



## The Policies of Conventional Financial Institutions in Implementing Sharia Financial Institutions Procedures in Aceh

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### **Abstract**

With the implementation of Aceh Qanun Number 11 Year 2018 on Islamic Financial Institutions in Aceh, this article aims to identify and explain the policies that have been implemented by conventional banks and conventional insurance, as well as the impacts and challenges that have arisen in conventional banks and insurance. An empirical juridical methodology was used to conduct this research. Primary and secondary data are mainly composed of the research's data. Primary data was gathered through field research on Aceh's conventional banking and insurance financial services sector and its offices center in Jakarta. The study's findings demonstrated that the financial services sector (IJK), the study's subject, has adopted a number of policies. IJK, which already has a Sharia network subsidiary in Aceh, entirely discontinued all of its conventional activities and customer-facing policies, and subsequently transitioned its customers to be under its subsidiary businesses. According to its employment, employees had the alternative of being transferred to the nearest branch office, being permanently laid off, or being laid off and given the chance to join the subsidiary as employees while assets were gradually transferred to the subsidiary. The first challenge in implementing the Islamic Financial Institutions (LKS) Qanun is the high cost of conversion, followed by the short conversion period specified in the Qanun, the Financial Services Authority (OJK's role) as the regulator that continuously monitors and supports the conversion preparation process, and the IJK process that has ceased operations in Aceh.

**Keywords:** *Obstacle; Conventional Sharia Institution; Sharia Financial Institution*

### **Introduction**

The implementation of Islamic law in Aceh is stipulated in Article 125 of Law Number 11 Year 2006 on the Aceh Government stated that Islamic Shari'ah in Aceh includes worship, *ahwal al-syakhshiyah* (family law), *muamalah* (civil law), *jinayah* (criminal law), *qadha'* (judiciary), *tarbiyah* (education), *da'wah*, *syiar*, and defense of Islam.<sup>1</sup>

<sup>1</sup>Djuniarti, E., Kristiyanto, E. N., Nurdin, R., & Abubakar, A. (2021, May). Legitimation of Qanun in the Indonesian Law System. In *1st International Conference on Law and Human Rights 2020 (ICLHR 2020)* (pp. 369-374). Atlantis Press, p.373.

The *muamalah* is one of the focus areas for implementing Islamic law.<sup>2</sup> The implementation of Islamic law in the *muamalah* sector must be implemented in all *muamalah* activities of the Acehnese society.<sup>3</sup> It is including the application of Islamic law in the financial industry sector.<sup>4</sup> Article 21 paragraph (1) Qanun Number 8 Year 2014 on the Principles of Islamic Sharia Law stated that financial institutions that will be and are currently operating in Aceh must be implemented based on Sharia principles. Responding to the desire to implement Islamic law in the financial sector, the Aceh People's Representative Council in November 2018 issued Aceh Qanun No.11 Year 2018 on Sharia Financial Institutions (*LKS*).

Article 21 paragraph (1) Aceh Qanun Number 11 Year 2018 on Sharia Financial Institutions stipulated that Financial Institutions that will operate in Aceh must be based on sharia principles.<sup>5</sup> Furthermore, in paragraph (2) it is emphasized that conventional financial institutions that have already operated in Aceh must open a Sharia Business Unit (*UUS*). This article emphasized that conventional banks and other financial service institutions in Aceh must immediately switch or convert to sharia no later than three years after the implementation of the *Qanun*.<sup>6</sup> Thus, at this time all financial institutions must prepare themselves to deal with the sharia system by leaving the conventional scheme because in January 2022 all sharia institutions in Aceh will have to be based on sharia principles.

In this *Qanun*, there is an affirmation about the existence of a "dual banking system", whereby conventional banks are allowed to open sharia business units, not only banks, but all financial institutions are required to open sharia business units in Aceh. The implementation of *Qanun* itself requires in-depth and careful supervision in various aspects of its operations.<sup>7</sup> Islamic financial institutions (*LKS*) established with the main principle must be in accordance with Islamic sharia Law which does not develop *Ribawi* Products.<sup>8</sup> To accommodate the needs of Muslims, avoid usury (*Riba*) or society members as general who wish to transact with the sharia system.

Non-compliance with the obligations of financial institutions in implementing sharia principles in Aceh is subject to a number of legal sanctions.<sup>9</sup> The sanctions to be imposed are in the form of fines, written warnings, business suspension, and termination.

Financial institutions that offer *syari'ah* products and services must definitely have a governance system that can ensure sharia principles are applied throughout the company. The term *syari'ah* governance or *sharia* governance is triggered by international standard institutions such as AAOIFI

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<sup>2</sup>Purwanto, M. R., Supriadi, S., Sularno, S., & Rokhimah, F. (2022). The Implementation of Maqasid Al-Sharia Values in Economic Transactions of The Java Community. *KnE Social Sciences*, 120-129, p.125.

<sup>3</sup>Muhayatsyah, A. (2021). The Existence Of Islamic Sharia And Security As The Effort For Investment Increasing In Aceh Province. *At-Tijarah: Jurnal Penelitian Keuangan dan Perbankan Syariah*, 3(2), 132-162, p.140.

<sup>4</sup>Jailani, M. R., & Mohamad, M. T. (2019). ANALISIS PENERAPAN SYARIAT ISLAM DALAM SEKTOR PERBANKAN PASCA PELAKSANAAN SYARIAT ISLAM DI ACEH, INDONESIA: Analysis of Islamic Shariah Application in the Banking Sector Post-Islamic Shariah Implementations in Aceh, Indonesia. *Jurnal Syariah*, 27(2), 261-280, p.270.

<sup>5</sup>Budiman, I. (2021). Converting Conventional Banks to Sharia Banks in Aceh: An Effort to Maintain a Stable Economy in the Covid-19 Outbreak. *Share: Jurnal Ekonomi dan Keuangan Islam*, 10(1), 24-40, p.25.

<sup>6</sup>Zulfahmi, L. N. U. (2021). Eksistensi Qanun Nomor 11 Tahun 2018 tentang Lembaga Keuangan Syariah terhadap Konversi Bank Konvensional menjadi Bank Syariah. *Jurnal Hukum Ekonomi Syariah*, 5(01), 49-63, p.53.

<sup>7</sup>Budiono, A. (2017). Penerapan prinsip syariah pada lembaga keuangan syariah. *Law and Justice*, 2(1), 54-65. Irham Fahmi, 2016, *Bank dan Lembaga Keuangan Lainnya Teori dan Aplikasi* (Banks and Other Financial Institutions Theory and Application), 2016, Bandung, Alfabeta.

<sup>8</sup>Alam, N., Gupta, L., & Shanmugam, B. (2017). Prohibition of Riba and Gharar in Islamic banking. In *Islamic Finance* (pp. 35-53). Palgrave Macmillan, Cham, p.37.

<sup>9</sup>Hastuti, L. T., & Harahap, B. (2022, April). Qanun Sharia Financial Institutions and Social Change Engineering Effort in Aceh Community. In *2nd Riau Annual Meeting on Law and Social Sciences (RAMLAS 2021)* (pp. 7-13). Atlantis Press. p.10.

(Accounting and Auditing Organization for Islamic Financial Institutions) and IFSB (Islamic Financial Services Board) as a form of governance system for *syari'ah* financial institutions.<sup>10</sup>

The paradigm that must be held in the development of Islamic financial institution products is that it is different from those in conventional financial institutions, which use the type of transaction that is interest-bearing loans (*riba*), in Islamic financial institutions the products must be developed with the characters and features of Islamic products which different each other.

Sharia Financial Institutions (*LKS*) are financial institutions whose operating principles are based on sharia principles that must avoid elements of *riba*, *gharar*, *maisir* and falsehood contracts. Based on the above problems, it is important to know about "policies implemented by conventional financial institutions that have already operated in Aceh in implementing *Qanun* for Islamic financial institutions in Aceh" because with the right policies it can develop the economy in Aceh that based on sharia.

Islamic financial institutions are a system of financial institutions developed based on *sharia*.<sup>11</sup> The effort to form this system is based on the prohibition in Islam to collect or borrow at interest or what is known as *riba* and the prohibition on investing for businesses categorized as *haram*.

Sharia Business Unit, hereinafter referred to as *UUS*, is a work unit of the main office of a Conventional Financial institution that functions as the office centre of an office or unit conducting business activities based on Sharia Principles, or a work unit in a branch office of a Financial Institution domiciled abroad which conducted conventional business activities that function as the main office of sharia sub-branch offices and/or sharia units.<sup>12</sup>

Financial institutions according to the Minister of Finance Decree No. 792 Year 1990 stated that all business entities engaged in the financial sector doing the activities of collecting and offering funds to the public, especially for financing developed investments. The financial institutions as referred to consist of bank financial institutions and non-bank financial institutions. Non-bank financial institutions consist of: Insurance, pawns, capital markets.<sup>13</sup>

According to Law No. 21 Year 2008 on Islamic banking stated that a Sharia Bank is a Bank that conducted business activities based on Sharia Principles. According to its type, Sharia Banks consist of Sharia Commercial Banks (*BUS*) and Sharia Society Financing Banks (*BPRS*).<sup>14</sup> Regarding Licensing and Institutions of Sharia Banking.<sup>15</sup> Any party intending to conduct Sharia Bank or *UUS* business activities must first obtain a business license as a Sharia Bank or *UUS* from the Financial Services Authority. To obtain a business license, it must meet the following requirements: Organizational and management structure; capital, ownership, expertise in Sharia banking and business feasibility.

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<sup>10</sup> Wani, A. S., & Dar, S. H. (2022). Prospects of Sharia Governance in Islamic Finance Industry: Jurisdictions, Standards, and Implications. *Talaa: Journal of Islamic Finance*, 2(1), 21-32, p.29.

<sup>11</sup> Grassa, R. (2013). Shariah supervisory system in Islamic financial institutions: new issues and challenges: A comparative analysis between Southeast Asia models and GCC models. *Humanomics*.

<sup>12</sup> Prabowo, B. A., & Jamal, J. B. (2017). *Peranan Dewan Pengawas Syariah terhadap Praktik Kepatuhan Syariah dalam Perbankan Syariah di Indonesia*. (The Role of the Sharia Supervisory Board on Sharia Compliance Practices in Islamic Banking in Indonesia). *Jurnal Hukum Ius Quia Iustum*, 24(1), 113-129, p.117.

<sup>13</sup> INDONESIA, M. K. R. (1990). *Keputusan Menteri Keuangan Republik Indonesia*. (Decree of the Minister of Finance of the Republic of Indonesia). Retrieved Februari, 15, 2022.

<sup>14</sup> Yusuf, M., & Ichsan, R. N. (2021). Analysis of banking performance in the aftermath of the merger of bank syariah indonesia in Covid 19. *International Journal of Science, Technology & Management*, 2(2), 472-478, p.474/

<sup>15</sup> Sole, J. A. (2007). Introducing islamic banks into conventional banking systems. Available at SSRN 1007924

## Research Method

This research aims to find out a policy description, the conversion of conventional financial institutions to Islamic financial institutions. For this reason, the most important thing to do is to observe the existence of conventional financial institutions that are preparing to become sharia financial institutions. Therefore, Banda Aceh and Jakarta are determined as the research locations.

Obtaining data and materials in this study: (a). Field Research.<sup>16</sup> This field research was conducted to obtain primary data related to this study conducted by interviewing respondents and informants related to the problem that being researched; (b). Library research. Literature review is conducted to obtain theoretical data or materials, as the secondary data. The data obtained by studying books, literature, magazines, laws and regulations and other secondary legal materials.

The study population consisted of: conventional financial institutions, financial services authorities, sharia boards and Bank Indonesia. Based on the population above, this study was conducted using a purposive sampling.<sup>17</sup> From the entire population, there were several people expected to represent the entire population consisting of: 5 managers of conventional banks, 1 manager of Islamic banks, 4 managers of conventional insurance, 1 manager of sharia insurance, manager of Aceh Financial Services Authority, Chairman of Bank Indonesia and 1 member of the sharia board. The data collected both from the results of field research and from library research were analyzed using qualitative methods with a descriptive approach

## Discussions

The policies adopted by the conventional financial services industry (*IJK*) operating in the Aceh province are: closing office networks or changing office networks from conventional office networks to sharia office networks. Based on data obtained from the *OJK*, from 17 (seventeen) banks and 21 conventional insurance companies that have operated in Aceh, it is known that: there are 2 (two) conventional banks and 18 (eighteen) conventional insurance companies currently conducting risk assessments. 9 (Nine) conventional banks (including Credit Banks) and 2 (two) insurance companies converting from conventional to sharia. On the other hand, there are 6 (six) conventional banks and 2 insurance companies that have declared themselves closing their business in Aceh.

Below description will explain the preparation of banks and insurance companies as the financial services industry in facing the implementation of the *LKS Qanun*.

### a. *IJK* Which Already Has a Sharia Subsidiary in Aceh

*IJK*, that already has a subsidiary operating in the form of sharia and running business activities in Aceh until May 2020, has made efforts to transfer its financing creditor customers to a related bank/same subsidiary (for example from Bank Mandiri to BSM, from BRI to BRI Syariah, from BNI to BNI Syariah). The transfer of creditor customers from conventional banks to Islamic banks is carried out using a takeover pattern. However, this transition also requires the approval of the creditor customers, so it will require considerable time and effort. Conventional banks keep converting their deposits and loans to their subsidiaries that use the Sharia system, this transfer aims to be completed in September 2020. (Before January 2022 as the deadline specified in the *LKS Qanun*).

The conversion target is conducted continuously implementing government programs such as Society's Enterprises, non-cash social assistance, BUMN Creative houses, and loan conversion with

<sup>16</sup>Burgess, R. G. (Ed.). (2003). *Field research: A sourcebook and field manual* (Vol. 4). Routledge.

<sup>17</sup> Campbell, S., Greenwood, M., Prior, S., Shearer, T., Walkem, K., Young, S., ... & Walker, K. (2020). Purposive sampling: complex or simple? Research case examples. *Journal of research in Nursing*, 25(8), 652-661, p.656.

certain collectibles. However, the conversion of loans in the form of government programs until the end of September was still constrained by regulations. There is no regulation for converting sharia system products that are appropriate.

Transferring other asset is also carried out by conventional banks to their sharia-compliant subsidiaries, the transfer is in the form of fixed assets and electronic devices such as ATMs, CRM and EGC. Nowadays, on average, banks with branches in Aceh have converted 50 - 60 percent assets to Sharia.

The policies for debtor customers implemented by conventional banks are: a. offers for conversion to similar sharia financing products at subsidiaries b. Before closing / repayment of credit at the bank, the customer is required to maintain credit payment source accounts to remain active and maintain account balances in accordance with the amount of credit installments c. If the customer does not wish to convert credit to sharia financing products, the customer is required to pay off the credit product. d. If the customer still wants to have and does not make credit repayments, the customer must ensure that the credit payment source account at the conventional bank remains active and all credit-related transactions can only be made at conventional bank branches located outside Aceh Province.

If the customer chooses to convert to the sharia system, it must be done immediately until the end of September. In the case that the customer does not convert to the sharia system, he/she may close his account. Account closure is given a deadline until the end of September, if an account is not closed, account closure can only be done at the nearest conventional bank office. For depositors who do not declare account closure, the customer remains a depository customer for a conventional bank, and is transferred to become a customer at the nearest branch office outside Aceh or the customer himself can choose to become a customer at which branch office is outside Aceh province.

The policy for conventional banking and insurance employees who already have subsidiaries in the sharia system in Aceh by providing options to remain employees of the conventional bank or insurance, provided that these employees are transferred to other branches outside Aceh, with consideration of the transfer of employee needs to the nearest branch offices or given the opportunity to become employees of the bank or the subsidiary's sharia.<sup>18</sup> For employees who do not choose the two options, this employee can apply for termination of employment, termination of employment will be carried out while still paying attention to the rights of the employee.

Conventional banks will close their offices and apply for a license to close their operations in Aceh after the completion of the entire business portfolio, office work units and e channel network, employees and customers.

In implementing the *LKS* qanun, conventional banks also applied a banking strategy in the form of Sharia Commercial Services (*LSBU*) and colocation in all work units, this is also done by BRI. *LSBU* or sharia Commercial Bank Services are sharia services performed by Workers in conventional Work Units and according to *OJK* permit. Meanwhile, Colocation means that BRI sharia establishes a work unit in the location of the existing BRI office, with clear dividers and signs that can distinguish between sharia services from conventional services. Currently in Aceh Province there are 6 BRI Sub-Branch Offices that have obtained regulatory permits and operate in full Sharia and 11 BRI Branch Offices, 6 Sub Branch Offices. In addition, there are 141 BRI Units that are awaiting regulatory permission to implement Colocation and *LSBU*.

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<sup>18</sup> Ibrahim, A. (2016). The commitment to Islamic work ethics among Islamic banking employees in Aceh. *Jurnal Syariah*, 24(1).

## b. IJK Which Does Not Have a Sharia Subsidiary (Network) in Aceh.

Banks and insurance companies that do not have a subsidiary or sharia business unit in Aceh, take the policy of converting or leaving the market. As of June 2020, there are only 1 commercial bank and 4 society's credit banks that are preparing for conversion. In addition, there are 2 commercial banks that are conducting risk assessments.

According to the manager of *OJK* Office Supervision Subdivision of Aceh Province, Novandi syafriansyah, for the financial services industry that takes the policy of implementing the conversion, then the thing that needs to be the *IJK*'s attention in converting business activities from conventional to sharia is compiling a Business Plan that describes the *LJK*'s plan to make the transition to sharia, including preparing the following:

- 1.Changes in types and variants of services between conventional business activities and sharia business activities must have an equivalent product.
- 2.Transfer of customers from conventional to sharia, especially regarding the agreement between the *IJK* and the customer.
- 3.Ensuring the preparation of legal aspects of changes business activities, such as articles of association.
- 4.Preparing candidates for management, including understanding of sharia and establishing a Sharia Supervisory Board.
- 5.Preparing the health of *LJK*, including fulfilling their capital obligations.
- 6.Prepare a Corporate and Business Plan as Sharia *LJK*.
- 7.Preparation of infrastructure, including:
  - a. Complete and comprehensive work policies and procedures used in *LJK* operational activities.
  - b.Information technology that is capable of operating sharia products, which produce Sharia *LJK* Financial Statements.
  - c.Human Resources who have an adequate understanding of sharia products and sharia business processes (capacity, competence, and rights of employees to choose where to work).
  - d.Proofing data on the adjustment of conventional products into sharia products and migrating the data to the sharia system.
  - e.Operational preparation such as forms or documents bearing the sharia logo, which are used for *LJK* operations.

Plans for settling customer rights and obligations, for customers who do not agree.

## Conclusion

The policies implemented by banks and conventional insurance as one of the financial services industry in Aceh regarding the implementation of the *LKS Qanun* vary. For *IJK*, which already has a sharia network as its subsidiary, customers and assets are transferred from the main company to the subsidiary that has sharia networks, transferring of customers is carried out gradually, with consent of the customer. The policy towards employees is carried out by providing the option to continue a career at the same bank provided that they will be transferred or placed in an office outside Aceh province, or the option to take the opportunity to become an employee of a subsidiary that has implemented the sharia system in Aceh. If the employee does not choose the option offered, this means that the employee is doing layoffs while still giving up his rights.

It is recommended that *IJK* which stop its operations in Aceh, pay attention to the rights of employees in accordance with statutory provisions, and also settle their rights and obligations to their customers. *OJK* as the regulator, it is necessary to continue providing technical guidance to the *IJK* which conducts conversions for the sake of fast implementation of the *LKS Qanun* in Aceh.

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