

Islamic Banking Regulation In Indonesia: A Review Of Laws, OJK Regulations (POJK), and DSN-MUI Fatwas

Ichsanul Reihan Adel

Universitas Islam Negeri Sultan Syarif Kasim Riau, Pekanbaru

*Email : 22490314738@students.uin-suska.ac.id

Nurnasrina

Universitas Islam Negeri Sultan Syarif Kasim Riau, Pekanbaru

Email : nurnasrina@uin-suska.ac.id

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ABSTRACT

The development of Islamic banking in Indonesia is inseparable from the existence of a legal framework governing its operations and supervision. Islamic banking regulations are derived from various legal instruments, such as the Islamic Banking Law, regulations issued by the Financial Services Authority (Peraturan Otoritas Jasa Keuangan/POJK), and fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). Although originating from different authorities, these three legal instruments are closely interconnected in shaping an Islamic banking system that is consistent with Sharia principles and Indonesia's positive law. This study aims to analyze the roles, legal standing, and implications of Law No. 21 of 2008, POJK, and DSN-MUI fatwas within the regulatory structure of Islamic banking in Indonesia. The research employs a normative juridical method with statutory and conceptual approaches. The findings indicate that Islamic banking regulation in Indonesia represents an integration of state law and Islamic law, harmonized through authoritative mechanisms.

INTRODUCTION

Islamic banking is a banking system that conducts its business activities based on Sharia principles, namely Islamic law governing *muamalah* (commercial and civil transactions). These principles include the prohibition of *riba* (interest), *gharar* (uncertainty), and *maysir* (speculation or gambling), as well as the obligation to uphold justice, honesty, and mutual benefit in every transaction (Antonio, 2001; Huda & Heykal, 2016). In practice, Islamic banking applies profit-and-loss sharing mechanisms and various types of Sharia-compliant contracts, such as *mudharabah*, *musyarakah*, *murabahah*, *ijarah*, and other contracts recognized under Islamic law (Ascarya, 2015; Karim, 2014). With these characteristics, Islamic banking functions not only as a financial intermediary institution but also as an instrument for realizing social justice and equitable economic distribution in accordance with Islamic values (Chapra, 2000).

In Indonesia, the practice of Islamic banking began to develop following the enactment of Law No. 7 of 1992 on Banking, which was later amended by Law No. 10 of 1998. This amendment marked an important milestone because, for the first time, the term "profit-sharing principle" was formally recognized within the national banking system, thereby opening opportunities for the establishment of banks operating based on Sharia principles (Sjahdeini, 2014). Although the regulation at that time did not yet comprehensively and specifically address Islamic banking, it provided a legitimate legal basis for the development of Islamic banks in Indonesia (Ismail, 2016).

The strengthening of Islamic banking regulation became more evident with the enactment of Law No. 21 of 2008 on Islamic Banking, which serves as the *lex specialis* governing Islamic banking activities in



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Corresponding Author : Ichsanul Reihan Adel

Indonesia. This law regulates Islamic banking in a more comprehensive and specific manner, covering aspects such as institutional structure, business activities, governance, supervision, and sanctions (Sutedi, 2018). The enactment of Law No. 21 of 2008 provides stronger legal certainty for business actors, investors, and customers in utilizing and developing Islamic banking services (OJK, 2020).

The existence of Islamic banks necessitates regulations that are not solely derived from state positive law but also from Islamic law, particularly with regard to contracts, transaction mechanisms, product structures, and Sharia compliance. This indicates that Islamic banks operate within two legal systems simultaneously, namely national law and Islamic law, which require careful harmonization to avoid legal conflicts or overlaps in practice (Sjahdeini, 2014; Hosen, 2019).

In this context, the fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) play a strategic role as normative guidelines in determining the permissibility and Sharia compliance of Islamic banking products and services. DSN-MUI fatwas serve as the primary reference in formulating Sharia contracts such as *murabahah*, *mudharabah*, *musyarakah*, *ijarah*, *qardh*, and *wakalah*, and are also used by regulators in drafting technical regulations for the Islamic financial sector (DSN-MUI, 2020; Ascarya, 2015).

Furthermore, since the establishment of the Financial Services Authority (*Otoritas Jasa Keuangan*—OJK) as an independent regulatory body, its role has become increasingly important in ensuring the stability and sustainability of Islamic banking in Indonesia. OJK issues various Financial Services Authority Regulations (POJK) and circular letters governing capital adequacy, risk management, good corporate governance, transparency, consumer protection, and Sharia compliance supervision (OJK, 2021).

The involvement of both OJK and DSN-MUI demonstrates that Islamic banking regulation in Indonesia has a unique dual legal character, integrating state law and Islamic law simultaneously. Consequently, Islamic banking requires dual supervision, namely juridical supervision by OJK and Sharia supervision by the Sharia Supervisory Board (DPS) based on DSN-MUI fatwas, to ensure full compliance with both legal and Sharia principles (Hosen, 2019).

LITERATURE REVIEW

A. Financial Sector Reform under the P2SK Law

The enactment of Law No. 4 of 2023 on Financial Sector Development and Strengthening (P2SK) is widely regarded as the most comprehensive regulatory reform in Indonesia's financial sector. Existing studies highlight that the omnibus law approach was adopted to address regulatory fragmentation, overlapping institutional mandates, and weak supervisory coordination that had previously undermined financial system effectiveness (KSSK, 2022). The P2SK Law aims to strengthen financial stability, expand financial inclusion, and align the national legal framework with global financial developments and rapid digital innovation (OJK, 2023).

B. Institutional Strengthening of Financial Authorities

The literature emphasizes that the P2SK Law significantly enhances the authority of the Financial Services Authority (OJK), particularly in regulating financial technology, digital financial assets, and market conduct supervision. This strengthening is considered essential to close regulatory gaps that previously allowed non-bank financial entities to operate outside effective oversight (OJK, 2023). At the same time, Bank Indonesia's role as the macroprudential authority and guardian of payment system stability is reaffirmed, with clearer coordination mechanisms established between Bank Indonesia and OJK to mitigate systemic risks (Bank Indonesia, 2023). The Deposit Insurance Corporation (LPS) is also granted broader powers for early intervention and bank resolution, reflecting a shift toward preventive crisis management (LPS, 2021).

C. Law No. 21 of 2008 as the Legal Foundation of Islamic Banking

Scholars consistently identify Law No. 21 of 2008 on Islamic Banking as the principal legal foundation of the Islamic banking system in Indonesia. This law functions as a *lex specialis* that provides comprehensive regulation of Islamic banking institutions, business activities, governance, and supervision. Prior studies note that before its enactment, Islamic banking operated under general banking laws that recognized profit-sharing but lacked detailed and specific regulation, resulting in legal uncertainty (Sjahdeini, 2014; Ismail, 2016).

D. The Normative Role of DSN-MUI Fatwas in Islamic Banking Regulation

A distinctive characteristic of Indonesia's Islamic banking framework, as highlighted in the literature, is the formal integration of Sharia norms into positive law. Article 26 of Law No. 21 of 2008 mandates compliance with fatwas issued by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), thereby elevating these fatwas from purely religious opinions to binding normative references within the regulatory



system (Ascarya, 2015). Studies argue that this mechanism creates a dual legal governance structure, combining state law and Islamic law in a manner rarely found in other jurisdictions (Hosen, 2019).

E. The Role of POJK and Dual Supervision in Islamic Banking

The literature further underscores the strategic role of Financial Services Authority Regulations (POJK) as technical instruments that translate statutory provisions into operational rules. In Islamic banking, POJK regulate risk management, corporate governance, product development, and Sharia compliance, while requiring all products to refer to DSN-MUI fatwas and undergo regulatory approval (OJK, 2022). This framework results in a dual supervision system consisting of formal oversight by OJK and Sharia supervision by the Sharia Supervisory Board (DPS), which is widely regarded as a key mechanism for ensuring legal certainty, financial stability, and Sharia compliance in Indonesia's Islamic banking system (Hosen, 2019).

METHODS

This study employs a normative juridical approach, namely a legal research method conducted by examining and analyzing various statutory regulations, legal principles, and legal norms that are directly related to the administration of Islamic banking in Indonesia. This approach focuses on understanding the structure of positive law and the provisions of Islamic law governing the operations of Islamic banking institutions, particularly those concerning contracts (akad), products, and the supervision of sharia compliance.

The data sources used in this study consist of primary and secondary legal materials, including Law Number 21 of 2008 on Islamic Banking as the main legal foundation, various Financial Services Authority Regulations (Peraturan Otoritas Jasa Keuangan/POJK) that regulate the technical operations and supervision of Islamic banking, and Fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) as guidelines for determining the sharia validity of Islamic banking products and services. In addition, this research is supported by relevant legal literature, textbooks, and scholarly journals to strengthen the analysis and provide a theoretical and conceptual framework for the issues examined.

RESULTS AND DISCUSSION

1. Law No. 4 of 2023 on Financial Sector Development and Strengthening (P2SK)

Law No. 4 of 2023 on Financial Sector Development and Strengthening (P2SK) represents the most comprehensive regulatory reform in the history of Indonesia's financial services sector. The enactment of this law responds to the urgent need to strengthen financial system stability, expand financial inclusion, and align the national legal framework with global dynamics and the rapid acceleration of financial technology innovation (Financial System Stability Committee, 2022). The omnibus law approach was adopted because financial sector regulations were previously scattered across numerous laws, resulting in overlapping authorities and reduced supervisory effectiveness.

The P2SK Law introduces a significant restructuring of the institutional architecture of the financial sector. The Financial Services Authority (OJK) receives expanded powers, particularly in regulating financial technology, digital innovation, technology-based financial assets, and market conduct supervision. These new authorities are intended to address the growing complexity of financial products and the need for more adaptive supervision (OJK, 2023). This reform also closes regulatory gray areas that were previously exploited by non-bank financial entities operating without adequate oversight.

The role of Bank Indonesia (BI) is reaffirmed under the P2SK Law as the macroprudential authority and guardian of payment system stability. The law clarifies policy integration between BI and OJK, particularly in managing systemic risk and transmitting monetary policy to the financial sector (Bank Indonesia, 2023). Such integration is crucial to ensure that disruptions in the financial services sector can be mitigated swiftly before escalating into systemic crises.

The Deposit Insurance Corporation (LPS) is also strengthened through clearer mandates in handling and resolving troubled banks. LPS is granted authority to conduct early resolution, including intervention in banks placed under intensive supervision (LPS, 2021). This expanded mandate reflects a shift from reactive crisis management toward proactive and measured early intervention mechanisms.

Furthermore, the P2SK Law reinforces the function of the Financial System Stability Committee (KSSK). KSSK now has a stronger legal basis to determine systemic risk mitigation measures, facilitate inter-agency data sharing, and establish coordination protocols during crisis conditions (KSSK, 2022). This strengthening forms part of a new, integrated national financial stability architecture.



Beyond institutional aspects, the P2SK Law emphasizes consumer protection and financial inclusion. The government recognizes that the expansion of digital financial services entails risks such as information asymmetry, misuse of personal data, and the proliferation of financially unsound products. Consequently, the law reinforces transparency standards, dispute resolution mechanisms, and financial education obligations for industry participants (OJK, 2022). These measures aim to create a fairer and more consumer-oriented financial ecosystem.

The insurance, pension fund, and financial cooperative sectors receive particular attention due to persistent governance issues, corporate failures, and weak capitalization. The P2SK Law tightens regulations, enhances governance standards, clarifies supervision over cooperatives that collect public funds, and strengthens sanctions for non-prudential management practices (Juwana, 2021). These reforms are expected to reduce the risk of institutional collapse caused by weak oversight.

Nevertheless, the law faces implementation challenges. Several provisions have been subjected to judicial review before the Constitutional Court due to concerns over overlapping authority and inconsistency with legislative drafting principles (Fajar, 2023). Additionally, the financial industry must adapt to a large number of technical implementing regulations. Regulatory capacity, particularly in analytical, digital, and prudential expertise, also remains a critical concern.

Despite these challenges, most analysts and academics regard the P2SK Law as a strategic foundation for building a modern, stable, and inclusive national financial sector. The structural reforms introduced by this law are deemed essential to address global volatility, maintain financial system stability, and enhance public trust in financial institutions (Sari & Rahmatullah, 2023).

2. Law No. 21 of 2008 on Islamic Banking

Law No. 21 of 2008 on Islamic Banking constitutes the most fundamental pillar for the existence and development of Islamic banking in Indonesia. This law not only provides legal legitimacy for Islamic banking operations but also establishes a clear framework governing all banking activities based on Sharia principles.

Prior to its enactment, Islamic banking practices relied primarily on Law No. 7 of 1992, later amended by Law No. 10 of 1998. Although these laws recognized profit-sharing principles, they did not provide specific and comprehensive regulation of Islamic banking. Consequently, Law No. 21 of 2008 represents formal state recognition of the Islamic financial system as an integral part of the national financial system.

Article 1 paragraph (1) of Law No. 21 of 2008 defines Islamic banking as all matters relating to Islamic banks and Islamic business units, including institutional structures, business activities, and the methods and processes of conducting business in accordance with Sharia principles.

The law provides detailed regulation concerning:

1. Types of Islamic banking institutions, namely:
 - a) Islamic Commercial Banks (BUS)
 - b) Islamic Business Units (UUS)
 - c) Islamic Rural Banks (BPRS)
2. Permissible business activities, based on Sharia principles, including:
 - a) Profit-sharing (*mudharabah* and *musyarakah*)
 - b) Sale-based contracts (*murabahah*, *salam*, *istisna'*)
 - c) Lease-based contracts (*ijarah* and *ijarah muntahiya bittamlik*)
 - d) Other Sharia-compliant contracts
3. Prohibition of ribawi, gharar, and maysir transactions

The law explicitly prohibits Islamic banks from engaging in activities contrary to Sharia principles, including *riba* (interest), *gharar* (harmful uncertainty), and *maysir* (gambling or speculation). Thus, Law No. 21 of 2008 functions not merely as an administrative regulation but also as a normative legal instrument that formally incorporates Islamic legal values into Indonesia's positive legal system.

One of the most significant provisions is Article 26 paragraph (1), which mandates that the business activities of Islamic banks and Islamic business units must comply with fatwas issued by the National Sharia Council (DSN-MUI). This provision elevates fatwas to a formal reference within positive law, making them mandatory operational guidelines despite not being part of the statutory hierarchy.

Accordingly, Law No. 21 of 2008 establishes an official bridge between Islamic law and state law—an arrangement rarely found in other national legal systems.



3. The Role of OJK Regulations (POJK)

Following the establishment of the Financial Services Authority (OJK) under Law No. 21 of 2011, regulatory and supervisory authority over banking, including Islamic banking, is fully vested in OJK. In carrying out its mandate, OJK issues Financial Services Authority Regulations (POJK) and Circular Letters.

POJK play a crucial role by:

1. Translating statutory provisions into operational technical rules
2. Establishing uniform standards for Islamic banks
3. Serving as formal supervisory instruments
4. Providing the legal basis for administrative sanctions

Key areas regulated by POJK include Islamic bank risk management, corporate governance, and product development. Islamic banks are required to manage financing, market, operational, liquidity, and Sharia compliance risks in accordance with prudential principles. POJK also regulate governance structures, including the mandatory presence of a Sharia Supervisory Board (DPS), which uniquely distinguishes Islamic banks from conventional banks.

Regarding products and services, POJK require that all new Islamic banking products refer to DSN-MUI fatwas, be reported to OJK, and undergo compliance testing. Consequently, POJK function as legal transmission instruments that translate Sharia concepts into modern, transparent, and accountable banking practices.

4. The Strategic Role and Legal Standing of DSN-MUI Fatwas

DSN-MUI fatwas constitute both the religious and normative foundation of Islamic banking practices in Indonesia. Beyond serving as religious opinions, these fatwas function as the primary reference for determining the Sharia validity and permissibility of Islamic financial products.

DSN-MUI was established to respond to the rapid development of modern *muamalah*, particularly in increasingly complex financial and banking transactions. Its primary functions include issuing fatwas based on Islamic legal sources and serving as the principal reference for Sharia Supervisory Boards.

DSN-MUI fatwas cover nearly all contracts used in modern Islamic banking and extend to fintech, e-money, sukuk, crowdfunding, and P2P lending. Although fatwas are not formally recognized as sources of law within Indonesia's legislative hierarchy, they possess strong juridical and operational binding force because they are integrated into positive law through statutes, POJK, and Bank Indonesia regulations.

This integration creates a unique legal legitimacy flow:
DSN-MUI Fatwa → Adopted into State Law → Implemented through POJK → Applied as National Sharia Compliance Standards

This model positions Indonesia as a leading example of harmonizing religious law and state law in Islamic banking regulation, ensuring that Islamic banking products are both Sharia-compliant and legally certain within the national financial system.

CONCLUSION

Based on the discussion of Law Number 21 of 2008 on Islamic Banking, the Financial Services Authority Regulations (POJK), and the position and function of the Fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), it can be concluded that the Islamic banking system in Indonesia is built upon a strong, integrated legal foundation and possesses unique characteristics compared to other countries that have also developed Islamic financial systems.

Law Number 21 of 2008 has proven to be the primary juridical foundation that formally recognizes the existence of Islamic banking as an integral part of the national banking system. This law not only provides legal legitimacy for the operations of Islamic banks but also regulates in detail institutional forms, the scope of business activities, types of contracts (*akad*) used, and prohibitions against practices that contradict sharia principles, such as *riba* (interest), *gharar* (uncertainty), and *maysir* (gambling/speculation). Therefore, Law No. 21 of 2008 should not be understood merely as an administrative regulation, but rather as a substantive legal instrument that integrates sharia values into the national legal system.

The provision requiring Islamic banks to comply with DSN-MUI fatwas, particularly Article 26 paragraph (1), signifies the internalization of Islamic law into positive law. This provision elevates fatwas, which are essentially religious in nature, into formal references that must be adhered to in banking practices. This demonstrates that the state indirectly recognizes the scholarly and religious authority of DSN-MUI in determining sharia compliance standards. In other words, fatwas no longer function solely as moral guidance,

but have become operational legal standards with juridical implications for the continuity of Islamic banking products and services.

On the other hand, the Financial Services Authority Regulations (POJK) serve as technical instruments that transform legal norms contained in statutes into operational, measurable, and enforceable rules. POJK acts as a bridge between abstract normative concepts and the concrete, technical practices of the banking industry. Through POJK, crucial aspects such as risk management, corporate governance (Good Corporate Governance), organizational structure, supervision, auditing, and procedures for launching new products are regulated systematically and in detail. This ensures that Islamic banking is not only legally and religiously valid, but also complies with prudential principles and professional standards equivalent to those of conventional banking.

The primary uniqueness of the Indonesian Islamic banking system lies in the mutually reinforcing structural relationship between laws, POJK, and DSN-MUI fatwas. These three elements do not operate independently, but rather form a layered and complementary legal framework. Fatwas provide the sharia conceptual foundation, statutes confer juridical legitimacy, and POJK ensures technical implementation and supervision in practice. This pattern creates a harmonious integration model between religious law and state law, which is rarely found in the legal systems of other countries, even among Muslim-majority nations.

Furthermore, the large number of DSN-MUI fatwas that have been issued—including those related to sharia fintech, electronic money (e-money), sukuk, crowdfunding, and sharia-based P2P lending—demonstrates that Indonesia's Islamic banking legal system is adaptive and responsive to contemporary developments. DSN-MUI does not remain confined to classical concepts, but continuously expands the scope of its fatwas to address the challenges of the digital economy and the needs of modern society. As a result, Islamic banking in Indonesia avoids stagnation and continues to develop dynamically within the boundaries of sharia principles.

Overall, it can be concluded that the Islamic banking system in Indonesia is not built solely on economic considerations, but is founded upon a combination of religious values, formal legal legitimacy, and modern professional standards. The integration of sharia principles and state regulation has given rise to a financial system that not only pursues profit, but also upholds values of justice, transparency, public welfare (maslahah), and balance. This constitutes the main strength of Islamic banking in Indonesia in facing global competition while simultaneously addressing public demand for financial services that are halal, fair, and ethical.

Therefore, it can be firmly stated that the success and sustainability of Islamic banking in Indonesia are highly dependent on the consistent implementation of Law No. 21 of 2008, the effectiveness of supervision through POJK and OJK, and the continued role of DSN-MUI in safeguarding the conformity of products with sharia principles. These three pillars must be strengthened simultaneously to ensure that Indonesia's Islamic banking system maintains its credibility, stability, and competitiveness amid the dynamic developments of the national and global economy.

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