

Tinjauan yuridis terhadap pengaturan dan penerapan prinsip-prinsip good corporate governance di beberapa Bank Umum Syariah dan unit usaha Syariah di Indonesia

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Abstrak

Kehadiran Good Corporate governance (GCG) diperlukan dalam suatu Bank Umum Syariah (BUS) atau Unit Usaha Syariah (UUS) agar dapat mencapai kesinambungan usaha melalui pengelolaan yang didasarkan pada asas transparansi, akuntabilitas, responsibilitas, independensi serta kewajaran dan kesetaraan (KNKG, Pedoman GCG 2006). Tesis ini bertujuan untuk mencari jawaban atas pertanyaan mengenai bagaimana pengaturan dan penerapan prinsip-prinsip GCG pada BUS dan UUS di Indonesia. Metode penelitian yang digunakan adalah metode penelitian yuridis normatif terhadap bahan kepustakaan dan didukung dengan wawancara dengan beberapa pejabat terkait. Tinjauan penelitian pengaturan prinsip GCG diperoleh dari Undang-undang No.40 Tahun 2007 tentang Perseroan Terbatas, Undang-undang No.21 tahun 2008 tentang Perbankan Syariah dan Peraturan Bank Indonesia, Undang-undang No.8 tahun 1995 tentang Pasar Modal dan Peraturan Bapepam & LK. Tinjauan Penerapan prinsip GCG pada BUS minimal diwujudkan dalam (1) pelaksanaan tugas dan tanggung jawab Dewan Komisaris dan Direksi; (2) kelengkapan dan pelaksanaan tugas komite-komite dan fungsi yang menjalankan pengendalian intern BUS; (3) pelaksanaan tugas dan tanggung jawab Dewan Pengawas Syariah; (4) penerapan fungsi kepatuhan, audit intern dan audit ekstern; (5) batas maksimum penyaluran dana; dan (6) transparansi kondisi keuangan dan non keuangan BUS. Sedangkan pada UUS minimal diwujudkan dalam (1) pelaksanaan tugas dan tanggung jawab Direktur UUS; (2) pelaksanaan tugas dan tanggung jawab Dewan Pengawas Syariah; (3) penyaluran dana kepada nasabah pembiayaan inti dan penyimpanan dana oleh deposan inti; dan (4) transparansi kondisi keuangan dan non keuangan UUS.

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The presence of Good Corporate Governance (GCG) is required in an Islamic Commercial Bank (ICB) or Islamic Business Unit (IBU) in order to achieve sustainability through the management efforts that are based on the principles of transparency, accountability, responsibility, independence and fairness and equality (NCG, GCG Guidance 2006). This thesis aims to find answers to the questions of how the regulation and implementation of the GCG principles to ICB and IBU in Indonesia. The method used for this research is juridical normative research, which were conducted on literature research and supported by interviews with relevant officials. Review on the Regulations of GCG principles are obtained from the Law No.40 of 2007 regarding Limited Liability Company, Law No.21 of 2008 on Islamic Banking and Bank Indonesia Regulations, Law No.8 of 1995 on Capital Markets and Bapepam & LK Regulations. Review on the Regulations of GCG principles in ICB shall be at least embodied in (1) the performance of duties and responsibilities of the Board of Commissioners and Directors, (2) the completion and execution of Committees' tasks and the internal control function of BUS (3) the performance of duties and responsibilities of the Sharia Supervisory Board (4) the implementation of the compliance, internal audit and external audit functions (5) The maximum limit of funds, and (6) transparency of financial and non financial conditions of BUS. While at IBU shall be minimal embodied in (1) the performance of duties and

responsibilities of the Director of IBU (2) the performance of duties and responsibilities of the Sharia Supervisory Board, (3) the distribution of funds to finance core customers and deposit of funds by core depositors, and (4) transparency of financial and non financial condition of IBU.