UNIVERSITAS BHAYANGKARA JAKARTA RAYA
FAKULTAS HUKUM
Kampus I : Jl. Harsono RM No. 67 Ragunan Jakarta Selatan 12550 Tlp: 021-7231948
Kampus II : Jl. Perjuangan Raya Marga Mulya Bekasi Utara Kota Bekasi Telp: 021-88955882
Website: www.fh.ubharajaya.ac.id Email: fh@ubharajaya.ac.id

SURAT TUGAS

Nomor: ST/0240-B/III/2024/FH-UBJ

Tentang

PELAKSANAAN PENELITIAN
DOSEN TETAP FAKULTAS HUKUM UNIVERSITAS BHAYANGKARA JAKARTA RAYA
SEMESTER GANJIL T.A. 2024-2025

DEKAN FAKULTAS HUKUM UNIVERSITAS BHAYANGKARA JAKARTA RAYA

Menimbang : Sehubungan dengan kegiatan pelaksanaan penelitian Dosen Tetap Fakultas Hukum Universitas Bhayangkara Jakarta Raya, maka dipandang perlu mengeluarkan Surat Tugas

Mengingat : Undang-Undang No. 20 Tahun 2003 tentang Sistem Pendidikan Nasional.
Undang-Undang No. 14 Tahun 2005 tentang Guru dan Dosen.
Undang-Undang No. 12 Tahun 2021 tentang Pendidikan Tinggi.
Permendikbud No. 49 Tahun 2014 tentang Standar Nasional Pendidikan Tinggi.
Kalender Akademik Universitas Bhayangkara Jakarta Raya T.A. 2023-2024.

MENUGASKAN

Kepada : Nama : Dr. Sugeng, S.H., M.H., M.Hum.
NIDN : 0304027301

Untuk : Melaksanakan tugas penelitian Dosen pada Program Studi Magister Ilmu Hukum Fakultas Hukum Semester Genap Tahun Akademik 2023-2024, dengan judul: “Strengthening Sharia Microfinance Regulations and Business Models in Indonesia”.
Kegiatan penelitian dilaksanakan sejak tanggal dikeluarkannya Surat Tugas ini.
Melaporkan hasil kegiatan penelitian kepada Sekan Fakultas Hukum.
Melaksanakan tugas ini dengan penuh tanggung jawab.

Selesai

Ditetapkan di : Jakarta
Pada tanggal : 1 Maret 2024
Dekan Fakultas Hukum,

Dr. Rr. Dijan Widijowati, S.H., M.H.
NIP. 2207565

STRENGTHENING SHARIA MICROFINANCE REGULATIONS AND BUSINESS MODELS IN INDONESIA

Sugeng
Faculty of Law, University of Bhayangkara Jakarta Raya, Indonesia
sugeng@dsn.ubharajaya.ac.id

Annisa Fitria
Faculty of Law, University of Esa Unggul, Indonesia
annisa.fitria@esaunggul.ac.id

Adi Nur Rohman
Faculty of Law, University of Bhayangkara Jakarta Raya, Indonesia
adi.nur@dsn.ubharajaya.ac.id

Andre Cardenas Jr.
CCJE Department, University of Mindanao, Philippines
acardenas@umindanao.edu.ph

Abstract

This article aims to elaborate on the regulation and model of Islamic microfinance in Indonesia. A clear understanding of the types of microfinance and the business model run by Islamic microfinance is needed to answer the problems faced by this institution. Solid and stable Islamic microfinance institutions serve a critical role in increasing access to loans and business capital for the poor and micro-enterprises. So far, the poor have not been reached by formal financial institution programs. This study employs a normative juridical approach using primary and secondary legal documents. The study results show that the role of the sharia supervisory board and the Cooperatives and SMEs Office has not played an optimal role in ensuring the compliance of microfinance managers with sharia principles and values and prudent microfinance management. The presence of regulations and institutions that guarantee sharia microfinance deposits is needed to protect managed funds and increase public trust.

Keywords: Islamic microfinance, Sharia compliance, Microfinance institutions, Legal framework.

Introduction

Financing is the lifeblood of business activities in various sectors, whether run conventionally or based on Sharia. These funds are needed to expand business scale, develop product and service innovations, or open new distribution channels to increase and sustain the company's revenue[1]. Nevertheless, there is still a wide gap between the need for funds and the availability of informal financial institutions, especially for the micro, small and medium enterprises (MSME) sector.

Limited access to funding because MSME business activities are considered high risk and less prospective[2] so that the gap is widening. One of the economic segments affected by the Covid-19 pandemic is micro-scale enterprises, around 68% of micro-enterprises have closed their business activities[3]. The Indonesian Business Development Services Association (ABDSI) research shows that the Covid-19 pandemic has caused 68% of micro-businesses to stop their business[4]. Consequently, the unequal and unequal distribution of capital causes social and economic inequalities.

According to research conducted by Awiryaa, Nugraha, and Halohob public access to formal financial institutions is around 19.6%[5]. This condition encourages the emergence of various alternative financial institutions in the regions. The existence of alternative financial institutions to meet the funding needs of business segments that are not affordable by formal financial institutions, especially banking

---

[1] Mompang Panggabean And Benny Hutahayan, "The Problems Of Implementation Of Financial Services Authority Regulation No. 11/POJK.03/2020 In Relation To Legal Awareness And Legal Compliance Of Bank Mandiri MSME Debtors," *Jurnal Penelitian Hukum De Jure* 21, No. 3 (2021).

[2] Darwin Syamsulbahri, "UMKM Dalam Perspektif Pembiayaan Inklusif Di Indonesia," *Jurnal Ekonomi Pembangunan* 26, No. 1 (2018).

[3] Lembaga Demografi FEB Universitas Indonesia, "Pemetaan Program Pemberdayaan Usaha Mikro, Kecil, Dan Menengah (UMKM)," *Lembaga Demografi FEB Universitas Indonesia* (2021): 49–49.

[4] F Nathan Kacaribu And U Socheh Hamidi, *Laporan Kajian Program Bantuan Modal Usaha Mikro* (Jakarta, 2020).

[5] Agni Alam Awirya, Dhita Aditya Nugraha, And Emy Meylita Haloho, "Strategi Pengembangan Perluasan Akses Lembaga Keuangan: Studi Kasus Di Provinsi Bali," *Jurnal Ekonomi Dan Pembangunan Indonesia* 15, No. 1 (2015).

Jurnal Hukum dan Peradilan Vol. 13, no. 1 (2024), pp. 89-122
ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

institutions. The variety of microfinance institutions as alternative funding is interesting to study. In addition, Indonesia is a laboratory for Microfinance Institutions (MFI), which is interesting to look at various aspects, including social, economic, legal, and economic institutions.

Experts have given various definitions of microfinance. Microfinance, according to Robinson, is a small-scale financial business that provides disadvantaged people with savings and credit[6]. Microfinance, according to Meagher, is defined as the loan of modest quantities of money over short periods of time with regular repayments of the principal[7]. Meanwhile, Van Maanen offers a more comprehensive perspective on microfinance, stating, "Millions of people who are unable to receive credit or savings from traditional banks, most frequently owing to a lack of collateral, may now access credit, savings, and other critical financial services through microfinance banking."[8]

Microfinance, according to the Asian Development Bank, is an institution that gives poor and small businesses deposit, loan, and payment services. Microfinance is a type of financial institution (insurance to poor and low-income households and their microenterprise)[9] . Microfinance institutions, as defined in Article 1 of Law No. 1/2013 on Microfinance Institutions, are financial institutions that are set up to help members and their communities grow their businesses and become more self-sufficient. This could be through loans or financing for small businesses, financial management, or business development consulting .[10]

Essentially, the definitions of microfinance formulated by experts show similarities. Microfinance provides small-scale finance to low-income groups or people who banks do not serve. Thus, microfinance offers a wide range of financial services to low- and middle-income

---

[6] Marguerite S. Robinson, "The Microfinance Revolution : Volume 2. Lessons From Indonesia," *The Microfinance Revolution* 2, No. May (2002).

[7] Patrick Meagher, *Microfinance Regulation In Developing Countries: A Comparative Review Of Current Practice*, *IRIS Center*, 2002.

[8] Van Gert Maanen, "Micro Credit: Sound Business Or Development Instrument," *Voorburg: SGO Hoevelaken* (2004): 47–47.

[9] Asian Development Bank, *Finance For The Poor: Microfinance Development Strategy* (Manila, 2000).

[10] Indonesia, Law No. 1/2013 Concerning Microfinance Institutions, Article 1.

families. These include savings, loans, payment services, money transfers, insurance, micro and small-business development, and more.

Microfinance is developing in various countries, especially in developing countries, such as South America, Africa, and Asia. People in these countries need funds to meet their daily needs, both consumptive and productive. Consumptive needs include the need to buy food, clothing, education costs, health, and energy sources. Meanwhile, compelling needs are in the form of running a business in the agricultural, fishery, animal husbandry, handicrafts, creative industries, motor vehicle repair shops, and others. Microfinance operations have a substantial influence on the social and economic life of a community, as demonstrated by De Aghion and Morduch's research (2005)[11] , Ledgerwood (1999)[12] , Bi and Pandey (2011)[13].

Although still facing various challenges and obstacles, microfinance services are running and consistently understanding the needs of the lower class and micro-enterprises. This success is achieved through an approach that aligns with the existing conditions and adapts the requirements to suit the target community. Some services operate without collateral, and there is limited information about lenders. In general, microfinance services aim to[14]:

a) Improving the community's quality of life via providing financial services;
b) Mobilizing resources in the context of providing financial services;
c) Supporting the increase of people's income;
d) Reducing poverty; and
e) Expanding job opportunities for the community.

[11] Prabirendra Chatterjee Et Al., "The Economics Of Microfinance," *Southern Economic Journal* 73, No. 1 (2006).

[12] Joanna Ledgerwood, *Sustainable Banking With The Poor: Microfinance Hanbook-An Institutional And Financial Perspective,* (Washinton, D.C: The World Bank, 1999): 1.

[13] Zohra Bi And Shyam Lal Dev Pandey, "COMPARISON OF PERFORMANCE OF MICROFINANCE INSTITUTIONS WITH COMMERCIAL BANKS IN INDIA," *Australian Journal Of Business And Management Research* 01, No. 06 (2012).

[14] Julian Schmied, *Financial Performance And Social Goals Of Microfinance Institutions*, (Potsdam: Potsdam University Press, 2014): 7.

The unclear understanding of the regulations, institutions, and business models of each MFI can lead to at least two crucial problems: 1) the role of MFIs as alternative financial institutions is not optimal; 2) Microfinance is misused, for example, for illegal fundraising. Several MFIs that stopped their operational activities due to the abandonment of members and the emergence of cases of unlawful banks using MFI legal entities arose due to the lack of massive socialization of legal business models to the public.

Ironically, Islamic MFIs are also used for illegal fundraising practices. Ideally, Islamic financial institutions have a strong appeal because they are run following Islamic principles and laws. However, there are often cases under the guise of investments that exploit religious identities or symbols to deceive the public in practice. In addition, the capacity of human resources and governance is still a big challenge for the development of Islamic microfinance.

Bankruptcy of Baitul Maal Wat Tamwil (BMT) Surya Utama Malang, BMT NU Kalitidu, BMT Salman Alfarisi, BMT Sakinah Sejahtera, BMT Kulni, BMT Sang Surya, BMT Baitul Manshurin, and BMT Barokatul Ummah, were interesting cases to study regarding the importance of governance and supervision of sharia-based Micro MFIs. The low standards of internal governance and weak supervision from regulators are the main reasons for the outbreak of BMTs and other sharia MFIs. In the long term, this condition can reduce public confidence in the capacity of alternative financial institutions, especially among the people.

Like conventional MFIs, it is necessary to map out business models, business scales, and institutions for Islamic MFIs. This effort aims to enable the government as the regulator to make appropriate guidance and supervision policies as needed. In addition, MSME business actors can also use this information to expand access to suitable alternative sources of funding, along with the increasing awareness of Muslims to practice a halal lifestyle in their daily lives.

Researchers have carried out several kinds of research on Islamic MFIs, including:

1) Regulation of Baitul Maal Wat Tamwil (BMT) in Indonesia's Economic System. This article, written by Nourma Dewi, elaborates on the implementation of BMT in the Indonesian

economy and its advantages over conventional MFIs. The requirements that compel BMT to operate in the form of cooperatives and limited liability corporations (PT) provide regulations that govern the operations of BMT. These regulations are rather broad, and they include namely Law no. 23/ 2011 concerning Zakat Management, Law no. 25/1992 concerning Cooperatives, Law No. 1/2013 concerning Microfinance Institutions, Law No. 21/2011 concerning the Financial Services Authority. The variety of regulations is because BMT is an MFI with a socio-religious and commercial mission[15].

2) Normative Analysis of Law No. 1/2013 on the Legal Status of Microfinance Institutions and Supervision of Baitul Maal Wat Tamwil. In this article, Masyithoh reviews the status of legal entities and supervision of BMTs before and after Law no. 1/2013 concerning Microfinance Institutions. In practice, microfinance institutions are supervised and fostered by three ministries: the Financial Services Authority (OJK), the Ministry of Cooperatives and SMEs, and the Ministry of Home Affairs[16].
3) Analytical Network Process (ANP) Approach to BMT Problems. This study examines the problems of BMT, both internally and externally. From the inner side of BMT, BMT's poor quality of human resources is a crucial problem that BMT practitioners must address. Meanwhile, from the outer side of BMT, the absence of specific regulations governing BMT is also a severe problem that must be resolved immediately[17].

The three kinds of research on sharia-based microfinance, particularly BTM, show that no regulation and supervision specifically regulating BMT and the limited quality of human resources is the cause of various problems. The adoption of pertinent rules and the enhancement of human resource quality through training are

---

[15] Nourma Dewi, "Regulasi Keberadaan Baitul Maal Wat Tamwil (Bmt) Dalam Sistem Perekonomian Di Indonesia," *Jurnal Serambi Hukum* 11, No. 01 (2017).

[16] Novita Dewi Masyithoh, "ANALISIS NORMATIF UNDANG-UNDANG NO. 1 TAHUN 2013 TENTANG LEMBAGA KEUANGAN MIKRO (LKM) ATAS STATUS BADAN HUKUM DAN PENGAWASAN BAITUL MAAL WAT TAMWIL (BMT)," *Economica: Jurnal Ekonomi Islam* 5, No. 2 (2014).

[17] Terry Hutchinson And Nigel Duncan, "Defining And Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, No. 1 (2012).

anticipated to overcome the difficulties faced by this institution. Complementing the research described above, this research will focus on the importance of regulatory oversight and coordination between institutions and the implementation of BMT governance and risk management. Thus, this article proposes two main problems: 1) What is the business model and supervision of Islamic Microfinance Institutions? 2) What mechanisms should be used for Islamic microfinance organizations' governance and risk management?

The introductory section briefly describes the background of the problem, namely regarding the many types and numbers of microfinance institutions, both conventional and sharia-based. In addition, similar studies that have been carried out previously, especially those related to BMT, are described so that differences can be shown from the discussions carried out in this study. The following section describes the methodology and research approach applied to explain the stages and research materials studied. The Discussion section elaborates on the diversity of types of MFIs and the regulations that govern them, regulations and business models of Islamic MFIs, the problems faced by Islamic MFIs, and the urgency to formulate governance regulations, risk management, and supervision of Islamic MFIs. This article then closes with conclusions and recommendations.

Method

This research combines a statutory approach with a normative juridical (doctrinal) strategy. The research phase begins with collecting primary and secondary legal materials and government policies regarding microfinance institutions. To complete the discussion, several previous studies were also studied. Primary legal materials include legal authority regulations, such as laws and court decisions. At the same time, the secondary legal materials used include legal books, which discuss legal teachings or doctrines, legal articles in periodic scientific journals, and academic manuscripts on relevant legislation.

The government has passed regulations regarding Islamic microfinance institutions. Therefore, as an effort to compose a prescriptive narrative, this research also uses a legal explanation approach (restatement) of a legal norm on a concrete legal event. A restatement approach is needed to put laws and regulations appropriately, including court decisions and doctrines as references to support scientific activities. Concerning this research, a restatement approach is required to formulate relevant regulatory and supervisory policies and governance for Islamic microfinance institutions.

Discussion and Analysis

1. Variety of Microfinance Institutions in Indonesia

As a nation, Indonesia has a large population and has a diversity of cultures, religions, ethnicities, and languages. This natural condition also encourages diversity in other aspects of life, such as educational institutions, social institutions, and economic institutions. Entrepreneurs need alternative financial institutions outside of formal financial institutions in various regions. The community's characteristics of customs and beliefs also affect the types of MFIs operating in the area. One kind of MFI that is successful will not automatically succeed if applied in other regions with different social and cultural characteristics.

In general, the development of microfinance in several countries has two orientations, namely a) Commercial orientation, with an institutional (institutionalist) paradigm that focuses on proper and sustainable financial performance; b) Social orientation, as shown by a philosophy of welfare focusing on the idealistic supply of financial services to the needy and micro-enterprises[18]. The first paradigm tends to focus more on internal aspects of managerial ability. In this case, the MFI must achieve financial performance to meet operational and administrative costs. The choice of an institutionalist paradigm that is too far can leave the social mission of the MFI so that the needs of the poor and micro-enterprises are marginalized.

On the other hand, the idealism that puts forward the welfarist paradigm can ignore the business feasibility of an MFI, which eventually stops operating, as seen in many MFIs in various regions[19]. Finding a balance point between the two paradigms is a real challenge faced by

[18] James C. Brau And Gary M. Woller, "Microfinance: A Comprehensive Review Of The Existing Literature," The Journal Of Entrepreneurial Finance 9, No. 1 (2004).

[19] Ali Sakti, Zaäfri Ananto Husodo, And Viverita Viverita, "The Orientation Of Microfinance Regarding Group-Lending Strategy: Delphi And Analytic Network Process Evidence," Pertanika Journal Of Social Sciences And Humanities, 2019.

ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

conventional and sharia MFIs. The diversity of types of microfinance, whether cooperative, customary, regional, or Sharia-based, originates from these two paradigms.

As mentioned in the previous section, the need for micro and small businesses to access business credit has not facilitated formal financial institutions. In the end, this sector seeks various alternative sources of funds. The elements attached to these financial institutions adapt to the conditions of the community in which the institution operates, such as the character of human resources, funding and financing products, and customer segmentation. The forms of microfinance operating in Indonesia are grouped into four types: banks, cooperatives, regional microfinance, and traditional microfinance. By the end of the 1970s, nearly 300 of these credit institutions grew in Indonesia.

Until now, some of these institutions are still operating in several areas, including those that were established at the beginning of this period, namely the District Credit Agency (BKK) in Central Java, the District Credit Institution (LPK) in West Java, Lumbung Pitih Nagari (LPN) in West Sumatra whose ownership is by traditional institutions. In the 1980s, the Small People's Business Credit (KURK) was established in East Java (1984) and the Village Credit Institution (LPD) in Bali[20].

The Village Credit Institution (LPD) is a financial institution that combines three main elements in Balinese Hindu society, namely religion, custom, and culture. This institution belongs to the customary village community (village pakraman), the conventional apparatus and source of income for the traditional village. In addition, LPD was established with the following objectives:[21]

a) Eradicating the practice of moneylenders;
b) Increasing the purchasing power of rural communities;
c) Facilitate payment and exchange traffic in the village;
d) Encouraging rural community economic development through targeted savings; and

[20] I. G. K. Baskara, "Lembaga Keuangan Mikro Di Indonesia," Buletin Studi Ekonomi 18, No. 2 (2013).

[21] Made Eka Agustini, "Peran Lembaga Perkreditan Desa (Lpd) Dalam Memberikan Pelayanan Pada Masyarakat Desa Legian," Jurnal Ilmiah Dinamika Sosial 3, No. 2 (2019).

e) Realizing equity and business opportunities for village communities.

Microfinance institutions are a strategic factor in alleviating poverty because it is considered effective in increasing access to finance and reducing people's dependence on moneylenders. Microfinance in the form of cooperatives is divided into two types, namely primary and secondary cooperatives, known in Indonesia since the 1890s. Cooperative-based microfinance activities are based on cooperative principles and the family-friendly people's economic movement. In this case, the solidity and loyalty of members are the foundation of the cooperative's success. The difference between primary and secondary cooperatives lies in the type of membership. Immediate cooperative members are individuals, while secondary cooperative members are cooperative legal entities[22]. Principal deposits, required savings, reserve funds, and grants make up cooperative capital. In its operational activities, cooperatives are run by cooperative organs, including administrators, supervisors, and cooperative managers, who are tasked with serving the members[23].

One of the factors that influence the shape of the microfinance business model is religious principles or community beliefs. In practice, the development of religious-based microfinance is reflected in the emergence of BMT, which uses Islamic religious values and principles, Credit Unions (CU), and Village Credit Institutions (LPD), which are based on Hindu religious principles and values. Through values derived from religious teachings, it is hoped that microfinance will practice the principles of honesty, transparency, togetherness, and mutual benefit[24].

Religious principles and values affect the technical aspects of microfinance activities and have an impact on the development of products and services, promotion strategies, and targeting of clients. In addition, religious teachings encourage more trusted and responsible

---

22 Brau And Woller, "Microfinance: A Comprehensive Review Of The Existing Literature."

23 Sriyanto Widiastuti Wiwin, "Model Lembaga Keuangan Mikro (Lkm) Untuk Mengelola Keuangan Masyarakat (Studi Di Kabupaten Jepara Dan Karanganyar)," Journal Of Petrology 369, No. 1 (2013).

24 Amin Kuncoro And Husnurrosyidah Husnurrosyidah, "Kinerja Lembaga Keuangan Mikro Syariah Dan Upaya Untuk Mempertahankan Eksistensi Perilaku Masyarakat Pedesaan," Jurnal Analisa Akuntansi Dan Perpajakan 1, No. 1 (2017).

ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

work behavior and attitudes in carrying out their duties, both as administrators and as members of microfinance institutions.

2. Sharia microfinance institution

To alleviate poverty in a number of developing nations, the financial inclusion program has become one of the sustainable development goals (SDGs), which was made at the United Nations (UN) meeting on 25-27 September 2015. The Sustainable Development Goals are realized based on the following principles:[25]

a) Universality, each of the goals and targets of the SDGs, is relevant for all governments and development actors;
b) Integration, a balance between the three dimensions of the SDGs, namely social, economic growth, and the environment; and
c) No one is left behind; SDGs must be valid for all in overcoming the problem of poverty.

Poverty alleviation is still the main issue that will concern the SDGs. Each country agrees that the process of achieving development goals can be realized if people's welfare increases, which is indicated by the rise in per capita income, a decrease in the number of poverty rates, and a decrease in unemployment. Countries worldwide have also committed to ending poverty by 2030 and seeking prosperity through programs contained in the SDGs, 17 indicators, ranging from poverty alleviation to reducing inequality to achieving peace, justice, and strengthening the financial sector.

The financial industry is strengthened by increasing impoverished people's access to money. Numerous countries, including Mongolia, Colombia, Peru, and the Dominican Republic, have implemented microfinance. These countries share many of the same characteristics as Indonesia, namely being a developing country with a disproportionate number of micro and small businesses in comparison to other sectors. The practice of microfinance in these countries begins with social finance, oriented towards helping the poor.

---

[25] Stephen Morton, David Pencheon, And Neil Squires, "Sustainable Development Goals (Sdgs), And Their Implementation: A National Global Framework For Health, Development And Equity Needs A Systems Approach At Every Level.," British Medical Bulletin 124, No. 1 (2017).

Through financial inclusion programs, Bank Indonesia (BI) is aggressively encouraging improved access to financing. The national financial inclusion strategy is intended to serve as a guide for all stakeholders, including the central government, regional governments, academics, entrepreneurs, and the general public, in terms of increasing access to the financial sector, particularly for the lower middle economic group. Inclusive finance should expand access to the formal financial sector and support micro sector financing, both for individuals and small and medium enterprises (MSMEs).

According to the United Nations, financial inclusion is a condition of the availability of savings services, payment services, credit, and insurance for eligible individuals and companies[26]. Access to credit affects the ability of micro and small businesses to invest and increase their business capacity. As a result, access to finance becomes the primary issue that must be addressed in order to ameliorate the plight of the impoverished. Globally, the development of Islamic microfinance has started since the 20th century, driven by the increasing need for access to sharia-based capital and financing and the rapid growth of the world's Muslim population, which is estimated to reach 2.2 billion people in 2030[27]. The emergence of microfinance institutions is inseparable from the problem of poverty, especially in developing countries, including Muslim countries.

The practice of sharia microfinance in Indonesia is applied to realize the empowerment of the economically weak (*dhuafa*) community. Islamic values and morality that care for the poor are institutionalized through asset management instruments, both obligatory and voluntary. The practice of empowering the poor then developed along with changes in the economy and its regulations. At first, community empowerment was carried out through a savings and loan mechanism. Now people are more likely to use money as a transaction instrument. Islamic microfinance is still in its infancy in terms of application. Islamic

[26] United Nations Conference On Trade And Development, *Financial Inclusion For Development: Better Access To Financial Services For Women, The Poor, And Migrant Work*, (Geneva: Unctad, 2021): 7.

[27] Rininta Nurrachmi, "The Global Development Of Halal Food Industry: A Survey," Tazkia Islamic Finance And Business Review 11, No. 1 (2018).

Jurnal Hukum dan Peradilan Vol. 13, no. 1 (2024), pp. 89-122
ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

microfinance has spread to various regions in Indonesia[28]. The challenges of developing the microfinance sector are in line with the diversity of these institutions in terms of institutions, products, services, and Islamic microfinance business models.

The existence of social, financial institutions such as *Dompet Dhuafa, Rumah Zakat, PKPU, ACT*, and others further complements the variety of microfinance practices because these financial institutions function to provide basic needs assistance for the poor but also provide microfinance services for community groups. Apart from poverty alleviation, Islamic microfinance may contribute to socioeconomic development by supporting impoverished populations in establishing enterprises and creating assets, lowering vulnerability to economic shocks, and increasing chances for higher education.

In line with the development of microfinance and the demand for sharia-based transactions, sharia microfinance business models are needed that are applicable, reliable, and following the business character of MSMEs in Indonesia. In addition, the business model developed must be forward-looking and comply with national financial standards. Operationally, the Islamic microfinance business model includes two aspects, namely: [29]

a) Business aspect (*tijarah*). The business aspect in the sharia microfinance model includes sharia microfinance operations that are profitable for entrepreneurs and the national economy and encourage industrial growth in the sharia microfinance sector.; and
b) Non-business aspects (*tabarru'/social aspects*). This aspect includes the suitability of the Islamic microfinance business model with the expectation of benefit, justice, and spiritual rewards.

The sharia microfinance business model describes operational business processes that support the real sector and are resistant to shocks from the economic crisis. The emergence of the BMT institution

[28] Ninik Sri Rahayu And Rr. Sita D. Kusumaningrum, "Kontribusi Lembaga Keuangan Mikro Syariah Terhadap Pemberdayaan Perempuan (Studi Kasus Bmt Di Kabupaten Sleman Yogyakarta)," Ajie 4, No. 3 (2015).

[29] Jaenal Effendi Et Al., "Aplikasi Model Bisnis Microfinance Syariah Terhadap Sektor Umkm Di Indonesia," Iqtishadia : Jurnal Kajian Ekonomi Dan Bisnis Islam 10, No. 2 (2017).

is an essential breakthrough for Islamic microfinance in society. According to the meaning of its name, BMT is composed of two distinct phrases: "*Baitul Maal*" and "*Baitul tamwil*". *Baitul Maal* activities accept deposits of zakat funds, infaq, and alms. Meanwhile, Baitul Tamwil carries out productive business development and investment activities to increase micro and small businesses. In 2015, the development of BMT in Indonesia reached 5,000 units, a rapid increase compared to 2010, which was 3,300 units[30]. Based on The National Development Planning Agency (Bappenas) data, in 2019, the number of BMTs was around 4,500-5,000 units[31]. Financial data in the aggregate of Islamic microfinance is still challenging to obtain due to limited secondary data sources.

The growth of BMT as a sharia microfinance institution contributes to poverty alleviation and develops access to funding and business development opportunities for micro-enterprises. This institution is expected to combine its two interests and operational activities, namely social and commercial interests. According to Brau and Woller, social and commercial interests are trade-offs. This means that if a microfinance institution is socially oriented, it will focus on providing services to the poor and neglect the achievement of independent and sustainable financial conditions. On the other hand, when microfinance institutions are commercially oriented, they will tend to achieve financial institutions that are independent and strong and often leave the poor in their service[32]. In some countries, socially-oriented microfinance is generally non-governmental organizations (NGOs), while commercially-oriented ones tend to corporations.

For the case in Indonesia, BMT focuses on serving the poor and maintaining sustainable financial strength because it is supported by other social capital in the form of moral values and sharia principles that strengthen the commitment to serve the poor. Islamic microfinance in Indonesia has developed rapidly in the last 30 years and has a role in

---

[30] Lukmanul Hakim Et Al., "Analisa Keberlanjutan Bmt Dalam Pademi Covid 19 Berbasis Bisnis Model Dan Pemilihan Pelayanan Anggota Pembiayaan (Selective Lending)," El-Ecosy : Jurnal Ekonomi Dan Keuangan Islam 1, No. 1 (2021).

[31] Irdlon Sahil, "Potensi Baitul Maal Wat Tamwil (Bmt) Dalam Meningkatkan Pertumbuhan Ekonomi Di Indonesia," Al-Insyiroh: Jurnal Studi Keislaman 5, No. 2 (2019).

[32] Brau And Woller, "Microfinance: A Comprehensive Review Of The Existing Literature."

Jurnal Hukum dan Peradilan Vol. 13, no. 1 (2024), pp. 89-122
ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

national economic development, especially micro and small businesses. The practice of Islamic microfinance has several characteristics, namely:

a) Islamic microfinance institutions vary according to the diversity of the Indonesian community environment, such as institutions that are banking, cooperative, regional-based microfinance, and traditional institutions;
b) Generally, microfinance institutions apply the concept of membership, both in the form of cooperatives and non-cooperatives, so that these institutions can be independent in obtaining funding sources;
c) The form of service for microfinance institutions describes two orientations, namely social orientation as the initial mission and commercial orientation that can maintain strong and sustainable financial conditions; and
d) Islamic microfinance has not been matched by strengthening the regulatory and supervisory system.

Based on these characteristics, Islamic microfinance is becoming a sub-system in the national financial system. The creation of this organization also aids government initiatives aimed at increasing credit access for persons who are not covered by the official financial system. In addition, Islamic microfinance also raises financial inclusion in society. In his research, Shankar said that financial inclusion is determined by several factors: a) Access to deposits and security of deposits; b) Access to credit; c) Access to transfer facilities; and d) Access to insurance products[33].

2.1 Baitul Maal wat Tamwil (BMT)

Financial entities such as banks and other formal financial institutions have been unable to meet the demand for business finance from the disadvantaged economic community and micro-enterprises. In general, micro-business groups are considered high risk and do not have good business governance. Thus, the distribution of capital or financial resources is still concentrated in the medium and large business groups.

[33] Savita Shankar, "Financial Inclusion In India : Do Microfinance Institutions Address Access Barriers ? Financial Inclusion : Importance And Common Barriers," Acrn Journal Of Entrepreneursip Perspectives 2, No. 1 (2013).

To overcome this problem, Islamic microfinance is very important in realizing economic justice.

With flexible services, appropriate products, business models, and simple bureaucracy, Islamic microfinance is acceptable to the micro and small business community. Operationally, the sharia microfinance business model covers business and non-business aspects of the community's various economic and social activities. This business model is expected to fulfill two main elements, namely: a) Microfinance operations that are profitable for stakeholders and the national economy; b) Conformity of the sharia microfinance business model with the maqasid al sharia principle, which contains elements of justice, benefit, and balance to create a prosperous Indonesian society[34].

In practice, microfinance institutions develop business models in the form of micro-credits designed to meet the needs of their members. A good microfinance program is characterized by the following:[35]

a) Small short term loans;
b) Has a streamlined structure;
c) Simple disbursement and valuation of investments;
d) Quick disbursement of recurring loans after timely payments; and
e) Location and time of service according to customer needs (flexible).

Meanwhile, according to Morduch, a microfinance institution must fulfill three essential aspects, including:[36]

a) The services offered must be relevant to the target group;
b) The activities and services provided must have a positive influence on the lives of customers; and
c) A good institution must have a stable financial condition.

Furthermore, Morduch and Haley added that microfinance had shown a positive impact to contribute to poverty alleviation and

[34] Hurriah Ali Hasan, "Pengentasan Kemiskinan Dengan Keuangan Mikro Syariah," Jurnal Hukum Ekonomi Syariah 1, No. 1 (2018).

[35] Mohammed Obaidullah, Introduction Of Islamic Microfinance, Journal Of Social Issues In Southeast Asia, Vol. 23, 2008.

[36] Jonathan Morduch, "The Microfinance Promise," Journal Of Economic Literature 37, No. 4 (1999).

ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

unemployment reduction related to sustainable development goals[37]. The strategic role of Islamic microfinance can be optimized through a business model that suits customer needs. A business model, according to Osterwalder, is "the explanation for how a company develops, delivers, and acquires value." Similarly, the business model concept is positioned between inputs. Meanwhile, Johnson, Christensen, and Kagermann argued that the business model is a source of all competitive advantages possessed by an organization that distinguishes it from its positioning of products in the same industry[38].

Islamic microfinance emphasizes values of justice, transparency, and risk-sharing, making it relevant as a tool for achieving financial inclusion. It helps create a fairer financial system that is accessible to various segments of society, including those underserved by conventional banks. Through microfinance, individuals can start or expand small businesses, which can increase their income and reduce poverty. Profit-sharing models such as *mudharabah* (where the financier and the entrepreneur share the profits) and *musyarakah* (joint ventures where all partners share in the profits and losses) encourage business sustainability and minimize the risk of failure. These models ensure that both the financier and the entrepreneur are invested in the success of the business, promoting a collaborative and supportive business environment.

The application and approach that align with Islamic principles and a focus on social justice make Islamic microfinance play an important role in promoting financial inclusion and alleviating poverty in developing countries. It not only helps to improve economic well-being but also fosters sustainable social development. Through a variety of diverse products and services, along with a commitment to Sharia values, Islamic microfinance is able to reach and empower the poor, providing them with opportunities to improve their standard of living and participate in the economy. Islamic microfinance directly contributes to poverty alleviation by offering financial products tailored to the needs of the poor. These products include microloans, savings

[37] J Morduch And B Haley, "Analysis Of The Effects Of Microfinance On Poverty Reduction. Ottawa: Results, Canada, For The Canadian International Development Agency," Nyu Wagner - Working Papers Series (2001).

[38] Mark W. Johnson, Clayton M. Christensen, And Henning Kagermann, "Reinventing Your Business Model," Harvard Business Review 86, No. 12 (2008).

accounts, and insurance, all structured according to Sharia principles. Such financial support helps individuals improve their livelihoods and escape poverty.

Although the definition of a business model presented by experts has different editorials, they generally have in common about creating customer value as one of the main elements. A business model is defined as a company's value chain and generates value for its consumers. Based on the research, the business model applied to Islamic microfinance can be categorized into two paradigms, which Brau and Woller call the institutionalist and welfarist paradigms[39]. The Islamic business model integrates ethical principles with financial practices, promoting a balanced and just economic system. It emphasizes social welfare, ethical investments, and risk-sharing, creating a sustainable and inclusive business environment that aligns with Islamic teachings. Interest on loans is forbidden, promoting profit-sharing arrangements like *Mudharabah* (profit-sharing) and *Musyarakah* (joint ventures), where profits and losses are shared. In economic transactions, equitable distribution of wealth, and protection of rights for all stakeholders. The prohibition of *riba* (interest) and *gharar* (excessive uncertainty) aligns with this pursuit of justice, preventing exploitation and ensuring transparency.

The institutionalist paradigm focuses on achieving stable and sustainable financial performance conditions, while the welfarist paradigm is oriented towards providing services to the poor and micro-enterprises. In its development, a paradigm shift was found, from services to the poor and social micro-enterprises to become profit-oriented (commercial). This paradigm shift occurred for several reasons: a) The banking sector's and other financial institutions' engagement in microfinance; b) microfinance regulation; c). Government policies related to microfinance; and d). Microfinance focuses on self-sufficency.

The practice of lending or micro-financing tends to use the principle of group lending. This principle is used to mitigate and reduce credit risk due to limited information regarding customer business profiles and credit ratings. In addition, the application of group lending is considered to have several advantages as a risk mitigation instrument,

[39] Brau And Woller, "Microfinance: A Comprehensive Review Of The Existing Literature."

Jurnal Hukum dan Peradilan Vol. 13, no. 1 (2024), pp. 89-122
ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

namely: a) Low credit risk due to joint liability; b) Transaction costs are reduced because of group mechanism; c) Lower service costs; and d) Save human resources[40].

Referring to the cultural heritage of the Indonesian people, several practices are known whose substance can be combined with the sharia microfinance business model, namely:

a) *Maro* is a contract between two parties who agree to share agricultural products with equal portions. This contract is usually between the landowner and the smallholder who manages the land.
b) *Mertelu,* is a contract similar to the maro system. The difference is that the operating results are divided into three; and
c) *Arisan* is a joint venture contract of several people for money or goods. The collection of funds/goods is distributed to cooperative venture members in turns until all members get their share.

Cooperative-based sharia microfinance is not entirely in line with cooperative principles that prioritize the principle of kinship. This principle places the position of the parties, management, members, and supervisors in an equal role and influences the operational activities of the institution. Although the forms and business models vary, in general, Islamic microfinance emphasizes its members to implement Islamic economic principles, as follows:

a) Live frugally and not in luxury. The purpose of economic activity is to fulfill needs, not to satisfy wants;
b) Equitable distribution of income through the payment of zakat. Zakat is an obligatory instrument for every Muslim and is supported by infaq and alms;
c) Freedom from gambling (*masyir*), obscurity (*gharar*), and usury. Implementation of the Islamic economic system through profit sharing with mudharab and musyarakah contracts as a substitute for the conventional financial system and its interest instruments; and

[40] Heather Knewtson And Howard Qi, "Managing Risk For Sustainable Microfinance," Journal Of Risk Finance 20, No. 1 (2019).

d) Carry out a halal thoyyiban, both in terms of products, management, production processes, and circulation and distribution.

The four principles are limited to moral teachings and have different consequences from the conventional economic system. Sharia microfinance institutions aim to realize prosperity, well-being, and happiness in this world and the hereafter. This primary goal can be achieved with the support of all stakeholders, including academics, practitioners, business actors, and the government.

As a sharia microfinance institution, BMT has a business model following sharia principles, a Sharia Savings and Loans Cooperative as a legal entity. This institution provides financial services to consumers who are unable to obtain credit through a bank. The focus of this service is a characteristic of BMT, which is oriented to two orientations: empowerment of the poor (baitul maal) and business development (baitut tamwil). Productive business development and investment are carried out by increasing micro-enterprises business capacity and managerial quality. Meanwhile, community empowerment is carried out by collecting deposited funds for zakat, infaq, and alms.

From the start, most of the BMTs were in the form of cooperatives because the cooperative concept was widely known by the community and could provide the required formal legal status. At first, the shape and legal basis often do not feel urgent. When the activities of the related BMT began to overgrow, there was supposed to be a need to improve its organizational aspects. Currently, several BMTs are starting to develop a revolving fund model and assistance for business capital. Following the scheme, the financing provided is not commercial but is capital assistance that does not need to be returned by the customer. The role of this institution is also an alternative financial inclusion program through financial services to its members. In the coaching process, BMT officers conduct a review of the customer's business location to supervise and consult so that loan funds can be utilized according to their purpose.

BMT is supported by an organizational structure in which each organ has duties and authorities to carry out its activities and functions. The design includes deliberations of members of principal deposit holders, sharia board, management coaches, managers, marketing, cashiers, and bookkeepers, whose duties are as follows:

ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

a) The General Meeting of Members of the Principal Savings Holder holds the highest power in deciding macro policies;
b) Sharia Board, tasked with supervising and assessing the operationalization of BMT;
c) Management Trustees, tasked with fostering the running of the institution in realizing its programs;
d) The manager is in charge of carrying out the mandate of the member deliberation and leading the BMT in realizing the program;
e) Marketing is tasked with disseminating and managing products and services;
f) The cashier is in charge of serving customers;
g) Bookkeeping is responsible for keeping a record of the institution's income and assets.

In developing micro-enterprises, BMT applies different principles from conventional financial institutions based on loan/deposit interest but uses a profit-sharing system (mudharabah and *musharaka*), a rental system (*ijarah*), and benevolent loans (*qardul hasan*). Through this system, both parties, both the BMT and the customer, can always benefit from it. This means that Islamic microfinance institutions and customers have the opportunity to obtain commercial benefits for business development. The abolition of usury from the Islamic economic system aims to promote more just economic relations. Fair and harmonious economic activities will create more substantial financial incentives and strengthen cooperation and active participation of interested parties[41].

Additionally, Islamic principles and values prohibit all forms of illicit activities and do not allow the mixing of lawful (*haqq*) and unlawful (*bathil*) activities. The purpose of this prohibition is to protect humans from all forms of crime and harm to life. Moreover, risk-sharing is also important to promote justice, offering equal opportunities for all parties to gain profit. Consequently, the distribution of wealth and productive assets should not only circulate within a limited group of people but be evenly and fairly distributed. In line with this, Khan mentions six principles of Islamic finance, namely, prohibition of usury (interest),

[41] Idri, M Ag And Rohaizan Baru, "The Principles Of Islamic Economics And Their Implementation In Indonesia," International Journal Of Academic Research In Business And Social Sciences 7, No. 4 (2017).

implementation of *murabahah* (sale), implementation of *mudharabah* (profit-sharing), implementation of *musyarakah* (partnership), implementation of *ijarah* (lease), and implementation of *qard al-hasan* (benevolent loan).

In the view of Islam, the application of *usury* (interest) is considered an unfair instrument because it contains elements of exploitation. Although *murabahah* (buying and selling) financing is not ideal for carrying out Islamic economic goals, this instrument is used as a first step towards an economy following Islamic values. Meanwhile, the perfect concept is *mudharabah* and *musyarakah* financing. Initially, ijarah financing was not a financing model but a transaction aimed at transferring property fees following an agreed period. Some of the savings and financing products developed by BMT that perform well usually include:

a) *Mudharabah Savings*
This deposit is managed according to sharia principles, which allows members to make deposit transactions and withdraw their funds in cash at any time.

b) *Mudharabah Time Deposits*
This deposit is intended for members in the form of halal investment and has sharia principles. The term of the warranty varies, namely 1-12 months.

c) *Hajj/Umrah Savings*
This savings product is intended for members to realize their intention to perform Hajj/Umrah. Withdrawal of funds can be made before the implementation of Hajj/ Umrah.

d) *Education Savings*
This deposit is managed according to sharia principles to support the education costs of its members. According to the agreement, deposit withdrawals are made every new school year or during the education period.

e) *Savings for Qurban and Aqiqah.*
Members plan these savings to realize the intention to worship *qurban* and *aqiqah.* Withdrawal of deposits is carried out at least one month before *Eid al-Adha,* or one week before implementing *aqiqah.*

In addition to products and services that suit the community's needs, easy access and sustainability are also the keys to the success of

Jurnal Hukum dan Peradilan Vol. 13, no. 1 (2024), pp. 89-122
ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

BMT. Operational activities must be supervised regularly, both at the branch office and the head office. Thus, any irregularities and misuse of funds can be detected early. Externally, the government's role needs to be increased to oversee BMT governance through tiered guidance and monitoring. There are three government agencies in the microfinance sector, namely the Ministry of Cooperatives and Small and Medium Enterprises (SMEs), the Financial Services Authority (OJK), and the National Sharia Council. In addition to regulators, the role of BMT associations at the regional and central levels can be increased in monitoring and supervision so that the governance of each BMT can be appropriately maintained.

2.2 Sharia financial services cooperative

The title Sharia Financial Services Cooperative (KJKS) refers to the Minister of Cooperatives and Small and Medium Enterprises' Decree No. 91/Kep/MKUKM/IX/2004, which defines cooperatives whose economic activities include financing, investing, and savings based on a profit-sharing model (sharia). Based on this definition, the binsi model applied by BMT can be classified as KJKS. Thus, this cooperative can be used as a legal entity for sharia microfinance operations, in addition to other relevant statutory provisions.

Thus, BMT can also be called a sharia cooperative. Sharia cooperative activities include all business that is lawful, good, and useful *(thayyib*), as well as profitable with a profit-sharing system, not usury, not gambling (*masyir*), and avoiding unclear businesses (*gharar*). Sharia cooperative business activities must be intended to be legal based on fatwa and provisions of the National Sharia Council - Indonesian Ulema Council (DSN-MUI) and following applicable legal requirements. In conventional cooperatives, their business activities are more oriented towards seeking profit for the welfare of members, both in cash and through the application of interest on deposits/loans. Members' loans are not considered how they are used but only thought from the amount of the loan and the good, not based on the condition of the results of operations on the use of borrowed money.

The concept of sharia cooperatives requires social services, both to members and to the poor. To members who need an emergency loan (emergency loan). Policy loans can be given (*al qard*) with a principal return whose funds come from capital and profits raised. The poor are given benevolence loans with or without principal repayment (*qardhul hasan*) whose funds are sourced from zakat, infaq, and alms funds. *Qardhul hasan* loans are intended as business development capital. If a member's business encounters problems, they are not burdened with the obligation to repay the loan principal. This function separates sharia cooperatives from conventional cooperatives, where the concept of helping is prioritized according to Islamic teachings and values.

In general, sharia cooperatives that have good performance develop several diverse savings and financing products, as follows:

a) Member Savings
This deposit is a member's fund deposit service where deposits and withdrawals can be made at any time according to the members' needs.

b) Education Member Savings
This savings service is a member's savings product to manage education funds for family members, from kindergarten to college.

c) Sacrifice Member Savings
This savings is intended to assist in the planning of qurban worship. Through this service, members can take deposits ahead of the feast of qurban, either in the form of money or in the form of miraculous creatures used as sacrifice animals, with a size following the balance of the deposit.

d) *Mudharabah* term member savings
This savings is a member's savings in the long term, which is 3-12 months with a competitive profit-sharing ratio.

Regulation and Protection of Sharia Microfinance Customers

1. Sharia microfinance regulation and supervision

Islamic microfinance institutions are financial businesses that prioritize trust, ethics, honesty, justice, and benefit. Nevertheless, profit and solid financial performance are goals that cannot be ruled out as an entity. The development of Islamic microfinance is influenced by internal and external factors external. Internal factors include governance and human resource capacity, while the main external factors are economic conditions, government policies, and regulations.

BMT, as a sharia microfinance institution with a combined legal entity, must form a sharia supervisor. The Decree of the Minister of

Jurnal Hukum dan Peradilan Vol. 13, no. 1 (2024), pp. 89-122
ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

Cooperatives and MSMEs No. 91/Kep/M.KUKM/IX/2004 concerning Sharia Financial Services Cooperatives (Minister of Sharia Cooperatives Regulations) also mentions the position and authority of the Sharia Supervisory Board (DPS) in sharia cooperative institutions. The sharia supervisory board's advice, financial reports, tasks, and authorities are governed by Article 30 of the Minister of Sharia Cooperatives' Regulation, which is directed at the manager's implementation of sharia principles. The sharia supervisory board uses the Central National Sharia Council's sharia transaction fatwas as a guide.

Standardization of special fatwas for sharia microfinance transactions began to be applied by the Ministry of Cooperatives and SMEs to several BMTs. Meanwhile, government supervision is aimed at the performance of sharia cooperatives in general. The Ministry of Cooperatives and SMEs have the authority to dissolve BMTs that do not implement sharia principles based on the sharia board's assessment. This Wawang is regulated in Article 42, which states, "the official has the authority to dissolve a sharia cooperative if it violates sharia principles in carrying out its activities based on the sharia supervisory board's evaluation".

Based on these rules and authorities, the Ministry of Cooperatives and SMEs is also interested in realizing the optimization of the sharia supervisory board. In practice, the supervisory function of the Regional Cooperatives and SMEs Service does not always function well because it focuses more on dealing with cooperatives that are experiencing financial difficulties rather than on compliance with sharia principles. The following urgency exists for the supervision of BMT compliance with sharia principles:

a) BMT is a sharia cooperative run by the Ministry of Cooperatives and Small and Medium Enterprises. So it does not have a strict flow of control and supervision as in sharia banking, where there is BI as the central bank which periodically supervises, checks financial performance reports, and mitigate the risks faced by banks.
b) BMT is not bound by BI regulations in developing and innovating its products. Thus, BMT has a broader range of motion because it only refers to DSN fatwas. To date, DSN has issued around 82

fatwas on sharia agreements and transactions, and only a tiny part of these fatwas have been implemented by sharia micro finance.

c) Islamic microfinance thrives in poor communities. Microfinance members deposit funds because of the proximity of the location, familiarity with the manager, and convenience with sharia principles, and not solely for profit-seeking. Thus, the community needs certainty that microfinance applies Islamic principles and values. Public trust in sharia microfinance will be maintained as long as the manager can guarantee and prove that the institution's supervision can run optimally.

d) The primary duties of the sharia supervisory board must be clearly described in the Standard Operating Procedures (SOP) for microfinance management. These provisions are regulated in the Regulation of the Minister of Cooperatives and SMEs No. 35.2/Per/M.KUKM/X/2007. The primary duties of the sharia supervisory board include: a) Ensuring microfinance products and services are following sharia principles; b) Ensuring service management procedures are following sharia principles; c) Ensuring the implementation of coaching members who can build mutual awareness to engage in muamalah according to Islamic teachings consistently; and d) assisting in the implementation of education and training for members that can improve the quality of faith and morals.

Based on the main tasks of the sharia supervisory board, three areas of sharia supervision must be observed, namely: First, product approval and development through a critical review of the agreement used and improving it to comply with sharia principles. Second, management supervision and application of agreements, supervision of work operations, among the management, managers, and outside parties related to Islamic microfinance institutions. Third, coaching administrators and managers formally and informally through daily interactions and management meetings. The sharia supervisory board can propose to the management to send managers and employees in education and training, seminars, and workshops related to improving knowledge, skills, and character.

The sharia supervisory board's main responsibility is to guarantee that microfinance institutions' operational activities are compliant with sharia law. Therefore, clear guidelines are needed. The scope and object

ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

of supervision focus on assessing the institution's compliance with sharia provisions, particularly related to regular reports to interested parties, such as member meetings, the government, and the national sharia board.

Meanwhile, for sharia-based cooperatives, several regulations serve as references, namely:

a) Law No. 25/1992 concerning Cooperatives;
b) Government Regulation No. 9/1995 concerning Savings and Loans Business;
c) Regulation of the Minister of Cooperatives and Small and Medium Enterprises No. 11/Per/M.Kukm/XII/2017 concerning the Implementation of Sharia Savings and Loans and Financing Business Activities by Cooperatives;
d) Regulation of the State Minister for Cooperatives and Small and Medium Enterprises No. 35.2/PER/M.KUKM/X/2007 concerning Guidelines for Standard Operational Management of Sharia Financial Services Cooperatives and Sharia Financial Services Units of Cooperatives;
e) Decree of the Minister of Cooperatives and SMEs No. 91/Kep/IV/KUKM/2004 concerning Guidelines for the Implementation of Sharia Financial Services Cooperative Business Activities;
f) Decree of the Minister of State for Cooperatives and Small and Medium Enterprises of the Republic of Indonesia No. 91/Kep/M.KUKM/IX/2004 concerning Guidelines for implementing Sharia Financial Services Cooperative Business Activities.

At the regional level, the supervision of sharia cooperatives is carried out by the head of the District/Municipal Cooperative Service Section, which evaluates and monitors the performance of cooperatives. Generally, this activity is only carried out once a year, at the time of the annual member meeting. Ideally, this supervision should be carried out regularly, every three or six months, so that the performance of cooperatives in an area can be controlled more optimally. Periodic control can also improve work performance standards, control performance measurement, and avoid deviations.

2. Legal protection for sharia microfinance customers

To protect funds managed by Islamic microfinance administrators, preventive efforts are urgently needed to overcome irregularities and unlawful acts that harm the institution and its members. This prudence is carried out by every interested party, considering that there are no regulations and institutions guarantee sharia microfinance managed funds. In contrast to bank-managed funds secured by the Deposit Insurance Corporation, Law No. 24/ 2004 concerning the Deposit Insurance Corporation (Law on the Deposit Insurance Corporation).

The regulation only protects customer deposits in banking institutions, both conventional and Islamic banks, as stipulated in Article 1 paragraph (1), "*deposits are referred to in the Law on Banking*". Thus, the Deposit Insurance Corporation guarantees only deposits made by bank clients. This is in line with the explanation of Article 1 paragraph (2) of the Law concerning the Deposit Insurance Corporation, which states "*banks are commercial banks and rural credit banks as referred to in the Act. Law on Banking*".

However, Islamic microfinance institutions, both in the form of BMTs and sharia cooperatives, can take advantage of regulations issued by the Ministry of Cooperatives and SMEs regarding the protection of member savings funds, namely Ministerial Decree No. 91/2004 concerning Guidelines for the Implementation of Sharia Financial Services Cooperative Business Activities and Ministerial Regulation no. 35.2/2007 concerning Guidelines for Standard Operational Management of Sharia Financial Services Cooperatives and Sharia Financial Services Business Units. The two regulations have not been widely used to form a Deposit Insurance Corporation for Islamic microfinance.

The enactment of Law No. 1/2013 concerning Microfinance Institutions (Law on Microfinance Institutions) strengthens the legal basis for the establishment of the Deposit Insurance Corporation for Islamic microfinance, as stated in Article 19, "*to guarantee public savings, local governments and/or microfinance* institutions *may establish microfinance deposit guarantor*". To establish this institution to be realized, genuine support from the government is needed to issue operational regulations in the form of government regulations, as confirmed in Article 19 paragraph (3) of the Law on Microfinance Institutions. In this case, the

ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

support of Islamic microfinance associations at the national and regional levels is very much needed.

In line with the modern financial system, the presence of regulations and particular deposit insurance institutions for microfinance is urgent because it has the potential to boost public confidence and ensure the microfinance industry's viability. and support the stability of the national financial system. The presence of PT. BMT Ventures established by associations can be used as capital to be developed into a vital microfinance deposit guarantee institution.

Conclusion

In Indonesia, Sharia microfinance organizations typically take the form of cooperative legal entities. As a result, the operations are governed by the legislation issued by the Ministry of Cooperatives and SMEs and the National Syariah Council-Indonesian Ulama Council (DSN MUI). Islamic microfinance has contributed in the expansion of financial inclusion and provided poor and small business access to funding. Supervision of the implementation of sharia principles by microfinance institutions has not run optimally, and guidance related to good business governance and business risk mitigation has not entirely run optimally. Members' deposit funds are not fully secure because there are no regulations and deposit insurance institutions. Law No. 1 of 2013 concerning Microfinance Institutions and several rules of the Minister of Cooperatives and SMEs are not sufficient to become the legal basis for establishing a sharia microfinance guarantee institution.

In developing Islamic microfinance, social responsibility should be prioritized rather than emphasizing the institution's profitability. Profit is not the main criterion in evaluating the performance of Islamic microfinance institutions. There are several keys to success in developing a sharia microfinance business model, namely, a) the spirit of the management and employees to apply sharia principles b) trusted management. This is reflected in the recruitment and selection of members who will receive financing, and c) BMT management needs to implement proactive management to collect deposits from its members.

Acknowledgments

The researchers thank all parties who have assisted in this academic work, especially to the Dean of the Faculty of Law and The Chancellor of Bhayangjkara University, as well as the Dean of the Faculty of Law and the Chancellor of Esa Unggul University, colleagues, and students who have shown enthusiasm and generosity.

Bibliography

Book:

Asian Development Bank. *Finance for the Poor: Microfinance Development Strategy,* (Manila: ADB, 2000).

De Aghion, Beatriz Armendáriz and Jonathan Morduch, *The Economics of Microfinance*, (London: The MIT Press Cambridge, 2005).

Kacaribu, Febrio Nathan dan Ubaidi Socheh Hamidi, Laporan Kajian Program Bantuan Modal Usaha Mikro, (Jakarta: Badan Kebijakan Fiskal Kementerian Keuangan, 2020).

Knewtson, Heather, and Howard Qi, "Managing Risk for Sustainable Microfinance" *The Journal of Risk Finance,* (Vol. 20 No. 1, 2019).

Ledgerwood, Joanna. *Sustainable Banking with The Poor: Microfinance Handbook-An Institutional and Financial Perspective,* (Washinton, D.C: The World Bank, 1999).

Lembaga Demografi FEB Universitas Indonesia, *Pemetaan Program Pemberdayaan Usaha Mikro, Kecil, dan Menengah (UMKM)*, (Jakarta: Lembaga Demografi FEB Universitas Indonesia, 2021).

Maanen, van Gert, Micro credit: Sound Business or Development Instrument, (Voorburg: SGO Hoevelaken, 2004).

Meagher, Patrick. *Microfinance Regulation in Developing Countries: A Comparative Review of Current Practice,* (Maryland: IRIS Center, University of Maryland, 2002).

Obaidullah, Mohammed. *Introduction to Islamic Microfinance*, (New Delhi: International Institute of Islamic Business and Finance, 2008).

Osterwalder, Alexander and Ives Pigneur, *Business Model Generation,* (New Jersey: Wiley and Sons, 2010).

Robinson, Marguerite S. *The Microfinance Revolution Sustainable Finance for the Poor,* (Washington, D.C: The World Bank, 2001).

ISSN: 2303-3274 (p), 2528-1100 (e)
DOI: https://doi.org/10.25216/jhp.13.1.2024.89-122

Schmied, Julian. *Financial Performance and Social Goals of Microfinance Institutions*, (Potsdam: Potsdam University Press, 2014).

United Nations Conference on Trade and Development, *Financial Inclusion For Development: Better Access to Financial Services for Women, The Poor, and Migrant Work*, (Geneva: UNCTAD, 2021).

Journal article:

Agustini, Made Eka "Peran Lembaga Perkreditan Desa (LPD) dalam Memberikan Pelayanan Pada Masyarakat Desa Legian", Jurnal Ilmiah Dinamika Sosial, (Vol 3, No. 2, Agustus 2019).

Awiryaa, Agni Alam, Dhita Aditya Nugrahaa, Emy Meylita Halohob, "Strategi Pengembangan Perluasan Akses Lembaga Keuangan: Studi Kasus di Provinsi Bali" *Jurnal Ekonomi dan Pembangunan Indonesia*, (Vol. 15 No. 1 Juli 2014).

Baskara, I Gde Kajeng "Lembaga Keuangan Mikro di Indonesia", *Jurnal Buletin Studi Ekonomi*, (Vol. 18, No. 2, Agustus, 2013).

Bi, Zohra, and Shyam Lal Dev Pandey, "Comparison of Performance of Microfinance Institutions with Commercial Banks in India," *Australian Journal of Business and Management Research*, (Vol.1, No. 6, 2011).

Brau, James C., and Gary M. Woller, "Microfinance: A Comprehensive Review of the Existing Literature," *Journal of Entrepreneurial Finance and Business Ventures,* (Vol. 9, Issue 1, 2004).

______ Gary M. Woller. Microfinance: A Comprehensive Review of The Existing Literature, *Journal of Entrepreneurial Finance,* (Vol. 9, Issue. 1, 2004).

______ James C.; Woller, Gary M. Microfinance: A Comprehensive Review of The Existing Literature, *Journal of Entrepreneurial Finance,* (Vol. 9, Iss. 1, 2004).

_______ and Barbara Haley, "Analysis of the Effects of Microfinance on Poverty Reduction", *NYU Wagner Working Paper,* (No. 1014, Issued June 28, 2002).

Darwin, "UMKM dalam Perspektif Pembiayaan Inklusif di Indonesia", *Jurnal Ekonomi dan Pembangunan,* (Vol. 26, No.1, 2018).

Dewi, Nourma. Regulasi Keberadaan *Baitul Maal Wat Tamwil* (BMT) dalam Sistem Perekonomian di Indonesia, *Jurnal Serambi Hukum,* (Vol. 11 No. 01 Februari - Juli 2017).

Effendi, Jaenal Lukman Muhamad Baga, Irfan Syauqi Beik, dan Tita Nursyamsiah, "Aplikasi Model Bisnis Microfinance Syariah Terhadap Sektor UMKM di Indonesia", *IQTISHADIA*, (Volume 10, No. 2, 2017).

Hasan, Hurriah Ali "Pengentasan Kemiskinan dengan Keuangan Mikro Syariah", *Jurnal Hukum Ekonomi Syariah,* (Vol. 1, No. 1, Maret 2017).

Hutchinson, Terry, and Nigel Duncan, "Defining And Describing What We Do: Doctrinal Legal Research," *Deakin Law Review,* (Vol. 17, No. 1, 2012).

Idri and Rohaizan Baru, "The Principles of Islamic Economics and their Implementation in Indonesia," *International Journal of Academic Research in Business and Social Sciences,* (Vol. 7, No. 4, 2017).

James C. Brau, "Microfinance: A Comprehensive Review of the Existing Literature" Journal of Entrepreneurial Finance and Business Ventures, (Vol. 9, Issue 1, 2004).

Johnson, Mark W., Clayton M. Christensen, and Henning Kagermann, "Reinventing Your Business Model," *Harvard Business Review*, (December, 2008).

Kuncoro, Amin dan Husnurrosyidah, "Lembaga Keuangan Mikro Syariah dan Upaya Untuk Mempertahankan Eksistensi Perilaku Masyarakat Pedesaan", *Jurnal Analisa Akuntansi dan Perpajakan,* (Volume 1, Nomor 1, Maret 2017).

Masyithoh, Novita Dewi. *Analisis Normatif Undang-Undang No. 1 Tahun 2013 tentang Lembaga Keuangan Mikro Atas Status Badan Hukum dan Pengawasan Baitul Maal Wat Tamwil, Economica*, (Volume V/ Edisi 2/Oktober 2014).

Morduch, Jonathan. "The Microfinance Promise," *Journal of Economic Literature,* (Vol. XXXVII, December 1999).

Morton, Stephen David Pencheon, and Neil Squires, "Sustainable Development Goals (SDGs), and Their Implementation a National Global Framework for Health, Development and Equity Needs a Systems Approach at Every Level," *British Medical Bulletin,* (2017, 124).

Nurrachmi, Rininta "The Global Development of Halal Food Industry: A Survey", *Tazkia Islamic Finance and Business Review,* (Volume 11, No. 1, 2017).

Panggabean, Mompang and Benny Hutahayan, "The Problems of Implementation of Financial Services Authority Regulation No. 11/POJK.03/2020 in Relation to Legal Awareness and Legal Compliance of Bank Mandiri MSME Debtors", *Jurnal Penelitian Hukum De Jure*, (Volume 21 Nomor 3, September 2021).

Rahayu, Ninik Sri "Kontribusi Lembaga Keuangan Mikro Syariah Terhadap Pemberdayaan Perempuan (Studi Kasus BMT di Kabupaten Sleman Yogyakarta)", *Jurnal Inovasi dan Kewirausahaan,* (Volume 4 No. 3, September 2015).

Sahil, Irdlon "Potensi Baitul Maal Wat Tamwil (BMT) dalam Meningkatkan Pertumbuhan Ekonomi di Indonesia", *Jurnal Al-Insyiroh: Jurnal Studi Keislaman,* (Vol. 5, No. 2, September 2019).

Shankar, S. "Financial inclusion in India: Do microfinance institutions address access barriers. ACRN Journal of Entrepreneurship Perspectives", (Vol. 2, No. 1, 2013).

Sakti, Ali, Zaäfri Ananto Husodo, and Viverita Viverita, "The Orientation of Microfinance Regarding Group-Lending Strategy: Delphi and Analytic Network Process Evidence", Pertanika Journal of Social Science and Humanities, (Vol. 27, No. 2, 2020).

Widiastuti, Wiwin dan Sriyanto, "Model Lembaga Keuangan Mikro (LKM) Untuk Mengelola Keuangan Masyarakat (Studi di Kabupaten Jepara dan Karanganyar)", *Jurnal Litbang Provinsi Jawa Tengah,* (Volume 11, Nomor 1 – Juni 2013).