IMPLEMENTATION AND DEVELOPMENT OF DUAL BANKING IN INDONESIAN BANKING SYSTEM

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ABSTRACT

The main characteristic of a bank with dual banking system is the implementation of two banking systems (conventional and sharia) side by side in serving the national economy whose implementation is regulated in various regulations. Carrying out banking transactions or general economic activities in line with Sharia principles and values, on the one hand, is seen as a development interest for the availability of access to banking services for segments of society that have not been served by banking services. This could be able to increase the mobilization of public funds as long as it has not been touched by the conventional banking system. The advantages of operational systems and sharia banking products include prioritizing the importance of morality, justice and transparency issues in the operational activities of sharia banking with a system of profit sharing and risk sharing.

Keywords: Implementation, Dual Banking, System Charge.

PRELIMINARY

In Indonesia, a new round of Islamic economic institutions began with the founding of Bank Muamalat Indonesia (BMI) whose presence is seen as a strategic first step for the development of the next Islamic economic institutions, because after it is increasingly emerging economic institutions other Islamic businesses. These last 20 years for Muslims, especially in Indonesia dubious bank interest or for other reasons, already have a financial institution that is based on the Sharia that is not contrary to the beliefs held. The phenomenon of emerging financial institutions seeking to apply the principles and mechanisms based on rules syar'iidiantaranya establishment of Islamic banking institutions.

The existence of Islamic Banking in Indonesia's banking system has actually been in development since 1992, in line with the enactment of Law No. 7 of 1992 on Banking. It is at least starting with the establishment of a bank which is based on sharing based operations (profit and lost sharing). Generally at this time of economic crisis and monetary, conventional financial institutions have been deemed a failure and unsatisfactory, rising inflationary recession, stagnation in business and trade.

The presence of the dual banking system will be an opportunity to serve the nation's largest Muslim majority Indonesia in developing business activities in the economy then allow conventional banks open Islamic branches Islamic banks will be more of a banking institution to serve the vacancy to fill the void of Indonesian society. The practice of dual banking system is still new, poorly understood and reasonable when viewed with trepidation and concern both by the public and the business community actors.
DISCUSSION

Developments Dual Banking System in Indonesia

When compared with countries like Malaysia that has been developing since 1988 of Shariah banking, or Bahrain which have done so much earlier that since 1979, Indonesia is among countries that are late in developing shari‘a banking.

The term Dual banking system with the recognition of the term for the results of the Indonesian banking system was introduced for the first time in Act No. 7 of 1992 on banking.

Furthermore, there are three rules of implementation in the form of Government Regulation No. 70 of 1992 ie on Commercial Banks, No. 71 of 1992 concerning Rural Banks, and No. 72 of 1992 concerning Bank Based on Principles of Sharing. In Government Regulation No. 70 of 1992 concerning Commercial Bank, the term for the results contained in Article 5 paragraph (3), which reads: "Commercial Bank operates based on the principle of sharing, the draft constitution and work plan should explicitly include business activities banks are solely based on the principle of sharing”.

In Government Regulation No. 71 of 1992 on the People's Bank Prerkreditan, the term for the results contained in Article 6 paragraph (2), reads: "Credit Bank of the people who will do business based on principle the results should be expressly meanentumkan the bank's business activities solely based on the principle of profit-sharing basis in the draft budget and work plan”.

Further in Government Regulation No. 72 of 1992 concerning Bank Based on Principles of Sharing, obtained explanations and provisions are as follows:

1) The principle for hasi) is the principle muamalat by shari‘ah in conducting the business of banks, as in the case of:
   a. Establish rewards will be given to the public in connection with the use / utilization of public funds entrusted to him;
   b. Prescribing the remuneration to be received in connection with the provision of funds to the public in the form of financing both for investment and working capital;
   c. Establish compensation in connection with the activities commonly performed by the bank with the principle of profit sharing.

2) Understanding the result in the provision of funds in the form of financing referred to in item 2.b. including the business activity of buying and selling.

3) Bank is based on the principle of sharing is required to hold the Shariah Supervisory Board which has the task to supervise the banking products in collecting public funds and channel them to the public in line with the principles of Shari‘ah.

4) The formation of the Shariah Supervisory Board carried out by the bank concerned in consultation with the agencies that are the scholars of Indonesian container;

5) Commercial Bank or Rural Bank whose business is solely based on the principle of sharing is not allowed to conduct business activities that are not based on the principle of sharing;

6) Instead, the General Bank, or Rural Bank whose operations are not based on the principle of sharing is not allowed to carry out business activities based on the principle of sharing.

Equitable revenue sharing system, demanding a high professional level for the management of the bank to make a careful calculation and continuously. Because the acquisition of these system depending on customer success rate, whereas the professional management is a problem unsolved in the conventional banking first birth, what the Shari‘ah bank whose birth was much younger. (Warkum Sumitro, 1997: 28).

As things are still new in the dual banking system, in the development of Shariah bank there are six major issues that need to be addressed, namely:

(A) the framework of Shari‘ah banking arrangements are incomplete (b) a limited network of offices (c) lack of knowledge and understanding of banking products and services Shari‘ah (d) supporting institutions are not yet complete and effective (e) the need for improved performance syar‘iah sustainable bank and (f) the ability to meet the standards of international finance.
Various obstacles as mentioned earlier, has begun to be resolved along with the implementation of the development program bersungguh-sungguh. Step-by-step development of dual-banking system, especially with the Shari'ah system is considered relatively recently conducted by Bank Indonesia, can be grouped into the following activities:

1. Enhance operational rules and regulations of the shari'a banking and legal instruments / legislation which is the basis and guide business activities that are legal certainty and certainty in business.
2. Enhance the financial infrastructure, monetary and financial market instruments in accordance with the principles of Shari'ah in order to support the implementation of monetary policy, as well as efficiency in the management of funds banks Shari'ah.
3. Creating a system of effective monitoring and supervision to ensure the creation of a healthy banking system Shari'ah (sound and prudent) to execute the provisions of Shari'ah consistently.
4. Coordinating and improving the competence of human resources programs both at the central bank and the bankers and parties related to Shari'ah banking, as well as improving people's understanding of Shariah banking.

As proof that the government and Bank Indonesia's commitment to the development steps above, at present has implemented a number of basic principles of development policy, among others (Islamic Banking, 2001: 6-7):

a. Shari'ah banking office network development left entirely to market mechanisms (market driven), the interaction between the people who need banking services syar'iah investors or banking institution that provides banking services shari'ah. In this case the authority's role perbankaan (Bank Indonesia) more emphasis on the creation of banking regulation devices that can support the implementation of Shariah banking operations are healthy, efficient, and consistent with the principles of Shari'ah.

b. Shari'ah banking regulation and development carried out by not applying the infant industry argument or give special perlakuanperlakuan. The same treatment (equal treatment) between the bank and the bank's Shari'ah gold's or lawyer-half-an one of the parties. Differences arrangements and conditions applicable to perbankaan Shari'ah be implemented in order to meet the principles of the Shari'ah and nature or because of differences in business.

c. Shari'ah banking development both in terms of institutions and arrangements be phased ongoing (gradual and sustainable approach). In this regard, we do not expect a good chance from the side and the operational aspects of the Shari'ah aspects of developing a new system. Amendments and shari'ah banking infrastructure implemented step by step by taking into account the urgency of the priorities of a number of tasks that must be implemented.

d. The current development of Shariah banking arrangements and to apply the principle of universality in accordance with the basic values of Islam is a mercy to all the worlds. In line with Shari'ah banking development it is directed that the Shari'ah banking services can be used and developed by all levels of society are not only Muslim societies. But the providers and users of banking services must Mat Shari'ah to the principles of sharia in the implementation of activities and banking contract.

e. Given that perbankaan Shari'ah is mengedepan banking system of morality and ethics, the values that are the basis for setting and development and which should be applied in the development of human resources and banking operations are siddiq, steadfastness, trust, sermons, fathanah. In addition it is the application of the values of cooperation (ta'awun), the professional management (ri '$father) and responsibility (ma.s'uliyyah) and effort together and constantly to melakukaan repair (fastabiqul khairat).

Factors that affect the application of Dual banking system in Indonesia

Dual banking system question is the implementation of the two banking systems (conventional and shari'a) side by side in serving the national economy whose implementation is set in a range of regulations, (Afda Waiza, 2002: 408) in providing banking services to the community.
Application and development of the dual banking system as mandated by statute above, based on various factors
The underlying, among others:

a. The existence of the will of the majority community to carry out banking transactions or general economic activity that is consistent with the values and principles of Shari'ah, especially free of usury. This is in line with the national bank restructuring efforts that are being implemented today tents of rebuilding a healthy banking system in order to support the recovery and the revival of the national economy. Viewed from the side, the interests of the development, availability of access to banking services for a segment of society that has not been served by banking services will be able to increase the mobilization of public funds as a whole, especially on the segment of society that has yet to be touched by the conventional banking system (Setiawan Budi Utomo, 2001: 19) so it can also increase their contribution to national development. Or according to the Bureau of Research Infobank, the dual banking system with banks syari'ahnya phenomenon is also encouraged by the market potential is so vast. Because, more than 90% of Indonesia's population is Muslim and 30% of them rejected the bank interest. In addition, the growing urban Muslim intellectuals have wanted to be a devout Muslim (Dwi Setiawati, 2001: 80) and not make religious symbols into the slogan of the campaign, promotion, as well as a symbolic recognition of formal political economy of social interest. Therefore, the economic involvement with the Shari'ah in general departure from the creed or ideology that will defeat all peertimbangan pragmatic, so that a tremendous potential for the development of the national economy.

b. Their comparative advantage (comparative advantage) and the operating system of Shariah banking products, among others, stressed the importance of the problem of morality, fairness and transparency in banking operations Shari'ah.

Theoretically, the advantage lies in the shari'a banking system based on the principle of sharing (and lost profit sharing) and share the risk (risk sharing) (Zainul Arifin, 2000: 126) will foster a sense of responsibility to each party, banks and their customers. Thus, in carrying out its activities, all parties at the hakikatnya will notice, the principle of prudence (prudential principle), and will minimize the possibility of the risk of business failure (Setiawan Budi Utomo, 2001: 19).

In pr; nsip, and lost profit sharing system is applied to the Shari'ah bank has several forte. First, the system allows customers to take control of the bank's development, for example through profit sharing monthly fluctuations. Secondly, is not affected by the rise turunnya bank interest rates. Thirdly, it can encourage their equality and justice. Fourthly, macro, eliminating the interest on the money can eliminate speculation functions that exist in the money because of the lack of liquidity, the premium on the money while strengthening the function of money as a medium of exchange. Speculation in holding money is the main source of instability in the demand for money, which ultimately led to economic fluctuations (Munawar Ismail, 1996: 7).

The element of morality is an important factor in all the bank's activities Shari'ah, so it is expected to encourage the creation of business ethics and integrity of the owners and managers of high. Shari'ah bank also morally forbidden to distribute the funds for a project that would impact directly or indirectly with environmental degradation and human identity. Financing contracts which emphasizes the sharing system encourages partnership relationship patterns (Mutual investor relationship), not a creditor-debtor relationship patterns of antagonism so that both owners of the funds, banks, and the funds have the same motivation to create a profitable business activities, pay attention to the precautionary principle and seeks to minimize the risk of failure of the attempt.

Bank Shari'ah can create a fair economy because its business concept is the result and not allow depositors who have money many invest their funds in the bank with no risk at all, while the bank or fund manager would be burdened with a huge responsibility to manage
the funds and produce profits. It is very unfair to depositors receive proportionately real advantage received by the bank, and also bear the risk of loss (Dhani Gunawan, 1999: 47).

Moreover, the purpose of the implementation of this system is to ensure equitable distribution of income, eventually becoming drivers of economic activity that satisfies the sense of justice in society.

c. Experience in the banking case that occurred since 1998 prove that the bank operating with Shari’ah principles can survive in the midst of exchange rate fluctuations and interest rates are quite high, even banks that operate on the principle of Shariah did not experience negative spread. In fact, it is the most deadly disease for conventional banks during the crisis. This situation is supported by the business characteristics of banks Shari’ah which prohibit the bank interest and use as a replacement revenue sharing (profit and loss sharing contract), and bans on speculative financial transactions (garar) and not based on real business activity.

Turmoil that occurred, according Zainul Arifin, a logical consequence of the monetary sector and the loss of connection with the real sector. Monetary sector to make money as a commodity, has grown beyond the boundaries of the state, while the real sector is always left behind because of their need for time to process the goods from inputs to outputs (Helma Oesman, 2001: 12).

In an effort to improve the condition of the national economy, efforts to improve and strengthen the banking sector becomes an extremely important point, the banking sector which is the backbone of the economy rneegang an important role in realizing these efforts, this was due to the banking sector in addition to having the function of intermediation is also a means of transmission monetary policy. Under the current circumstances, these two important functions that can not be executed as expected, making a variety of monetary policy designed to accelerate the economic recovery becomes less effective. Thus difficult to conceive a rapid economic recovery without first fixing the banking sector. In connection with the efforts penyempumaan banking sector as well as businesses explore the potential that has not been used by the sector and the banking system there is, then the existence of two banking systems are parallel (dual banking) and have financial ties are limited to one another will create diversifying the financial risks more variety, which eventually will be able to reduce the problem of system risk in the event of a financial crisis. Thus, the development of the dual banking system is expected to enhance the resilience of the national banking system in the future.

This situation is very different from that of the banking system of conventional (one system) by basing its activities on a fixed interest rate which must be paid to the customer. In addition, the bank also metnypunai permanent obligation to keep its assets in the amount specified. When the condition of the bank is not profitable, while on the other hand he is also required to pay interest on its customers, then this instability problems arise which could end up in bankruptcy of the bank. This is further aggravated by the condition that the well-being of each client depend on the actions of other customers. If the customer of a bank experiencing financial panic then this situation does not only trigger the panic of bank customers are concerned but also can be transmitted to other bank customers (Inayat.U Mangla and Jamshed Y.Upal, 1990: 199).

The interest rates are so high in 1998-1999 is another example of Baable Problem that occurred in the banking industry. The high level of interest rates does not allow employers to pay for it. However, because employers require liquidity, high interest credit, it took too. The inability of employers to repay the loan led to the occurrence of bad loans in large numbers. Until now bad credit or non-performing loans (NPLs) of banks Indonesia has reached 70%. Furthermore, banks are experiencing huge bad debts that threatened its existence, because on one hand the bank must pay high interest on deposits, while on the other hand revenue fell because of bad loans. Therefore negative spread suffered by banks was very large, which is about 20%. Under these conditions, capital of most banks were eaten by non-performing loans (non-performing loans) and the negative spread.

There are many factors triggering negative spread banking sector. Start of the rupiah against the US dollar, inflation, up to a rate hike by Bank Indonesia Certificates (SBI). All
three indicators of the monetary affect each other and cause direct negative spread. The effect of this negative spread make the banks in 1998-1999 reported losses so large that many times more than the amount of bank capital, so that the necessary bank recapitalization program (Mirza Aditya Aswara, 2001: 30).

Faced with monetary flows characterized by very high interest rates, banks are free from negative spread Shari'ah, because the shari'a banking not based on interest. Islamic concept of maintaining a balance between the real sector with the monetary sector, so that the financing of growth will not be separated from the growth of the real sector to be financed. At attempt sluggish world economy, the yield received by the shari'a banking declined, and in turn generate returns divided to depositors also fell. Conversely, when the economy is booming, then return divided produce will be booming. In other words, the performance of Shariah banking is determined by the performance of the real sector, and not vice versa. In the Islamic view of money are as a medium of exchange and not a commodity.

d. Therefore, the financing activity of Shariah-financing bank based more on real investment and participation system, then the money supply of the Shari'ah banking system are closely linked to transaction needs of economic actors in real terms, allocation of financial resources is also a direct response to production capacity and financial transactions that are not based on real business activity, this can reduce the tendency of apparent economic growth conditions (bubble economy). In this principle, the concept is applied is a pattern of a harmonious relationship and mutual benefit (mutual partnership) between banks and customers:

The creation of a dual banking system in Indonesia that accommodates both shari’a banking or banking konvensionai will give birth to healthy competition and business behavior based on moral values, which in turn will increase market diciplines and services to the community.

Characteristics Dual banking system in Indonesia

A common explanation of Law No. 10 of 1998 on the Amendment of Undanu-undanu No.7 of 1992 concerning Banking among others stated that this law provides the opportunity for communities to set seluasluasnya bank conducting business based on the principles of Shariah, including the provision of opportunity for commercial banks to open a branch office specialized activities based on the principles of Shariah.

Commercial Bank based on the principles of Shariah does not perform conventio nal operations. In other words, 'the main characteristics of the bank's dual banking system is convening two activities at once, namely conventional and Shari'ah by a conventional bank.

Based on Bank Indonesia Regulation, the bank with the dual banking system has some characteristics as follows:

1. **Sharia office**

   Branch conventional commercial banks have diben business license to conduct business based on the principles of Shariah must include the word “Shariah Branch Office” in each inscription of the name of his office (Bank Indonesia, 1999: 34).

2. **Shariah Business Unit**

   Branches of conventional banks are basically a unit that has the characteristics of different business activities, as well as having a separate recordkeeping and operations offices. Therefore, banks with a dual banking system is also required to establish Shariah Business Unit (UUS) that serves as the head office for all branches of Shariah. The unit is located at the Head Office of Bank and led by a member of the board of directors or officers of the directors.

   In general, the task of Shariah Business Unit (UUS) include:
   1) regulate and supervise all activities of the branch office of the Shari’a.
   2) Implement the treasury function in the management and disposition of the funds sourced and branch offices Shari'ah.
3) Prepare consolidated financial statements and all branch offices of the Shari'a.
4) Duty-usaha stylist financial statements Shari'ah branch offices.

3. Shariah Capital Branch Office

For a conventional commercial bank to open a branch of Shariah are required to provide working capital for each office. The working capital should be set aside by banks in a separate account in the name of Shariah business unit leaders can use to nembayar office expenses and other matters relating to the operational and non-operational activities of the branch office of Shariah. The amount of capital of at least Rp. 2 billion for each branch office Shari'ah based in the greater Jakarta area or Rp. 1 billion for each branch of Shariah that are domiciled outside Greater Jakarta. Allowance is intended that the capital funds managed by the branch office of Shariah are not mixed with office funds that operate in the conventional parent.

4. Demand Deposit Account at Bank Indonesia

Conventional banks that have Shariah Business Unit (UUS) shall maintain the rupiah account two, each one accounts for the central office of the bank and account for Shariah Business Unit (UUS). For conventional banks with the status of foreign exchange and have a Shariah Business Unit, in addition to the two required to maintain the rupiah demand deposit accounts, must also maintain two demand deposit accounts in foreign currencies at the Head Office of Bank Indonesia. Both the foreign currency account of each of the accounts for the central office of the bank and account for Shariah Business Unit (UUS) (Bank Indonesia, 1996: 10).

Both single Shari'ah bank or bank with dual banking system shall have a Shariah Supervisory Board (DPS).

Shariah Supervisory Board (DPS) is an independent body that was placed by the National Sharia Council (DSN) on the bank. DPS members shall consist of experts in the field of Shariah muamalah also have knowledge umum banking. DPS requirements set by the DSN. In the execution of daily tasks, DPS should follow the fatwa DSN which is the highest authority in issuing a fatwa on the suitability of bank products and services with the provisions and principles of the Shari'a. The agency is standing does not depend on the other bank part (independent) in the bank's organization (Iwan Triyuwono, 1996: 10).

DPS main task is to oversee the bank's business activities so as not to deviate from the provisions and principles of the Shari'ah which has been stated by a National Sharia Council (DSN). Besides DPS also has a function:

(1) As advisors and providers of advice to the directors, chairman of the Shariah Business Unit and branch office management Shari'ah on matters related to aspects of the Shari'ah.
(2) As a mediator between the bank and the DSN to communicate proposals and suggestions development of bank products and services that require further investigation and a fatwa from the DSN.
(3) As perwaki (an DSN placed on the bank. DPS is obliged to report business activity and the development of Shariah banks it supervises to the DSN at least once a year.

In addition to controlling authority Shari'ah bank operations in order not rnenyimpang from the guidance of Shari'ah, DPS also served to discuss the business transaction or related problems submitted to the agency by the bank, so it can be determined fatwa in accordance with the Shari'a.

Banks that will form the DPS in order to change its business or open kantor.cabang Shari'ah for the first time to submit application for the placement of members of DPS to the DSN.

National Sharia Council (DSN) is part of the Indonesian Ulema Council (MUI), which served to cultivate the application of the values of Shariah in the activity, the economy in general and the financial sector in particular, including, business banking, insurance, and mutual funds.

DSN members of religious scholars, practitioners, and experts in bidangbidang related to economy and Shari'ah muamalah. DSN members appointed by the MUI for a term of 4 years.
DSN is the only body which has the authority to issue a fatwa on the type of species activities, products, and financial services as well as overseeing the implementation of Shariah fatwa meant by financial institutions Shari'ah in Indonesia. These same institutions are the only official authorized to give fatwa on issues of Islamic banking in Indonesia. Besides, DSN also has the authority to:

1. Recommendation to grant or revoke the names that will sit as DPS on a shari'a financial institution.
2. Issued a fatwa that bind DPS at each financial institution became the basis of Shariah and legal action related parties.
3. Issued a fatwa that became the basis for the provisions issued by the competent authority, such as Bank Indonesia and Bapepam.
4. Give a warning to the shari'ah financial institutions to stop the irregularities of the fatwa issued by the DSN.
5. Propose to the authorities to take action when warnings are not heeded.

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