

Indonesian Shariah Bank Regulation : Practices, Practitioners and Praxis

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ABSTRACT

The potential merger of three state-owned Sharia banks into PT. Bank Syariah Indonesia Tbk is the subject of this research, which looks at the benefits and drawbacks. This study employs a qualitative descriptive method in which data is collected and analyzed inductively. According to the findings, PT. Bank Syariah Indonesia Tbk finds solutions to Indonesia's economic difficulties. On the other side, PT. Bank Syariah Indonesia Tbk is potentially susceptible due to a lack of policy support from relevant stakeholders; in other words, the merging of Sharia Banks does not bode well for Indonesia's economy. The goal of this research is to look at the potential and challenges that PT. Bank Syariah Indonesia Tbk is facing, as well as the prospect of PT. Bank Syariah Indonesia Tbk providing a solution to economic problems. After the merger, PT. Bank Syariah Indonesia Tbk requires government encouragement in the form of associated policies in the form of rules and regulations governing the company's operation. The findings of this study show that PT. Bank Syariah Indonesia Tbk is more hopeful about offering sharia-compliant services to the community. After the merging of three state-owned Sharia banks into PT. Bank Syariah Indonesia Tbk, this study evaluates the prospects and obstacles for establishing Sharia banks.

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1. Introduction

The Islamic principle of universality is the automatic acknowledgement of Muslims' attitudes toward economic life, as the economy is part of Islam's social structure. In this scenario, Islam plays a critical role in instilling empathy and moral responsibility during Islamic-related commercial activity. Tawhid, rububiyah, Khilafah, tazkiyah, and accountability form the philosophical pillars of Islamic economics¹. Economic activity and religion are inextricably linked in the world. Humans can carry out economic tasks properly and correctly because of their faith, while the economy allows them to carry out religious orders absolutely equally². For example, in the economy of Islam, money has a significant role in the perspective of society and religion. The money can be used for

¹Etienne Lepers and Antonio Sánchez Serrano, 'Decomposing Financial (in)Stability in Emerging Economies', *Research in International Business and Finance*, 51.July 2019 (2020), 101068 <https://doi.org/10.1016/j.ribaf.2019.101068>

²Ebenezer Bugri Anarfo, Joshua Yindenaba Abor, and Kofi Achampong osei, 'Financial Regulation and Financial Inclusion in Sub-Saharan Africa: Does Financial Stability Play a Moderating Role?', *Research in International Business and Finance*, 51.February 2019 (2020), 101070 <https://doi.org/10.1016/j.ribaf.2019.101070>

religious purposes such as zakat, alms, and donations. Meanwhile, money serves as a barrier to seeming exploitation in a climate of perpetual bargaining in social activities³.

The money, investment, and banking sectors are three major components of the Islamic economy.⁴ According to Sami Hassan Hamoud, the seeds of Sharia Banking were planted before the Prophet Muhammad became an apostle as a result of his commercial honesty, for which he was given the title "Al-Amin." He was entrusted with the safekeeping of people's money. Money transfer activities, on the other hand, have been recognized from the dawn of Islam⁵. The concept of modern Sharia Banking emerged around the middle of the twentieth century, specifically in the 1940s⁶.

Sharia Banks are banks that conduct out economic activities based on sharia principles or Islamic legal principles established in the MUI fatwa, according to Law Number 21 of 2008. The 'adl wa tawazun (justice and balance), maslahah (benefit), alamyah (universalism), and uncontained gharar, riba maysir, dzalim, and haram objects are the instructions above. In addition to these principles, Sharia Banking Law requires Sharia Banks to perform social functions, such as the Baitul Mal Wa Tamwil (BMT) institution, which manages funds generated from zakat, donations, alms, grants, or other social funds and distributes them to waqf managers (Nazhir) as required by the waqf donor (wakif).

Sharia Banking's profit-sharing approach offers a mutually beneficial alternative for both the public and the bank, emphasizing aspects of fairness in transaction operations, ethical investing, encouraging fraternity ideals in production, and avoiding speculative transactions⁷. Sharia banking offers a wide range of banking goods and services via a variety of financial systems. Sharia Banking's trustworthiness is an equally appealing option for the Indonesian people.

Indonesia's attempts to build Sharia Banks have met expectations, particularly the merger transition. The merger⁸ created Indonesia's largest Sharia Bank, which is intended to boost the country's economy and Islamic financing. Since the President is presently leading the growth of the Islamic financial industry directly through the National Committee for Sharia Economics and Finance (KNEKS) to actualize Indonesia as the world's sharia economy and finance, the bank must sustain and achieve the potency of economic growth.

In 1991, Bank Muamalat Indonesia was one of Indonesia's first Sharia banks. The Indonesian Ulema Council spearheaded the establishment of this bank (MUI), Muslim businesses, the government, and the Indonesian Muslim Intellectuals Association (ICMI).

³Drew Dahl, 'Bank Audit Practices and Loan Loss Provisioning', *Journal of Banking and Finance*, 37.9 (2013), 3577–84 <https://doi.org/10.1016/j.jbankfin.2013.05.007>

⁴Guglielmo Maria Caporale and others, 'The Bank Lending Channel in the Malaysian Islamic and Conventional Banking System', *Global Finance Journal*, 45.April 2019 (2020), 100478 <https://doi.org/10.1016/j.gfj.2019.100478>

⁵Andrea Paltrinieri and others, 'Risk-Adjusted Profitability and Stability of Islamic and Conventional Banks: Does Revenue Diversification Matter?', *Global Finance Journal*, 50.September 2019 (2021), 100517 <https://doi.org/10.1016/j.gfj.2020.100517>

⁶Enzo Dia, 'How Do Banks Respond to Shocks? A Dynamic Model of Deposit-Taking Institutions', *Journal of Banking and Finance*, 37.9 (2013), 3623–38 <https://doi.org/10.1016/j.jbankfin.2013.05.023>

⁷Hanh Thi My Phan and Kevin Daly, 'Market Concentration and Bank Competition in Emerging Asian Countries over Pre and Post the 2008 Global Financial Crisis', *Research in International Business and Finance*, 51.May 2016 (2020), 101039 <https://doi.org/10.1016/j.ribaf.2019.05.003>

⁸Abdullah Mamun, George Tannous, and Sicong Zhang, 'Do Regulatory Bank Mergers Improve Operating Performance?', *International Review of Economics and Finance*, 73.September 2019 (2021), 152–74 <https://doi.org/10.1016/j.iref.2020.12.036>

However, its presence was not widespread enough at the time, and its service remained stagnant. Following the economic crisis and reforms, Bank Muamalat began to attract customers' interest⁹.

According to history, the monetary crisis of 1998 impacted the collapse of numerous conventional banking, which were liquidated due to the failure of the interest system. Meanwhile, Sharia Banking is a type of banking that is based on religious principles a profit-sharing system based on sharia principles continues its existence and manages to thrive during the monetary crisis. Shareholders, securities holders, borrowers, and depositors of monies in Sharia Banks all benefited from the establishment of Sharia-based financial institutions at the time¹⁰. According to a survey conducted in Oman, the future of Sharia Banks is defined by services that provide consumers with security and convenience.

The government has made an attempt to develop Sharia Banking by allowing traditional commercial banks to build Sharia Business Units (UUS) or to transform a conventional bank into a sharia bank. This strategic phase entails putting the government's answer into action by amending Law No. 7 of 1992 on Banking with Law No. 10 of 1998. The laws establish a legal framework that outlines the types of businesses that Sharia Banks are entitled to do. The significance of sharia banking development can be seen in the Financial Services Authority (OJK) Snapshot from June 2018, which states that before the merger, there were 14 Sharia Commercial Banks (BUS), 20 Sharia Business Units (UUS), and 165 Sharia Rural Banks in Indonesia (BPRS).

The development of Sharia Banking in Indonesia is expected to improve the quality of the socio-economic life of the community, in an addition to increase public participation in the process of national economic development. Sharia Banking's fundamental purpose is to increase social welfare¹¹. The BUMN ministry's idea to integrate Islamic banks is no longer merely a discussion because it has been approved by the OJK since February 2021. Over the next few years, the government hopes that the merger program would boost profitability and efficiency.

During the consolidation era, PT Bank Syariah Indonesia Tbk will need to focus on managing Human Resources and the core banking system. Because these two factors have a significant impact on long-term performance trends. Does the merger of the three Islamic banks benefit the Indonesian economy or the other way around? Because the merger of the three state-owned banks resulted in the establishment of Indonesia's most important Islamic bank, there is also a great potential to invest in Islamic financial technology and innovation. The establishment of Sharia Banking in Indonesia, as well as its achievements,

⁹Amine Tarazi and Pejman Abedifar, 'Special Issue on Islamic Banking: Stability and Governance', *Global Finance Journal*, May, 2020, 100540 <https://doi.org/10.1016/j.gfj.2020.100540>

¹⁰Woraphon Wattanatorn and others, 'Mutual Fund Liquidity Timing Ability in the Higher Moment Framework', *Research in International Business and Finance*, 51.September 2019 (2020), 101105 <https://doi.org/10.1016/j.ribaf.2019.101105>

¹¹Diana Abu-Ghunmi, Shaen Corbet, and Charles Larkin, 'An International Analysis of the Economic Cost for Countries Located in Crisis Zones', *Research in International Business and Finance*, 51.April 2019 (2020), 101090 <https://doi.org/10.1016/j.ribaf.2019.101090>

are aided by a strong regulatory framework for conducting business¹². palSharia Banking operations are governed by three regulations.¹³

The passage of Law Number 7 of 1992 on Banking, as revised by Law Number 10 of 1998 and Law Number 21 of 2008 on Sharia Banking, establishes a legal framework that ensures legal certainty and fairness. In terms of executing the law, the regulation of Sharia Banking is projected to benefit the community due to its alignment with national economic growth goals. The current existence of Sharia Banking rules in Indonesia has enhanced the theory of Islamic law politicization and bolstered the national legal system's prophetic law paradigm. The promulgation of the Sharia Banking Law demonstrates that the national Sharia Banking business is growing stronger as a result of the support of an adequate legal framework to stimulate rapid expansion.

The formation of two banking systems in Indonesia (dual banking system) is based on Law Number 10 of 1998, which includes an interest-oriented system known as conventional banking and a bank profit sharing-oriented system known as Sharia Banking. The growth in volume of the sharia banking industry is amazing because it began as a very modest firm that, when it reaches the optimum point of economies of scale, it becomes imperative to consider its legal framework.

The Sharia Banking Law, in formal legal terms, has legitimized the functioning of sharia banking practices. It serves as a catalyst for national and regional governments, as well as other parties, to create a sharia-based economic system. The Sharia Banking Law in Indonesia will not only accelerate the growth of the Sharia Banking industry, but will also transform the national banking industry as a whole, ensuring that its focus is on the real sector and that it operates according to sharia principles, promoting the achievement of a healthy, strong, and dynamic economy.

The Sharia Banking system, as well as other components of the Islamic viewpoint, are supportive tools for achieving the Islamic social and economic system's objectives. The Sharia Banking system made it illegal to pay or receive any kind of determining loan or credit. As a result, the concept of interest on a loan is a strict no-no. In practice, the Sharia Banking system aims to spread risk, encourage entrepreneurship, discourage speculative activity, and uphold covenant integrity. Capital distribution allows anybody to form a business, such as sole proprietorships, joint ventures (including mudharabah and syirkah), and corporate entities. Cooperatives can play an important role in the Islamic economy as long as they don't engage in banned transactions. Sharia Banking has been proven to be superior to traditional banking due to the system's stability¹⁴.

2. Research Method

This study employs the descriptive-analytic approach to acquire in-depth data, as stated by Sugiyono, and it will be meaningful. Qualitative methods have a significant impact on the research's content, suggesting that qualitative approaches reveal the nature of the

¹²Awatef Louhichi, Salma Louati, and Younes Boujelbene, 'The Regulations–Risk Taking Nexus under Competitive Pressure: What about the Islamic Banking System?', *Research in International Business and Finance*, 51.January 2018 (2020), 101074 <https://doi.org/10.1016/j.ribaf.2019.101074>

¹³ Mohammad Bitar, Kuntara Pukthuanthong, and Thomas Walker, 'Efficiency in Islamic vs. Conventional Banking: The Role of Capital and Liquidity', *Global Finance Journal*, 46.July 2019 (2020), 100487 <https://doi.org/10.1016/j.gfj.2019.100487>

¹⁴ Faisal Alnori and Faisal Alqahtani, 'Capital Structure and Speed of Adjustment in Non-Financial Firms: Does Sharia Compliance Matter? Evidence from Saudi Arabia', *Emerging Markets Review*, 39.March (2019), 50–67 <https://doi.org/10.1016/j.ememar.2019.03.008>

relationship between researchers and informants, objects, and research subjects¹⁵. Meanwhile, descriptive research is a type of study that aims to describe current phenomena, whether natural or man-made¹⁶. Descriptive research aims to provide systematic, factual, and accurate descriptions of a population's or area's facts and features. This study intends to examine the opportunities and challenges faced by PT. Bank Syariah Indonesia Tbk (referred to as BSI in this study) during the post-merger period.

3. Results and Discussion

Opportunities and challenges faced by PT. Bank Syariah Indonesia Tbk

Following the merging of three Sharia banks, BSI has a huge possibility to continue developing, given that its assets have increased significantly, from Rp.220 trillion to Rp.225 trillion. As evidenced by the following, BSI's critical chance is reasonable. First and foremost, Indonesia is a Muslim-majority country, This number represents a potential market share for BSI, which does not exclude non-Muslims as customers, given that Sharia banks outside of Indonesia also accept non-Muslims. This makes it difficult for Sharia banking actors to gain non-Muslims' trust, as consumer trust is the most important factor in the development of BSI¹⁷.

Second, the fatwa on bank interest is haram, despite the fact that some ulama in Indonesia have opposing views. However, with the MUI fatwa No. 1 of 2004 on Interest (Interest/Fa'idah), Sharia banking has been able to spread its system¹⁸. Muslims should be aware that, in addition to the interest-paying system given by traditional banks, Sharia banks also offer a profit-sharing system with an equity value. Third, among young people and performers, increased religious awareness is accompanied with a spirit of hijrah. On campuses, at mosques, and on social media, the number of religious activities and actual dialogues about Islam has skyrocketed. This entails making a significant contribution to the growing spiritual consciousness, as well as putting Islamic economics into practice.

The fourth factor is the spread of Islamic economics. Sharia insurance (takaful), Sharia pawnshops, Sharia MLM (ahad net), Sharia cooperatives, capital markets, and Islamic bonds such as the sharia hotel business are all examples of Islamic economics. As a result, Sharia banks have a lot of opportunity to network in order to grow and benefit each other¹⁹. Fifth, the emergence of Islamic institutions as a result of the presence of post-reform Islamic parties has had an impact on the community's lives. The emergence of Muslim politicians as legislators is likely to encourage sharia-based policymaking and advance Sharia banks²⁰.

¹⁵Theresia Anita Christiani, 'Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object', *Procedia - Social and Behavioral Sciences*, 219 (2016), 201–7 <https://doi.org/10.1016/j.sbspro.2016.05.006>

¹⁶ F. Pereira and others, 'A New Method for the Identification of Cohesive Laws under Pure Loading Modes', *Engineering Fracture Mechanics*, 271.October 2021 (2022), 108594 <https://doi.org/10.1016/j.engfracmech.2022.108594>

¹⁷ Paolo Pietro Biancone and Maha Radwan, 'Sharia-Compliant Financing for Public Utility Infrastructure', *Utilities Policy*, 52.March (2018), 88–94 <https://doi.org/10.1016/j.jup.2018.03.006>

¹⁸ Ahmed A. Elamer and others, 'Sharia Supervisory Boards, Governance Structures and Operational Risk Disclosures: Evidence from Islamic Banks in MENA Countries', *Global Finance Journal*, 46.July 2019 (2020), 100488 <https://doi.org/10.1016/j.gfj.2019.100488>

¹⁹ Jamshid Karimov and others, 'Shari'ah Compliance Requirements and the Cost of Equity Capital', *Pacific Basin Finance Journal*, 62.May (2020), 101349 <https://doi.org/10.1016/j.pacfin.2020.101349>

²⁰ Naiwei Chen and Min Teh Yu, 'National Governance and Corporate Liquidity in Organization of Islamic Cooperation Countries: Evidence Based on a Sharia-Compliant Liquidity Measure', *Emerging Markets Review*, 47.November 2020 (2021), 100800 <https://doi.org/10.1016/j.ememar.2021.100800>

Sixth, Islamic economics schools or universities are quickly establishing Islamic economics majors. Higher education plays a critical role in developing a new generation of Islamic economists, particularly Sharia bankers. Seventh, BSI will take use of technology's rapid advancements by offering a variety of transactions and financial service products, including online transactions (buy and sell), digital wallets, cashback, and more. A study conducted in Malaysia demonstrated the essential role of technology in aiding the establishment of Sharia banks via social media platforms.

Sharia Bank is the only bank to have survived and thrived during the 1998 financial crisis. The merger of red-plate Sharia banks will give people hope for the future when it comes to dealing with crises. Sharia banking must be prepared to tackle a variety of problems in addition to taking use of the potential. Because economic competition between states is unavoidable during the globalization era, the presence of BSI in globalization must improve in its early stages to handle many probable problems. With its supremacy based on the interest system, BSI as the personification of the merging of the three Sharia banks (BRI Syariah, Mandiri Syariah, and BNI Syariah) will inflict strong competition with regular banks²¹.

In general, the Islamic financial industry will be well-established as a result of overcoming hurdles, such as professional, healthy, and dependable Sharia banking. These difficulties are divided into two categories based on their origins: inside and outside. Inside problems include a variety of issues, such as 1) institutional development. 2) Promotion and dissemination. Expansion of the office network is number three. 4. Enhancement of human resources. 5) Increase in capital. 6. Improvement of service²². Despite these obstacles, there are also external hurdles to contend with, such as: To begin with, government assistance is only partial. Sharia banking has already been pushed by the government. It has not, however, reached the level of policy (political will) and seriousness that is required (goodwill). The second, community cynicism, is due to a lack of respect for ministers, governors, and regents. When it comes to the emergence of BSI, there will inevitably be skeptics. Misconceptions abound, such as the Sharia bank being exclusively for Muslims, the profit-sharing structure being less advantageous, and the process being lengthy. As a result, Sharia banks must promote their services in a sympathetic and appealing manner in order to shift perceptions and provide professional, high-quality, and profitable Sharia banking services.

The Merger of Sharia Banks a Solution to the Economic Crisis

After the signing of the conditional merger agreement (CMA) on Monday, October 12, 2020, and officially operating in February 2021. The merger results of the three Islamic bank subsidiaries of state-owned banks are expected to be able to answer the economic problems of the Indonesian nation. The merger carried out in the midst of the Covid-19 pandemic storm is a new breakthrough, considering that the Covid-19 pandemic has impacted the national economy. Therefore, the presence of BSI as the expectation to sustain the national economy shall not only rise from the pressure of the economic crisis

²¹Irwan Trinugroho and others, 'Is Spin-off Policy an Effective Way to Improve Performance of Islamic Banks? Evidence from Indonesia', *Research in International Business and Finance*, 56.November 2020 (2021), 101352 <https://doi.org/10.1016/j.ribaf.2020.101352>

²²Pan Liu, Dmitry Vedenov, and Gabriel J. Power, 'Commodity Financialization and Sector ETFs: Evidence from Crude Oil Futures', *Research in International Business and Finance*, 51.September 2019 (2020), 101109 <https://doi.org/10.1016/j.ribaf.2019.101109>

but also the current health crisis. The benefits of the merger cannot be immediately enjoyed to its long process, however, optimism shall be disseminated as the commitment to maintain the national economy²³.

Amid the optimism of sharia economic actors, there is concern from the public about a shift in the focus of BSI, which previously reached the ultra-micro area, such as through the sharia pawnshop segment or productive financing of the agricultural sector. As its role of financial intermediary, the BSI is possible to become a corporate bank. Due to such conditions, the sustainability of vision is significant to achieve the goals of the merger. This implies the biggest challenge from the merger of these State-Owned banks, considering that each bank has developed a work culture with visions to be achieved. Therefore, certain cultures shall be established to translate and harmonize the vision in the future²⁴.

The potency of BSI as a high-range entity is due to its collective potential seeds. These seeds are the good work system and professionalism practiced by Bank Syariah Mandiri, the leading innovation capabilities practiced by BNI Syariah, and the understanding of the local and regional conditions practiced by BRI Syariah. The Islamic financial system has become the center of attention and has begun to be developed in various countries. With the existing opportunities and potential, BSI has a great opportunity to become the largest Sharia bank in the world by utilizing all existing potentials. BSI may serve as a solution to the prolonged economic crisis since 1998. Apart from the existing potential, the role of the government is also dominant in supporting the development of Sharia banks. As in the United Kingdom, the government is committed to support and comply all Sharia banking financial services²⁵.

Responding to the opportunities for the development of BSI in the post-merger is widely open to sustain the revival of the Islamic economy in the country. However, some concerns may lead BSI to be vulnerable. The most significant one is at the policy level, in this case, is the role of the government²⁶. Because to make policies and regulations both in the field of law and politics, requires the strength and authority of the state. The state must present a law that is just by providing the maximum benefit because the assessment of whether it is good or bad, fair or not a law depends on whether the law can give happiness to humans or not. In several countries, Islamic banking has experienced very significant developments due to state support through statutory regulations. With the support of these regulations, Islamic banking can create a conducive atmosphere for the development of Islamic banking. The change in the geopolitical map involving the United States and China has certainly changed the face of Indonesian politics so that the government must be able to position itself to bring about changes that will encourage the revival of Islamic banking.

²³Yousra Trichilli, Mouna Boujelbène Abbas, and Afif Masmoudi, 'Islamic and Conventional Portfolios Optimization under Investor Sentiment States: Bayesian vs Markowitz Portfolio Analysis', *Research in International Business and Finance*, 51.November 2018 (2020), 101071 <https://doi.org/10.1016/j.ribaf.2019.101071>

²⁴Jiakai Chen, Joon Ho Kim, and S. Ghon Rhee, 'Do Low Search Costs Facilitate Like-Buys-like Mergers? Evidence from Common Bank Networks', *Journal of Financial Economics*, 140.2 (2021), 484–513 <https://doi.org/10.1016/j.jfineco.2020.12.002>

²⁵Mohd Haniff Zainuldin and Tze Kiat Lui, 'Earnings Management in Financial Institutions: A Comparative Study of Islamic Banks and Conventional Banks in Emerging Markets', *Pacific Basin Finance Journal*, 62.April 2018 (2020), 101044 <https://doi.org/10.1016/j.pacfin.2018.07.005>

²⁶Rami Salem, Muhammad Usman, and Ernest Ezeani, 'Loan Loss Provisions and Audit Quality: Evidence from MENA Islamic and Conventional Banks', *Quarterly Review of Economics and Finance*, 79 (2021), 345–59 <https://doi.org/10.1016/j.qref.2020.07.002>

4. Conclusion

The amount of opportunity for the development of BSI may be observed from the following reasons; the majority of Indonesia's population is Muslim, the MUI fatwa regarding the prohibition of bank interest, increased religious awareness with the spirit of hijrah, the spread of the application of Islamic economics in the financial industry, the emergence of institutions in the form of Islamic parties, the rapid emergence of Islamic economics colleges and universities opening Islamic economics majors, the pace technological developments and advances. By optimizing the existing opportunities, it will strengthen the foundation of BSI towards the global market. However, these opportunities face formidable challenges in terms of determining policy (government). The government as the policymaker shall not confound with political interests even that politics and law are inseparable from the economic system. Therefore, the established concerning the Sharia banking sector is aimed to improve the national economy. The Stuart Mill 1991 utility theory asserted that the utility theory is the basis for achieving the main goal of law enforcement. This theory becomes a barometer of work assessment of the political policy of Sharia banking law, to observe the contribution of these policies to the progress of BSI

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