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## Contribution of National Sharia Council *Fatwa* of Indonesian Council of Ulama (DSN-MUI) in the Islamic Economic Development in Indonesia

Abdurrohman Kasdi

STAIN Kudus, Central Java, Indonesia

abdurrohmankasdi@stainkudus.ac.id

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### **Abstract**

*This research aims to identify the contribution of fatwa (Islamic instructions of rules) from DSN-MUI in developing the theories and practices of the Islamic economics in Indonesia. The research method used is qualitative, which consists of 116 fatwa DSN-MUI as the main subjects of study. The collected data had been analyzed using content analysis method by creating inimitable and valid data inferences related to its context. The results show that DSN-MUI is the only institution mandated by the law to establish fatwa on Islamic economics and finance, and to provide the provisions of Islamic law toward the Islamic financial institutions in carrying out their activities. Since its establishment in 1998, the roles of DSN-MUI are enormous in laying the foundations of the development of Islamic economics in Indonesia. Until the end of 2017, DSN-MUI has issued 116 fatwa on Islamic economics and finances. Even, DSN-MUI has a very important and strategic role in developing and applying sharia values in the economic field. MUI's important and strategic roles are shown from its position as a pioneer in socialization, internalization, and triggering the Islamic economic growth in Indonesia.*

### **Keywords:**

*Fatwa, National Sharia Council, Banking, Islamic Economics*

## A. Introduction

The attention of Indonesian Muslims on the teachings of Islamic economics in the last decade has begun to grow and develop significantly. This is because the conventional economic system that does not meet expectations and the consciousness of Muslims for sharia rules comprehensively (*kaffah*) in various aspects of life is also increasing. Talking about the field of sharia, or more specifically about Islamic economics, the topic cannot ignore the existence of Indonesian Council of Ulama (MUI) or the sub-division of MUI which deals specifically with the field of Islamic economics, namely the National Sharia Council-Indonesian Council of Ulama (DSN-MUI).

The development of financial institutions that operate in accordance with the sharia system raises new problems, especially those related to the aspects of sharia affairs. After all this time, the sharia aspects codified in various books of Islamic jurisprudence (*fiqh*) generally refer to the opinions of sharia against the cases (*qadhaya*) that occurs during the writing period of *fiqh* in the middle ages. Meanwhile, the problems in Islamic economic fields, especially in the Islamic financial institutions continue to emerge and develop that have not been responded completely in the books of *fiqh*. Therefore, *ijtihad* (collective decisions of Ulama about certain cases) is needed to solve the problems of Islamic economics.

The Islamic economic issues require certain regulations related to the operational conformity of sharia financial institutions based on the principles of sharia. The problems arise because the regulatory institutions that have the authority to regulate and oversee the Islamic financial institutions, Bank of Indonesia (BI) and the Ministry of Finance cannot implement their authorities in the field of sharia. Those two government agencies do not have any authority to formulate the principles of sharia directly from religious texts in the form of corresponding regulations for each sharia financial institution. The institutions are not equipped with legislation that regulates the authority in taking care of sharia issues.

Seeing the problems above, the government give a respond by issuing the Law Number 21 Year 2008 on Sharia Banking. In this law, the article 1 paragraph (12) states that, "sharia principles are Islamic legal guidance on each banking activity based on *fatwa* issued by institutions that have authority

in the establishment of *fatwa* in the field of sharia." Then, the position of MUI is also very important, especially in the article 26 paragraph (2), "sharia principles as meant in paragraph one shall be established by Indonesian Council of Ulama (MUI)".

In connection with the phenomena of the development of Islamic financial institutions, the discussion of the existence of DSN-MUI and its legal products become very important. DSN-MUI has a very important and strategic role in cultivating *muamalah* values in business fields. The important and strategic role of DSN-MUI is the fact that DSN-MUI is a pioneer in socialization, internalization, and triggers the growth of Islamic economics, both on financial and other sharia institutions.

## B. Theoretical Review

*Ulama* (Islamic scholars) play an important role as the community leaders in instilling the values of Islamic teachings as the guidance of life. In the colonial era in Indonesia, ulama had a very big role in responding to the royal decree which was considered unfair and oppressing poor peoples, even they struggled hard to achieve national independence because they wanted to enforce Islamic law to fight against growing foreign culture (Nafis, 2011: 70).

Ulama are required to immediately provide answers toward the unsolved questions for the certainty of Islamic teachings regarding the problems people face. Likewise, anything that can obstruct the process of giving *fatwa* should immediately be overcome. This is as Allah says: "Those who hide the proofs and the guidance We revealed, after We have made clear in the Scripture; such are accursed of Allah and accursed of those who have the power to curse." (Surah al-Baqarah: 159).

The word *fatwa* is literally derived from the root of Arabic word *fata*, which in its semantic region includes the meaning of youth, novelty, clarification, and explanation as an answer to an event (Esposito, 1995: 46). Fatwa according to the sharia meaning is an explanation of the sharia law in answering a case which is asked by a questioner, whether the explanation is clear or hesitant, and the explanation leads to two interests, personal and public (Gayo et.al, 2011: 21). According to MUI, fatwa is an answer or explanation from ulama on religious matters and is applicable to the public (MUI, 2011: 5). Meanwhile, according to Joseph Schacht, fatwa is a formal legal opinion of an Islamic

jurist (Schacht, 1964: 73-75).

Thus fatwa is the view of ulama in establishing Islamic law about a case that requires the provision of law. *Mufti* is not only an expert of Islamic jurisprudence, but also a master for the problem to be given the provision of Islamic law (Nafis, 2011: 103). Therefore, fatwa is a mirror of the ulama's response toward a problem that requires clear answer from the aspect of Islamic teachings; therefore it is dynamic and also a reflection of the intellectual thoughts of a particular society. Even the role of *mufti* in the Muslim political system in the perspective of *shura* (consultation) and legislation is also significant (Tyan, 1960: 219-230).

Fatwa can be issued by individuals, i.e. ulama who have made a reference to address issues or problems then they give the answers according to the provisions of Islamic law. However, on the other hand, fatwa can also be issued in groups of ulama through an organization as a reflection of the formalities of individual collectivises that agree to unite in one particular container. Therefore, in the national context, the government and the united community are gathered in one place, namely MUI to represent Indonesian Muslims in giving fatwa for the Muslim people. The fatwa issued includes some matters related to worship and *muamalah* (Mas'ud, ed.al. (eds), 1996: 29).

MUI is a forum for ulama, *zu'ama*, and Muslim scholars and guidance for all Indonesian Muslims, and it is the most competent institution in answering and solving every religious social problem that always arises and confronts the society. MUI has also gained full trust, both from the public and the government. In line with this, in accordance with the mandate of the National Conference VI year 2000, MUI always strives to improve the quality of its roles and performance, especially in providing solutions and religious answers toward any problems to the meet public expectations (MUI, 2011: 4).

Particularly related to the development of *Fiqh Muamalah* (Islamic Economic Law), MUI has formed the National Sharia Council (DSN-MUI). This institution issues fatwa on *Fiqh Muamalah* based on the demand of Islamic financial institutions that have an interest in the fatwa for their basic rules (regulation) on the management of Islamic financial activities. The authority of DSN-MUI in the field of sharia is very important to ensure the conformity of Islamic financial institutions in Indonesia with

Islamic law. The existence of DSN-MUI as an institution that has the ability in the religious field and has the right to determine fatwa on Islamic economic and finance has been recognized by BI, as the holder of power and center of monetary policies, and the Ministry of Finance as the holder of power in fiscal matters (Imaniyati, 2010: 35 ).

Those government agencies have established DSN-MUI as a partner in managing the Islamic financial institutions with their respective responsibilities. However, it does not mean that the adoption of fatwa automatically binds any sharia financial institutions before it becomes regulated by official regulatory agencies, either in the form of laws, regulations of Bank Indonesia or the Minister of Finance. This is because DSN-MUI as a private institution does not have any authority to organize sharia financial institutions directly. If the fatwa will be used as the main guide and reference in the Islamic financial institutions, then the fatwa should be issued as an official rule first by the regulatory institutions (Nafis, 2011: 108).

### C. Research Methods

This was a qualitative research, and the method used in the data collection was by analyzing the fatwa of DSN-MUI as the primary source (Sugiyono, 2008: 9). This study used two sources, namely the primary source consisting of 116 fatwa of DSN-MUI related to the Islamic economic and finance, and the secondary one through supporting literature that explain fatwa of DSN-MUI and fatwa of sharia finance in general.

In this study, the collected data were analyzed using content analysis method by creating inferences that can be replicated and valid data related to the context. The analysis was done in the following steps: first, the classification of the DSN-MUI fatwa in accordance with the existing fatwa sections; second, descriptive analysis to see how the use of *fiqh* in analyzing the DSN-MUI fatwa; and the third, the comparison of *fiqh* in the fatwa of DSN-MUI and books of *fiqh*.

The study and analysis were performed carefully to find out the natures of the DSN-MUI fatwa in *fiqh muamalah* field from the aspects of legal thinking, *istinbath* method and absorption of fatwa into the Islamic economic laws and regulations in Indonesia. The main concern and focus of this

research was to reveal and analyze the features of *fiqh muamalah maliyah* in Indonesia, the method of *istinbath* of Islamic law, and the implications of the DSN-MUI fatwa on *muamalah maliyah* in the preparation of legislations in Indonesia (Nafis, 2011: 108).

## D. Results and Discussion

### 1. History of DSN-MUI Establishment

The establishment of MUI cannot be separated from the desire of the majority of Muslims to establish a clerical assembly or the like to function as a mean to run the mechanism of the development of Muslims effectively and efficiently. This desire was welcomed warmly by the government, and there was a summit held on 21<sup>st</sup>-27<sup>th</sup> July 1975 whose participants consisted of provincial level delegates and from central Islamic organizational elements. According to Hooker, the establishment of MUI in 1975 was a government initiative to control Muslims to remain under the government control (Hooker, 2003: 60).

The summit was also attended by Islamic spiritualities from government agencies as well as individual invitations from ulama leaders from central and regional levels. At the end of the summit, there was a mutual agreement to establish MUI as an official organization for ulama, *zu'ama* and other Muslim scholars. This was marked by the signing of the "Charter of Establishment of MUI" conducted by 53 participants. Meanwhile, the first Chairman of MUI was Prof. Dr. Hamka from 1975-1980 (MUI Secretariat, 1990: 85-91).

To run the organizational activities, MUI establishes some commissions. Regarding the task of reviewing legal issues arising in the community, this duty is submitted to the fatwa commission, because fatwa is necessary alternative to give answers about the problems of life from the perspective of religion, both for society and government. This is stated in article 4, that MUI role in issuing fatwa and advices to the government and Muslims in certain issues related to religious matters and the welfare of the nation, maintaining the unity of people, as an institution that represents Muslims and as an intermediary that harmonizes relations between religious people (Mudzhar, 1996: 82). In the economic activities, MUI forms an institution that specifically handles fatwa on *Fiqh Muamalah* (Islamic Economic Law). This institution is called the National Sharia Council-Indonesian Council of Ulama (DSN-MUI).

The idea of the establishment of DSN-MUI has actually long been planned, precisely on 19<sup>th</sup>-20<sup>th</sup> August 1990 during a workshop and meeting that discussed the bank interest and public economic development. The workshop finally recommended to the government to facilitate the establishment of banks based on sharia principles. So, 14<sup>th</sup> on October 1997 it was organized a clerical workshop on Sharia Mutual Fund, and one of the recommendations was the establishment of DSN-MUI. The recommendation was then followed up well, so that DSN-MUI was formally established in 1998 (*SK MUI*, Number: Kep-754 / MUI / III / 1999).

The first chairman of DSN-MUI was Prof. HA. Malik Fajar, the Minister of Religion of the Republic of Indonesia, who was elected at the National Work Congress (*Mukernas*) in February 1998 in Jakarta. DSN-MUI was established at the same time with the establishment of Sharia Development Expert Committee at Bank Indonesia which later changed its name to Sharia Banking Bureau. The head of DSN-MUI is now held ex-officio by the Chairman of MUI, Prof. Dr. KH. Ma'ruf Amin (<https://dsnmu.or.id>).

The position of DSN-MUI is more strategic after the enactment of Law Number 10 Year 1998 regarding the Amendment of Law Number 7 Year 1992 on Banking. With this Banking Act, sharia activities and economic development and finance are increasingly being implemented (LNRI 1998 No. 182). Even this Banking Law already contains provisions on economic activities based on sharia principles. This then affects the rapid growth of economic activities based on the principle of sharia, including the ones that push the establishment of several sharia financial institutions in Indonesia.

## 2. Duties and Authorities of DSN-MUI

DSN-MUI is an institution established by MUI which is structurally under MUI and is responsible for dealing with issues related to the Islamic economics, whether directly related to sharia financial institutions or others. The establishment of DSN-MUI is intended as an effort for the efficiency and coordination of ulama in responding to issues related to economic and financial issues. In addition, DSN-MUI is also expected to act as a supervisor, steering and driving the application of the Islamic principles in the economics fields in Indonesia.

Thus, the duties of DSN-MUI include: 1) developing the application of sharia values in economic activities in general and finance in particular; 2) issuing fatwa on the types of sharia financial activities; 3) issuing fatwa on sharia financial products and services; and 4) overseeing the implementation of fatwa issued (SK MUI Number: Kep-487 / MUI / IX / 2010).

In carrying out its duties and functions, DSN is assisted by an agency called the Executive Board of the National Sharia Board (BPH-DSN). In general, DSN management consists of Plenary Officer and Daily Administrator. The members of DSN-MUI consists of: 1) elements of ulama, 2) elements of experts (Islamic economics and business), and 3) practitioners of sharia business. The membership of ulama, experts, and practitioners of sharia business in DSN is appointed by MUI with the same period of service with the period of MUI for 4 years. It is stated that in the Guidelines for the Implementation of Sharia Bank Office, issued by Bank Indonesia, the working period of the board of DSN-MUI is 4 years (SK MUI Number: Kep-98 / MUI / III / 2001).

Domestic Guidelines of DSN-MUI, in the Decree of DSN-MUI Number: 02 Year 2000 has decided following points: first, the position; DSN-MUI is domiciled in the capital of the Republic of Indonesia and is an integral part that is inseparable from MUI; next, DSN is the only authorized institution and has the primary duty to issue fatwa on the types of activities, products and services of LBS / LKS / KSPPS and oversee the application of fatwa by sharia business institutions in Indonesia.

Second, the membership, rights and authority of DSN: 1) DSN members consist of ulama, experts and practitioners of economics fields and *muamalah* and have good morality; 2) DSN members are appointed by MUI for 4-year period; 3) at the end of working period, the members may be considered for re-appointment in the following period; 4) in carrying out its duties and functions, DSN is operated by BPH-DSN; 5) DSN members are entitled to get transportation assistance fund.

Thirdly, the authorities of DSN-MUI are to: 1) issue fatwa binding the Sharia Supervisory Board (*Dewan Pengawas Syariah/ DPS*) in each LBS / LKS / KSPPS and become the basis of legal actions of related parties; 2) issue fatwa as the basis for the provisions or regulations issued by the authorized institutions; 3) grant and revoke the recommendation of names that will

serve as DPS members on LBS / LKS / KSPPS; 4) invite experts to explain certain problems required in the discussion of sharia economics, including the monetary authorities; 5) give warning to LBS / LKS / KSPPS to solve deviations of fatwa issued by DSN; and 6) propose to the competent authorities to take any actions if DSN warnings are ignored (DSN-MUI Decree Number 01 year 2000).

Fourth, the DSN work rules are: 1) DSN-MUI conducts plenary meetings at least 1 (one) time in three months or every time it is required; 2) the meeting materials, time and place shall be determined by BPH-DSN with the approval of DSN chairman and secretary; 3) the letter of meeting invitation shall be submitted to DSN-MUI members at least 3 (three) days prior to the meeting; and 4) the invitation letter of shall be signed by the chairman and secretary of DSN-MUI.

Analyzed from the duties and authorities of DSN-MUI, it can be concluded that DSN-MUI is an institution that serves to explore, examine and formulate the values and principles of Islamic law in the form of fatwa as a guide in the Islamic economic affairs. Therefore, DSN-MUI has the authority to issue a fatwa binding on Sharia Supervisory Board (DPS) in each Sharia Financial Institution and become the basis of legal actions of the related parties (Ma'ruf Amin, 2006: XIII).

The Regulation of Bank Indonesia Number 11/2 / PBI / 2009 (PBI) further reinforces the position of Sharia Supervisory Board (DPS) that every commercial bank which conducts a Sharia Business Unit is required to appoint DPS whose main task is to give advices toward the directors and to supervise sharia conformity. Meanwhile, in the provisions of the Law of Sharia Banking no. 21 of 2008, it is clearly stated that DPS is appointed at the general meeting of shareholders based on the recommendation of MUI.

Therefore, DSN-MUI is the only institution mandated by the Law to enact fatwa about the Islamic economics activities. It is also an institution established to legalize the provisions of Islamic law toward LKS (sharia financial institutions) in carrying out its activities. These legal provisions are very important and become the main legal basis in carrying out its operations.

### 3. Methods and Procedure of the Establishment of DSN-MUI Fatwa

The recognition of the government and sharia economic institutions (LKS) on DSN-MUI fatwa as the only guide in running LKS operations cannot be separated from efforts to minimize the difference of sharia interpretations that can lead to the guidance of the determination of Islamic law against a valid case. This is important, because the domain of Islamic legal stipulation and elegant *fiqih* characters are the factors affecting the fatwa of DSN-MUI (Nafis, 2011: 90).

DSN-MUI fatwa is a response of a meeting point between the values of *Fiqh Muamalah* with business institutions. Fatwa provisions are the result of collective *mufti's* decisions supported by other relevant scholars to explain and ensure that *mufti* receive and understand information about the objects to be legally determined in terms of sharia accurately and correctly. Therefore, the process of preparing fatwa is done by repeated review process and discussed constructively by requesting information from the regulators, business actors, associations, and other parties.

The methods and procedures for determining fatwa of DSN-MUI shall follow the guidelines set by MUI Fatwa Commission. In the guidelines and procedures for the determination of fatwa, any issues discussed in the fatwa commission, including the fatwa on sharia economics should be based on *Qur'an*, *Sunnah*, *Ijma'* and *Qiyas*. Before the fatwa is determined, it should be carefully reviewed the opinions of *imam madzhab* on the subjects that will be filed with their arguments (MUI Fatwa Stipulation Guidelines, Number: U-596 / MUI / X / 1997). Any problem that is clearly legal in *nash qath'i*, then MUI should convey it according to what are written in *nash*. In case there are some different opinions among *madzhab (khilafiyah)*, the determination of the fatwa is based on the method of *al-jam'u wa al-taufiq*.

The management who attend the plenary meeting of DSN-MUI give inputs in terms of the theorem, opinions of ulama, and considerations of the benefits and harm (*madharat*) if the fatwa is approved or rejected. *Mustafti* and related parties are also invited to attend to contribute to the fatwa drafting. The draft of fatwa which is deemed feasible is then approved into a fatwa with a note that it should be corrected by considering

some inputs from the plenary and other related parties. The legalized fatwa is returned to BPH-DSN to be completed by accommodating the plenary participants' inputs, which are then discussed again in BPH-DSN meeting until it is finally approved that the fatwa is completely and legally assessed (Ichwan Sam et al, 2011: 19-20).

According to fatwa procedure, all DSN-MUI fatwas are issued if there is demand from the community. In establishing fatwa, DSN-MUI is always accompanied by economic practitioners and regulators. The establishment of a fatwa within DSN-MUI Institution shall be conducted in a plenary meeting attended by all members of DSN-MUI, accompanied by Bank Indonesia or other financial institutions as well as the financial industry, such as banking, insurance, capital markets or institutions with economic and sharia financial connections (Nafis, 2011: 94).

The working mechanisms related to DSN Daily Executive are: 1) to accept proposals or legal questions concerning products of a Sharia Financial Institution; 2) a secretariat headed by the secretary no later than one working day after receiving the proposal or question, addressing the matter to the chairman; 3) the chairman of the Daily Executive Agency with members and experts no later than 20 working days after the proposal or question exists, writing a specific memorandum containing the study and discussion of the questions or proposals; 4) the chairman of the Daily Executive Agency brings the results of the discussion to the DSN plenary meeting for approval; and 5) the DSN fatwa is signed by the chairman and secretary of DSN (Decree of MUI Number: Kep-98 / MUI / III / 2001).

DSN-MUI also establishes BPH-DSN Working Group (*Pokja*) which in practice often functions as a team that conduct studies on various arguments in various books as the initial stage of drafting a fatwa. If the issue asked for a fatwa is cross-workings, then a small team will be formed from the working groups to conduct the study. If the review of the theorem and *aqwal ulama* is considered sufficient, then the team formulates fatwa by considering the consistency of the substance, especially synchronized with the fatwa set by DSN-MUI.

The study results are submitted by the team to BPH-DSN for input; the team continues their works on drafting a fatwa by accommodating inputs from BPH-DSN. The fixed draft is later

submitted to BPH-DSN. If BPH believes that the draft is feasible and is considered adequate, BPH-DSN shall take over the works of the team. BPH-DSN invites the plenary to discuss and endorse the fatwa draft into a DSN-MUI fatwa.

#### **4. Roles of DSN-MUI Fatwa in the Development of Islamic Economics in Indonesia**

DSN-MUI is the only institution mandated by law to enact a fatwa on Islamic economic and finance, and also an institution established to provide the provisions of Islamic law for the sharia financial institutions in carrying out their activities. The provisions are very important as the main legal basis for their operational activities. Without the provisions of the law, including Islamic one, the sharia financial institutions will have difficulty in performing their duties.

The position of DSN-MUI from the point of members of the Sharia Supervisory Board is as a consortium institution. DPS members from each company can be incorporated within one consortium of DPS under the auspices of MUI in cooperation with other related parties. The consortium is called DSN for the national level; while the international consortium has been established with the name *The Higher Sharia Supervisory Council* oleh *International Association Islamic Banks* located in Cairo, Egypt (Purwataatmadja, 1992: 14).

DSN was established by Indonesian Council of Ulama (MUI) for more efficient coordination of ulama in response to economic and financial issues. In addition, DSN is expected to serve as a driving force for the realization of the application of Islamic teachings in economic life. Therefore, DSN takes a proactive role in responding and anticipating the issues that may occur in the Islamic economic and financial development (Decree of MUI Number: Kep-98 / MUI / III / 2001).

The roles of DSN-MUI in sharia banking activities have been legitimated in the provision of national legislation, i.e. the Law on Sharia Banking (*UU Perbankan Syariah*), which is reflected in the provision of Article 1 paragraph (12) UU PS 21 Year 2008: "The principle of sharia is the principle of Islamic law in banking activities based on fatwa issued by institutions that have authority in the determination of fatwa in sharia field." Then, explicitly, MUI is mentioned in the provision of Article 26 paragraph (2) of UU PS number 21 year 2008: " Sharia

Principles as referred to paragraph one are determined by Indonesian Council of Ulama “, and Article 32 Paragraph (2):” The Sharia Supervisory Board as referred in paragraph (1) shall be appointed by the General Meeting of Shareholders on the recommendation of the Indonesian Council of Ulama.

Since its establishment in 1998, the role of DSN-MUI has been great in laying the foundations and developing sharia economics in Indonesia. Until the end of 2017, DSN-MUI has issued 116 fatwa on Islamic economics and financial activities. DSN-MUI roles in performing MUI’s tasks in dealing with issues related to Islamic economics, both related to the activities of sharia financial institutions and others.

DSN-MUI has also monitored the implementation of fatwa in every sharia financial institution through DPS, which is an organization that assists DSN-MUI. The DSN-MUI fatwa will bind the sharia financial institutions, because the fatwa has been decided to be translated as a legislation and serves as guidelines for regulatory agencies to issue rules on sharia financial institutions. However, for the public, the DSN-MUI fatwa is merely a non-binding and non-mandatory to be applied.

## **5. Implementation of DSN-MUI Fatwa in Indonesian Acts**

In dealing with the development of significant sharia banking in Indonesia, it requires a set of legislation that can provide legal basis and also fatwa from competent institutions, given the role of fatwa is very strategic in filling the formal legal void in the law or acts. Although MUI and DSN-MUI are two private institutions that do not have full authorities in determining state policies on the development of sharia banking, but many DSN-MUI fatwas are implemented in Indonesian legislation.

Initially, these DSN-MUI fatwas were implemented in the Bank Indonesia Regulation (PBI) in the form of technical guidelines. Then, in the banking field, there have been developing financial institutions which implement the principles of sharia (Islamic law). The development of sharia banking in recent years has indeed increased significantly. It is also supported by government efforts in accelerating sharia banking activities, and one of them is through the enactment of Law No. 21 of 2008 on Sharia Banking (Nafis, 2011: 233).

The mechanism of implementation of DSN-MUI fatwa as a regulation of sharia financial institutions is set in Article 26 of UU PS no. 21 Year 2008: 1) the business activities as referred in Article 19, 20 and Article 21, and / or products of sharia services shall be subject to the Sharia Principles; 2) the sharia principles as referred to in paragraph (1) shall be determined by the Indonesian Council of Ulama; 3) fatwa as referred to in paragraph (2) shall be set forth in a Bank Indonesia Regulation; 4) In drafting the Bank Indonesia Regulation as referred to in paragraph (2), Bank Indonesia shall establish a sharia banking committee; 5) further provisions regarding the procedures for the establishment, membership and duties of sharia banking committees as referred to in paragraph (4) shall be regulated by Bank Indonesia Regulation (UU PS No. 21 Year 2008).

The Law no. 21 of 2008 on the Sharia Banking provides technical guidance on the requirement of being subject to sharia rules to develop banking fields and obligation to apply the fatwa of DSN-MUI. The law also provides clearer and more specific rules regarding sharia banking system and rules. The ratification of UU PS cannot be separated from the targets set by the stakeholders, including Bank Indonesia (BI) as the regulator of banking fields. BI targets that sharia banking in Indonesia experience rapid growth.

The fact is that after the issuance of this law, the growth of sharia banking and financial institutions is very rapid. As reported by Bank Indonesia, at the beginning of 2008, there were 3 Sharia Commercial Banks (BUS), 26 Sharia Business Units (UUS) and 114 Sharia Rural Banks (BPRS). Meanwhile the strength of sharia bank office network has reached 711 offices. With this advantage, the sharia banks managed to record 2.8 million customer accounts, while the total capital of sharia banks reach Rp. 36.5 billion ([www.madani-ri.com](http://www.madani-ri.com)).

This law also explains the rules related to sharia compliance. The sharia compliance authority is in the hand of MUI, technically run by DSN-MUI. Then the adoption of DSN-MUI fatwa is conducted by the Sharia Supervisory Board (DPS) which must be present in every Sharia Bank and Sharia Business Unit (UUS). As for the realization of fatwa issued by MUI into Bank Indonesia Regulation, Sharia Bank Committee (KPS) is then established.

The Bank Indonesia Regulation Number 11/2 / PBI / 2009

(PBI) further reinforces the position of Sharia Supervisory Board (DPS) that every business of a Commercial Bank that conducts Sharia Business Unit is required to appoint DPS whose main task is to provide advices and recommendations to the board of directors as well as oversee its sharia conformity. Meanwhile, in the provisions of UU PS no. 21 of 2008, it is obviously stated that DPS is appointed at the general meeting of shareholders based on the recommendation of MUI.

Besides the Sharia Banking, the implementation of DSN-MUI fatwa is also conducted in the field of Sharia Insurance. Analysis of the implementation of DSN-MUI fatwa into Sharia Insurance will start from the of Minister of Finance on the Establishment of Sharia Insurance Companies, then the Decree of Minister of Finance on Financial Progress of Insurance Companies, the Decree of the Minister of Finance No. 426 / KMK.06 / 2003 on Business Licenses, Corporate Institutions and Re-Insurance Companies, and DSN-MUI Fatwa Number 21 / DSN-MUI / X / 2001 on General Guidelines for Sharia Insurance. In the Decree of the Minister of Finance, Article 1 Paragraph (1), it is stipulated that all transactions should be based on Islamic law and the management and investment should be in accordance with Islamic rules. The article 4 paragraph (3) confirms the expertise requirements in the field of sharia economics, because the nature of management and investment of insurance funds must not be separated from the Islamic economic instruments.

The same is also applied for the dispute settlement and insurance matters. According to Law No. 2 of 1992 on the Insurance Business, dispute settlement and insurance matters are settled by the judicial agencies as the General Court. However, the Law No. 3 of 2006 on Religious Courts article 49 states that the Islamic economic disputes such as sharia insurance are the authorities of the Religious Courts. The provision of dispute settlement under the Religious Courts Act is the uptake of the DSN-MUI Fatwa concerning insurance which stipulates dispute settlement through deliberation process, Sharia Arbitration Board, and if it is still unable to reach fixed agreement, it can be settled through Religious Courts.

## E. Conclusions

DSN-MUI is an institution established by MUI specifically to issue fatwa related to *Fiqh Muamalah*. DSN-MUI is an institution that serves to explore, examine and formulate the values and principles of Islamic law in the form of fatwa to serve as the guidance in the Islamic economic affairs and activities. Therefore, DSN-MUI has the authority to issue fatwa binding the Sharia Supervisory Board (DPS) in each Sharia Financial Institution and become the basis for related legal action parties.

DSN-MUI also has a very important and strategic role in developing and applying sharia values in the economic fields. MUI's important and strategic role is shown in its existence as a pioneer in socialization, internalization, and triggering sharia economic growth in Indonesia. The strategic position of DSN-MUI makes fatwa issued become major referrals for the policy makers in sharia banking, sharia insurance, and other policies related to Islamic economic development. For example, the Law No. 21 of 2008 on Sharia Banking provides technical guidance on the requirement of being subject to sharia rules to develop the banking activities and compulsory compliance with the DSN-MUI fatwa. This law also explains the rules related to the sharia compliance. The Sharia Compliance Authority is in the hands of MUI, and technically run by DSN-MUI. Then, the adoption of the DSN-MUI fatwa is conducted by the Sharia Supervisory Board (DPS) which must exist in every Sharia Bank and Sharia Business Unit (*Unit Usaha Syariah/UUS*).

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