

ABSTRACT

Considering from the history of banking practice in Indonesia in the era of PAKTO 88 there were many bank deviation case because of the fault of the incompetency board of company because of there was no regulation that every bank shall to filter the human resource who will run the bank, the Banking system in Indonesia made change. In 1991 The Central Bank of Indonesia (Bank Indonesia) regulated PAKFEB 91 and introduced the sign to protect the bank's health which inside it, there was a regulation for bank to filter the human resource recruitment. Just after PAKFEB 91, The Indonesian Government legislated The Act Number 7 of 1992 juncto The Act Number 10 of 1998 concerning Banking. Inside it, there is regulation for bank to practice prudential principle which one of its manifestation is the bank obligatory to filter the human resource recruitment, include Board of Director and Board of Commissioner recruitment with fit and proper test mechanism. After the Monetary Crisis of 1998, Islamic Banking began demanded by the economy practitioners. With the legislation of The Act Number 21 of 2008 concerning Islamic Banking, the islamic bank is also has obligation to practice fit and proper test for Board of Director and Board of Commissioner recruitment.

This bachelor thesis is compiled with statute approach and conceptual approach method. This bachelor thesis concerning about the ratio legis behind fit and proper test regulation for Board of Director and Board of Commissioner recruitment of islamic bank and also concerning about the comparison between fit and proper test regulation for Board of Director and Board of Commissioner recruitment of islamic bank and fit and proper test regulation for Board of Director and Board of Commissioner recruitment of conventional bank.

The conclusion of this bachelor thesis are: the islamic bank need fit and proper test for their Board of Director and Board of Commissioner recruitment in order to convince the islamic bank to get qualified human resource who has integrity, competency and good finance reputation. With qualified human resource, the islamic bank can avoid from banking deviation which made by the human resource. In addition, fit and proper test is also a manifestation of islamic bank's prudential principle, islamic bank's good corporate covernance, islamic bank's risk management, and encourage the islamic bank's health and islamic banking system's health in Indonesia. Related to the comparison between between fit and proper test regulation for Board of Director and Board of Commissioner recruitment of islamic bank and fit and proper test regulation for Board of Director and Board of Commissioner recruitment of conventional bank, the fit and proper test regulation for Board of Director and Board of Commissioner recruitment of islamic bank has more stringent regulation in integrity and competency factor than the fit and proper test regulation for Board of Director and Board of Commissioner recruitment of conventional bank.

Keywords: Fit and Proper Test, Director, Commissioner, Islamic Bank.

ABSTRAK

Berkaca dari sejarah perbankan di Indonesia yang mengalami kasus-kasus praktik penyimpangan perbankan di era PAKTO 88 diakibatkan oleh kesalahan pengurus bank yang tidak memiliki kompetensi dalam menjalankan kegiatan usaha bank, dimana pada saat itu tidak terdapat regulasi mengenai prasyarat untuk menjadi pengurus bank, sistem perbankan di Indonesia kemudian berbenah. Pada era PAKFEB 91 mulai dikenalkan rambu-rambu kesehatan bank, dimana terdapat prasyarat untuk menjadi pengurus bank dan kemudian pada Undang-Undang Nomor 7 Tahun 1992 jo. Undang-Undang Nomor 10 Tahun 1998 mulai dikenalkan prinsip kehati-hatian yang salah satu penerapannya mewajibkan bank untuk melaksanakan *fit and proper test* bagi pengurusnya, yang dalam hal ini termasuk anggota Direksi dan anggota Dewan Komisaris. Pasca krisis moneter 1998 Perbankan Syariah mulai diminati dan dengan ditetapkannya Undang-Undang Nomor 21 Tahun 2008 tentang Perbankan Syariah, Bank Syariah juga diwajibkan untuk melaksanakan *fit and proper test* bagi pengurusnya, yang dalam hal ini termasuk anggota Direksi dan anggota Dewan Komisaris.

Dalam penelitian ini metode pendekatan yang digunakan adalah dengan menggunakan metode pendekatan perundang-undangan serta pendekatan konseptual. Penelitian ini mengkaji *ratio legis* pengaturan *fit and proper test* bagi anggota Direksi dan anggota Dewan Komisaris Bank Syariah dan juga perbandingan pengaturan *fit and proper test* bagi anggota Direksi dan anggota Dewan Komisaris Bank Syariah dengan pengaturan *fit and proper test* bagi anggota Direksi dan anggota Dewan Komisaris Bank Konvensional.

Dari pembahasan tersebut kemudian dapat dipahami bahwa Bank Syariah dalam kegiatan operasionalnya membutuhkan *fit and proper test* bagi calon anggota Direksi dan calon anggota Dewan Komisarisnya sebagai prasyarat perekrutan pengurus guna memastikan sumber daya yang direkrut memiliki kualitas, yaitu yang memenuhi kualifikasi integritas, kompetensi dan reputasi keuangan yang baik untuk menghindari praktik penyimpangan perbankan di bidang Perbankan Syariah. Selain itu, *fit and proper test* bagi calon anggota Direksi dan calon anggota Dewan Komisaris pada bank syariah juga berfungsi sebagai penerapan prinsip syariah, penerapan prinsip kehati-hatian, penerapan *good corporate governance*, penerapan manajemen risiko, dan jaminan kesehatan bagi bank syariah serta sistem perbankan syariah di Indonesia. Berkaitan dengan perbandingan pengaturan *fit and proper test* bagi anggota Direksi dan anggota Dewan Komisaris Bank Syariah dengan pengaturan *fit and proper test* bagi anggota Direksi dan anggota Dewan Komisaris Bank Konvensional, pengaturan *fit and proper test* bagi anggota Direksi dan anggota Dewan Komisaris Bank Syariah memiliki pengaturan yang lebih ketat dalam faktor integritas dan kompetensi.

Kata kunci: *Fit and Proper Test*, Direksi, Dewan Komisaris, Bank Syariah.