

## Sharia certification standards: a case study of sharia certification in sharia hotels

Rasmuddin<sup>1</sup> and Wahyudi Umar<sup>2</sup>✉

<sup>1</sup>Faculty of Law, Universitas Haluoleo, Kendari, Indonesia

<sup>2</sup>Faculty of Law, Universitas Muhammadiyah Kendari, Kendari, Indonesia

✉ wahyudi.umar@umkendari.ac.id

### Article info

Submitted:  
2022-January-09

Reviewed:  
2022-January-25

Accepted:  
2022-February-22



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### Publisher

Universitas Muhammadiyah  
Magelang

**Keywords:** Concept of  
Islamic Economic, Sharia  
Certification, Business  
Activity, MUI

### ABSTRAK

Kegiatan ekonomi yang dilakukan manusia menurut pandangan Islam pada dasarnya merupakan realisasi tugas dan fungsi manusia sebagai khalifah Allah (*khalifatullah*) di muka bumi. Kegiatan ekonomi dianggap sebagai sarana untuk memenuhi kebutuhan hidup yang tidak hanya bertujuan untuk memenuhi kebutuhan materi di dunia ini tetapi merupakan aktualisasi dari bentuk pengabdian kepada Allah SWT yang bermuara pada harapan memperoleh keridhaan-Nya di akhirat. Sertifikasi syariah dalam kegiatan usaha syariah diyakini dapat menjaga kepercayaan pasar, meningkatkan daya saing dan eksistensi dalam persaingan bisnis. Tulisan ini bermaksud untuk memperkenalkan konsep ekonomi syariah dan menegaskan standar sertifikasi syariah dalam kegiatan bisnis hotel syariah. Penelitian ini merupakan penelitian hukum normatif dengan menggunakan tiga pendekatan, yaitu pendekatan undang-undang, pendekatan kasus, dan pendekatan konseptual. Data dikumpulkan dari buku, jurnal, undang-undang, dan peraturan terkait. Hasil penelitian menunjukkan bahwa standar sertifikasi syariah dalam kegiatan usaha hotel syariah harus sesuai dengan pedoman syariah yang ditetapkan oleh Majelis Ulama Indonesia (MUI). Sertifikasi syariah dalam kegiatan usaha harus diawali dengan adanya pengaturan sertifikasi syariah untuk kegiatan usaha dalam berbagai peraturan perundang-undangan, berupa pencantuman ketentuan sertifikasi syariah dalam kegiatan usaha dalam undang-undang perseroan terbatas, undang-undang tentang perlindungan konsumen, undang-undang tentang Merek, atau adanya Undang-Undang baru tentang Penjaminan Usaha Syariah sebagaimana adanya Undang-Undang nomor 33 Tahun 2014 tentang Jaminan Produk Halal.

Kata Kunci: Konsep Ekonomi Syariah, Sertifikasi Syariah, Kegiatan Usaha, MUI

### ABSTRACT

Economic activities carried out by humans according to the Islamic view are basically the realization of the duties and functions of humans as the caliph of Allah (*khalifatullah*) on Earth. Economic activity is considered as a means to fulfill the course of life which not only aims to fulfill material needs in this world but is the actualization of a form of devotion to Allah SWT which leads to the hope of obtaining His pleasure in the hereafter. Sharia certification in sharia business activities is believed possibly maintain the market trust, increase competitiveness and existence in business competition. This paper intends to introduce the concept of Islamic

economics and assert the standards of Sharia certification in Sharia hotel business activities. This research is normative legal research using three approaches, namely, the statute approach, the case approach, and the conceptual approach. Data is collected from books, journals, related laws, and regulations. The results of the study show that the standard of Sharia certification in business activities for Sharia hotels must comply with Sharia guidelines determined by the Indonesian Ulema Council (MUI). Sharia certification in business activities should begin with the presence of sharia certification arrangements for business activities in various laws and regulations, in the form of including provisions for sharia certification in business activities in the law on limited liability companies, the law on consumer protection, the law on Brands, or the presence of a new Law concerning Sharia Business Guarantee as the presence of Law number 33 of 2014 concerning Halal Product Guarantee.

## I. INTRODUCTION

Economic activities carried out by humans according to the Islamic view are basically the realization of the duties and functions of humans as the caliph of Allah (*khalifatullah*) on Earth. The human function is to process and utilize nature in its entirety for mutual prosperity and welfare as a mandate from Allah SWT. Economic activity is considered as a means to fulfill the course of life (*wasilah al-hayah*) which not only aims to fulfill material needs in this world, but is the actualization of a form of devotion to Allah SWT which leads to the hope of obtaining His pleasure in the hereafter ([Djamil, 2014](#)). In the Islamic law, especially in the economic field, directs the behavior of individuals and communities on the path of how to fulfill their needs and how to use existing resources ([Shomad, 2010](#)).

The economic and political crises since 1997, which have not yet fully recovered, have created a new agenda for Indonesia at that time, namely economic recovery ([Fahamsyah, 2015](#)). Erman Rajagukguk stated that the Indonesian economic crisis was partly due to the occurrence of moral hazard in various economic and political sectors. The problem of moral hazard is quite broad and deep. On a broad scale, moral and ethical factors must be included as important economic variables, especially in economic and business behavior patterns ([Rajagukguk, 2006](#)).

In a crisis like 1997 which was followed by an economic and financial crisis, it had a direct impact on Indonesia. This situation not only causes capital flows abroad, but also reluctance in Indonesia. In other words, the existing situation is not conducive and favorable for investment activities, both in the form of direct investment and indirect investment (portfolio investment) made through the capital market and money market ([Supanca, 2005](#)).

The decline in investment activities in Indonesia certainly has a very detrimental impact on the Indonesian nation and state. The poverty rate has moved very quickly, from around 14 million (before the crisis) to around 50 million in 1999. Meanwhile, the Central Statistics Agency report in 2004 showed that the poverty rate in Indonesia reached 16.4% or around 36.1 million people. The unemployment rate in 2004 was also quite high, reaching 40 million people, of which 10.3 million people or equivalent to 9.9% of the workforce. It is

estimated that every year there will be around 2.5 million new laborers entering the labor market and to absorb it, a minimum economic growth of 6% is required.

While the giant banks experienced severe downturns that ended in liquidation, some other conventional banks had to be recaptured by the government in large amounts. APBN funds that should be prioritized for alleviating people's poverty but are used to help conventional banks ([Mardani, 2011](#)). One of the important solutions that the government must pay attention to in recovering the Indonesian economy is implementing a sharia economy. Islamic economics has a strong commitment to poverty alleviation, justice enforcement, economic growth, the elimination of usury, and the prohibition of currency speculation to create economic stability.

This is indicated by the fact that the total assets of the Islamic finance industry have grown rapidly over the last few decades. Assets reached USD 1.6 trillion at the end of 2012 increasing to 20.4% compared to the previous year ([IFSB, 2013](#)), and is expected to reach USD 1.9 trillion ([Damayanti, 2016](#)).

Sharia economic is an act or business activity carried out according to sharia principles, including ([Elucidation of Article 49 Letter \(i\) Law Number 3 of 2006 on Religious Courts, 2006](#)):

- a. Islamic bank;
- b. Sharia insurance;
- c. Sharia reinsurance;
- d. Sharia mutual funds;
- e. Sharia bonds and medium-term sharia securities;
- f. Sharia securities;
- g. Sharia financing;
- h. Sharia pawnshops;
- i. Sharia financial institution pension fund;
- j. Sharia business; and
- k. Islamic microfinance institutions.

Muliaman D. Hadad explained that in the two decades of development since the birth of the first Islamic bank in the country, the Islamic financial system has developed rapidly. Not only sharia banking, but also sharia non-bank financial industry, such as sharia insurance, sharia pension funds, sharia financing companies, sharia bonds (*sukuk*), sharia mutual funds, and other sharia capital market activities. Furthermore, the sharia system has also penetrated the real sector with the presence of several types of sharia businesses which include halal food and medicine, Islamic fashion, and even sharia tourism ([Hadad, 2015](#)).

Along with the rapid development of the sharia system in various types of businesses, the development of sharia labels in the business world in Indonesia has now become a separate

trend. This is understandable, because the need for sharia products is the effect of the increasing level of public awareness, especially consumers who are Muslim, against Islamic laws and provisions in their life ([Basalamah, 2011](#)).

In addition, the Muslim market share is a very large market, especially in the ASEAN market with the largest Muslim population today. Therefore, it is not uncommon for us to meet several world companies that have taken advantage of the sharia concept itself in their business, for example HSBC with 'HSBC Amanah', or Citibank with 'Citibank Berhad'. Likewise, banks in Indonesia, such as the Sharia State Savings Bank, Sharia Bukopin Bank, Indonesian Sharia Bank, and so on have carried the sharia label, even various other types of businesses, as described above have also carried the sharia label.

However, the results of comparative observations between Islamic banks and conventional banks, sharia insurance with conventional insurance, sharia MLM (multi level marketing) with conventional MLM, sharia supermarkets with conventional supermarkets conducted by Azhari Akmal Tarigan shows that:

1. The concept of sharia understood by the business institution still seems partial. Not kaffah (total), syumul (all-encompassing) and comprehensive.
2. Sharia seems to be used more as a brand or company brand. Sharia has not fully become the spirit of the organization or business institution.
3. fostering the emotional and spiritual aspects of employees seems to be ignored by the leadership and seems to be considered unrelated to the company.
4. It seems that we also don't have a syar'i service SOP. This is what sharia economists must formulate ([Tarigan, 2014](#)).

According to Azhari Akmal Tarigan, if the above matters are not immediately addressed, the existence of institutions bearing the sharia label will only make Islam's image worse. Sharia business institutions must be aware that one of their functions is *da'wah bi al-hal* (*da'wah* with real actions). they become the cover of Islam itself. Azhari Akmal Tarigan emphasized that if the appearance and services provided by the bearers of the sharia label were not good, unprofessional, then people would be easy to stigmatize Islam. In fact, they must show that Islam teaches its people to be professional in carrying out any task.

With the business institutions carrying the sharia label not fully running their business according to Islamic teachings, apart from being able to make the image of Islam worse, the existence of institutions carrying the sharia label can also harm consumers from the aspect of fulfilling consumer rights as regulated in article 4 letter a. Law Number 8 of 1999 concerning Consumer Protection, which states that consumer rights are the rights to comfort, security and safety in consuming goods and/or services ([Article 4 Letter a Law Number 8 of 1999 on Consumer Protection, 1999](#)).

In connection with the previous description, it is time for sharia certification in business activities to be carried out, such as halal label certificates on food products. Sharia certification is intended to maintain the image of Islamic teachings, as well as provide

certainty to consumers that a business activity has been carried out in accordance with Islamic law.

Another advantage gained from certification is market and consumer confidence in the company. For example, if a food company has been certified to ISO 9001 then we can be more relaxed when we eat the food because we know that quality control when the raw materials are taken, delivered, processed, packaged, and served has gone well which will certainly be good ([Putra, 2020](#)).

Thus, sharia certification for business activities is believed to be able to maintain market and consumer confidence in the company, so that it can encourage sharia-labeled business activities to compete and exist during increasingly fierce business competition.

In relation to sharia certification in business activities, the following legal issues need to be studied more deeply to find legal arguments through analysis of legal materials covers the standards that must be met by business activities to obtain a sharia label certificate and the availability of authorized institutions to certify sharia labels for business activities.

## II. RESEARCH METHOD

Based on the legal issues that will be studied in this research, the research that will be conducted in this research is normative legal research. The determination of the type of research is based on the consideration that the orientation of this study is more intended to find legal rules, legal principles, and legal doctrines to answer the legal issues faced, especially those related to sharia certification in business activities ([Marzuki, 2011](#)).

## III. RESULT AND DISCUSSION

### 3.1. Terminology Regarding Business Terms

The term "business" comes from the word business (English) which means business activity. Therefore, business activities are broadly defined as business activities carried out by people or business entities (companies) on a regular and continuous basis, namely in the form of activities to procure goods or services as well as facilities to be traded or leased with the aim of to get profit ([Asyhadie, 2005](#)).

Richard Burton Simatupang in Zaeni Asyhadie revealed that, activities or businesses in this business field can be distinguished in the following three areas:

1. Business in the sense of trading activities (commerce), namely all buying and selling activities carried out by individuals or entities, both at home and abroad or between countries for the purpose of obtaining profits. Examples for this activity are being a dealer, agent, wholesaler, shop, and so on.
2. Business in the sense of industrial activity, namely the activity of producing or producing goods or services whose value is more useful than the origin. Examples for this activity are the agricultural industry, plantations, mining, cement factories, clothing, and so on.

3. Business in the sense of activities carrying out services, namely activities that carry out or provide services that are carried out either by individuals or by an entity. Examples for this activity are conducting activities for hospitality, consulting, insurance, tourism, lawyers, accounting, and so on.

### 3.2. Sharia Economics Concept

Sharia economics is a business or activity carried out by individuals, groups of people, business entities that are legal entities or not legal entities to meet commercial and non-commercial needs according to sharia principles ([Article 1 Point 1 Supreme Court Regulation No 2 of 2008 on the Compilation of Sharia Economic Law, 2008](#)). According to Muhammad Abdullah al-'Arabi, Islamic economics is a set of general economic principles that we conclude from the Qur'an and as-Sunnah, and is an economic building that we build on the basis of these basics according to each environment and era ([Al-Assal & Karim, 1980](#)).

Meanwhile, according to Zainuddin Ali, Islamic economics is a collection of legal norms sourced from the Qur'an and al-Hadith that regulates the economy of mankind ([Ali, 2008](#)). M. Furthermore, M.A. Manan said, Islamic economics is a social science that studies people's economic problems inspired by Islamic values ([Mannan, 1992](#)). The definition of Islamic economics according to terms (terminology) is also put forward by several Islamic economists as follows ([Adul, 2012](#)):

- 1) Yusuf Qardhawi gives an understanding of Islamic economics as an economy based on God. This system starts from Allah, aims at to Allah, and uses means that cannot be separated from Allah's sharia.
- 2) Umer Chapra, in depth explains that Islamic economics as a branch of science that helps to realize human well-being through the allocation and distribution of scarce resources in accordance with al-'iqtisad al-sharia or the goals set by the shari'a, without unduly curbing individual freedom, creating macroeconomic and ecological imbalances, or undermining family and social solidarity. and the moral fabric of society.
- 3) According to Baqir Sadr, Islamic economics is a teaching or doctrine and not just pure economics, because what is contained in Islamic economics aims to provide the best life solution.
- 4) M. Syauqi Al-Faujani provides an understanding of Islamic economics with all economic activities and their rules based on the main points of Islamic teachings on economics.

### 3.3. Principles and Characteristics of Islamic Economics

The Islamic banking and financial system are part of a broader concept of Islamic economics whose aim is to introduce Islamic values and ethical systems into the economic environment. According to Zainul Arifin in his writings on the Operational Principles of Islamic Banks, the general principles of Islamic economics include:

- 1) In Islamic economics, various types of resources are seen as gifts or entrusted by God to humans. Humans must use it as efficiently and optimally as possible in production to meet the common welfare in the world, namely for themselves and others. But the most important thing is that these activities will be accounted for in the hereafter.
- 2) Islam recognizes private ownership within certain limits, including ownership of the means of production and factors of production. First, individual ownership is limited by the interests of society, and second, Islam rejects any illegally earned income, let alone any attempt to destroy society.
- 3) The main driving force of Islamic economics is cooperation. A Muslim, whether he is a buyer, seller, wage earner, profit maker and so on, must adhere to the demands of Allah SWT in the Qur'an.
- 4) Ownership of personal wealth must act as productive capital which will improve the welfare of the community. The Islamic economic system rejects the accumulation of wealth that is controlled by a few people. This concept contrasts with the capitalist economic system, where industrial ownership is dominated by monopolies and oligopolies, including industry which is in the public interest.
- 5) Islam guarantees community ownership, and its use is planned for the benefit of the people.
- 6) Muslims must fear Allah and the hereafter; therefore, Islam denounces excessive profit, dishonest trade, unfair treatment, and all forms of discrimination and oppression.
- 7) A Muslim whose wealth exceeds a certain level (*nisab*) is obliged to pay *zakat*. *Zakat* is a means of distributing some of the wealth of the rich (as a sanction for the possession of these assets), which is intended for the poor and those in need.
- 8) Islam forbids any interest payments (*riba*) on various forms of loans, whether the loans come from friends, individual companies, governments, or other institutions ([Arifin, 2000](#)).

In line with Zainul Arifin, Sjaichul Hadi Permono in one of his works, "Formula Zakat Towards Social Welfare" identifies several principles of Islamic economics, namely:

- 1) The principle of Justice, covering all aspects of life, is an important principle, as Allah commands to do justice among human beings in many verses, among others. "Verily Allah commands (you) to do justice and do good... (an-Nahl: 90) "O you who believe, let you be those who always uphold (the truth) for the sake of Allah, be witnesses with justice. And do not ever your objects against a people, encourage you to act unjustly. Be fair because it is fair it is closer to piety" (al-Maidah: 8). So that the treasure does not circulate only among the rich among you (a-Hashr: 7)
- 2) (The principle of *al-ihsan* (doing good), giving benefits to others more than the rights of the other person.

- 3) The principle of *Al Mas'uliyah* (accountability, accountability), which includes various aspects, namely: accountability between individuals and individuals (*Mas'uliyah al-afrad*), accountability in society (*mas'uliyah al-mujtama'*). Humans in society are required to carry out their obligations for the creation of the welfare of community members as a whole and the responsibility of the government (*mas'uliyah al-daulah*), this responsibility is related to *baitulmal*.
- 4) The principle of *Al Kifayah* (sufficiency), the main purpose of this principle according to Sjaichul Hadi Permono is to eradicate poverty and fulfill the primary needs of all members in society.
- 5) Principle of Balance The principle of *Al Wasathiyah* (*al-I'tidal*, moderate, balance), Islamic law recognizes personal rights with certain limits. Sharia determines the balance of individual interests and the interests of society. This can be seen from several words of Allah which means, "And do not make your hands shackled around your neck (too stingy) and do not extend it too much (too generously) because of that you will be blamed and regretful. (al-Ishra ' : 29). And those who when they spend (wealth) they are not extravagant, and not (also) stingy, and are (the spending) in the midst of such things (al-Furqan: 67)". Verily, the squanderers of wealth are the brothers of Satan, and Satan is a complete disbeliever in his Lord. (al-Isyra'27). And do not be extravagant, verily Allah does not like those who are extravagant" (al-An-am 141)
- 6) The Principle of Honesty and Truth. This principle is the foundation of good morals.
- 7) The principle of dubious transactions is prohibited, the transaction contract must be firm, clear, and certain. Both the object that is the object of the contract, as well as the price of the item in the contract.
- 8) The principle of adverse transactions is prohibited. Every transaction that harms oneself as well as a second party and a third party is prohibited. As the Messenger of Allah said: "You must not harm (harm) yourself and you must not harm (harm) others."
- 9) The principle of prioritizing social interests. This principle emphasizes the importance of common interests that must take precedence without causing individual harm. As the rules of fiqhiyah: "If there is a conflict between the social benefit and the benefit of the individual, then social interests are prioritized."
- 10) Benefit Principle. Transaction objects must have benefits, transactions against objects that are not useful according to the Shari'a are prohibited.
- 11) The principle of transactions that contain usury is prohibited.
- 12) The principle of like and like (mutually willing, between taradhin). This principle is based on the word of Allah: "O you who believe, do not eat each other's property in a vanity way, except by way of commerce which is consensual between you ..."



(an-Nisa' 29). This principle is also based on the hadith of the prophet: "It is nothing but buying and selling it must be through a consensual way (HR. Ibn Majah).

- 13) The principle of no coercion. Everyone has free will in determining the contract, without being subject to any transaction coercion, except for things that are required by the norms of justice and the benefit of society ([Permono, 2005](#)).

Furthermore, Mardani explained, there are several features and characteristics of Islamic economics that are different from the conventional economic system, which are as follows:

1. Islamic economics is an inseparable part of the whole and comprehensive concept of Islam.
2. Sharia economic activity is a form of worship.
3. The Islamic economic order has a very noble purpose.
4. Sharia economy is a system that has inherent supervision rooted in faith and responsibility to Allah (*muraqabatullah*).
5. Sharia economics is a structured system. Between individual benefit and public benefit ([Izzan & Tanjung, 2007](#)).
6. Wealth belongs to God and man as caliph over property.
7. The economy is bound by faith, sharia (law), and morals.
8. Balance between spiritual and material.
9. Individual freedom is guaranteed by Islam.
10. The state is empowered to intervene in the economy
11. Guidance on consumption.
12. Investment guide.
13. *Zakat*.
14. The prohibition of riba ([Rivai & Buchari, 2009](#)).

### **3.4. Standards and Institutions Authorized to Provide Sharia Certification for Business Activities**

Sharia hotel is an accommodation service that operates and adheres to the guiding principles of Islamic teachings. Operationally, the services provided at sharia hotels are of course almost like conventional/non-sharia hotels in general. However, this hotel concept balances the spiritual aspects of Islam that apply in its management and operation. In layman's view, sharia hotels are sometimes still considered as a service business that is only devoted to the Muslim market. Whereas sharia hotels are accommodations that also operate 24 hours and are open to all groups, both Muslim and non-Muslim communities.

The general sharia signs in running an economic business, including the hotel business, include: (1) not producing, trading, providing, or renting out products or services which are wholly or partly prohibited by sharia provisions. As in the case of food, containing elements of pork, alcoholic beverages, gambling, adultery, and the like; (2) does not contain

elements of tyranny, evil, disobedience or misguidance which are prohibited in sharia principles, either directly or indirectly; (3) there is also no element of fraud, fraud, lies, ambiguity, excessive and dangerous risk; and (4) there is a comprehensive and consistent commitment in carrying out the agreement agreed between the parties concerned.

Several hotels that have been running are trying to change their conventional system and turn their business into a sharia hotel. For example, the Hotel Sofyan Group, which has been running since 1998, succeeded in transforming from a conventional hotel into a sharia hotel in 2003. The initial steps taken by the Sofyan hotel included: eliminating bars and night clubs, eliminating alcoholic beverages, eliminating massage parlors, and selecting hotel guests, especially guests in pairs must be those who are officially husband and wife.

The institution that can be given the authority to conduct Sharia certification is the Indonesian Ulema Council by including representatives of the institution as a team that is adapted to the field of business activity to be certified.

#### **IV. CONCLUSION**

Sharia Certification Standards for Business Activities (Sharia Certification Case Studies for Sharia Hotels), which must comply with sharia guidelines, including: (1) not producing, trading, providing, or renting products or services which are wholly or partly prohibited by sharia provisions, such as not producing, trading, or providing food containing pork, alcohol, or not providing, or renting out products or services, such as gambling, adultery, and the like; (2) does not contain elements of tyranny, evil, disobedience or misguidance which are prohibited in sharia principles, either directly or indirectly; (3) there is also no element of fraud, fraud, lies, ambiguity, excessive and dangerous risk; and (4) there is a thorough and consistent commitment in carrying out the agreement agreed between the parties concerned. Meanwhile, the institution authorized to provide Sharia Certification for Business Activities (Case Study of Sharia Certification for Sharia Hotels), is the Indonesian Ulema Council by including representatives of the institution as a team that is adapted to the field of business activity to be certified.

Sharia certification in business activities should begin with the presence of sharia certification arrangements for business activities in various laws and regulations, in the form of including provisions for sharia certification in business activities in the law on limited liability companies, the law on consumer protection, the law on Brands, or the presence of a new Law concerning Sharia Business Guarantee as the presence of Law number 33 of 2014 concerning Halal Product Guarantee.

#### **Author Declaration**

**Author contributions and responsibilities** - The authors contributed substantially to the conception and design of the study. The author is responsible for data analysis, interpretation, and discussion of the results. The authors read and approved the final manuscript.

**Funding** – No funding information from the author

**Availability of data and materials** - All data are available from the authors.

**Conflict of interest** - The authors declare no conflict of interest.

**Additional information** - No additional information from the author.

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