



Controlling Dualism in Sharia Cooperative and Spirit of Institutional Progressivity

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Abstract

Act no 1 of 2013 on micro-finance institution makes controlling dualism for a micro-finance institution, cooperative, including sharia cooperative. In that act, every micro-finance institution that operating its business must choose between a cooperative or limited liability company (PT) as a legal entity. According to the act on cooperative and act on the micro-finance institution, Sharia cooperative can be supervised by Finance Service Authority (OJK) or cooperative and micro-medium enterprise service. This dualism makes differences in how to determine controlling institutions for sharia cooperative. One of the contributing factors is the differences in controlling regulation between act on cooperative and act on the micro-finance institution. The result of this research shows that there are differences in controlling between act on cooperative and act on the micro-finance institution. The way of controlling, according to act on cooperative emphasizes principles to give autonomy, independency, and leniency to a cooperative. Whereas, the controlling model which implemented by OJK emphasize on prudential banking principles.

Keywords: *controlling; sharia cooperative; act on cooperative; act on micro-finance institution*

Introduction

The development of cooperative in Indonesia is quite significant. A data published by the cooperative department, as of 31 December 2019, shows that there is 123.048 active cooperative and 35.761 with NIK certificate (Depkop 2020). NIK certificate is institutionally active (at least held annual members meeting in the last 3 years). It has 22.463.738 members spread over 34 provinces in Indonesia. Related to enterprise productivity profile, cooperatives in Indonesia have a total asset in amount of Rp152.113.137,04 with business volume up to Rp154.718.530,14 and net income in amount of Rp6.269.253,51.

The huge numbers of cooperative, demands intensive controlling and coaching. If this function is dysfunctional, then, the growth of inactive cooperatives will increase. In the last 4 years, Cooperative and Micro-medium enterprise has disbanded 81.686 cooperatives. In 2016, 45.629 cooperatives are disbanded. This is decreased in 2017, where 32.778 cooperatives are disbanded. In 2019, it reached 2.830 and in 2019 there are 499 disbanded cooperative (Maulana 2020).

For institution progressivity, a better and stable controlling system and the controlling instrument are necessary. This matter at least encourages by two interests, firstly, an interest in cooperative to not only survive but also to be sustainable. Secondly, Cooperative members' interests who want to secure their investment funds and give optimum profit from that investment. Therefore, Sharia cooperative is expected to have better controlling system.

Act no 1 of 2013 on the micro-finance institutions, makes controlling dualism to micro-finance institutions (LKM) cooperative, including Sharia cooperative. Article 5 sentence (1) of that act emphasize that every operating micro-finance institution has to choose its legal entity, between a cooperative or limited liability company (PT) (Act no 1 of 2013). According to this act, then, LKM with a cooperative legal entity regulated by two kinds of act, Act no 25 of 1992 on cooperative and Act no 1 of 2013 on the micro-finance institution.

The appearance of Act no 1 of 2013 on micro-finance institutions gives new regulation for sharia micro-finance institution (LKMS) which has cooperative as a law entity. Article no 5 paragraph 217 stated LKMS is required to get permission from OJK. Whereas, in previous regulation, LKMS with cooperative as a legal entity is required to obey on Act no 25 of 1992 on cooperative. In both regulation, there is regulation dualism to LKMS with cooperative as a legal entity. It can be found in Act no 13 of 2013 on the micro-finance institution and act, Act no 25 of 1992 on cooperative and its derivative regulation, which is Ministerial Decree of Cooperative and Micro-medium Enterprise No 16/PER/M.KUKM/IX/2015 on saving and loan business operation and sharia financing. This regulation gives legitimation for LKMS to make cooperative as its law entity. So, controlling and coaching will be given by the board of cooperative services. It shows that there is an effort to mutual claim to give legitimacy to LKMS with cooperative as a legal entity (Amin 2019).

Finally, controlling dualism tends to make uncertainty for sharia cooperative to determine its controlling system. This study used literature studies. This study aims to find out the differences in controlling and surveillance in the act on cooperative and act on micro-finance institution.

Controlling Concept

Subardi quoted Stoner and Wankel's statement, that control can be defined as manager efforts to convince that organization moves to the main objective. If one of the organization's parts moved in the wrong direction, the managers eager to find out the cause and bring it right on the track (Subardi 1992). The objective of controlling is a systematic effort to observe and investigate whether various functions and activities in the organization is work as planned (Siagian 2002).

Meanwhile, McFarland stated that control is the process by which an executive gets the performance of his subordinates to correspond as closely as possible to chosen plans, orders, objectives, or policies (Handayani 1994). Controlling is a function of management that counts on appraisal and correction to objective accomplishment (Manulang 1990).

From various definitions of controlling above, it concluded that controlling is oriented to the Organization's objective, plan, and actuation. Controlling tend to correct mistakes. A control checked if the subordinate's performance fits the plan. A controlling includes investigating aspects if and an accomplishment is suitable to the objective. Furthermore, control is made to ensure an accomplishment is suitable for the executive's policies. Controlling cannot stand alone, but it is always related to other basic management functions, there are planning, organizing and actuating (Glendoh 2000).

Controlling function in management is a systematic effort to determine work standard and objective, and designing a feedback information system, comparing an accomplishment to planned standard, or determines if there is a significant digression and takes a required action to ensure effective usage of organization's resources for organization's objective (Sule and Saifullah 2006). There are controlling function (Baihaqi 2016);

1. Determine and terminate breakdown causes before it happens.
2. Prevent and fix the occurred error.
3. Prevent any digression possibility and workload diversion.

Form of Controlling According to Act on Cooperative

Cooperative operation is regulated on Act no 25 of 1992. On Act no 25 of 1992 articles no 21, emphasized that cooperative organization instruments consist of Members Meeting, Board, and Executive supervisor. Next, related to the executive supervisor regulated on article no 38, no 39, and 40. Therefore, Sharia cooperative control carries out by the executive supervisor internally. The executive supervisor can supervise on finance aspect, management, and Sharia aspect.

Meanwhile, a member's meeting is the supreme level of decision making, where the board takes responsibility for their works. In this forum, internal control is done. The members of Sharia Cooperative have the right to give opinions and voting right in decision making. Because as the supreme level of decision making, they have the authority to determine the direction of company development. It shows that the spirit of independence and autonomy are very tough in internal control.

Another form of this spirit is the executive supervisor's appointment. In article no 38 is emphasized that the executive supervisor is appointed from and by members through Members Meeting. A requirement to be appointed as a board member of the executive supervisor stated in the article of association.

In article no 40 explains cooperative can demands audit service from a public accountant. There are an internal supervisor and external supervisor in cooperative controlling. The external supervisor is a supervisor from the government through the Cooperative and Microenterprise Coaching Department. The external supervisor gives administration control and empowerment through coaching and education. An internal supervisor is the internal controlling board to control the board's policies and operational activities including financing, HR, and things related to goods procurement, in the order it is not digressing from plan and objective.

Ministerial decree of Cooperative and Micro-medium enterprise No. 39/Per/M.KUKM/XII/2007 on the guidance of Sharia Cooperative Finance Service Controlling and Sharia Cooperative Finance Service Unit. Sharia Cooperative with cooperative law entity controlled by Cooperative and Micro-medium enterprise ministry where cooperative located, if it in the city region, it is done by Cooperative and Micro-medium enterprise services in the city region, if it in the province, it done by Cooperative and Micro-medium enterprise services in the province (Masyithoh 2014).

Specifically, Sharia cooperative guidance regulated on ministerial decree of Cooperative and Micro-medium enterprise No. 16/Per/M.KUKM/IX/2015 on Saving and Loan Enterprise Activity and Sharia Finance. In article 29, it emphasized technical coaching of saving loan enterprise and sharia finance handled by few stakeholders, there are;

- a. Mayor gives technical coaching to KSPPS and USPPS on Primary/ Secondary cooperative in District/ City.
- b. Governor gives technical coaching to KSPPS and USPPS on Primary/ Secondary cooperative on across city membership in 1 (one) province.
- c. Financing Department Deputy gives technical coaching to KSPPS and USPPS on Primary/ Secondary cooperative on across province membership.

Coaching for KSPPS and USPPS is given in order to develop a conducive business climate, guidance, ease, and protection to loan saving enterprise and sharia finance. In article no 30, there are efforts to publish in order to develop a conducive business climate;

- a. Loan saving enterprise and sharia finance business permit.
- b. Guidance of loan saving enterprise and sharia finance management.
- c. Guidance of KSPPS and USPPS empowerment.
- d. Guidance of literation and socialization.
- e. Guidance of loan saving enterprise and sharia finance development.
- f. Guidance of controlling.
- g. Guidance of board member standard and competency.
- h. Guidance of actuation of controlling by supervisor and Sharia Supervisor Board.

Beside coaching, in ministerial decree of Cooperative and Micro-medium enterprise No. 16/Per/M.KUKM/IX/2015 also regulated KSPPS and USPPS coaching requirements. Coaching are actuated in form of;

- a. Loan saving enterprise and sharia finance cooperative empowerment and development.
- b. Loan saving enterprise and sharia finance cooperative balance appraisal.
- c. Prudential banking principles implementation in loan saving enterprise and sharia finance cooperative.
- d. Increase finance access through capital empowerment.
- e. Skim finance development.
- f. Utilization of investment capital, sharia debt securities, secondary cooperative development as a cross-cooperative business network.

If KSPPS and USPPS violate the regulation, then there are few administrative penalties for them;

- a. First and second written warning.
- b. Temporary dismissal for board members.
- c. Freezing business permit.
- d. Business permit revocation.
- e. Closing USPPS Cooperative and KSPSS disband.

From the explanation above, it is known that the controlling method in Act of Cooperative more emphasizes principle principles to give autonomy, independency, and leniency to LKM cooperative (Masyithoh 2014).

Form of Controlling According to Act on Micro-finance Institution

Form of Sharia Cooperative controlling according to Act No 1 of 2013, by explains financial report once in 4 (four) months to Finance Service Authority. Furthermore, micro-finance institutions have compulsory to announce financial reports for transparency.

In coaching, Finance Service Authority doesn't give direct coaching to listed LKMS, so coaching tasks bestowed to local government, meanwhile, few local governments didn't have an LKMS expert. This is happening because Finance Service Authority has controlling compulsory to all society's fund-collecting institutions (Amin 2019). Article no 28 paragraph 3 Act no 1 of 2013 on micro-finance institution stated that Finance Service Authority has the authority to appoint a local government to give coaching for micro-finance institutions listed by Finance Service Authority. Coaching and controlling delegates to city government or another stakeholder, there are;

- a. Financial report acceptance and inputting data to the application system.
- b. Implementation of LKM's financial report.
- c. Acceptance and analysis form another report.
- d. Another report follows up.
- e. Plan arrangement of work investigation, actuation of investigation, and LKM investigation result.
- f. Enforce administrative penalty for LKM besides revocation and fine penalty.
- g. Implementation of LKM with liquidity and solvability hardship support.

Micro-finance institution controlling is also regulated in OJK regulation on No.14/POJK.05/2014 on Micro-finance institution controlling, especially article no 8 stated that in order to implementation of controlling and coaching function, OJK investigates LKM. This investigation to be delegated to local government where LKM operates or another institution appointed by OJK. The objectives of investigation are;

- a. Acquire current condition of LKM.
- b. Researching suitability between LKM condition and regulation.
- c. Ensure LKM actuate any effort to fulfill its mandatory to customers.

If a micro-finance institution violates regulations, there are few administrative penalties;

- a. Fine.
- b. Written warning.
- c. Freeze business activity.
- d. Executives or board member dismissal and appoints substitute until cooperative member meeting appoints new board members with OJK approval.
- e. Revocation.

OJK regulation No.14/POJK.05/2014, gives a possibility for Finance Service Authority to do an investigation with or without local government or another institution. It must be done if;

- a. Financial abuse by executives, commissaries, or employees of LKM.
- b. Liquidity and solvability hardship endanger LKM business sustainability.
- c. Abuse of Sharia principle for LKM with sharia principle.
- d. Debt arrears finding or huge expense which affected LKM condition.
- e. Abuse in form of fictive finance or loan permission.
- f. Accounting error that caused LKM loss.
- g. Unpredictable condition except in *a* until *f*, where according to OJK consideration needs to investigate.

Act No 1 of 2013 on micro-finance institution generally regulates all LKM, and strictly regulate the operation with various sanctions. The controlling model implementation uses prudential banking principles. Cooperative LKM is regulated by this act with OJK controlling and supervision (Amin 2019).

Conclusion

Sharia cooperative with cooperative law entity automatically regulated by two simultaneous acts, there are Act No. 25 of 1992 on Cooperative and Act No. 1 of 2013 on micro-finance institution and its derivative regulation. Both have a different controlling method. The controlling method stated in act on cooperative emphasizes principles of autonomy, independence, leniency. Meanwhile, OJK controlling model emphasized prudential banking principles.

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