

LEGAL ANALYSIS OF THE IMPLEMENTATION OF SHARIA BANKING LAW AND COMPILATION OF SHARIA ECONOMIC LAW IN STRENGTHENING THE NATIONAL FINANCIAL SYSTEM IN INDONESIA

Gunawan Widjaja

Senior Lecturer Faculty of Law Universitas 17 Agustus 1945 Jakarta

widjaja_gunawan@yahoo.com

Siti Nur Azizah

Professor Faculty of Law Universitas 17 Agustus 1945 Jakarta

Abstract

This study conducts a legal analysis of the implementation of the Islamic Banking Law and the Compilation of Islamic Economic Law in efforts to strengthen the national financial system in Indonesia. Using a literature review method, the study evaluates the legal and regulatory aspects governing Islamic banking, as well as the role of the Compilation of Islamic Economic Law as a normative foundation in Islamic economic practices. The results of the study indicate that the Islamic Banking Law provides a solid legal framework for the operation of Islamic banking in accordance with Islamic principles, while the Compilation of Islamic Economic Law serves as a legal guideline for religious courts and Islamic financial institutions in resolving disputes and regulating Islamic economic transactions. The integration and strengthening of the implementation of these two legal instruments have the potential to enhance stability, inclusion, and justice in the national financial system. However, efforts to improve regulations and adapt to economic and technological developments must continue to ensure that the role of Islamic finance in national development can be maximised sustainably.

Keywords: Islamic Banking, Compilation of Islamic Economic Law, National Financial System, Legal Implementation, Sharia Regulation, Indonesia.

Introduction

The development of the Islamic financial system in Indonesia has shown significant progress in recent decades. As the country with the largest Muslim population in the world, Indonesia has great potential for the development of the Islamic economy and banking. The existence of Islamic banking is not only an alternative for the public to conduct financial activities in accordance with Islamic principles but also a strategic instrument in strengthening the national financial system as a whole. Therefore, it is important to comprehensively understand the legal aspects governing the implementation of Islamic banking to achieve these objectives optimally (Rahman, 2020).

Law No. 21 of 2008 on Islamic Banking is the main legal basis governing the operations and dynamics of the Islamic banking industry in Indonesia. This law not only regulates the institutional form and business activities of Islamic banks but also confirms

the role of the National Sharia Council's fatwas as sharia guidelines that must be adhered to. The existence of this regulation serves as a benchmark for assessing the effectiveness and compliance of the implementation of sharia principles in banking (. However, the reality on the ground still faces various obstacles and challenges that need to be analysed from a legal perspective to ensure that regulatory improvements and their implementation can be carried out appropriately.

Furthermore, the Compilation of Sharia Economic Law (KHES) as a series of legal documents that establish rules related to transactions and economic activities based on sharia principles plays an important role in providing a strong normative foundation, especially outside the context of formal banking. KHES details the prohibitions and requirements that must be adhered to in Islamic economic activities, serving as a foundation to strengthen the integrity and trust of the public in the national Islamic financial system. A legal review of KHES is essential to assess how these rules can support or complement Islamic banking regulations (Narud, 2025) .

The strengthening of the national financial system through sharia instruments and regulations aims to create financial stability that not only provides inclusive financial services but also protects the public from harmful financial practices based on the principles of *riba*, *gharar*, and *maysir*. Consistent regulation and implementation are expected to strengthen Indonesia's national financial position at the global level while enhancing the competitiveness of the Islamic financial industry. Legal aspects are key to ensuring that the implementation of these principles is not only normative but also practical and accountable (Hidayah, 2022) .

Within the national legal system, Islamic banking faces challenges in harmonising regulations between national positive law and Islamic law. Conflicts and inconsistencies in regulations often arise due to the different characteristics of Islamic law compared to conventional law. In response to this situation, legal studies are needed to examine how the implementation of the Islamic Banking Law and KHES can proceed in tandem without causing legal uncertainty that could harm stakeholders, both banks and customers (Government of the Republic of Indonesia, 2020) . Additionally, the importance of legal certainty in Islamic banking transactions cannot be overlooked. Legal certainty provides legal protection to industry players and consumers who prioritise principles of justice and transparency in every transaction. Therefore, a legal analysis of existing regulations and their implementation in the field is crucial as an effort to detect weaknesses and provide recommendations for improvement to strengthen the legal foundation of the Islamic finance sector in Indonesia (Financial Services Authority (OJK), 2020) .

This study also stems from the ongoing growth of the Islamic banking industry, both in terms of assets, the number of institutions, and the increasing range of products and services offered. However, this growth has not always been accompanied by regulatory readiness capable of addressing the dynamic needs of the market and

technological advancements, such as the digitalisation of banking services. A comprehensive legal study can help identify gaps that need to be addressed to maintain a balance between innovation and sharia compliance.

The legal analysis in this study also follows a literature review methodology, drawing on various legal sources, academic studies, fatwas, and regulations—related to the subject matter. This approach helps in understanding the theoretical and normative foundations that form the framework for the implementation of the Sharia Banking Law and KHES. Thus, the results of this study are expected to not only be an academic study but also have practical relevance for policymakers and practitioners in the field of sharia finance.

Research Method

The research method used in this study is a literature review or normative legal research aimed at analysing and evaluating legal aspects related to the implementation of the Islamic Banking Law and the Compilation of Islamic Economic Law in strengthening the national financial system in Indonesia. This research collects, reviews, and compiles data from various primary legal sources such as laws, government regulations, fatwas of the National Sharia Council, as well as relevant academic literature and supporting documents (Eliyah & Aslan, 2025). The data obtained are analysed critically and systematically to understand the legal foundation, the effectiveness of regulatory implementation, as well as the challenges and opportunities faced in Islamic banking practices. With this normative approach, the study focuses on the interpretation and development of legal theory to provide strategic recommendations for strengthening Islamic financial regulation and practices in Indonesia (Bolderston, 2008).

Results and Discussion

Legal Analysis of the Implementation of the Islamic Banking Law

Law No. 21 of 2008 on Islamic Banking serves as the primary legal framework for the implementation of Islamic banking in Indonesia. This law was enacted in response to the need for special regulations that accommodate the unique characteristics and principles of Islamic economics, which differ from those of conventional banking. The law regulates institutional aspects, business activities, fund management, and compliance with Islamic principles as the operational foundation of Islamic banking, thereby providing the necessary legal certainty for the sustainable growth and development of this industry. (Government of the Republic of Indonesia, 2008).

Legally, the Islamic Banking Law binds all Islamic banking industry players to conduct business activities in accordance with Islamic principles such as the prohibition of *riba*, *gharar*, and *maysir*. The regulator also stipulates that every product and service must comply with the fatwa issued by the National Sharia Council (DSN) of the

Indonesian Ulema Council (MUI). In this context, the supervision and implementation of DSN-MUI fatwas serve as the legal foundation strengthening the application of Sharia principles in banking in Indonesia and constitute the primary distinction from conventional banking (Haikal et al., 2024).

Furthermore, the principle of prudence (prudential principle) is one of the core principles emphasised in this law to maintain financial stability and protect customers. The government and Bank Indonesia, through its implementing regulations, also ensure that Islamic banks have sound and safe governance in managing public funds, thereby minimising risks and protecting the interests of customers and other stakeholders legally (Mubarok, 2022).

This law also contains provisions regarding licensing, legal entity forms, and capital ownership in Islamic banking. The articles within it outline the requirements and procedures for establishing an Islamic bank, including Islamic banking units, which must obtain approval from Bank Indonesia. With these provisions, the government can conduct more structured and strict supervision, while also providing legal guarantees for the existence and function of Islamic banking institutions (Nurfadilla et al., 2025). In addition, the Islamic Banking Law regulates the types and activities that can be carried out by Islamic banks specifically. These business activities include the collection of funds in the form of deposits and investments based on contracts that are in accordance with sharia, as well as the distribution of funds through various financing contracts that do not conflict with Islamic principles. This regulation provides a clear and comprehensive legal framework so that all Islamic banking activities are within the strict corridor of Islamic law (Anshori, 2020).

The role of oversight regarding sharia compliance is also a key focus of this law. Banks must have a Sharia Supervisory Board (DPS) tasked with ensuring that all bank activities comply with Islamic law and DSN fatwas. The existence of the DPS is formally regulated and mandated by law, thereby providing a strong legal foundation for sharia compliance oversight in the implementation of Islamic banking in Indonesia, which can enhance public confidence in Islamic banking products and services (Amin, 2020).

From an implementation perspective, there are challenges in implementing the Islamic Banking Law in practice, including issues related to the harmonisation of regulations between national law and Islamic law, which could lead to potential conflicts of norms. Some supporting regulations still need to be strengthened to accommodate the dynamics of market developments and innovations in Islamic banking products without compromising the principles of Islamic law, which are the core principles of Islamic banking (Havis, 2025).

Furthermore, legal analysis indicates that legal certainty in the Islamic banking sector is a fundamental aspect that must be maintained to provide security for all parties, including investors, customers, and other stakeholders. This certainty is not only

formal through legislation but also substantive in ensuring that practices and transactions comply with the Sharia principles established by law (Huda, 2025) .

The implementation of the Islamic Banking Law must also be able to address the need for financial inclusion, where Islamic banking products and services can be accessed by all segments of society in accordance with the principles of social justice as mandated by Pancasila and the 1945 Constitution. Inclusive and adaptive regulations are important so that Islamic banking can contribute maximally to national economic development and poverty alleviation (National Committee for Islamic Economics and Finance (KNEKS), 2024).

The national legal policy underlying the formulation and implementation of this law demonstrates the government's consistency in accommodating the aspirations of the Muslim community while strengthening the governance of the sharia-based financial system. This shows how Islamic banking is not only an alternative but an integral part of the national financial system that must receive adequate legal and policy support (Muallif, 2022) .

Furthermore, the strengthening of the institutional structure of Islamic banking in accordance with this law has implications for enhancing professionalism and transparent governance. The Law encourages Islamic banking institutions to establish management and internal control systems in accordance with Islamic principles, so that good governance can promote sustainable growth and minimise practices that could undermine public trust (Nafi'an & Yunus, 2025) .

In terms of the role of Islamic banking in supporting national development, this law emphasises the function of Islamic banks in improving welfare distribution and social justice. Islamic banking is expected to become an instrument that is not only profit-oriented but also has a high level of social responsibility to support sustainable economic development.

The legal implementation of the Islamic Banking Law also demonstrates openness to the development of Islamic financial products and innovations while upholding the principles of prudence and compliance with Islamic law. This allows Islamic banking to thrive amid the ever-changing dynamics of the economy and technology, provided it remains within the legal framework and the strictly regulated values of Islamic law (Azizah, 2021) .

Finally, a legal analysis of the Islamic Banking Law reveals that although there are already comprehensive regulations in place, continuous evaluation and refinement are necessary to adapt to market developments, public needs, and socio-economic changes. The government and regulators need to strengthen synergies with religious institutions and industry players to ensure the effective implementation of this law and its optimal benefits for the national financial system and the broader public.

Legal Analysis of the Compilation of Sharia Economic Law as a Foundation for Strengthening the National Financial System

The Compilation of Sharia Economic Law (KHES) is a legal product formalised by the Supreme Court through Supreme Court Regulation No. 2 of 2008, serving as a special legal guideline for resolving sharia economic cases arising in religious courts. The KHES was established to fill the legal vacuum in the practice of sharia economic dispute resolution () in Indonesia, which has grown rapidly alongside the increasing activities of sharia economy and finance. The function of KHES as a normative foundation provides legal certainty and consistency in the resolution of Islamic economic disputes, thereby strengthening the national legal system that is conducive to the principles of Islamic law (Government of the Republic of Indonesia, 2008) .

Legally, KHES occupies the position of *lex specialis* that applies specifically in the context of Islamic economics, while also serving as a legal instrument that complements other laws and regulations such as the Civil Code (KUHPer), the Islamic Banking Law, and the fatwas of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI). The status of KHES as a product of the Supreme Court affirms its legal binding nature for religious court judges and legal entities subject to the national legal system, although it is not yet at the level of a law (Trinita, 2025) .

KHES serves as the primary pillar for judges in resolving sharia economic disputes by detailing provisions consistent with sharia principles, including contract rules, prohibitions on usury (*riba*), uncertainty (*gharar*), and gambling (*maysir*), as well as regulations governing various sharia economic instruments such as *musyarakah*, *mudharabah*, *ijarah*, and *kafalah*. Thus, KHES not only provides technical guidelines for judges but also strengthens the legal dimension in implementing Islamic law constitutionally in Indonesia .

One of the key aspects of KHES is its legal legitimacy, derived from its official publication in the State Gazette and its recognition within the hierarchy of legal regulations, equivalent to implementing regulations under the law. This position enables KHES to serve as the primary reference in legal decision-making without conflicting with higher legal norms, provided it remains consistent with the 1945 Constitution and applicable laws (Kurniawan, 2021) .

The implementation of KHES in religious courts in Indonesia demonstrates that this instrument plays a significant role in enhancing the efficiency and consistency of decisions in sharia economic cases. However, in practice, there are still variations in the use of KHES in some regions, influenced by judges' interpretations and the availability of other legal sources such as fatwas from the DSN-MUI. This highlights the need to strengthen the socialisation and integration of KHES so that it can become a universal and effective legal guideline (Wahyudin Darmalaksana, 2023) .

The role of KHES is also strategic in strengthening the national sharia-based financial system by providing a clear and measurable legal framework for various sharia

financial transactions and products. The availability of detailed and integrated regulations enables industry players and customers to obtain legal certainty over transactions conducted, thereby enhancing public confidence and participation in the national sharia financial system (Rahayu et al., 2025).

The KHES also serves as a unifying framework for various sources of Islamic law and national law that have previously been separate in the practice of Islamic economics. This integration provides a harmonious direction for the application of Sharia principles within the context of a pluralistic national legal system, thereby reducing the potential for normative conflicts that could hinder the development of Islamic economics (Nur Hidayah, 2022).

From a substantive perspective, the KHES comprehensively regulates various Islamic economic contracts and agreements, including dispute resolution mechanisms and consumer protection in accordance with the principles of justice in Islam. This provides a solid legal foundation for strengthening the governance of Islamic banking, Islamic capital markets, and other Islamic financial institutions in supporting national financial stability and inclusion. However, after nearly two decades of implementation, the KHES faces several challenges in the context of the evolving Islamic finance industry and technology. The limited normative scope of the KHES in accommodating modern financial product innovations and the digital economy has become a critical issue that must be addressed immediately. This requires synergistic regulatory updates to maintain the relevance and effectiveness of the KHES in facing global economic dynamics (Karim, 2016).

Strengthening or revising KHES in the context of strengthening the national financial system must consider aspects of legal flexibility and adaptability to market developments, without compromising essential sharia principles. This aligns with the need to create an inclusive and socially just financial system that not only serves the Muslim community but also contributes to sustainable economic development in Indonesia (Rahmayati, 2024).

Legally, it is also important to consider collaboration between Islamic financial regulators, judicial institutions, academics, and practitioners in developing KHES as a living and responsive legal instrument. The participation of various stakeholders can enrich regulations with contextual understanding and simultaneously improve compliance with Sharia law and positive law (Hasan, 2023).

KHES further plays a crucial role in bridging classical Islamic law with contemporary legal challenges faced by the national financial system, such as risk management, corporate governance, and consumer protection. The development of a robust Islamic economic law based on KHES can strengthen the legal foundation for Islamic banking and Islamic financial institutions in carrying out their economic functions with justice and transparency (Istiqomah, 2025). Additionally, KHES contributes to enhancing the harmonisation of national law with Islamic law, which is an imperative in

Indonesia's multi-layered and pluralistic legal system. KHES functions as a *lex specialis* that not only accommodates Islamic law but also aligns with the principles of national and international law that are in force (Basri, 2017).

Thus, a legal analysis of KHES shows that although it is not a formal legislative product like a law, KHES has significant and strategic legal force in strengthening the national sharia-based financial system. The existence of KHES enriches the national legal system with rules that are relevant and adaptive to the needs of the sharia economy in the modern era.

Ultimately, the strengthening and development of KHES must be a priority in the national legal agenda to ensure the sustainability and strengthening of an inclusive, stable, and socially just national financial system, in accordance with the values of Sharia and Pancasila as the foundation of the Indonesian state.

Conclusion

A legal analysis of the implementation of the Sharia Banking Law and the Compilation of Sharia Economic Law shows that both legal instruments play a strategic role in strengthening the national financial system in Indonesia. The Sharia Banking Law provides a clear and strong legal basis for the operationalisation of sharia banking, ensuring compliance with sharia principles and protecting the interests of customers and financial institutions. This regulation is important in ensuring that sharia banking operates legally and ethically, as well as supporting broader financial inclusion in society.

Meanwhile, the Compilation of Sharia Economic Law serves as a normative guideline that complements and harmonises sharia economic practices within the national legal framework. The KHES provides legal certainty in the settlement of sharia economic disputes and is an important legal instrument for religious courts and sharia financial industry players. The existence of KHES strengthens the governance and integrity of the Islamic-based financial system, while also serving as a bridge for harmonisation between Islamic law and the pluralistic national law in Indonesia.

Overall, the integration and strengthening of the implementation of the Islamic Banking Law and the Compilation of Islamic Economic Law simultaneously can improve stability, inclusion, and fairness in Indonesia's national financial system. However, the implementation of these regulations needs to be continuously updated and adapted to the dynamics of economic and technological developments to remain relevant and effective. The government and stakeholders must collaborate in strengthening the legal framework and practices of Islamic finance to optimise and sustain its contribution to national economic development.

References

- Amin, M. (2020). Peran Dewan Pengawas Syariah dalam Menjamin Kepatuhan Syariah Lembaga Keuangan Syariah. *Jurnal Ekonomi Dan Hukum Islam*, 8(2), 121–134.
- Anshori, A. G. (2020). *Perbankan Syariah di Indonesia*. Gadjah Mada University Press.
- Azizah, S. N. (2021). Indonesian Sharia Banking Law Politics Through Mergers and Digitalization. *Proceedings of the 4th International Conference on Law, Social Science, Economics, and Education*, 246–252. <https://doi.org/10.2991/assehr.k.211223.048>
- Basri, H. (2017). Analisis Yuridis terhadap Penyelesaian Sengketa Ekonomi Syariah di Indonesia. *Jurnal Hukum & Pembangunan Islam*, 9(1), 45–56.
- Bolderston, A. (2008). Writing an Effective Literature Review. *Journal of Medical Imaging and Radiation Sciences*, 71–76.
- Eliyah, E., & Aslan, A. (2025). STAKE'S EVALUATION MODEL: METODE PENELITIAN. *Prosiding Seminar Nasional Indonesia*, 3(2), Article 2.
- Haikal, M., Akbar, K., & Efendi, S. (2024). Prinsip-prinsip hukum ekonomi syariah dalam Undang-Undang Perbankan Syariah. *MAQASIDI: Jurnal Syariah Dan Hukum*, 1(1), 26–39.
- Hasan, Z. (2023). An Analysis of the Indonesian Sharia Banking Roadmap 2020-2025: Background, Policies, and Implementation. *OJIMF: Online Journal of Islamic Management and Finance*, 3(1). <https://doi.org/10.17576/ojimf-2023-0301-09>
- Havis, A. (2025). Manajemen Risiko dalam Perbankan Syariah: Regulasi dan Implikasi Prudential. *Ekonomika Sharia: Jurnal Pemikiran Dan Pengembangan Ekonomi Syariah*, 10(2). <https://doi.org/10.36908/esha.v10i2.1017>
- Hidayah, N. (2022). *Ekonomi Syariah di Indonesia: Tinjauan Aspek Hukum*. Penerbit Independen.
- Huda, N. (2025). Sharia Compliance and Innovation in Indonesian Banking Regulation. *Jurnal Ilmiah Ekonomi Islam*, 11(2). <https://doi.org/10.29040/jiei.v11i2.5016>
- Istiqomah, N. (2025). Analisis Penerapan Manajemen Keuangan Syariah dalam Perbankan Indonesia Berdasarkan Regulasi yang Berlaku. *Jurnal Nuansa*, 3(2), 48–61.
- Karim, A. A. (2016). *Ekonomi Mikro Islam*. Rajagrafindo Persada.
- Komite Nasional Ekonomi dan Keuangan Syariah (KNEKS). (2024). *Literasi dan Inklusi Ekonomi dan Keuangan Syariah Indonesia*. KNEKS.
- Kurniawan, D. (2021). Harmonisasi Hukum Perbankan Syariah dengan Hukum Nasional. *Jurnal Hukum Dan Perbankan*, 5(1), 14–27.
- Muallif. (2022). *Lembaga Keuangan Syariah: Pengertian, Fungsi, dan Prinsip Operasional*. An-Nur Press.
- Mubarok, A. (2022). *Prinsip-Prinsip Dasar Hukum Ekonomi Syariah*. Pustaka Setia.
- Nafi'an, Z. I., & Yunus, M. (2025). Konstruksi Hukum Riba dan Bunga Bank: Implikasi Terhadap Regulasi Perbankan Syariah di Indonesia. *Mutawasith: Jurnal Studi Islam*, 9(2). <https://doi.org/10.31849/mutawasith.v9i2.4797>
- Narud, A. (2025). The Legal Framework of Shariah Banking in Indonesia. *Sharia Oikonomia Law Journal*, 3(1), 116–126. <https://doi.org/10.70177/solj.v3i1.2082>
- Nur Hidayah. (2022). *Ekonomi Syariah di Indonesia: Tinjauan Aspek Hukum*. Penerbit Independen.

- Nurfadilla, K., Mira, & Ilham. (2025). Prinsip—Prinsip Hukum Perbankan Syariah. *Jurnal Inovasi Ekonomi Syariah Dan Akuntansi*, 2(3), 73–87. <https://doi.org/10.61132/jiesa.v2i3.964>
- Otoritas Jasa Keuangan (OJK). (2020). *Roadmap Perbankan Syariah 2020-2025*. OJK.
- Pemerintah Republik Indonesia. (2008). *Undang-Undang Nomor 21 Tahun 2008 tentang Perbankan Syariah*. Republik Indonesia.
- Pemerintah Republik Indonesia. (2020). *Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja*. Republik Indonesia.
- Rahayu, S. K., Komala, & Yusuf, I. (2025). Enhancing Islamic Banking through Regulatory Reform: Lessons from Indonesia. *Australasian Accounting, Business and Finance Journal*, 15(3). <https://doi.org/10.35845/aabfj.v15i3.1543>
- Rahman, F. (2020). Urgensi Legalitas Lembaga Keuangan Syariah dalam Sistem Hukum Nasional. *Jurnal Legislasi Indonesia*, 17(3), 208–220.
- Rahmayati, R. (2024). Comparative Study of Islamic Banking Regulations: Indonesia and Malaysia. *Jurnal Legalitas Global*, 8(2). <https://doi.org/10.31315/jlg.v8i2.1881>
- Trinita, C. H. (2025). Implementasi Hukum Ekonomi Syariah Dalam Regulasi Perbankan Syariah di Indonesia. *Media Hukum Indonesia*, 2(7), 61–66.
- Wahyudin Darmalaksana. (2023). *Filsafat dan Politik Islam*. Penerbit Lokal.