The Analysis of Financial Services Authority (FSA) Function in the Supervision of the Good Corporate Governance (GCG) Implementation for Banking Institutions in Indonesia

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Abstract

In terms of running the implementation of the guidelines of Good Corporate Governance (GCG), the Financial Service Authority (FSA) had a function in monitoring the implementation of the guidelines. Implementation of the Code of GCG was one key to success for growing companies and profitable in the long term while winning global business competition, especially for companies that had been able to grow at the same time being open, GCG Principles were needed to achieve bank business continuity (sustainability) with regard to the interests of shareholders, customers and other stakeholders.

The research method uses normative and empirical research approach, using secondary and primary data, which retrieved from library research and field studies, and data were analyzed with qualitative analysis.

Based on the results, the FSA study had a function in organizing the system of regulation and supervision was integrated to the overall activity in the financial service sectors, as set out in Article 5 of FSA regulation. In the implementation of GCG for banking institutions in Indonesia, there were indicators that regulate governance corporations, so as to assess whether these banks had or had not implemented GCG is to look these indicators. Indonesian banking institution supervision could be divided into two (2) types of monitoring; indirect and direct supervision.

The researcher could give suggestions such as for Indonesian Bank also known as BI to provide the infrastructure especially regarding IT supervision of banking institutions to the FSA, so the FSA can supervise accurately. Implementation of GCG in banking institutions in Indonesia was expected to continue to maintain the principles of GCG. GCG should not only for banks but also applied to the RB, Capital Markets, Insurance, Finance Companies, Pension Funds, Microfinance Institutions and all other financial institutions.

Keywords: *Financial Service Authority, Good Corporate Governance, Banking Institutions.*

1. Introduction

Banking institutions are financial institutions that trusted by people and play an important role in the economic system. Besides having an important role, banking institutions have a strategic role in harmonizing and balancing equitable development, economic growth and national stability. Zulfi Diane Zaini says that the banking institutions that hold important and strategic role are one proof that the banking institution is one of the main pillars for the economy with establishment and support the implementation of national development. Therefore, in their role, national banking institutions are required and obliged to realize the goal of national banks which set out in Article 4 of Law No. 7 of 1992 as most of the articles are amended and supplemented by Act No. 10 of 1998 (hereinafter referred to as the Banking Law) [1], and in line with the objectives of the state welfare. [2] Bank is said to be the lifeblood of the financial system since the bank serves as a Financial Intermediary major effort to collect and distribute public funds as well as providing other services in payment traffic. In monitoring the payments traffic, there should be an independent institution set up and maintain the exchange rate, and does not favor one interest or purpose which can endanger the stability of the economic and monetary. With the passing of the time, industrial developments in monetary sector in Indonesia are increasing and with the increase of industrial cross-sectoral problems, a reformation in banking law is needed.

The reason the formatting the FSA is the complexity and various increase in financial products, the occurrence of conglomeration symptoms of financial services companies, and globalization of the financial service industries. In principle, the establishment of the FSA is to become an integrated surveillance and makes the coordination easier for more effective supervision. Article 2 paragraph (2) of Law Number 21 Year 2011 on the Financial Services Authority (hereinafter referred to as the FSA) states that the FSA is an independent institution in carrying out its duties and authorities, free from interference by other parties, except for the things that are expressly provided in this Act. FSA in performing its duties based on the principles of independence, accountability, responsibility, transparency and fairness, other than that the FSA should have a structure with the principle of "checks and balances" that is a clear separation between the functions, duties and authority of regulation and supervision. [3] The banking institutions in the compulsory use of the precautionary principle in order to avoid mistakes in public fund management, besides that, banking institutions are obliged to implement the compulsory guidelines for good corporate governance (GCG). Each bank must ensure that the principles of GCG are applied to every aspect of business and at all levels of the bank. GCG principles which must be ensured its implementation include transparency, accountability, responsibility, independency and fairness. GCG principles are needed to achieve business continuity (sustainability) of banks with regard to the interests of shareholders, customers and other stakeholders. [4] In terms of running the implementation of the guidelines of Good Corporate Governance (GCG), the FSA has a function in monitoring the implementation of the guidelines. Implementation of the Code of Good Corporate Governance (GCG) is one key to success for growing companies and profitable in the long term, while winning global business competition, especially for companies that have been able to grow at the same time being open, GCG Principles needed to achieve business continuity (sustainability) bank with regard to the interests of shareholders, customers and other stakeholders.

Research problems that will be discussed in this paper is: How does the function of the Financial Services Authority (FSA) as an independent watchdog of banking institutions, how the implementation of Good Corporate Governance (GCG) at the banking institutions in Indonesia, how the supervision of the Financial Services Authority (FSA) on the implementation of Good Corporate Governance (GCG) at the banking institutions in Indonesia. The research method is normative and empirical, using secondary and primary data, which retrieved from literature study and field studies, and data are analyzed with qualitative analysis.

2. Discussion

Based on the results of the study, FSA has a function in organizing the integrated system of regulation and supervision to the overall activity in the financial service sectors, as set out in Article 5 of Law FSA. In its surveillance on the financial industry FSA oversees banks and non-banks which have now been located in one roof or integrated monitoring system so that the monitoring system can exchange information easily. The integrated control system is expected to minimize the possibility of colision of inter-agency coordination. FSA is an independent organization and free from interference by other parties, which has functions, duties, and authority of regulation, supervision, inspection, and investigation as referred to this Act, in accordance with the contents of Article 1, paragraph 1 of FSA Law. Independence of each party in question is forbidden to interfere in the implementation its function, duties and authority of the FSA, it is intended to ensure the implementation of the FSA Part of the task set out in Article 6 of the Act, namely the FSA, FSA regulation and supervision duties to:

1. The financial service sectors of Banking Activities
2. The activities in the financial service sectors, the Capital Market; and
3. The financial services sector in Insurance, Pension Funds, Finance Institutions, and Other Financial Service Institutions.

Based on the results of interviews for research in Lampung with the FSA representative Mr. Iwan Kurniawan as bank supervisors, they conclude that the FSA is an independent institution. There is a strict separation between the FSA and BI tasks, FSA regulate and supervise on institutional, health, aspects of the prudential and bank inspection are the scope of regulation and microprudential supervision (supervision of banks in person), or the FSA focuses more on the health of financial institutions in private , As for the scope of BI is the policy administration that has the main purpose of maintaining the stability of the financial system as a whole in order to mitigate systemic ratio and crisis costs (macro prudential). Furthermore, according to Iwan Kurniawan, FSA's independence is manifested in two ways, namely: FSA institutionally is not included Indonesian government and the FSA leaders have the certainty of his position. Independence of FSA will be effective, if there is good corporate governance in the area of finance and banking. Because the application of the system GCG consistently proven to improve quality and also can be a barrier performance engineering activity which results in the financial statements do not describe the fundamental value of the company. Furthermore, Iwan Kurniawan explained that there are some things about FSA independence regarding:

1. Dismissal of members of the institution that can only be done by the causes set forth in the law
2. Problems dismissal which is free from intervention of President, the independent nature is also reflected in:
   a. Leadership institution is collective, not just one leader. Collegial leadership is useful for internal processes in making decisions, in particular to avoid the possible politicization of the decision as a result of the membership selection process;
   b. Leadership is not controlled or not majority comes from a several political parties; and
   c. Tenure of the leaders of institutions do not run out simultaneously, but alternately (staggered terms).

Based on Chapter IV on the Board of Commissioners, regarding the structure of Article 10 of the FSA, it regulates:

1. The FSA is led by the Board of Commissioners
2. The Board of Commissioners as referred to in paragraph (1) is collective and collegial
3. The Board of Commissioners consists of nine (9) members as determined by the President
4. Composition of the Board of Commissioners as referred to in paragraph (3) shall consist of:
   a. A Chairman concurrently as a member;
   b. A Vice Chairman as Chairman of the Ethics Committee concorrently as a member;
   c. A Chief Executive of the banking supervisor concurrently as a member;
   d. A Chief Executive Officer and member of the Capital Market supervisory;
   e. A Chief Executive Supervisor of Insurance, Pension Funds, Financing Institutions, and Other Financial Services Institutions concurrently as a member;
   f. A Chairman of the Board of Audit concurrently as amember;
   g. A member in charge of education and consumer protection;
   h. An Ex-officio member of Bank of Indonesia, which is a member of the Board of Governors of Bank Indonesia; and

i. An Ex-officio member of the Ministry of Finance which is the first echelon officials of the Ministry of Finance.

5. Members of the Board of Commissioners as referred to in paragraph (4) have the same voting rights.

Article 11 of the Law FSA regulates the appointment of the Board of Commissioners are:
1. Members of the Board of Commissioners as referred to in Article 10 paragraph (4) letter a to letter g elected by the House of Representatives based on prospective members proposed by the President.

Article 17 of Law FSA regulates the discharge of the Board of Commissioners are:
1. Members of the Board of Commissioners can not be discharged before his tenure expires, except if it meets the following reasons:
   a. Death;
   b. Resignation;
   c. Term has expired and not been revoted;
   d. Remains incapacitated so he can not execute a task or an estimated medically unable to carry out the task more than six (6) consecutive months;
   e. Do not carry out their duties as members of the Board of Commissioners of more than three (3) consecutive months without reasonable excuse;
   f. No longer a member of the Board of Governors of Bank Indonesia for Ex-officio members of the Board of Commissioners from Bank Indonesia as referred to in Article 10 paragraph (4) letter h;
   g. No longer a first echelon officials at the Ministry of Finance for Ex-officio members of the Board of Commissioners that comes from the Ministry of Finance as referred to in Article 10 paragraph (4) letter i;
   h. Has a family relationship to the second degree and / or marriage with other members of the Board of Commissioners and none resigns from his post;
   i. Violate the code of ethics; or
   j. No longer meets one of the conditions referred to in Article 15 and in violation of the prohibition referred to in Article 22.
2. Termination as referred to in paragraph (1) proposed by the Board of Commissioners to the President to be confirmed.

Based on the above provisions, it can be analyzed that the Board of Commissioners is the supreme leader of the FSA, the Board of Commissioners can not be dismissed by the president, the Board elected by the Parliament on the basis of a proposal from the president, this is where the visible independence of the FSA as financial services supervisory department. Based on research in the representative of FSA Lampung, Iwan Kurniawan states that the regulation of Bank of Indonesia No. 8/14 / PBI / 2006 on Amendment to Bank Indonesia Regulation Number 8/4 / PBI / 2006 on the Implementation of Good Corporate Governance, so that each bank is required to apply GCG , including to conduct self-assessment and submit a report the GCG implementation. GCG self assessment is done by filling the GCG Self Assessment Working Paper that has been established, which includes 11 (eleven) Factor Assessment. The procedures for assessment of self-assessment are as follows:
1. Setting a Value rating per Factors, by conducting Self Assessment analysis by comparing objective and criteria / indicators that have been determined by the actual condition of the Bank;
2. Assign Value Composite results of self assessment, by weighting the whole factor, summing and further provides composite predicate; (C) In determining predicate, please note the following limitations: (1) If there is a factor in the assessment of all factors with a value rating is 5, then the predicate Composite highest attainable Bank is "Good Enough" and (2) If the assessment of all factors are Factor with Value Rank 4, the Composite Predicate highest attainable Bank is "Good".

Furthermore Mr. Iwan Kurniawan as superintendent Bank Lampung FSA representative says that, there are some indicators that regulate corporate governance, so as to assess whether these banks have or have not implemented GCG, it will be judged from these indicators. Basically GCG between Conventional Bank and Islamic ones is the same, namely: transparency, accountability, responsibility, independence and fairness, but there are several different assessment indicators according to the needs and policies. Based on Bank of Indonesia Circular Letter No. 15/15 / DPNP on Circular Letter to All Conventional Commercial Banks In Indonesia, in Point 1 (B) is in order to ensure the implementation of five (5) basic principles of good corporate governance as mentioned above, the bank must perform its own assessment (self assessment) periodically which at least includes 11 (eleven) Factor Assessment GCG implementation, namely:

1. The implementation of tasks and responsibilities of the Board of Commissioners;
2. Implementation of the tasks and responsibilities of Board of Directors;
3. The completion and implementation of the tasks of the Committee;
4. Handling conflicts of interest;
5. Implementation of compliance;
6. Implementation of the internal audit functions;
7. Implementation of the external audit functions;
8. Implementation of risk management including internal control systems;
9. Provision of funds to related parties) and penediaan large fund provision (large exposures);0. Transparency of banks' financial and non-financial condition GCG implementation report and internal reporting; and 11. The bank's strategic plan [4]

Below is a table giving scores on Good Corporate Governance Corporate based on the Governance Self-Assessment Bank namely:

Table 1 Provision of Score GCG

No	**Aspek Penilaian**	**Bobot (%) (a)**	**Peringkat (b)**	**Nilai/Skor (a) x (b)**
1	Pelaksanaan tugas dan tanggung jawab Dewan Komisaris;	10%	2	0,2
2	Pelaksanaan tugas dan taggung jawab Direksi;	20%	2	0,4
3	Kelengkapan dan pelaksanaan tugas Komite;	10%	2	0,2
4	Penanganan benturan kepentingan;	10%	1	0,1
5	Penerapan fungsi kepatuhan;	5%	2	0,1
6	Penerapan fungsi audit intern;	5%	2	0,1
7	Penerapan fungsi audit ekstern;	5%	1	0,5
8	Penerapan manajemen risiko termasuk sistem pengendalian intern;	7,5%	2	0,15
9	Penyediaan dana kepada pihak terkait (related party) dan penediaan dana besar (large exposures);	7,5%	2	0,15
10	Transparansi kondisi keuangan dan non keuangan bank, laporan pelaksanaan GCG dan pelaporan internal; dan	15%	1	0,15
11	Rencana strategis bank	5%	2	0,1
12	Jumlah nilai komposit	100%		1,7

Source: adapted from Bank Indonesia Circular Letter No. 9/12 / DPNP Date May 30, 2007

After all stages of the assessment of Good Corporate Governance Index (CGPI) ae done, which in the example above of 1.7, the results obtained will be discussed in a forum panel of experts to determine the results of research and rating CGPI. The ranking is designed to be five (5) categories according to the degree (level) reliable through the balanced application of GCG shown in the following table.

Table 2 Ranking of Good Corporate Governance Perception Index (CGPI) Practice of Good Corporate Governance (GCG) Commercial Bank

Tingkat/Nilai Peringkatan Komposit	**Predikat (Kualitas)**
Nilai Komposit < 1,5	Sangat Baik
1,5 &Nilai Komposit < 2,5	Baik
2,5 &Nilai Komposit < 3,5	Cukup Baik
3,5 &Nilai Komposit < 4	Kurang Baik
4,5 &Nilai Komposit < 5	Tidak Baik

Source: Bank Indonesia Circular Letter No. 9/12 / DPNP Date May 20, 2007

Based on the results of interviews over at Metro Bank Mandiri branch with Mr Daryanto as head of the branch, he says that in the implementation of GCG, it is divided by 2; Internal supervision, 2. External supervision

a. Internal controls done are:

1. Consistently doing a briefing everyday, and chanting the TIPCE Culture (Trust, Integrity, Professional, Customer Focus and Excellent)
2. Providing punishment in the form of termination of employment to employees who perform Fraud (whatever the number is) and proved although only Rp. 10,000; (Ten thousand Rupiahs), there are employees who was discharged from Bank Mandiri

b. External supervision done are:

1. Providing education to all the customers that in addition to official fees corresponding memorandum and commitment, the debtor is prohibited to pay anything
2. Each transaction must be based on the availability of a memorandum of books (deposit note, receipt, advice debit / credit, etc.)
3. In the document published by the Bank for partners (e.g. Wood Seller, goods Order / services) has always been and must be included the phrase "in order to implement good corporate governance, you are not allowed to give gifts or compensation of any kind to the ranks of employees of Bank Mandiri related to employment or the provision of credit facilities and other facilities ".

Based on the description above can be analyzed that the Bank Mandiri Branch Metro has implemented GCG principles in the form of transparency that provide information according to predefined rules, accountability that anyone with no any exceptions have to account for its performance, if one must be declared wrong in order not to affect the other. It is the same as the Islamic Bank that in this study, the authors interviewed the Operational Head Manager of Bank Muamalat Center, Lampung province, Mr Sutisna states in the implementation of GCG applied for a bank is not permitted for any party to give a gift in any form and at any time. Each officer has to say hello to the consumer who comes, if the officer does not say hello he will immediately get a warning. The principles on corporate governance in Islamic (sharia) and in accordance with the best practices applicable in national and international banks and values that exist in Bank Muamalat Indonesia, is the basis for the company to continue the best form implementing of GCG, these values are reflected in the following aspects: transparency, accountability, responsibility, professional, fairness and caring attitude. Mr. Sutisna as Head Operational Manager of Bank Muamalat under Article 2 of Regulation of Bank Indonesia Number 11/33 / PBI / 2009 on the implementation of Good Corporate Governance for Islamic Banks and Sharia Business Unit says that:

1. Banks are required to implement GCG in all its business activities at all levels of the organization
2. Implementation of GCG as referred to in paragraph (1) for at least BUS must be realized in:
   a. Implementation of the tasks and responsibilities of the Board of Commissioners and Board of Directors;
   b. Completeness and implementation of tasks and functions of the committees who run the internal control BUS;

c. the implemntation of duties and responsibilities of the Shariah Supervisory Board;
d. Implementation of compliance, internal audit and external audit;
e. The maximum limit of the distribution of funds; and
f. Transparency of BUS financial and non-financial condition.

3. Implementation of GCG as referred to in paragraph (1) for at least UUS must be realized in:
a. Implementation of the tasks and responsibilities of the Director of UUS;
b. Implementation of the tasks and responsibilities of the Sharia Supervisory Board;
c. Channelling funds to core customer financing and storage of funds by depositors core; and
d. Transparency of UUS financial and non-financial condition.

Based on the description above the BUS is that Islamic Conventional Banks, which provides services in payment traffic as referred to in Law Number 21 Year 2008 on Islamic Banking (Article 1 paragraph 1 of Law No. 21 of 2008 concerning Islamic Banking: Islamic banking is everything concerning the Islamic banks and Islamic business units, covering institutional, business activities, as well as the manner and process of carrying out their business activities).
Below is a table giving weight to the assessment of the GCG Islamic Banks:

Table 3 Weight Rating Good Corporate Governance Islamic Banks

No	**Faktor Yang Dinilai**	**Bobot Penilaian**
1	Pelaksanaan tugas dan tanggung jawab Dewan Komisaris	12,5%
2	Pelaksanaan tugas dan tanggung jawab Direksi	17,5%
3	Kelengkapan dan pelaksanaan tugas komite-komite	10%
4	Pelaksanaan tugas dan tanggung jawab Dewan Pengawas Syariah	10%
5	Pelaksanaan prinsip syariah dalam kegiatan penghimpunan dan penyaluran dana serta layanan jasa	5%
6	Penanganan benturan kepentingan	10%
7	Penerapan fungsi audit intern	5%
8	Penerapan fungsi kepatuhan	5%
9	Penerapan fungsi audit ekstern	5%
10	Transparansi kondisi keuangan dan non keuangan, laporan pelaksanaan GCG, dan pelaporan internal	15%
11	Batas maksimum penyaluran dana	5%
	Total	100%

Source: Bank Indonesia Circular Letter No. 12/13 / DPbS Year 2010

Based on the table above are the weight or value in percentage given to indicators for assessing a sharia GCG at Commercial Bank, the largest found in the implementation of the duties and responsibilities of the management, it is because the Board of Directors is authorized organ and is responsible for managing the company and represents the company's outside and inside the court, so the responsibility of the amnagement is very large and high risk. Similarly, commercial conventional banks, after self-implemented, then the next stage is to find the value of the composite, which is ranked by the weight multiplying assessment to determine the predicate quality of GCG implementation in Islamic banks described in the following table.

Table 4 Ranking of Good Corporate GovernancePeception Index (CGPI) Practice of Good Corporate Governance bank Sharia

No	Nilai Komposit	Predikat (Kualitas)
1	Nilai Komposit < 1,5	Sangat Baik
2	15 < Nilai Komposit < 2,4	Baik
3	2,5 < Nilai Komposit < 3,4	Cukup Baik
4	3,5 < Nilai Komposit < 4,4	Buruk
5	4,5 < Nilai Komposit < 5	Sangat Buruk

Source: Bank Indonesia Circular Letter No. 12/13 / DPbS Year 2010

Related to bank supervision, it can be divided into two types, namely indirect supervision and direct supervision. Indirect supervision is supervision conducted by bank supervisors through research and analysis of the reports which are to submitted by the Bank to BI. The report is used to diagnose the condition of the bank. The activities mentioned above are intended to assess the factors that affect the performance and development of the bank, compliance with applicable regulations and the implementation of an early warning system (early detection), to determine the degree of difficulty faced by the bank earlier. Based on the above information, it can be analyzed that the results of the indirect supervision is that the supervisor can determine the necessary steps to follow-up, such as, reminding the bank's management on the performance and problems faced and or conduct field checks on the bank concerned. Direct supervision performed by the FSA, with the aim to confirm the correctness and accuracy of submitted bank statements. Examination carried out based on the identification of risks and indicators that have been determined by the FSA. Basically a good bank is a bank that can perform its functions properly. The regulation of bank goodness followed up with the BI regulation No. 6/10 / PBI / 2004 (for shortened by PBI No. 6/10 / PBI / 2004) on the Bank rating system General, on 12 April 2004. Where the general purpose of the investigation of the bank to be used as:

1. benchmarks for the management of the bank, whether management has been carried out in accordance and in line with the principles of good banking, the provisions in force and most importantly, must be based on the precautionary principle;
2. Benchmarks to set the direction of the coaching and development of both individual banks overall banking.

Implementation of checks are used to ascertain the accuracy of reported data from the bank, digging further information / problems faced, monitoring the implementation of the action program, as well as for other purposes in the framework of bank supervision accurately. Inspection activities carried out all the time, but at a time when certain times made directly depends the extent to which the bank is deemed to contain potential problems that require examination.

3. Conclussion

FSA has a function in organizing the regulatory and supervisory system which is integrated to the overall activity in the financial service sectors, as set out in Article 5 of Law FSA. In its oversight on the financial industry, FSA oversees banks and non-banks that have now been located in one roof or integrated monitoring system so that the monitoring system can exchange information easily. There is a strict separation between the FSA and BI tasks, FSA regulate and supervise on institutional, health, aspects of the prudential and bank inspection is the scope of regulation and micro prudential supervision (supervision of banks in private), or the FSA more focused on the health of financial institutions in private. As for the scope, BI is the policy administration that has the main purpose of maintaining the stability of the financial system as a whole in order to mitigate systemic ratio and costs crisis (macro prudential). The independence of the FSA is manifested in two ways, namely: FSA institutionally is not included Indonesian government system and the leadership of the FSA has the certainty of his position.

Implementation of GCG implementation in banking institutions in Indonesia is very good, Bank Mandiri as a representative of a conventional bank has implemented GCG principles in the form of transparency that provide information in accordance with predetermined rules, accountability is that no exception should be accountable for its performance, if one must be declared wrong so as not to affect the other. The principles on corporate governance in Islamic (sharia) and in accordance with the best practices applicable for national and international banks and values that exist in Bank Muamalat Indonesia, is the basis for the company to continue to form the best banks in the implementation of GCG, these values are reflected in the following aspects: transparency, accountability, responsibility, professional, fairness and caring attitude. Indonesia supervision of banking institutions can be divided into two (2) types of monitoring indirect and direct supervision. Indirect supervision is supervision conducted by bank supervisors through research and analysis of the reports to be submitted by the Bank to the supervisor in this case is BI. Direct supervision is the direct examination of the bank in question if after analyzed there are things that are not included in the standard parameters of the FSA.