

Position of the Fatwa of the National Sharia Council in the *Fiqh* Development of Sharia Financial Institutions

Ach Faqih Supandi^{1*}; Bastomi Dani Umbara¹; Khittah Ashilah¹; Kiki Azakia¹

¹Universitas Islam Jember, Indonesia

Correspondence e-mail: achfaqih@gmail.com

Abstract

The purpose of the study was to further see the fatwa position of the National Sharia'ah Council in the development of Islamic economic and business fiqh in Indonesia as well as the implementation of duties and functions of the National Sharia'ah Council. Under the applicable statutory regulations, particularly Act No. 21 Year 2008 on Sharia Banking, there is a duty for regulators in this case the Bank of Indonesia to have the charge material contained in the Fatwa MUI absorbable and transformed in formulating Sharia'ah principles in the economic and financial fields of Shariaa into payload material of the Legislation Regulations which have legal and binding powers in general. Fatwa with classical definitions undergoes development and strengthening of positions in institutionalized and collective contemporary fatwa in Indonesia. Both issued by the MUI Fatwa Commission on religious and societal matters in general, as well as those issued by the DSN-MUI or fatwa on Sharia economic issues, particularly the Sharia Economic Institution. The fatwa issued by the MUI Fatwa Commission became a generally applicable referral as well as binding to the ummah of Islam in Indonesia, particularly morally. The DSN fatwa is becoming a binding reference to the existing Shariaa'ah financial institutions (LKS) in the homeland, as well as binding to communities interacting with the LKS.

Keywords: Fatwa; National Sharia'ah Council (DSN); Indonesian Ulama Assembly (MUI)

INTRODUCTION

Since the promulgation of Law Number 21 of 2008 concerning Sharia Banking (Sharia Banking Law) in Indonesia, in general Sharia Financial Institutions (LKS), and Islamic banks in particular have experienced significant growth and development from 2008 to 2010. Apart from that, the Sharia Banking Law also has connections to other fields such as: the sharia capital market, sharia insurance, and the finance sector. (Nafis: 2011)

The large number of financial institutions with sharia-based management will give rise to problems and questions about their sharia elements. In general, various fiqh books that discuss sharia elements lead to sharia opinions regarding casuistry that occurred in the middle ages. Meanwhile, economic issues, especially financial institutions, are increasingly emerging and continuing to develop but have not been addressed in fiqh books. Therefore, to answer the problem of financial institutions, ijthad is needed in this day and age where everything has changed intensely and globally. Yusuf Al-Qaradawi stated that currently economic and financial aspects are one of the scopes of ijthad which in fact is something new (Qardhawi: 1994).

Since 1992, Indonesia's banking policy has been based on the provisions of Law No. 16. Then the 'Banking Law' issued on July 7, 1992 was adopted by Decree No. 10 of 1998 on the implementation of the dual banking system dated July 7, 1992 in the banking sector. The dual banking system refers to the operation of two banking systems (conventional and Shariaa side by side), and its implementation is subject to various applicable laws and regulations (Anshori,2007).

Islamic economic actors, the public and the government (regulator) Need Shariaa law from the Indonesian Ulema Council (MUI) which covers the practices and products of Islamic financial institutions. The rapid development of Islamic financial institutions must be balanced with effective and accurate Islamic laws and regulations, so that all products have a strong foundation in Islam. For this reason, the National Shariaa Council (DSN) was formed in 1999 as part of the Indonesian Ulema Council.

The role of MUI and DSN-MUI in Islamic banking is legal in the provisions of national legislation, which is reflected in the provisions of Article 1 paragraph (12) of the UUPS of 2008: "The principle of Shariaa is Islamic law in banking activities. The principle of Islamic law in China is based on the wealth issued by the institution. The right to establish fatwa in the field of Shariaa law. "Then clearly, the institution of MUI is mentioned in the provisions of Article 26 paragraph (2) of UUPS 21 of 2008:" The Shariaa principles mentioned in the first paragraph are enforced by the Indonesian Ulema Council", Article 32 (2):" The Shariaa Supervisory Board as referred to in the second paragraph (1) is appointed by the general meeting of shareholders on the proposal of the Indonesian Ulema Council.

To deal with the great development of the Islamic banking industry in Indonesia, a set of laws and regulations is needed that can provide legal certainty. In addition, given the strategic role of legally effective institutions in filling the formal legal gap, it is necessary to have competent institutions to provide legal aid or other forms of legal aid.

LITERATURE REVIEW

Definition of Fatwa and the Position of Fatwa on Sharia Banking Products

1. The Debates of Fatwa

The etymological definition of fatwa comes from the Arabic al-fatwa. According to Ibn Manzbur (Ibn Manzhur), the word fatwa is a combination of fata, yaftu, and fatwan. Form means youth, novelty, explanation and enlightenment. This view is almost the same as the view of al-Fayumi who says that al-fatwa comes from the word al-fata which means youthful. Therefore, the person who issues a "fatwa" is referred to as a "Mufti" because it is believed that the person is able to provide explanations (al-bayan) and answer questions about his strength as a young man (Amin, 2007:19).

According to the meaning of the language (lughawi), the meaning of fatwa is the answer to the event (giving a clear answer to all events in society). According to Shariaa law, a fatwa is an interpretation of Shariaa law in response to a case submitted by

someone, whether the interpretation is clear or suspicious, and the interpretation leads to two interests, namely personal interest or public interest.

As ZamakhSharia said, the definition of the term “fatwa” is the interpretation of Syrian law, “The law is about a person or a group of issues. According to Yusuf Khadhawi (According to Yusuf Qardhawi, Fatwa people are interpreting Islamic law, which is the answer to questions raised by Fatwa people (mustafi) individually or collectively kolektif (Amin,2007:20).Furthermore, related to the form of fatwa at the practical level there are at least 2 forms of fatwa, namely Collective Fatwa (*al-fatwa al-ijma'i*) and Personal Fatwa (*al-fatwa al-fardi*).

a. Collective Fatwa (*al-fatwa al-ijma'i*).

A collective fatwa is a type of fatwa formulated and held by a group or organization that has the ability and authority to issue fatwas. These collective fatwas should not be influenced by increasing political, cultural and social pressures. In Indonesia, collective fatwas come from the Indonesian Ulema Council, the Islamic Justice Development Office under the Ministry of Religious Affairs, the Fatwa Commission of the Indonesian Islamic Dissemination Committee, the Muhammadiyah Translation Committee, and others (Fatah,2006:140-141).

Collective fatwas are considered a modern form of jihad and are considered ideal because the drafting process is based on various scientific perspectives that are close to the facts. Mass jihad is needed because the problems that are now emerging are becoming more complex. This solution requires not only a legal approach, but also support from various disciplines such as medicine, psychology and economics (Fatah,2006:159).

b. Personal Fatwa (*al-fatwa al-fardi*).

Personal fatwa is a form of fatwa that comes from research and analysis conducted by the community. Usually this personal wealth colors the collective wealth more. Personal fatwas are always based on an in-depth study of the fatwa issue to be issued, usually collective fatwas start from personal fatwas through this in-depth research (Fatah,2006:141).

2. Position of Fatwa

Fatwa is an Islamic legal institution designed to provide answers and solutions to problems faced by the ummah. In fact, Muslims generally use fatwas as a reference for attitude and behavior. This is because the status of a fatwa among ordinary people is like a verbal argument between Muslim jihadists. In other words, for ordinary people, issuing a fatwa is like an argument against the Muslim Senate. The existence of Fatwa Ummah is an integral part of the Islamic economic system that is being developed, and it also serves as a tool to measure the pace of Islamic economic development in Indonesia. Islamic Economic Law today proposes a model of technical and even economic development.

Fatwas occupy an important position in Islam. Fatwas or clerical decrees are seen as the tip of the iceberg that can break the development of Islamic law. The provisions of

Islamic law cannot be separated from religious texts (al-nushush al-syari'iyah) and face serious problems in dealing with developing problems that are not covered by religious texts. The number of religious textbooks has stopped, but fundamentally, as time goes by, problems and cases develop rapidly. Under these conditions, fatwas became another way to resolve problems and events.

Functionally, Fatwa has the function of Taping and Taoji. Tabyin means interpreting the law which is a practical provision for financial institutions, especially the law required by Shariaa practitioners to the DSN and taujih, which is to provide guidance and enlightenment about Shariaa economic norms for the wider community (Mufti,2011). Indeed, in the study of ushul fiqh, the status of fatwas is limited to those who demand and give fatwas. However, in this case, the theory is not fully acceptable, because the context, nature and characteristics of the language of fatwa today have evolved and are different from the language of classical fatwa. The ancient theory of fat should be reformed and updated according to the development and process of fat formation. Therefore, the fatwa theory that only limits the mustard (the person requesting the fatwa) has nothing to do with the DSN fatwa. DSN's current Islamic economic fatwas are not only binding for practitioners of Islamic economic institutions, but also for the Indonesian Islamic community, especially since these fatwas have now been positivized through Bank Indonesia Regulations (PBI). The House of Representatives has recently amended Law No. 7/1989 on Religious Courts to explicitly include Shariaa economic issues as the authority of the Religious Courts.

In addition to being the supervisory authority of Islamic banking, Bank Indonesia is also related to the Fatwa produced by DSN-MUI. In the preparation of Bank Indonesia Regulations, Bank Indonesia uses the Fatwa of DSN-MUI as reference material for the preparation of Bank Indonesia Regulations and external circulars. In the practice of making PBIs related to Islamic banking, Bank Indonesia can only refer to the Fatwa of DSN-MUI in the preparation of PBIs, and cannot refer to Fatwas issued by institutions other than DSN-MUI. If we look at the location of Fatwa DSN-MUI in the legislation, then Fatwa DSN-MUI is a set of rules of public life that is binding for Bank Indonesia as the supervisory authority.

Therefore, the content contained in the MUI fatwa must be assimilated and transformed into legally effective content material that is generally binding on legislation when formulating Shariaa principles in the field of Islamic banking. Therefore, Bank Indonesia cannot make provisions related to Islamic banking that contradict the Shariaa principles stipulated in the DSN-MUI fatwa, and can only use the DSN-MUI fatwa as a guideline in the preparation of Bank Indonesia regulations. This means that if the institution issuing the fatwa is the authority authorized to issue fatwas, Bank Indonesia can refer to fatwas issued by other institutions (Gayo dkk, 2011).

Yeni Salma Barinti said the DSN-MUI fatwa has binding legal force, so legal economic actors must comply. The outcome of this law is based on several provisions that

apply directly or indirectly to legislation. The law directly states that a fatwa is a legitimate principle that must be obeyed. If they are not complied with, economic actors will be subject to administrative sanctions. This means that the role of the IOC must be present in Islamic banking institutions. Carrying out its duties as an Islamic guide. DPS must follow the regulations issued by DSN- MU (Barinti, 2018).

A fatwa is an official answer to a legal question. Fatwas are not easy legal decisions, nor are they unsubstantiated legal formulas. From this point it can be understood that the people of a fatwa are essentially providing legitimate answers to questions that are not in the Qur'an or Sunnah, or reaffirming their position from the perspective of Islamic teachings (Faradibah,2018).

The research used in this study is normative research, namely legal research that examines the law of the National Sharia'ah Committee (DSN) Fatwa law from all aspects. The type of research used is descriptive research, which is clear, detailed and systematic. Describe the object research surveyed. Will conduct research. The purpose of this descriptive research is to examine clearly, in detail, and systematically the legislation of the Fatwa of the Islamic Law Council (DSN) that applies to Sharia'ah financial institutions in Indonesia. The problem solving method used in this research is the normative juridical view, which is a method of implementation by examining and explaining the principles, concepts, doctrines, and legal norms relating to the principles, concepts, doctrines, and norms of Sharia law. State (DSN) issued by Majelis Ulama (MUI) Indonesia.

RESULT AND DISCUSSION

Position of the Shariaa Council in Islamic Banking Institutions in Indonesia

The National Islamic Council (DSN) is an organization that consists of the Indonesian Ulema Council (MUI) whose function is to carry out the duties of MUI to deal with issues related to the activities of Islamic financial institutions. One of the main tasks of the DSN is to study, explore and formulate the values and principles of Islamic law (Sharia'ah) in the form of Fatas to be a guideline for Sharia'ah financial institutions in conducting transactions. Through the Sharia'ah Supervisory Board, they oversee the application of Sharia'ah principles in the management and system of Sharia'ah financial institutions.

In principle, MUI intends to establish DSN with the aim to improve and coordinate efforts to handle problems related to economic and financial issues. In addition, I hope DSN can apply Islamic values and principles in economic life as supervisor, manager and driver. Therefore, DSN plays an active role in responding to the development of Indonesian society in the field of economics and finance (Nafis,2011:82).

The National Shariaa Council consists of the Indonesian Ulema Council, such as the Basic Guidelines of the Indonesian Ulema Council (PD DSN-MUI) 1995-2000 (PD DSN -MUI), as well as the Decree of the Chairman of the Indonesian Ulema Committee on the Establishment of the National Islamic Assembly: Kep-754/MUI/II/99. Therefore, the National Islamic Council was established with the following premise:

1. Single type. With the development of Islamic financial institutions in the country and the establishment of Shariaa supervisory committees in each financial institution, it is believed that it is necessary to establish a national Shariaa committee to accommodate various problems/issues that need to be resolved to deal with each problem/case the same.
2. Shariaa Supervisory Board of Islamic Financial Institutions. The establishment of the National Shariaa Council is a measure of the competence and coordination of the ulama in the 2.address issues related to economic and financial problems.
3. The National Shariaa Council is expected to encourage the application of Islamic teachings in economic life.
4. The National Shariaa Council plays a proactive role in responding to the dynamic development of Indonesian society in the economic and financial fields.

The highest authorized institution in Indonesia is the National Shariaa Council - Indonesian Ulema Council (DSN-MUI), an independent institution responsible for issuing all Shariaa issues (including Qibla and Tuabalat issues) to the economic, financial and banking industries. With regard to the provisions of Law No. (3) on Shariaa Banking which applies the principles of Islamic Shariaa (Ascarya, 2007:206).

So on 21 Year 2008, Bank Indonesia Regulation Number 11/15/PBI/2009 has understood the definition of Shariaa principles. According to the PBI, “Shariaa principle is the principle of Shariaa law in banking activities, which is based on the Fatwa Agreement promulgated by the National Shariaa Council-Majelis Ulama Indonesia”. Based on the Indonesian Banking Regulation, as long as the DSN- MUI applies the principles of Shariaa law, even if the law is not or is not included in the Indonesian Banking Regulation, Shariaa remains positive law in law (Sjahdeini, 2010:137-138).

In the constitutional legal system in Indonesia, the position of MUI's fatwa is only as an aspirational law that has a morally constructive power for communities that have aspirations to practice it, but the fatwa cannot be used as a means of force for other groups that have different opinions with MUI's fatwa, because it is not included in positive law. With another expression, the position of MUI fatwa can only be equal to the position of the opinion of legal, linguistic, and religious experts. Because, to assess the material and content of the fatwa, only scholars, zu'ama and Muslim scholars have more competence and knowledge to give fatwa. So that the position of fatwa in the life of Muslims, is not legally binding, but is religiously binding only, thus there is no opportunity for a Muslim to oppose it if the fatwa is based on Shariaa and valid arguments or nash. Meanwhile, positive law is a law that is currently in force, which includes generally applicable laws and regulations, or decisions that apply specifically, Whose implementation is guarded by the state apparatus and the judicial system.

The existence of the Islamic National Assembly outside the central bank system makes it an independent fatwa authority, allowing it to issue decisions and fatwas related to Islamic Shariaah issues faced by banks and other Shariaah institutions, thus gaining

national recognition. However, as the DSN is multi-tasking and lacks specialized expertise in Islamic economics, finance and banking, it is slow in responding to issues faced by Islamic financial institutions and unable to meet market needs. Therefore, the fatwa of the MUI National Shariaa Council (DSN MUI) is one of the determining prerequisites for the enactment of a product in Islamic banking as mandated by the law, so that the existence of the fatwa is binding for the development of the Islamic banking operational system.

Duties, Authority of National Shariaa Council (DSN) in Shariaa Banking in Indonesia

Fatwa DSN-MUI is a set of rules of public life that is not binding and there is no legal coercion for the target of the issuance of the fatwa to comply with the provisions of the fatwa. But on the other hand, based on the prevailing laws and regulations, especially Law No.21 Year 2008 on Shariaa Banking, through certain patterns, there is an obligation for the regulator, in this case Bank Indonesia, so that the content material contained in the MUI Fatwa can be absorbed and transformed in formulating Shariaa principles in the field of Shariaa economy and finance into content material for laws and regulations that have legal force and are binding on the public.

The fatwa of the Indonesian Ulema Council has contributed greatly to the application of Shariaa law in financial institutions since 2000. As an authority that issues rules as a reference by every financial institution in Indonesia, DSN-MUI has made great efforts in providing legal legality as material for supervision at the Shariaa supervisory board level. Based on the rules governing Islamic financial institutions, especially Islamic banking, based on Law No. 21 of 2008, every Islamic banking that carries out business activities must obtain formal legality in the form of a fatwa from DSN-MUI (Hasanah, 161: 2017).

1. In 2000, appendix II of MUI Decree No. Kep-754/MUI/II/99 on the Establishment of the National Shariaa Council was made the basic guidelines of the National Shariaa Council through DSN-MUI Decree No. 01 of 2000, that the duties of the DSN are as follows (Gayo dkk,2011): To develop the application of Shariaa values in economic activities in general and finance in particular.
2. Issuing fatwa on types of financial activities
3. Issuing fatwa on Shariaa financial products and services
4. To supervise the implementation of the issued fatwa.

From the explanation of the duties of DSN-MUI, two main functions emerge, namely issuing regulations in the form of fatwas as well as supervising the application of Islamic legal principles in each Islamic financial institution in Indonesia. In addition, DSN-MUI is active in the development of legitimate values in various economic activities.

To facilitate the role of DSN in carrying out its duties, DSN-MUI has the authority that applies to all Shariaa Financial Institutions (LKS), namely:

- 1) The Shariaa Supervisory Board issues fatwas that are binding on every Shariaa

- financial institution and form the basis of legal procedures for related parties.
- 2) Published fatwas that form the basis of decisions/regulations issued by accredited institutions, such as Bank Indonesia and the Ministry of Finance.
 - 3) Make recommendations and/or cancel recommendations on the names of those who will hold positions on the Shariaa Supervisory Board.
 - 4) Inviting experts to explain issues needed in the discussion of Shariaa economics, including monetary authorities/financial institutions at home and abroad.
 - 5) Warn Islamic financial institutions to stop deviating from fatwas issued by the National Shariaa Council.
 - 6) Suggest to the competent authority to take action if it fails to heed the warning. The above powers make it easy for the DSN-MUI to become the supreme Islamic dictator in Indonesia.
 - 7) One important department is the referral agency entitled to advise names in the DPS, which is then selected by Bank Indonesia.

The expertise of DSN-MUI members in the Shariaa system cannot be doubted, but when determining the problem, DSN-MUI has the right to gather experts to study Shariaa finance issues more professionally. In carrying out its duties, the Shariaa Supervisory Board must pay attention to all aspects of MUI regulations, including:

- 1) The National Sharia'ah Council ratifies the draft fatwa proposed by the DSN Daily Executive Board.
- 2) The National Shariaah Council conducts a plenary meeting at least once every three months, or whenever necessary.
- 3) Each year, it makes a statement in its annual report that the Sharia'ah financial institution concerned has/does not fulfill all Sharia'ah requirements in accordance with the fatwa issued by the National Sharia'ah Council.

The DSN-MUI Fatwa determination method follows the guidelines set by the MUI Fatwa committee. According to MUI fatwa No. U-596/MUI/IX/1997 signed on October 2, 1997, every issue discussed in the Fatwa Committee (including fatwas in Islamic law and economics) must be based on the Qur'an, Sunnah, based on Ma and Kea. Before issuing a "fatwa", Pastor Mazab's opinion needs to be carefully reviewed on the matters to be announced and the arguments.

Each question has a clear ruling in the catty text, and MUI will communicate it according to the instructions in the text. Regarding disputes between schools (controversial issues), the fatwa states that it is the result of efforts to find consensus among the schools' views through the methods of collecting and conciliation. If attempts to find common ground fail, the fatwa will be based on the likely outcome. Regarding the legal issues between Hezbollah, Arafa said, the fatwa was determined based on the results of collective ijthihad. Fatwas are always related to the public interest and the objectives of Islamic law (maqasid al-Sharia'ah).

DSN-MUI Fatwa on Sharia'ah Financial Institutions

DSN is an institution established by MUI which is structurally under MUI and in charge of handling various issues related to Sharia'ah economy, either directly related to Sharia'ah financial institutions or others. In principle, the establishment of DSN is intended as an effort for efficiency and coordination of Ulama in responding to issues related to economic and financial problems, besides that DSN is also expected to act as a supervisor, influence and encourage the application of the values of Islamic teaching principles in economic life. Position, Status, and Members.

1. The National Sharia'ah Council is part of the Indonesian Ulema Council.
2. The National Sharia'ah Council assists relevant parties, such as the Ministry of Finance, Bank Indonesia, and others in drafting regulations for Sharia'ah Financial Institutions.
3. Members of the National Sharia'ah Council consist of scholars, practitioners, and experts in fields related to Sharia'ah mu'amalah.
4. Members of the National Sharia'ah Council are appointed and appointed by the Indonesian Ulema Council with a term of service equal to the period of service of the 5-year central Indonesian Ulema Council board (Wirdayaningsih, 2005).

Function of DSN-MUI The function of the National Sharia'ah Council is:

1. Encouraging the application of Islamic teachings in economic life, with this the National Sharia'ah Council is expected to have a productive role in responding to economic developments, especially the increasingly compact Sharia'ah economy.
2. Research and provide fatwa for products developed by Sharia'ah Financial Institutions.
3. Supervise Shariaa financial products to be in accordance with Islamic Sharia'ah. In this case the supervised institutions are Shariaa banking, insurance, mutual funds, venture capital, and so on. In this case, to further streamline the role of the National Sharia'ah Council in Sharia'ah Financial Institutions, a Supervisory Board was formed. Sharia'ah as a representative of the National Sharia'ah Council in the Sharia'ah Financial Institution concerned.

The issuance of the fatwa that bank interest is usury nasi'ah which is forbidden by MUI is one of the drivers of the implementation of Shariaa banking in Indonesia, in addition to the existence of the DSN-MUI fatwa increasingly shows its role as a guide to the implementation of Shariaa principles since the enactment of Law No.21 of 2008 concerning Shariaa Banking, which requires stakeholders to pay attention to and adjust business activities in accordance with Shariaa principles stated in the fatwa issued by DSN-MUI. The role of the DSN-MUI Fatwa in encouraging the implementation of Shariaa banking can also be indicated by the number of Shariaa commercial banks and banks with Shariaa business units that started their operations after MUI established the National Shariaa Council.

Among the DSN fatwas related to Islamic economics and related to Islamic banks that are absorbed in PBI, some of them can be exemplified as follows. Firstly, the DSN-MUI fatwa No. 01/DSN-MUI /IV/2000 on Giro and fatwa No. 02/DSNMUI/IV/2000 on Savings. Both fatwas are translated into PBI Number 14/17/2012 on Bank Business Activities in the Form of Custody with Management (Trust). Second, DSN fatwa No. 7/DSNMUI/IV/2000 concerning Mudarabah Financing (Qiradh) as absorbed in PBI No. 14/20/PBI/2012 concerning Amendments to Bank Indonesia Regulation No. 11/24/PBI/2009 concerning Shariaa Short-Term Funding Facilities for Islamic Commercial Banks.

Third, DSN fatwa No. 18/DSN-MUI/IX/2000 on Provisioning for Earning Assets in Islamic Financial Institutions which has been absorbed in PBI No. 13/13/PBI/2011 on Asset Quality Assessment for Islamic Commercial Banks and Islamic Business Units.

Fourth, the DSN fatwa No. 18/DSN-MUI/IX/2000 on Provisioning for the Elimination of Earning Assets in Financial Institutions which has been absorbed in PBI No. 13/14/PBI/2011 on Asset Quality Assessment for Islamic People's Financing Banks.

Fifth, DSN fatwa No. 48/DSN-MUI/II/2005 on Rescheduling Murabahah Bills, and DSN fatwa No. 15/DSN-MUI/IX/2000 on the Principles of Profit Distribution in Financial Institutions and DSN fatwa No. 23/DSN-MUI/III/2001 on Repayment Deductions in Murabahah. The fatwa has been transformed into PBI Number 13/9/PBI/2011 concerning Amendments to Bank Indonesia Regulation Number 10/18/PBI/2008 concerning Financing Restructuring for Islamic Banks and Islamic Business Units.

Sixth, the DSN fatwa on mudarabah financing was absorbed into PBI Number 11/24/PBI/2009 on Shariaa Short-Term Funding Facilities for Islamic Commercial Banks, especially article 3 which reads: Shariaa Short-Term Funding Facilities for Shariaa Commercial Banks received by banks as referred to in Article 2 paragraph (1) based on mudarabah contracts.

Seventh, the DSN fatwa on mudarabah financing which is absorbed in PBI Number 11/29/PBI/2009 concerning Shariaa Short-Term Funding Facilities for Shariaa People's Financing Banks, especially article 3 which reads: Shariaa Short-Term Funding Facilities for Shariaa Commercial Banks received by BPRS using mudarabah contracts. (Ichwan, 2023).

CONCLUSIONS

The DSN-MUI fatwa has binding legal force, so economic actors in Islamic teachings must obey it. The results of this law are based on several provisions that apply both directly and indirectly to statutory regulations. The law explicitly states that fatwas are a legal principle that must be obeyed. If the fatwa holder/sharia financial institution does not comply with the implementation, economic actors will be subject to administrative sanctions. This means that DPS must follow the regulations issued by DSN-MUI.

The DSN-MUI fatwa is a set of rules for community life that requires Bank Indonesia as the supervisory authority, namely the obligation to assimilate and change the contents of the MUI fatwa in the formulation of Islamic legal principles in the field of sharia banking, and become the basis for its practical implementation.

REFERENCE

- Abdul Hadi, Imam. Kedudukan dan Wewenang Lembaga Fatwa (DSN-MUI) pada Bank Syari'ah, *Jurnal Ekonomi dan Hukum Islam*, Vol. 1 No. 2.
- A. Gayo, Ahyar. et al, 2011. *Laporan Akhir Penelitian Hukum Tentang Kedudukan Fatwa MUI Dalam Upaya Mendorong Pelaksanaan Ekonomi Syariah*, Badan Pembinaan Hukum Nasional Kementerian Hukum dan HAM RI.
- Ali, Maslihan Mohammad. 2015. "Sejarah Revitalisasi Pemikiran Hukum dalam Metodologi Fatwa", dalam A. Dimiyati, dkk., *Rekonstruksi Metodologi Fatwa Perbankan Syariah*, Pati: CSIF.
- Ali, Zainuddin. 2008. *Hukum Ekonomi Syariah*, Jakarta: Sinar Grafika.
- Anshori, Abdul Ghofur. 2007. *Perbankan Syariah di Indonesia*, Gadjah Mada University Press, Yogyakarta.
- Ascarya. 2007. *Akad dan Produk Bank Syari'ah*, Jakarta: PT. Raja Grafindo Persada.
- Fatah, Rohadi Abdul. 2006. *Analisis Fatwa Keagamaan dalam Fiqih Islam*, Jakarta: PT. Bumi Aksar
- Faradibah, Kedudukan Fatwa MUI, sumber:
<http://freearsy.wordpress.com/2009/07/10/kedudukan-fatwa-mui/>, diakses tanggal 10 Desember 2018.
- Fatwa DSN-MUI No. 20/DSN-MUI/IX/2000.
<http://fatwa-mui.org/konten/profil-dsn?page=2>, diakses pada tanggal 10 Desember 2018.
- Jaya, Asafri. 1996. *Konsep Maqashid al-Syariah Menurut Syatibi*, Jakarta: Raja Grafindo Persada.
- Ma'ruf, Amin. 2008. *Fatwa dalam Sistem Hukum Islam*, Elsas, Jakarta.
- Mufti, Aries, et al, 2011. *Amanah bagi Bangsa: Konsep Sistem Ekonomi Syariah*, Jakarta: Masyarakat Ekonomi Syariah.
- Nafis, M. Cholil. 2011. *Teori Hukum Ekonomi Syariah*. Jakarta: UI-Press.
- Sutan Remy Sjahdeini. 2010. *Perbankan Syariah Produk-produk dan Aspek Hukumnya*, Jakarta: PT. Jakarta Agung Offset.

Tim Penulis Dewan Syari'ah Nasional Majelis Ulama Indonesia, 2003. *Himpunan Fatwa Dewan Syari'ah Nasional*, Jakarta: Pointermasa.Cet 2.

Undang-Undang No. 21 Tahun 2008 Tentang Perbankan Syariah, LNRI Tahun 2008.

Yeni Salma Barinti, diakses dari <http://m.hukumonline.com/berita/baca/lt4c675fd06e150/fatwa-dsn-merupakan-hukum-positif-mengikat> tanggal 10 Desember 2018.