



Risk Management in Sharia Insurance: A Juridical Analysis on Legal Basis and Its Implementation

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Abstract

Sharia insurance is basically based on the principle of help-help (*ta'āwun*) known as *at-ta'mīn*, *takaful*, and *tazāmun*. In contrast to conventional insurance, sharia insurance emphasizes a mechanism of mutual protection through the management of *tabarru'* funds and the use of contracts in accordance with sharia principles. In practice, risk management in sharia insurance is not only an operational technical aspect, but also has a normatively binding legal dimension. This research aims to analyze the legal basis and implementation of risk management in sharia insurance from a juridical perspective. The research method used is normative juridical with a literature approach, through the collection of secondary data sourced from laws and regulations, fatwas of the National Sharia Council of the Indonesian Ulema Council, legal literature, and relevant scientific works. The results of the study show that risk management is an important legal instrument to anticipate uncertainty and potential losses that can hinder the achievement of sharia insurance goals. Risk is understood as uncertainty arising from internal and external factors of the institution. The implementation of risk management must be guided by the provisions of the Financial Services Authority and sharia principles to ensure legal compliance, participant protection, and the sustainability of the sharia insurance business.

I. INTRODUCTION

In Indonesia, sharia insurance has experienced significant growth in line with the development of the sharia finance industry nationally (Melati & Nurcahya, 2022). The initial milestone in the development of sharia insurance was marked by the establishment of Asuransi Takaful Indonesia on August 25, 1994, which started its operations through the Family Takaful Insurance product. The presence of this institution was then followed by the birth of various other sharia insurance companies, both in the form of life insurance and general insurance. The idea of establishing sharia-based insurance itself has emerged since the early 1990s and gained institutional legitimacy after the establishment of Bank Muamalat Indonesia in 1992 as a pioneer of Islamic banking in Indonesia (Ashshidiq & Hidayat, n.d.).

The rapid growth of the sharia insurance industry brings juridical consequences in the form of increasing the complexity of risks inherent in insurance business activities. The risk in sharia insurance is not only related to the uncertainty of

future events, but also includes potential violations of sharia principles, laws and regulations, and legal protection for participants. Therefore, risk management in sharia insurance cannot be understood solely as a managerial technical instrument, but rather as a legal obligation that must be carried out in accordance with the applicable regulatory framework (Valentino et al., 2024).

Conceptually, risk is understood as uncertainty arising from internal and external factors that can hinder the achievement of the goals of sharia insurance institutions (Mufti et al., 2025). To control these risks, a structured, consistent, and law-based risk management system is needed. In the Indonesian context, the preparation and implementation of sharia insurance risk management must be guided by the provisions set by the Financial Services Authority (OJK), as well as pay attention to sharia principles as fatwa by the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) (Widhianti & Reykasari, 2023).

Despite its great prospects, the future of sharia insurance in Indonesia is still faced with various legal and institutional challenges. On the one hand, Indonesia is a country with the largest Muslim population in the world supported by the growth of the middle class, increasing savings rates, and relatively stable economic development. On the other hand, low Islamic financial literacy, weak risk governance, and non-compliance with regulations have the potential to hinder the sustainability of the Islamic insurance industry. This condition emphasizes the urgency of regulating and implementing risk management that is not only operationally effective, but also has legal certainty and guarantees the protection of participants.

Based on this description, the study of risk management in sharia insurance is important to be analyzed from a juridical perspective, especially related to the legal basis that underlies its regulation and implementation in practice. A comprehensive understanding of risk management is expected to strengthen legal compliance, maintain the principles of justice and helpfulness, and support the realization of the goals of sharia insurance that are oriented towards the benefits in this world and the hereafter.

II. RESEARCH METHODS

The research method used in this study is normative juridical law research with an analytical descriptive nature (Mahmud Marzuki, 2005). Normative juridical research views law as a norm or rule that regulates human behavior in society, so the focus of the study is directed to the analysis of legal principles, legal systematics, and laws and regulations related to risk management in sharia insurance. An analytical descriptive approach is used to systematically describe and analyze the legal provisions that govern sharia insurance risk management without conducting empirical hypothesis testing.

This research uses a library research approach as a technique for collecting legal materials. The legal materials used consist of primary legal materials in the form of laws and regulations in the field of insurance and Islamic finance, regulations of the Financial Services Authority related to risk management, and fatwa of the National Sharia Council of the Indonesian Ulema Council. In addition, this research also uses secondary legal materials in the form of legal textbooks, scientific journals, previous research

results, and literature relevant to sharia insurance and risk management, as well as tertiary legal materials as support.

The analysis of legal materials is carried out qualitatively with legal interpretation methods, both through conceptual and statutory approaches, to obtain a comprehensive understanding of the legal basis and implementation of risk management in sharia insurance. The results of the analysis are then presented in the form of a descriptive description to draw normative conclusions.

III. RESULTS AND DISCUSSION

A. Legal Basis of Risk Management in Sharia Insurance

Sharia insurance is essentially based on Islamic law which is sourced from the Qur'an, Hadith, *ijma'*, *qiyas*, and other *ijtihad* methods such as *istihsan* and *Shar'u Man Qablana* (Darmawan, 2024). The main principles that underlie the implementation of sharia insurance are *Squirt* (help), justice, and protection of property (*Hifz al-Māl*) as part of the purpose of the Shari'ah (*Maqāṣid al-Sharī'ah*) (Suhaimi et al., 2023). In this context, risk management is a logical consequence of the obligation to maintain the trust of participants' funds and prevent losses that are not justified by sharia. Therefore, risk management cannot be separated from the principle of prudence (*Prudential Principle*) which is implicitly commanded in Islamic law.

In the national legal system, sharia insurance is subject to a positive legal framework that governs insurance business activities. Historically, insurance regulation in Indonesia has started since the enactment of the Commercial Law (KUHD), then strengthened through Law Number 2 of 1992 concerning the Insurance Business and its implementing regulations. Although the regulation does not specifically regulate sharia insurance, the general principles contained in it remain an initial reference in the implementation of the insurance business, including risk management obligations (Suratman & Junaidi, 2019).

The juridical recognition of sharia insurance has been strengthened with the issuance of Government Regulation Number 73 of 1992 concerning the Implementation of Insurance Business as amended several times, most recently by Government Regulation Number 81 of 2008. This regulation provides a legal basis for the operations of insurance and reinsurance

companies that carry out business activities based on sharia principles. One of the important aspects emphasized in the regulation is the application of the principle of prudence and balance between the company's assets and liabilities, which are substantively part of risk management (Nuridin, 2024).

In addition, the existence of the fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) is a normative foundation that is morally and operationally binding for sharia insurance. DSN-MUI Fatwa Number 21/DSN-MUI/X/2001 concerning General Guidelines for Sharia Insurance emphasizes that the implementation of sharia insurance must use contracts in accordance with sharia principles and avoid elements of gharar, maysir, and riba. The prohibition of these elements directly demands an adequate risk management system, in order to minimize uncertainty and potential speculation in the management of insurance funds (Fitriani & Nisa, 2024).

Along with the establishment of the Financial Services Authority (OJK), risk management arrangements in sharia insurance are increasingly strengthened through various OJK regulations that regulate good corporate governance (*Good Corporate Governance*) and risk management of Islamic financial services institutions. From a juridical perspective, the OJK provisions are imperative and must be complied with by all sharia insurance business actors. Failure to implement risk management not only has an impact on operational aspects, but also has the potential to cause legal consequences in the form of administrative sanctions to revocation of business licenses (Ruchiyat, 2020).

Thus, the legal basis for risk management in sharia insurance is multidimensional, which includes Islamic law as a normative foundation, positive law as a regulatory framework, as well as DSN-MUI fatwa and OJK regulations as operational instruments. The entire legal basis emphasizes that risk management is a legal obligation inherent in the implementation of sharia insurance, in order to ensure legal certainty, participant protection, and sustainability of the sharia insurance industry in Indonesia.

B. Stages of Sharia Insurance Risk Management

Risk management in sharia insurance is a systematic process and Sustainable which aims to

identify, assess, control, and respond to various potential risks that may disrupt the company's operational stability and sharia compliance. From a modern business perspective, the implementation of effective risk management allows a business entity to take risks in a measurable and rational manner, so that the risks faced do not exceed the management capacity it has (Hapsari et al., 2025). In the context of sharia insurance, this process has an additional dimension, namely the obligation to ensure that all stages of risk management are in line with sharia principles and the applicable positive legal provisions.

The initial stage in sharia insurance risk management is the identification of activity risks. At this stage, sharia insurance companies actively inventory all potential risks that can arise from their operational activities, both internal and external. The risks identified are not limited to insurance technical risks such as underwriting risk and claims risk, but also include legal risks, sharia compliance risks, operational risks, reputational risks, as well as financial risks. This identification process demands high precision because failure to recognize risks early on can lead to significant losses. In the juridical framework, risk identification is also closely related to the company's obligation to ensure that each contract, policy, and operational procedure has met legal requirements and does not contain legal defects that have the potential to give rise to disputes (Masduqie et al., 2023).

Once the risk has been identified, the next stage is to conduct a risk assessment and rating. The risk assessment aims to determine the level of urgency and priority of handling the risks that have been found. In the practice of sharia insurance, this assessment is carried out by considering the possibility of risk (probability) and the magnitude or severity of the impact or severity of the loss caused if the risk actually occurs. Risks with a high level of probability and impact will be placed as the main risk that requires immediate attention and handling. This stage is important because it allows companies to allocate resources proportionately and efficiently, while avoiding a reactive approach that has the potential to increase losses. From a legal point of view, risk assessment also functions as a form of prudential conduct that can protect companies from allegations of negligence in risk management (Aliefah et al., 2024).

The next stage is risk control, which is an effort to ensure that the risk that has been assessed can be managed within the tolerance limits acceptable to the company. In sharia insurance, risk control is not only oriented towards reducing financial losses, but also on preventing violations of sharia principles and the provisions of laws and regulations. Risk control can be carried out through the preparation of clear internal policies, strengthening the supervisory system, improving the quality of human resources, and the active involvement of compliance units and the Sharia Supervisory Board. Juridically, this stage reflects the implementation of the legal obligation of sharia insurance companies to implement good corporate governance as mandated by insurance regulations and regulations of the Financial Services Authority (Pratama & Rahmi, 2022).

If significant risks are still found in the control process, the company needs to determine the appropriate risk response. Responses to risks in sharia insurance can be carried out through a variety of approaches, depending on the level and characteristics of the risks faced. Under certain conditions, risk is acceptable as long as it is within reasonable limits and is balanced by the provision of adequate resources. In other situations, companies may choose to avoid risk by halting activities that have the potential to pose a great danger. Another alternative is to mitigate or reduce risks through activity restrictions, policy adjustments, or the implementation of a risk sharing mechanism that is in line with the principles of ta'awun in sharia insurance. Risk sharing with other parties, such as sharia reinsurance, is also a commonly used form of risk response when risks cannot be managed independently (Pratama & Rahmi, 2022).

Overall, the risk management stages in Islamic insurance demonstrate an integration between modern managerial approaches and the principles of Islamic law. The process of identifying, assessing, controlling, and responding to risks is not only an operational necessity, but also a reflection of the juridical and ethical obligations of sharia insurance companies to maintain fairness, transparency, and the benefit of the parties. With the implementation of systematic and law-compliant risk management stages, sharia insurance is expected to be able to create a protection system that is sustainable, reliable, and consistent with sharia goals (maqashid al-sharia).

C. Types of Risk in Insurance

In insurance studies, risk is a fundamental concept that is the basis for the existence of the insurance institution itself. Risk is essentially understood as a condition of uncertainty that contains the potential for financial losses in the future. The element of uncertainty and the possibility of monetary loss are two main characters that cannot be separated in the definition of risk in the insurance sector. In the context of sharia insurance, the understanding of the types of risks has a broader dimension, because in addition to considering technical and economic aspects, it must also be in line with sharia principles and a positive legal framework that governs the implementation of the insurance business (Chumaida, 2013).

One of the most fundamental types of risk in insurance practice is pure risk. This risk is characterized by the absence of the possibility of profit, since the possible outcome is limited to the occurrence of losses or the absence of anything. Pure risks arise naturally and are beyond the control of the subject experiencing them, such as the risk of accidents, fires, or natural disasters. In sharia insurance, pure risk is the most relevant type of risk to be borne through a mutual help mechanism (ta'awun), because it does not contain elements of speculation or gambling. Juridically, the guarantee against pure risk is in line with the principle of the prohibition of gharar and maysir, because the object of coverage is clear and not driven by the motive of profiting from uncertainty (Aliefah et al., 2024).

In contrast to pure risk, investment risk or financial risk is a risk that contains the possibility of loss or profit. This risk is commonly found in productive economic activities, such as investments in the capital market, commodity trading, or other business activities that are affected by price fluctuations and market conditions. In the context of sharia insurance, investment risk requires very careful management, considering that the funds managed come from participant contributions and must be invested in accordance with sharia principles (Aliefah et al., 2024). Legally, investment risk management is strictly regulated by laws and regulations and sharia fatwas, in order to prevent irregularities that can harm participants and cause legal disputes. Therefore, investment risk cannot be treated the same as pure risk, but rather must be managed through a transparent and accountable risk management mechanism.

In addition to the nature of the loss, risks can also be classified based on the subject affected, one of which is individual risk. Individual risk is directly related to a person's personal condition and his or her ability to sustain economic survival. This kind of risk includes risks that affect a person's ability to earn income, such as the risk of death, permanent disability, old age, or job loss. In sharia insurance, individual risk is the main object of protection, because it is directly related to the purpose of protecting the life and welfare of the participant (Y. J. Kurniawan & Julianto, 2023). Juridically, protection against individual risks is realized through a contract that guarantees clarity of rights and obligations, so as not to create legal uncertainty for the parties.

Risks Individuals also include risks to property, which are risks arising from the possible loss, damage, or diminishing value of a property. Property ownership inherently contains the potential for financial losses, both due to natural events and human actions. In the framework of sharia insurance, protection against property risks is carried out while still paying attention to the principles of fairness and balance between participants, so that the compensation mechanism is not exploitative. From a legal perspective, property risk management requires clarity on the object of coverage and the value of the insured, so as not to cause conflicts or disputes in the claims process (Y. J. Kurniawan & Julianto, 2023).

In addition, there is also liability risk, which is the risk arising from the legal obligation of a person or legal entity to compensate for the losses of a third party. This risk arises when an act or omission causes harm to another person, so the perpetrator is legally obliged to provide compensation. In the practice of sharia insurance, liability risk has complex juridical implications, as it is directly related to the principles of legal liability and justice (Y. J. Kurniawan & Julianto, 2023). Sharia insurance acts as a collective protection mechanism that helps participants face the burden of these responsibilities, without eliminating moral and legal obligations for the acts committed.

Thus, the grouping of risk types in insurance not only serves as a theoretical classification, but also serves as an important basis in the preparation of sharia insurance risk management strategies. A comprehensive understanding of the characteristics of each type of risk allows sharia insurance companies to design products,

contracts, and risk management mechanisms that are in accordance with the provisions of sharia law and principles. Ultimately, the right management of the types of risks will strengthen the juridical legitimacy of sharia insurance and increase public trust in the sharia-based protection system.

D. Juridical Analysis on Legal Basis and Risk Management Implementation

The urgency of risk management in sharia insurance cannot be separated from the characteristics of the insurance business itself which essentially operates in a space of uncertainty. Sharia insurance collects funds from participants with the aim of helping each other in dealing with risks, so that any potential risk that is not managed adequately not only impacts the company, but also directly affects the interests of participants and other stakeholders (Mustika et al., 2023). Therefore, risk management is a strategic instrument to balance the interests of all parties, while ensuring that the company's main objectives can be achieved responsibly and sustainably.

From a corporate governance perspective, risk management functions to supervise and ensure the optimal achievement of business objectives, including efforts to optimize company value without sacrificing the principle of prudence. By treating risk as an integral part of the managerial process, Islamic insurance companies are able to protect stakeholders from the negative impacts that can arise from business uncertainty. Effective risk management is not reactive, but proactive, because it considers potential risks from the planning stage to the implementation of business activities (RH et al., 2025). Thus, the company's strategy must be harmoniously combined with the risk management strategy, especially considering that investment activities in sharia insurance are not only limited to physical assets, but also include sharia financial instruments that have their own dynamics and risk levels.

The consistent implementation of risk management has been proven to increase the value of the company's overall activities. Islamic insurance companies that have a good risk management system tend to gain a long-term competitive advantage, because they are able to maintain financial stability, increase participant confidence, and provide fair protection for all stakeholders. A structured risk management system allows every risky activity to be carefully

evaluated by management and responsible employees, so that business decisions are not taken speculatively (Purwati, 2021). In line with Susilo and Kaho's views, the implementation of effective risk management provides strategic benefits for the company, including in identifying and utilizing opportunities, strengthening relationships with stakeholders, improving the company's image, and providing a sense of security for directors and management in carrying out their fiduciary duties.

The urgency of risk management is also getting stronger along with the increasing operational complexity of modern companies. The acceleration of global trade growth, technological advancements, and the emergence of business groups with a high level of coordination cause the risks faced by companies to become increasingly interconnected. Failures in one unit or sector can quickly impact another. In addition, increasing public knowledge and awareness of issues such as legal responsibility, consumer protection, the environment, and product standards also expands the spectrum of risks that Islamic insurance companies must face. Under such conditions, the risk management function becomes increasingly strategic and cannot be separated from other management functions (Purwati, 2021).

In the framework of Islamic thought, the urgency of risk management is in line with the principle of protection of life and property (*hifz al-nafs* and *hifz al-mal*) as part of *maqashid al-sharia* (Jauhar, 2023). Risk management in Islam is not intended to eliminate risks absolutely, but rather to control and minimize their negative impacts through rational planning and efforts. This principle emphasizes that efforts to prevent loss and destruction are justified and even recommended in Islam, as long as they are carried out in the sharia corridor and do not contain elements of *gharar*, *maysir*, or *usury*.

From a juridical point of view, the urgency of risk management in sharia insurance has gained strong legitimacy in Indonesia's positive law. Law Number 40 of 2014 concerning Insurance expressly mandates the application of the principles of prudence and risk management for all insurance companies, including sharia insurance. This provision is emphasized through various regulations of the Financial Services Authority that regulate the obligations to implement risk management, good corporate governance, and compliance functions. In this context, risk management is no longer optional,

but is a legal obligation that if ignored can lead to administrative sanctions and revocation of business licenses.

In addition, from the perspective of sharia law, the fatwa of the National Sharia Council of the Indonesian Ulema Council also places risk management as an important part of sharia insurance operations. All company activities, including fund and investment management, must be carried out transparently and responsibly so as not to harm participants (I. F. Kurniawan, 2023). Thus, risk management functions as a bridge between compliance with state law and compliance with sharia principles, resulting in the creation of a protection system that has dual legitimacy, both juridically and religiously.

The goal of sharia insurance risk management is ultimately not only directed at ensuring the company's sustainability and growth, but also to instill a sense of security and trust for participants. Through effective and efficient risk management, the company is expected to be able to maintain revenue consistency, distribute business results fairly, and fulfill the rights and interests of all stakeholders. The implementation of risk management in accordance with applicable principles and guidelines also contributes positively to strengthening corporate governance, so that sharia insurance can function optimally as an instrument of social and economic protection based on Islamic values.

Thus, the urgency of risk management in sharia insurance can not only be understood as a managerial need, but also as a juridical and ethical obligation inherent in the implementation of the sharia insurance business. The integration of legal basis, sharia principles, and effective risk management practices is the main prerequisite for realizing a sustainable, fair, and reliable sharia insurance system.

IV. CONCLUSIONS AND SUGGESTIONS

A. Conclusion

Risk management in sharia insurance is a fundamental element that determines the sustainability, credibility, and legitimacy of sharia insurance institutions, both in terms of positive law and Islamic law. Sharia insurance operates in a space of inherent uncertainty, so risk management cannot be separated from the main goal of conducting a business, which is to provide protection based on the principles of help-help (*ta'awun*), justice, and benefit for participants. Therefore, risk management is not solely

understood as a technical mechanism, but rather as a juridical and ethical obligation inherent in the operations of Islamic insurance companies.

Juridically, the application of risk management in sharia insurance has a strong legal basis in Law Number 40 of 2014 concerning Insurance and various implementing regulations issued by the Financial Services Authority. The regulation emphasizes the obligation to apply the principles of prudence, good corporate governance, and an integrated risk management system. On the other hand, the perspective of Islamic law places risk management as the embodiment of *maqashid al-sharia*, especially the protection of human property and survival, so that risk management is seen as a form of legitimate and recommended endeavor.

The discussion of the stages of risk management shows that the process of identification, assessment, control, and response to risks must be carried out systematically and continuously. Each stage is interrelated and aims to ensure that the risks faced by the company are within manageable tolerance limits. Understanding the types of risks, both pure risks, investment risks, as well as individual risks and legal liabilities, is an important basis for designing an appropriate risk management strategy that is in accordance with the characteristics of Islamic insurance.

The urgency of risk management is increasing in line with the complexity of business activities, technological developments, the globalization of trade, and the increasing demands of legal compliance and social responsibility. In this context, risk management functions as a strategic instrument to balance the interests of all stakeholders, maintain the company's financial stability, and strengthen public trust in Islamic insurance. Thus, the successful implementation of risk management not only has an impact on the company's performance, but also on the realization of the goals of sharia insurance as a fair, transparent, and sustainable protection system.

B. Suggestions

The application of risk management in sharia insurance needs to be strengthened through closer integration between the company's internal policies, government regulations, and sharia principles. Supervisory authorities are expected to be able to improve technical and operational regulations to be more responsive to

evolving risk dynamics, especially legal risks, sharia compliance risks, and investment risks. At the company level, strengthening the role of the risk management unit, compliance function, and Sharia Supervisory Board is an absolute imperative to ensure that every business decision is made carefully and responsibly.

In addition, improving the quality of human resources through continuous training in the field of risk management and sharia insurance law needs serious attention. In the future, further research is suggested to examine the gap between legal norms and risk management practices in the field, so that more applicable policy recommendations can be formulated to strengthen the sharia insurance industry in Indonesia.

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