

**THE REGULATION OF GREEN BANKING  
AS MAIN INDICATOR OF PRODUCTIVE FINANCING  
IN ISLAMIC BANKING**

**THESIS SUMMARY**



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The environment damage that often occurs, is not separated from human intervention, where this damage was caused from human business activity in order to get benefits. Allah SWT said in Q.S Ar-Ruum verse 41;

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمَلُوا لَعَلَّهُمْ يَرْجِعُونَ

(الروم : ٤١)

Islamic bank as a institution that takes a part in giving financing to the business doer, properly also contributes to note the environment conservation, it is in accordance with ecological development as mandated in Constitution 1945. The implementation of its principle is called by green banking that its implementation implicitly explained in PBI No.8/21/PBI/2006 and Circular Letter of Bank Indonesia No. 8/22/DPbS.

But this legislation still makes inarticulate because there is no legislation specifically regulated on green banking. Thus, raises public confusion especially Islamic banking practitioners and also customers ignored the relevant regulations of green banking.

## **RESEARCH METHOD**

Researcher choosed the exact and accurate research method. This research used juridical normative research or library reaserch that examined the law materials both in regulation and book or journal. The approach which used was statue and conceptual approach. The document of study was mostly done in data excavation. Analysis was

done by doing any interpretations as consist in law science, they are grammatical, contrastive, extensive, dan anticipation interpretation.

## **DISCUSSION**

Based on the research method above, the researcher obtained two research findings. *First*, Green banking principles are important applied in productive financing in Islamic banking, because Islamic banking is an actor of ecological development, productive financing be an instrument of control of ecological environment, and Islamic banking based on sharia principles are relevant with green banking principles. *Second*, The regulation of green banking as the main indicator of productive financing in Islamic banking is relevant with the legislation such as philosophy, sociology, and juridical. It is also in accordance with principles of regulation forcing, they are general, comprehensive, and universal.

### **Islamic Banking as Actor of Ecological Development**

Islamic banking as actor of development mean that it is one of state corporation in monetary sector that apply economic democracy principles in its activities, and one of its principle is sustainable development and ecology. So, all of kinds of Islamic banking activity should reflect that principles.

Islamic banking is an finance institution in function to smooth economy mechanism in real sector through business activity (investment, purchase, or others) based on sharia principles.<sup>1</sup> There are three main activities of Islamic banking, they are funding, financing, and service.

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<sup>1</sup>Ascarya, *Akaddan Produk Bank Syariah* (Jakarta: PT Raja Grafindo Persada, 2006), p.30.

Besides hold on sharia principles, Islamic banking also hold on economic democracy and prudential principle.<sup>2</sup> Both of principles contain in Constitution 1945 that is called by Jimly Asshiddiqieas green constitution.

Among principles which is closely related with Islamic banking as endorser institution of implementation of national development are “sustainable and ecological”.

### **Productive Financing As Control Instrument of Ecological Development**

Productive financing is a financing used to increase the business production, so Islamic bank in providing funds to the business looked to environmental aspect. The only business that does have worse impact to the environment got the financing. Islamic bank also supervises the customers in the management of funds. So, Islamic bank contributes actively in environmental conservation.

In order to support green economy, Islamic bank needs to apply the green banking concept. It is a financing concept that gives the priority to aspects of sustainable, good economic, environmental, social and cultural, and simultaneously technology. So, to apply it can be done by implementating of the existing components.

### **Islamic Banking Based on Sharia Principles Relevant to Green Banking Principles**

The relevance of Islamic banking principles with green banking principles lies in the existence of similarities between the two of them, both aimed to create a sense of fairness, balance, and good for all parties. So, both have principles in rows and complement each other's to provide a better benefit for all stakeholders.

The sharia principle is the Islamic law principle in banking activities based on a *fatwa* issued by institutions who has the authority in the determining fatwa in the field

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<sup>2</sup>Article 2 Act No. 21 year 2008 on *PerbankanSyariah*.

of sharia.<sup>3</sup> Also mentioned in general explanation of Act Nomor 21 year 2008 on *Perbankan Syariah* paragraph (5) stated that “*Kegiatan usaha berdasarkan prinsip syariah yakni kegiatan usaha yang tidak mengandung unsur riba, maysir, gharar, haram, dan zalim.*”<sup>4</sup>

Article 2 of Regulation of Bank Indonesia (PBI) No. 9/19/PBI/2007 explained that in funding, financing, and service activity, Islamic banking obligate to fill sharia principles. It done by fill the main provision of Islamic law, such us justice and balance principle (*‘adlwatawazun*), beneficial (*mashlahah*), and universalism (*alamiyah*), also it does not contain of *gharar, maysir, riba, dzalim, riswah, and haram* object.

To know more about the relevancy of sharia principles and green banking principles could be seen in table as follow;

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<sup>3</sup>Articlel 1 point 12 Act No. 21 year 2008 on *Perbankan Syariah*.

<sup>4</sup>Explanation of Act No. 21 year 2008 on *Perbankan Syariah*.

**Table 1 : The similarity of syaria principles and green banking principles  
of productive financing in Islamic banking**

No.	Sharia Principles	Green Banking Principles	Fiqh Basic Principles of Environment According to Ali Yafie	Explanation
1.	' <i>Adl</i> (justice)  = Prohibition of <i>zalim</i>	<i>Customer Segment</i> (The customers segment of green banking are business entities that have concern with the environment preservation and companies that have environment certification danmemiliki in its business operational)	Production and consumption should be suitable with worthy of human needs ( <i>hadd al-kifayah</i> ).  Prohibition to exploit nature source	That the green banking principles also viewed on syariah principle namely justice. In which the business funded by banks is concerned with the environment. It does not exploit natural resources. So its production and consumption activities should be in accordance to the needs.
2.	<i>Tawazun</i> (balance)	<i>Key Activity</i> (the financing of <i>environment-friendly projects</i> )  <i>Revenue Streams</i> (sharing base on ratio)  <i>Cost Structure</i> (cost of <i>screening product</i> )	A balance of worldly and hereafter  Harmony and balance nature (ecosystem) absolute enforced.	<i>Tawazun</i> or balance also consist in green banking concept where the financing of environmentally-friendly projects also balanced with the sharing in accordance with the agreement. In addition, green banking that provide financing to environmentally-friendly business also means that bank participate in keeping a balanced ecosystem. So human beings in

				any activities not only oriented to fill the worldly needs but also prepare for hereafter life.
3.	<i>Mashlahah</i> (beneficial)	<i>Value Proposition</i> (bank that practice on environment concern will receive a place in the society and the state)	Creating the harmonic relationship between human and environment	The implementation of green banking of productive financing in Islamic bank would provide benefits for humans and environment, so the bank also will get a positive response from the society and government.
4.	<i>Alamiyah</i> (universal)	<i>Channel</i> (cooperation with many parties such of ustomers, stakeholder, government, and corporation).	Humans are the main doer of universe processing that determines the sustainability life.	The impemention of green banking needed cooperation from various parties, among customers, stakeholders, government, corporate, and environmental organization. And all these elements are humans as the main doer of universe management and environmental sustainability.
		<i>Customer Relationship</i> (build a good relationship with its customers)		
		<i>Key Partner</i> (cooperation with environmental organization)		
		<i>Key Resource</i> (the relation with human resource who work at green banking)		

5.	Sharia basic principles			
	<i>Maysir</i>	<i>revenue streams</i> (sharing base on ratio)		The productive financing in Islamic banking used a clear contract ( <i>aqad</i> ), including the sharing both of parties.
	<i>Gharar</i>	<i>Customer Segment</i> (clear the green banking financing objects)		In Islamic bank there is a screening process of financing. So it is clear what the business would be funded, including its lawful or unlawful.
	<i>Haram</i>	<i>Key Activity</i> (the financing given to green business that benefit to the customer and environment, means that it is lawful ( <i>halal</i> ) clearly).		
	<i>Zalim</i>	<i>Customer Segment</i> (green banking take part in environment conservation because it only giving financing to business that concern on environment)		There are requirements of financing agreement that should be filled by both of parties. So there aren't the negative things rise, as increasing of funds fictitiously ( <i>riba</i> ) or using of funds improperly with agreement ( <i>dzalim</i> ).
	<i>Riba</i>	<i>revenue streams</i> (sharing base on ratio, there is not the additional out of the agreement).		



## **Philosophical Aspect of Regulation of Green Banking**

Based on philosophical aspect, then a legislation should in accordance with state's philosophy that contained nation moral values or ethics. Pancasila as Indonesia philosophy, consist of values that are been as Indonesia life view. Focusing on regulation of green banking, the suitable moral principles of pancasila are the deity and justice values.

The deity value confirmed that there has been the recognition and confidence nation against to Allah as the whole creator. This is proven by an existence of some religions which has grown and developed in Indonesia, including Islam. Islam teaches moslem to always run the religion lessons. One of Islamic lesson is protecting the environment, not makes the damage, and preserve its existence. It has been described completely in the Al-Quran and Al-Hadits as a life guideline of moslem.

Then in addition to the daity value, green banking also in accordance with justice value, as stated in the fifth moral principle of Pancasila as Indonesian goals. Every Indonesian has the right to be treated as fairly both in the field of economic, social, and law. None of the minority and majority class, so it occured to balance and harmony between rights and obligations.

### **1. Sociological aspect of regulation of green banking**

The analysis of regulation of green banking in Islamic banking sociologically is stated that regulation made should be in accordance with general belief or legal awareness of society. In the society thick with different cultures (local wisdom) that has been assumed had become a part of their life. Not a few cultural lived in society aimed to be a part of the environment as a thank to Allah. A number of culturals activities such us 'BersihDesa', 'JumatBersih', 'TanamPohon', and the others.

Thus, various social cultural in order to show the concern of environment risen. The society clean the village, cleaning the river, and supported by the government that recently had is 'TanamSejutaPohon' program. It suggests that the environment is really should be preserved, so as to smooth needed a clear regulation, no exception green banking regulation in accordance with general belief that grows in society.

## **2. Juridical Aspect of Regulation of Green Banking**

Analysis arrangement of green banking in Islamic banking juridically can be expressed that the legal basis is a main base consist in legal provisions, began the highest to the lowest grade of hierachy legislation of Indonesia. In this case the spirit of juridical of green banking have been seen in Indonesia legislations either in the form of regulation or another legislation.

## **CONCLUSION**

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