 concerning guidelines for the establishment and operation of sharia cooperatives in Indonesia. The method used in this study is the descriptive qualitative method, through a literature survey which is then analyzed based on data sources. The results of this study are that the DSN-MUI fatwa number 141/DSN-MUI/VIII/2021 concerning guidelines for the establishment and operation of sharia cooperatives, has explained standardization, as well as sharia limitations on the establishment and operation of sharia cooperatives in Indonesia.

Keywords: *Sharia Cooperative, Sharia Compliance, DSN MUI*

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1. INTRODUCTION

Today the Islamic finance industry is experiencing very rapid development. Beginning with the development of Islamic banking, then the development of the capital market, as well as the development of Islamic insurance. Besides that, the development of the financial industry also extends to micro-scale Islamic financial institutions, especially within the scope of cooperatives (Fidiana, 2017). Based on Article 3 of Law No. 25 of 1992 concerning cooperatives states that cooperatives are micro-organizations that aim to prosper society, especially the members in it. In addition, cooperatives also aim to participate in building a national economic order to build a just and prosperous society based on Pancasila and the 1945 Constitution (Pemerintah Republik Indonesia, 1992). Based on the definition above, it is

known that cooperatives, including sharia cooperatives, play a very important role. This is because the banking sector is still unable to meet the community's needs in the lower middle class (Niswah & Septiarini, 2017).

The emergence of sharia cooperatives results from corrections to the incompatibility of conventional cooperatives with sharia principles (Abdurrahman & Yahya, 2015). Several forms of sharia cooperatives include, for example, Sharia Savings and Loans Cooperatives (KSPPS), Islamic Financial Services cooperatives (KJKS), Sharia Financing Savings and Loans Units (USPS), or what is known as BMT (Baitul Mal Wa Tamwil). In 2016 it was noted that the number of cooperative business units reached 150,223 business units & according to a total of 1.5 percent were Islamic financing savings and

loan cooperatives (KSPPS). Currently, the Cooperatives Office has inventoried a total of 2,253 KSPPS units with 1.4 million members. Share capital reached Rp 968 billion, debt equity reached Rp 3.9 trillion, and business scale reached Rp 5.2 trillion (Departemen Koperasi, 2016). Besides that, according to data from the Ministry of Cooperatives and Small and Medium Enterprises for 2019, the number of sharia savings and loan cooperatives (KSPPS) in Indonesia is 4,046 units, the largest of which is in East Java Province (Abdila, 2021). Based on these data, the number of Islamic cooperatives in Indonesia increased significantly quickly.

Sharia cooperatives have had many positive effects on micro-business actors. In a short period, they have been able to help more than 920 thousand small or micro businesses in Indonesia. Several types of micro-businesses that have been helped by the existence of sharia cooperatives include mosque cooperatives, Islamic boarding school cooperatives (Kopontren), office cooperatives, and market cooperatives (Kopas) (Yusuf, 2016). The characteristics of cooperatives, based on the principles of mutual cooperation and democracy, make the cooperative system easily accepted and understood by the community.

The magnitude of the potential for developing sharia cooperatives in Indonesia requires regulations to regulate their operations. Some legal instruments that have been the basis for sharia cooperative operations include the Ministry of Cooperatives and Medium Enterprises regulation Number 07/Per/Dep.6/IV/2016 regarding guidelines for assessing the health of savings and loan cooperatives and Sharia financing (Bidang Pengawasan, 2016). Furthermore, in Regulation Number 14/Per/M.Kum/IX/2015 regarding accounting guidelines for sharia cooperatives (Menteri Koperasi Dan Usaha Kecil Dan Menengah Republik Indonesia, 2015). Furthermore, in Rules No. 10/Per/M.KUKM/IX/2015 concerning Cooperative Institutions (Kemenkop-UKM, 2015). Besides that, also in Regulation No. 16/Per/M.KUKM/IX/ 2015 regarding the implementation of savings and loan business activities and sharia financing in cooperatives

In terms of supervision, similar to sharia banking which the Banking Law protects, there should also be a law that specifically regulates sharia cooperatives. Referring to various studies discussing Sharia

Cooperatives as conducted by Marlina (2017), who examined Sharia cooperatives as a solution to the application of a valid syirkah contract, her research stated that the Islamic view of conventional cooperatives is vanity because it violates syirkah provisions in Islamic rules. Therefore, conventional cooperatives should be changed into Islamic cooperatives (Marlina & Pratama, 2017). Furthermore, Sejati's research (2021) says that the main problem in the operation of sharia cooperatives is human resources that are not yet professional (Sejati, 2021). Based on the research above, the operation of sharia cooperatives needs strict supervision by parties who truly understand sharia principles, such as research conducted by Harto (2018), which says that one of the elements of assessing the soundness of sharia cooperatives is compliance with sharia principles (Harto, Amaliah, & Mulyati, 2018). Research conducted by Ghulam (2016) said that sharia cooperatives in their management must always pay attention to the fatwas of the National Sharia Council (DSN) (Ghulam, 2016). This research is supported by the research of Nurjaman (2021) and Inayah (2022), which states that the position of the DSN MUI fatwa is one of the prerequisites in determining the provision of a product in Islamic financial institutions (Inayah & Soemitra, 2022; Nurjaman & Ayu, 2021).

Based on many problems related to the operation of sharia cooperatives, the researcher considers that discussion regarding the standardization of the establishment and operation of sharia cooperatives is very needed to become a benchmark for the level of sharia compliance in its operations. Referring to Ghulam's, Nurjaman's, and Inayah's research said that sharia cooperatives, in their management, must always pay attention to the fatwas of the National Sharia Council (DSN). Therefore this research will examine the standardization of the establishment and operation of sharia cooperatives as analyzed from the DSN-MUI fatwa number 141/DSN-MUI/VII/2021 concerning guidelines for the establishment and operation of sharia cooperatives in Indonesia.

2. RESEARCH METHOD

The method used in this study is the descriptive qualitative method, through a literature survey analyzed based on data sources. Qualitative analysis is related to using data analysis related to words or sentences obtained from an object of research and

related to events in the object of research. To achieve the intended results, in qualitative research, the researcher must go through several stages in analyzing, namely studying, analyzing, and interpreting an event (Siyoto & Sodik, 2015). In this case, the author will analyze the standardization of the establishment and operation of sharia cooperatives, which are analyzed through the DSN-MUI fatwa number 141/DSN-MUI/VII/2021.

3. RESULTS AND DISCUSSION

3.1. Portrait of Sharia Cooperatives in Indonesia

The development of sharia cooperatives in Indonesia tends to be rapid because cooperatives are one of the financial institutions that are very suitable for developing the economy of middle and lower-class people (Ghulam, 2016). In addition, sharia cooperatives are included in one of the social institutions of Islamic economic law developed and practiced in Indonesia. The embryo of sharia cooperatives has emerged since the establishment of the Islamic trade union in 1913.(Dimiyati, 1989, p. 22) But even so, sharia cooperatives are not well known by the wider community and it can be said that sharia cooperatives are still unfamiliar to society (Safe'i, 2012).

Based on its role, sharia cooperatives carry out very strategic functions in growing the real sector and micro-enterprises in society following sharia patterns and principles (Angriani & As'ari, 2021). There are two types of sharia cooperatives based on their implementation and function, namely sharia savings and loan and financing cooperatives (KSPPS) and sharia financial services cooperatives (KJKS) and Sharia Financing Savings and Loans Units (USPS) or known as BMT (Baitul Mal Wa Tamwil)(Okfitasari & Suyatno, 2018). In practice, sharia cooperatives in Indonesia have various types of contracts, including musyarakah contracts, murabahah contracts (financing), mudharabah contracts (fundraising), wadhi'ah contracts, salam contracts, istisna' contracts, qard contracts, ijarah contracts, Ijarah Muhamiyah Bitamlik contract, and Hawalah contract (Ningsih & Masruroh, 2018).

In its establishment, Islamic cooperatives use the concept of Syirkah Mufawadhoh. The meant of Syirkah Mufawadhoh is a business established in groups consisting of 2 or more people & each of them can contribute in the form of funds in the same amount and participate in work in the same portion (Safe'i,

2012). Based on their performance, sharia cooperatives are considered to have improved performance and shown positive growth. The development of sharia cooperatives in Indonesia is also considered very potent and has good quality regarding the health of HR and IT cooperatives (Ant, 2016), as is the case with Baitul Maal wa tamwil (BMT), which is a legal entity from a cooperative with a savings and loan cooperative permit and sharia financing (KSPPS). Currently, BMT has utilized the right technology to optimize its performance in serving the community. By using a link to the financial technology network, the need for funds for the community can be optimized as a need for both additional funds and capital (Rizki, 2021).

3.2. Sharia Cooperative Regulation and MUI Fatwa number 141/DSN-MUI/VII/2021

In general, there are several regulations governing cooperatives in Indonesia, including:

- a. Law of the Republic of Indonesia Number 25 of 1992 concerning Cooperatives.(Undang-Undang RI No. 25 Tahun 1992 Tentang Perkoperasian Indonesia, 1992)
- b. Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 10/Per/M.KUKM/IX/2015 concerning cooperative institutions. (Kemenkop-UKM, 2015)
- c. Regulation of the Deputy for Supervision of the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 06/Per/Dep.6/IV/2016 concerning Guidelines for Health Assessment of Savings and Loans Cooperatives and Savings and Loans cooperative business entities.(Bidang Pengawasan, 2016)

Along with the development of Islamic cooperative institutions, in particular, the government also issued several regulations governing Islamic cooperative institutions. Special regulations for sharia cooperatives include:

- a. Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 14/Per/M.KUKM/IX/2015 concerning Guidelines for Accounting for Savings and Loans Businesses and Sharia Financing by Cooperatives (Menteri Koperasi Dan Usaha Kecil Dan Menengah Republik Indonesia, n.d.).

- b. Fatwa of the National Sharia Council of the Indonesian Ulema Council No.141/DSN-MUI/VIII/2021 concerning Guidelines for the Establishment and Operations of Sharia Cooperatives (MUI, 2021).

The MUI fatwa number 141/DSN-MUI/VIII/2021, reviewed in this paper, contains various matters ranging from guiding law to operations carried out by sharia cooperatives. Several provisions related to membership, business capital, contracts, and several provisions related to business activities. Several important aspects of the MUI fatwa number 141/DSN-MUI/VIII/2021 regarding the stipulations for the establishment of sharia cooperatives based on sharia principles, among others:

- a. The contract between parties or union members to establish a sharia cooperative uses a *syirkah* contract.
- b. The formation of sharia cooperatives must comply with laws and regulations that do not conflict with sharia principles.
- c. *Ra's al-maal* or business capital must be in the form of money and commodities that can be used as objects of a *syirkah* contract.
- d. Valuation of goods (*Taqwim al-'urudh*) in terms of *Ra's mal* in the form of goods must be carried out so that the value is known.
- e. The management of sharia cooperatives is authorized or *wakalah* by members to run sharia cooperatives through deliberations or general meetings following the applicable laws and regulations provisions.
- f. Members of sharia cooperatives may agree on the types of sharia cooperative businesses: consumers, producers, services and marketing, savings and loans and financing, as well as the time for sharing the burden of losses.
- g. Members of sharia cooperatives can agree on various types and business fields of sharia cooperatives, the functions of sharia cooperatives, as well as the procedures and time for sharing income or obtaining profits and sharing losses.

In its operations, sharia cooperatives are governed by the principle of avoiding *gharar* (uncertainty in a contract), *Zhulm* (persecution, namely containing elements of imbalance, injustice, and harming other parties), *Tadlis* (the act of hiding defects in the object of the contract carried out by the seller to deceive), *Dharar* (acts that can cause harm),

Risywah (bribery), *Maysir* (contracts made for unclear purposes, and careless calculations, speculation or chancy), transgression and negligence (MUI, 2021). Therefore the establishment and operation of sharia cooperatives must meet the requirements and comply with legal provisions and limitations in Islam.

3.3. Provisions for Types of Contracts in Sharia Cooperatives in Indonesia

Some aspects that become standard provisions for establishing and operating sharia cooperatives include legal provisions, business activity provisions, sharia cooperative institutional provisions, business capital provisions, social activity provisions (*tabarru'at*), and contract provisions. In several previous discussions, several important standard provisions have been discussed in establishing and operating sharia cooperatives in Indonesia. In this sub-chapter, the author will discuss in more detail the provisions of social activities (*tabarru'at*) and the terms of the contract in the operation of Islamic cooperatives.

In its operations, business activities in cooperatives that are social or *tabarru'at* can be carried out using a *qardh* contract. Apart from being a fundraising institution, sharia cooperatives can receive social funds such as zakat, waqf, infaq, shadaqah, and other social funds, which have been determined by the fatwa of the Indonesian Ulama Council.

Several contract provisions have also been explained in MUI Fatwa Number 141/DSN-MUI/VIII/2021, which states that contracts between sharia cooperatives and other parties can be carried out orally, in writing, gestural and consensual. This includes the use of electronic equipment.

Some of the contracts that apply in sharia cooperatives are:

- a. *Bai' musawwama*, based on MUI fatwa Number 110/DSN-MUI/IX/2017 regarding sale and purchase contracts (MUI, 2017).
- b. *Bai' al-murabahah*, this provision also applies in the DSN-MUI fatwa Number 04/DSN-MUI/IV/2000(DSN-MUI, 2000b) regarding Murabaha and number 111/DSN-MUI/IX/2017 regarding Murabaha sale and purchase agreements (DSN-MUI, 2017a).
- c. *Bai' as-Salam*, based on the provisions of the DSN-MUI Fatwa number 05/DSN-MUI/IX/2017

regarding the sale and purchase of *Salam* (DSN-MUI, 2000a).

- d. *Ba'i Istishna'*, pursuant to DSN-MUI provisions number 06/DSN-MUI/IV/2000 regarding sale and purchase of *istishna'*. (DSN-MUI, 2000d)
- e. *Ijarah*, based on the provisions of the DSN-MUI Fatwa number 09/DSN-MUI/IV/2000 regarding *Ijarah* Financing (DSN-MUI, 2000e) and DSN-MUI Fatwa number 112/DSN-MUI/III/2017 regarding *the Ijarah contract* (DSN-MUI, 2017b).
- f. *IMBT* contract, based on the provisions of the DSN-MUI Fatwa number: 27/DSN-MUI/III/2002 regarding the *Al-Ijarah al-Muntahiyah bi al-Tamlik* Agreement (DSN MUI, 2002).
- g. *IMFZ* contract is based on the provisions of the DSN-MUI Fatwa number: 101/DSN-MUI/X/2016 regarding *the al-Ijarah al-Maushufah Fi al-Zimmah contract*.
- h. *Wakalah bil ujah* contract, based on the provisions of the DSN-MUI Fatwa number 113/DSN-MUI/IX/2017 regarding *the Wakalah bil ujah contract* (Majelis Ulama Indonesia, 2017).
- i. *Kafalah bil ujah contract*, based on the provisions of the DSN-MUI Fatwa number 11/DSN-MUI/III/2000 regarding *Kafalah* (DSN-MUI, 2000c).
- j. *Hawalah bil Ujah contract*, based on the provisions of DSN-MUI Fatwa number 12/DSN-MUI/III/2000 regarding *Hawalah* and DSN-MUI Fatwa number 58/DSN-MUI/2007 regarding *Hawalah Bil Ujah*,
- k. *Ju'alah contract*, based on the provisions of the DSN-MUI Fatwa number 62/DSN-MUI/XII/2007 concerning *the Ju'alah contract*,
- l. *Musyarakah contract*, based on the provisions of the DSN-MUI Fatwa number 114/DSN-MUI/IX/2017 regarding the *Syirkah contract*.
- m. *Musyarakah Mutanaqishah (MMQ)*, based on the provisions of the DSN-MUI Fatwa number 73/DSN-MUI/XI/2008 concerning *Musyarakah Mutanaqishah Agreement*.
- n. *Wakalah bi al-Istithmar*, based on the provisions of the DSN MUI Fatwa number 26/DSN MUI/VII/2019 regarding *the Wakalah bi al-Istithmar contract*,
- o. *Wadi'ah*, based on the substance of the provisions of the DSN-MUI Fatwa number 01/DSN-MUI/IV/2000 concerning Current Accounts, and Fatwa number 02/DSN-MUI/IV/2000 concerning

Savings, DSN-MUI Fatwa number 19/DSN-MUI/IV/2001 regarding *Al-Qardh*, and DSN-MUI Fatwa number 79/DSN-MUI/III/2011 regarding *Qardh* Using Customer Funds,

- p. *Al-Rahn*, the provisions of the DSN-MUI Fatwa number: 92/DSN-MUI/IV/2014 regarding financing accompanied by *Rahn (al-Tamwil al-Mautsuq bi al-Rahn)* (DSN-MUI, 2011).

Furthermore, the DSN-MUI fatwa Number. 141 also explains that cooperatives and other parties can conduct transactions electronically by the provisions stipulated in the DSN-MUI fatwa number.116/DSN-MUI/IX/2017 regarding sharia electronic money (DSN-MUI, 2017c). Besides that, in the DSN-MUI fatwa number 117/DSN-MUI/IX/2018 regarding information technology-based financing based on sharia principles (DSN-MUI, 2018).

4. CONCLUSIONS AND RECOMMENDATIONS

Based on the explanation above, it can be concluded that the DSN-MUI fatwa number 141/DSN-MUI/VIII/2021 concerning guidelines for the establishment and operation of sharia cooperatives has explained standardization, as well as sharia limitations on the establishment and operation of sharia cooperatives in Indonesia. in the fatwa explains that in the operation of sharia, cooperatives must be separated from the elements of *gharar*, *maysir*, *tadlis*, *dharar*, *zulm*, *risywah*, *at-ta'addi*, and *at-taqshir*. Apart from that, in establishing sharia cooperatives, they must fulfill several provisions mentioned in the DSN-MUI fatwa number 141/DSN-MUI/VIII/2021, including as the contract in its establishment using a *syirkah* contract (unionized members), not contrary to the principle of transparency in determining advantages and disadvantages with members. With the existence of several provisions that have been regulated in the DSN-MUI fatwa number 141/DSN-MUI/VIII/2021, the actors and related organizations should evaluate the suitability of sharia principles in sharia cooperatives that have been implemented.

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