

Muhammad, Rifqi; Hairul Azlan Annuar; Taufik, Muhammad; Nugraheni, Peni

## Article

# The influence of the SSB's characteristics toward Sharia compliance of Islamic banks

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## The influence of the SSB's characteristics toward Sharia compliance of Islamic banks

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\*Corresponding author: Rifqi Muhammad, Accounting, Universitas Islam Indonesia, Fakultas Bisnis Dan Ekonomika UII, Jalan Ringroad Utara, Condongcatur, Depok, Sleman, Yogyakarta 55283, Indonesia  
E-mail: [rifqimuhammad@uii.ac.id](mailto:rifqimuhammad@uii.ac.id)

Reviewing editor:  
Collins G. Ntim, Accounting,  
University of Southampton,  
Southampton United Kingdom

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## ACCOUNTING, CORPORATE GOVERNANCE & BUSINESS ETHICS | RESEARCH ARTICLE

# The influence of the SSB's characteristics toward Sharia compliance of Islamic banks

Rifqi Muhammad<sup>1\*</sup>, Hairul Azlan Annuar<sup>2</sup>, Muhammad Taufik<sup>3</sup> and Peni Nugraheni<sup>4</sup>

**Abstract:** This paper aims to examine the influence of SSBs' characteristics toward Sharia compliance of Islamic banks in Asia and Gulf Cooperation Council (GCC). An epistemological model of the unity of knowledge was applied to determine the contribution of SSB to the Sharia compliance of Islamic banks that can create the well-being. The samples in this study are Islamic banks in Asia and Gulf Cooperation Countries (GCC) for the period of 2010 to 2018. The characteristics of SSB consist of the number of SSB members, cross membership, level of education, expertise, remuneration and rotation. This study analyzes the data using data panel regression with software of reviews. This study finds that SSB size has negative influence while education and expertise have positive influence toward sharia compliance of Islamic banks. Meanwhile, cross membership, remuneration and rotation of SSB members do not influence sharia compliance of Islamic banks. In general, the role of SSB in carrying out the function of creating well-being for the community has not

### ABOUT THE AUTHORS

Rifqi Muhammad is an Associate Professor of Accounting at Universitas Islam Indonesia. He completed his PhD in Islamic Banking and Finance at International Islamic University Malaysia. His research interest is related to Islamic banking and finance, Islamic accounting, and Shariah audit and governance.

Hairul Azlan Annuar is an associate professor of Accounting in Department of Accounting, Kulliyah of Economics and Management Sciences, International Islamic University of Malaysia. He has published his work in a number of reputable journals as well as reviewing articles submitted for publication in such journals. His research interest lies in the area of corporate governance.

Muhammad Taufik is head of Accounting Department at University of International Batam. His research interest is related to Islamic accounting, Islamic banking & finance, corporate governance, Islamic capital markets, and corporate social responsibility.

Peni Nugraheni is a lecturer at Accounting Department of Universitas Muhammadiyah Yogyakarta. She is interested in Islamic accounting, corporate governance, ethics and disclosure.

### PUBLIC INTEREST STATEMENT

This study is an attempt to examine the influence of SSBs' characteristics toward Sharia compliance of Islamic banks in Asia and Gulf Cooperation Council (GCC). The characteristics of SSB consist of the number of SSB members, cross membership, level of education, expertise, reputation, remuneration and rotation. This study finds that SSB size has negative influence while education and expertise have positive influence toward sharia compliance of Islamic banks. Meanwhile, cross membership, remuneration and rotation of SSB members do not influence sharia compliance of Islamic banks. In general, the role of SSB in carrying out the function of creating well-being for the community has not been carried out optimally. This paper would benefit to formulate the development of Sharia compliance parameter and to increase the roles of SSB in optimizing the operation of Islamic banks particularly in fulfilling Sharia principles.

been carried out optimally. This paper would benefit to formulate the development of Sharia compliance parameter and to increase the roles of SSB in optimizing the operation of Islamic banks particularly in fulfilling Sharia principles. The samples in this study are from countries that have contribution in the infrastructures of Islamic financial institutions around the world. The result may become the model for strengthening the role of SSB in other countries.

**Subjects: Accounting; Corporate Governance; Business Ethics**

**Keywords: Sharia supervisory board; Sharia compliance; characteristics; Islamic banks**

### 1. Introduction

Islamic banks have some unique characteristics in their operation compared to the conventional banks such as based on sharia principles or Islamic law, using a profit and loss sharing system, recognition of unrestricted investment account holders and the existence of Sharia supervisory board (SSB) as a part of their corporate governance (Ahmed 2014; Elamer, Ntim, Abdou et al., 2020; Magalhães & Al-Saad, 2013). The characteristics of Islamic banks are mutually integrated to achieve the basic principle of Islamic banks, namely sharia compliance (Ginena & Hamid, 2015; Abdullah, 2012; Ullah, 2014). Banks that do not follow sharia compliance cannot be called Islamic banks (Ullah, 2014). More specific, roles of SSB is to ensure that the operational activities of Islamic banks is in accordance to Islamic principles (Ginena & Hamid, 2015; Grassa, 2013; Hakimi et al., 2018). The SSB work area needs to interact, integrate, and evolve (IIE) with the characteristics of Islamic banks.

SSB performs religious, social, economic, legal and governance functions (Garas & Pierce, 2010). The existence of SSB will impact on the Islamic compliance on the Islamic bank's operation, maintaining the trust of stakeholder on the IB's activities, supporting management in providing sharia-compliant products, fulfilling legal requirements for governance and commitments of Islamic banks in religious functions (Garas, 2012; Garas & Pierce, 2010). SSB also can influence the process of decision making to be guided by Islamic beliefs and values (Eighuweel et al., 2017). These functions carry responsibilities for SSB in issuing fatwas, supervising of all bank operations, supervising and approving (rejecting) banking products, and reporting and giving opinion on how sharia compliance of Islamic banks in their annual reports (Garas & Pierce, 2010). The concludes of SSB's roles in line with the objectives of Islamic financial institutions to protect the society in general and Muslims specifically for transactions that are prohibited in Islam (Abdullah, 2012).

SSB has the role of ensuring that depositor invested funds are in accordance with Islamic rules (Hamza, 2013; Van Greuning & Iqbal, 2008). The non-compliance of depositors' investment to the Islamic principles will seriously damage the customer's trust in Islamic banks and even in the sharia financial services industry as a whole (Ahmed, 2014; Bhambra, 2012). It can be a reason for reputation risk that can trigger bank failures and cause systemic instability (Bhambra, 2012) which is a withdrawal and cancellation of the contract which implies a decline in earnings (Hamza, 2013). There are some possibilities that Islamic banks violate Islamic principles such as: "closes the front door of usury while opening the back door of usury" (Rosly, 2010), and the concept of *profit and loss sharing* is not practiced by Islamic banks but it tends to be the same practice as conventional banks (Chong & Liu, 2009)

The trust of depositor or customer can be enhanced by improving the credibility and reputation of the sharia and SSB is the key to achieve it (Andriana & Muhamad, 2015). However, there are some problems related to character of SSB, first, SSB is ideally having experts in muamalah fiqh and contemporary finance (Hamza, 2013) but in practice it is very rare for SSB to have these two skills (Grais & Pellegrini, 2006). Second, cross membership of SSB can cause problem because it interferes with the SSB's independence in opinion (Bakr, 2002), create conflict of interest between

banks and reduce optimal contribution of SSB member (Hameed, 2009). The inference, the IIE between SSB work area and the characteristics of Islamic banks could realize social well-being.

Previous studies of SSB focus more on the relationship between characteristics of SSB to bank performance. The characteristics of SSB used in that studies including SSB size (Frag et al., 2018), SSB size and education (Khan et al., 2018), SSB size and expertise (Hakimi et al., 2018; Matoussi & Grassa, 2012) and SSB size, education and expertise (Almutairi & Quttainah, 2017).

Those studies focused on financial performance of IBs by using various measures such as return on assets (ROA), or return on equity (ROE) and found the same results that SSB characteristics have a positive and significant effect on profitability. Buallay (2019) stated that Islamic banks that comply with sharia are able to maintain trust (legitimacy) not only from investors, but also other stakeholders. Furthermore, Mollah and Zaman (2015) explain that when SSB performs supervision rather than advisory on sharia compliance, it will create a good impact on profitability. However, Ajili and Bouri (2018) did not find a relationship between SSB and profitability with the argument that insignificant result happened because the SSB function is not related to profitability.

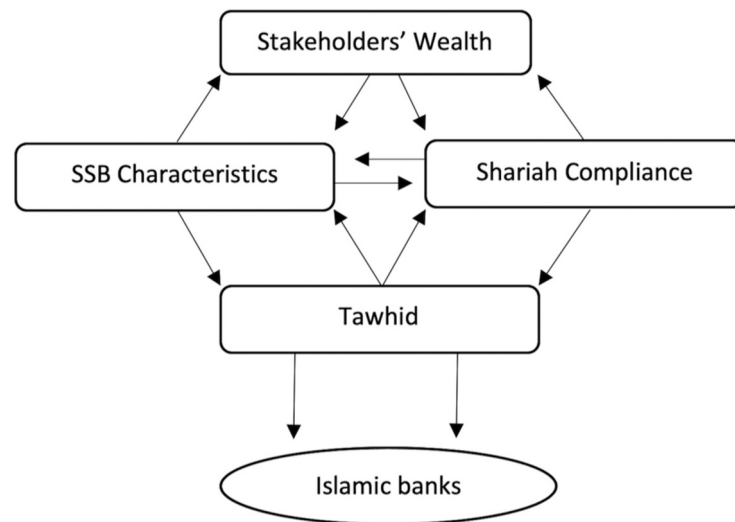
According to Elseoud et al. (2020), one of the main performance of Islamic banks is profitability. However, related to SSB, Mollah and Zaman (2015) argue that financial performance (profitability) is not a function of SSB. Although SSB may be related to the performance of an organization, there are many other aspects that also affect the performance of an organization. Meanwhile, the main function of SSB is monitoring and controlling (Buallay, 2019) the sharia compliance of an Islamic bank.

SSB report is the source of stakeholders to determine the level of organizational compliance with Islamic principles. Therefore, sharia compliance is a direct aspect that should be influenced by SSB performance. However, very few studies examine the effect of characteristics of SSB toward sharia compliance. The duties and responsibilities of SSB are to ensure that all bank activities comply with Islamic sharia law. The research about the SSB and sharia compliance will give description of the level of relationship between those variables.

On the other hand, Sharia compliance is part of an effort to maintain the existence of Islamic banking in the community. Therefore, Islamic banking needs to carry out a periodic evaluation process of the relationship between sharia entities with internal and external parties and produce good things in an organization so that in the long run it can create community welfare. SSB is an important part of sharia entities to ensure that all good things that should be done by the management of sharia entities can be in accordance with the Sunnatullah and the Circumcision of the Prophet. SSB needs to have guidelines that are used as a reference to assess whether management has done the good things to maintain the continuity of the organization towards the goals of community welfare. The SSB Guidelines were certainly formed based on knowledge of the oneness function based on the Tawhidi epistemology. Figure 1 describes the important role of Islamic bank and its relation with SSB, stakeholder and shariah compliance.

This study aims to examine the characteristics of SSB on the sharia compliance of Islamic banks in Asia and Gulf Cooperation Council (GCC). The characteristics of SSB consist of the number of SSB members, cross membership, level of education, expertise, remuneration and rotation. SSB size refers to the number of SSB members. SSB cross membership indicates that SSB members have same position in two or more Islamic banks. SSB education shows the education level of SSB members. SSB expertise refers to the expertise of SSB members. SSB remuneration indicates the incentive received by SSB members in doing their obligation to control the sharia compliance of Islamic financial institutions. SSB rotation shows the turn over of SSB members at Islamic bank. Whereas sharia compliance uses four approaches described by Rosly (2010), namely contract, maqashid sharia, financial reporting and legal documentation. The substance of the four approaches explores the explanation from Lahsasna (2014). The study uses those approaches

**Figure 1. Socioeconomic of Islamic banks.**



because they are able to accommodate sharia compliance in bank operations and prioritize the substance (El-gamal, 2005).

This study is expected to contribute to research in the field of Islamic finance which can be seen from many aspects. First, this study uses many characteristics of SSB, which are expected to represent the competencies and capabilities of SSB in assessing their influence on maqashid sharia performance. In the scope of Islamic banks, the implementation of maqashid sharia is to keep the interest of various parties such as employees, investment account holder, management and the society. Employees have responsibility to keep the sharia compliance in Islamic banks (Lahsasna, 2014) and SSB can recommend training needed by employees and management to maintain knowledge, skills and human resource competencies of Islamic banks. The products of Islamic banks should improve the level of economic growth and the welfare of the society. Social function of Islamic banks also becomes the SSB's attention (Nugraheni, 2018).

Second, the dependent variable in this study addresses four approaches to sharia compliance. Those approaches are expected to provide a comprehensive picture of the aspects of sharia compliance. Third, this study provides an overview of measuring the performance of Islamic banks based on maqashid sharia performance. As an Islamic financial institution, their performance should be measured using the maqashid sharia performance (Dusuki, 2008).

This study is presented in several sections. The second section discusses background of the study. The third section describes theoretical framework while fourth section discusses a review of the relevant literature and hypothesis development. The fifth section presents the research methodology and sixth section explains the result and discussion. The last section is conclusion, implication of the results, limitation and suggestion for the future studies.

## 2. Background of the study

Measuring the financial performance of Islamic banks both practically and empirically becomes great concern nowadays (Dusuki, 2008). In practice, CAMEL is a financial measurement in measuring the performance of business institutions (Antonio, Sanrego and Taufiq, 2012) which consists of capital adequacy, asset quality, management quality, earning ability, and liquidity security (Jaffar and Manarvi, 2011). CAMEL is not only applied to conventional banks, but also Islamic banks (Antonio, Sanrego and Taufiq, 2012; Asutay and Harningtyas, 2015; Saoqi, 2017; Mifrahi and Fakhrunnas, 2018; Sutrisno and Widarjono, 2018). The results of the performance of Islamic

banks with the CAMEL measure can be represented by asset growth. The average asset of Islamic banks in the world increased 52.47% during 2000 to 2018, from 80 USD billion to 1,571 USD billion. This means that the average growth of Islamic bank assets always increases with extraordinary amount (Mohammed, Tarique and Islam, 2015).

Empirically, measuring financial performance of Islamic banks can use the proxies of earning ability or profitability, which has been conducted by Buallay (2019), Ajili and Bouri (2018), Farag et al. (2018), Hakimi et al. (2018), Khan et al. (2018), Nomran et al. (2018), Almutairi and Quttainah (2017), Mollah and Zaman (2015), and Matoussi and Grassa (2012).

All financial measurement including CAMEL or profitability are not sufficient for the purpose of Islamic banks. Financial measurement using conventional methods in measuring the performance of Islamic banks will create an assessment that Islamic banks are no different from conventional banks that adhere to the western neo-classical worldview (capitalist), namely prioritizing maximum profits (Dusuki, 2008; Askari et al., 2014; Lone, 2016). On the other hand, an Islamic bank is an entity that adopts the Islamic worldview (Dusuki, 2008) which has four objectives, namely complying with sharia compliance, obtaining economic benefits (financial or profitability), fulfilling social, and ethical standards (Lone, 2016). Considering that financial measurement (profitability) only fulfills one of the four objectives of Islamic banks, Islamic banks should be measured with the right measurement, namely sharia compliant based on maqashid sharia (Askari et al., 2014; Dusuki, 2008). Maqashid Sharia is the purpose or goal of Islamic law (Ullah and Khanam, 2018).

According to Ahmed (2011), sharia compliant can be divided into two indicators, the fulfillment of legal requirement and social requirement. Legal requirements are the fulfillment of all Islamic bank operations on form and substance, while social requirements refer to the attention of Islamic banks to their stakeholders with the motive of giving advantage to their activities. Maqashid Sharia framework can be used to measure social requirement (Ahmed, 2011), especially for Islamic entities which the activities should follow sharia principles.

In corporate governance, Islamic banks have uniqueness that conventional banks do not have, namely the existence of a Sharia supervisory board (SSB) (Ahmed, 2014; Ajili & Bouri, 2018; Magalhães & Al-Saad, 2013). SSB is the important internal corporate governance mechanism in Islamic governance (Elamer, Ntim, Abdou et al., 2020). The responsibilities of SSB are directing, reviewing and supervising the activities of Islamic banks (Ginena & Hamid, 2015; Lahsasna, 2014). The responsibility includes issuing fatwa, which is a provision about certain activities based on Islamic law, supervising all bank operations, approving or rejecting bank products, supervising all departments and branches, reporting and giving opinions on how sharia compliance is of Islamic banks (Garas & Pierce, 2010). According to Albassam and Ntim (2017), Muslims should do financial transactions or trading that are in accordance with Islamic principles. Islamic banks can take the roles by providing products and services that follow Islamic principles and thus, SSB has a monitoring and controlling function in the implementation and compliance of Islamic banks (Buallay, 2019).

Furthermore, the responsibilities and functions of SSB play an important and significant role in the relationship between Islamic banks and stakeholders, especially profit sharing investment account holders (PSIAH) (Hassan & Chowdhury, 2004). When PSIAH find out that the bank and its products are not sharia-compliant, it will influence their trust in Islamic banks (Ahmed, 2014; Bhambra, 2012), leading to reputation risk which has implications for the systemic instability of Islamic banks (Bhambra, 2012). That may impact on the withdrawal of funds and the cancellation of aqad which has implications for a decrease in profit or performance (Hamza, 2013). Therefore, Islamic banks should improve the legitimacy of sharia, where SSB is the key to achieving this (Andriana & Muhamad, 2015).



From the above explanation, the SSB characteristics have become the concern of many researchers in explaining the relationship between SSB and financial performance. This study will link SSB to sharia performance based on maqashid sharia, because the SSB function is not related to financial performance or profitability (Ajili & Bouri, 2018). Therefore, this study will try to examine the relationship between SSB and sharia compliance.

### 3. Theoretical framework

#### 3.1. Legitimacy theory

The definition of legitimacy is written by Suchman (1995) based on previous studies who states that:

*Legitimacy is a generalized perception of assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions”.*

Further, Suchman (1995) explains that the purpose of legitimacy is to pursue continuity and credibility of organizational activities. It will influence the behavior of people toward organizations and increase trust in them. According to Guthrie and Parker (1989), legitimacy theory will force the organization to pay attention to social restrictions and norms in a sustainable manner in its operations. This legitimacy can determine the survival of a company.

One type of legitimacy is moral legitimacy that refers to “normative evaluation of the organization and its activities (Aldrich and Fiol, 1994 cited in Colleoni 2013). This moral legitimacy is important because of the uncertainty of risk in the field of economic, social and environment.

For Islamic financial institutions (IFIs), sharia compliance is core element in these institutions and it gives legitimacy for their activities (Hasan & Sabirzyanov, 2015). The trust from society will increase that all practices by IFIs are in accordance with Islamic principles all the times. Therefore, the communication of sharia compliance of IFIs can influence the level of legitimacy received from the society (Colleoni, 2013).

#### 3.2. Epistemological model of unity of knowledge applied to community contribution through the roles of SSB and unifying linkages of Sharia compliance practices in Islamic banks

Choudhury and Harahap (2009) first introduced the concept of the Tawhidi phenomenological model to explain the relationship between micro-scale companies and their communities. This gives a picture of how the relationship between internal and external actors in the organization can produce positive relationships and give each other well-being which in turn forms the accumulation of unity of knowledge. Some previous studies using the unity of knowledge model approach including: Pratiwi (2016) found that Islamic banks are able to contribute to small and micro businesses; on the other hand, Azam et al. (2019) with the same approach found that Sharia-compliant firms in Pakistan are less involved in CSR activities than non-Sharia-compliant firms. This is in line with the opinion of (Choudhury, 2018) where there is a contradiction between the implications of what is called Sharia compliance and the ambivalence of Tawhidis worldly actions which will likely lead to a false conclusion in Islamic law.

Therefore, it is very important to use the foundation of the Quran and As Sunnah as the basis development for the unity of knowledge epistemology within the framework of Tawhidi worldview. By using Tawhidis concept of string relations and the positive contribution of Islamic banks to their stakeholders, this study will analyze the characteristics of SSB on shariah compliance performance formed from good values based on Tawhidi worldview with an understanding of unity of knowledge. Islamic banks need to take good actions in accordance with the guidance of the Quran and As Sunnah to realize well-being of their stakeholders. Therefore, the activities of Islamic banks



need to be monitored by a function that has a good understanding of the values of the Quran, and Sunnah which in this case is called the Sharia supervisory board (SSB). SSB needs to play a major role in ensuring stakeholders wealth can be achieved through the process of the unity of knowledge.

### **3.3. Unity of knowledge**

The decision-making process is a part of learning that will lead to new sources of knowledge that can be used as references in the future (Azam et al., 2019). Process after process that is documented in a scientific framework will form a collection of knowledge that if the process involves the Tawhidi approach by the actors who run it, it will produce the unity of knowledge that has valuable value. The decision-making process will involve the relationship between functions that exist in society and they interact with one another by promoting good things with an orientation towards goodness in society.

These relationships will continue until the end of the world and lead to one expected goal, namely the return to the epistemological concept of the oneness of God in the Tawhid framework as mentioned in the Quran as a pair of things that are good for the welfare of society (e.g., the Quran 51:49). This verse explains that the creatures that exist in this world and everything that has been created in pairs and interact with one another to produce various relationships that form a unity that is able to provide awareness about Tawhidi oneness so as to produce a world system in one unity.

### **3.4. Circular causation**

Islamic worldview based on Tawhidis epistemology will produce a system that continuously and repeatedly occurs as a circular causation. As Sunnah as part of the main reference source of Islam will be used as a means of evaluating the order of the world system in the Tawhidi framework. The worldly decision-making process involves interaction and integration which creates cause-effect relationships in the social, economic, and other aspects based on Tawhidi and the relationships that will be built between these variables. Thus, the process will produce a two-way relationship that positively influences each other so that it produces the common.

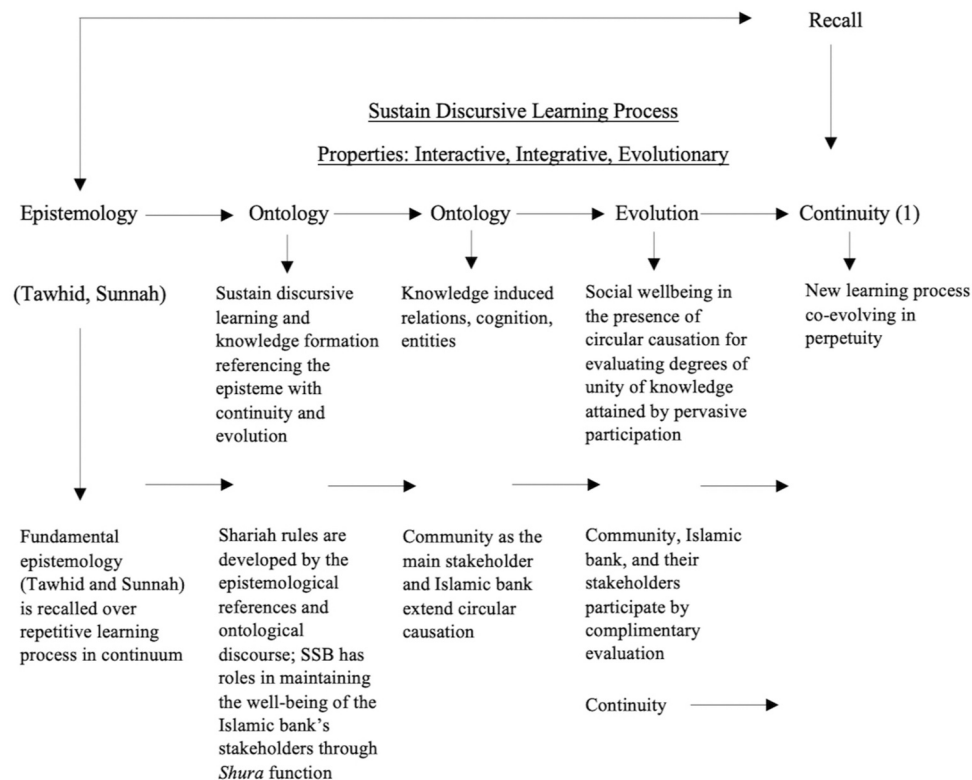
### **3.5. Social well-being**

Sustainable development focuses on ongoing support for generations, both for present and future needs, commonly known as social welfare. Welfare is measured in terms of the ethical and social choices represented by the variables and relationships examined in accordance with the objectives of the Tawhidi string of relations, namely the unity of choice and unity of knowledge. Continuity in responding to social welfare will produce a function to ensure that it will always be in line with the goal of achieving sustainable development.

Figure 2 shows that Islamic banking is an object in which there are various relationships related to one another. Based on Tawhidis string relation methodology, the learning process that exists within an entity in producing positive or negative output. These results will depend on the understanding of the actors involved in collecting the sources of knowledge used as a basis for decision making. The pool of knowledge obtained will be followed by integration, interaction, and the decision-making process. In the end the unity of knowledge as formulated by Choudhury (2014) will play a role in coloring the results of decision making both positive and negative.

In addition, a comprehensive Islamic view of the socioeconomic structure formulated from the Tawhidi string relation (TSR) can realize the socioeconomic role, for example, Islamic banking, in a community. This happens because there is a positive interaction between Islamic banking and the community that is instinctively ongoing and continues to form a structured pattern Pratiwi (2016). Therefore, it is very appropriate if Islamic banking management understands its role in the community within the framework of Islamic socioeconomic structural in the decision-making process. This affects management in making balanced decisions between the economic and social dimensions.

**Figure 2. Sharia Supervisory Board and sharia compliance in Islamic Bank.**



It should also be understood that when Islamic banking management understands that the adoption of Islamic worldview means there will be interaction and integration between several conventional bank operational concepts that do not violate the principles of sharia and the concepts of sharia transactions that are commonly applied in sharia financial business. Of course the adoption must be started with an understanding of the Quran and Sunnah that are relevant to the process of interactions between these actors (Choudhury, 2014). So that knowledge in running Islamic banks must be based on the Quran and Sunnah as the basis for thinking.

**3.6. Sharia compliance parameters**

Compliance means complying with all relevant laws, regulations and/or regulations and guidelines from regulators (Lahsasna, 2014). Sharia compliance has two perspectives related to compliance with sharia law and positive law. Previous studies measure sharia compliance of Islamic financial institutions with different indicators. Fahlevi and Randa (2017) use Islamicity disclosure index from Hameed et al. (2004) to measure the sharia compliance of Islamic banks in Indonesia and Malaysia. Another study by Hamsyi (2019) measures sharia compliance using Islamic Income Ratio (IsIR) and Profit Sharing Ratio (PSR) to examine its relationship toward profitability of Islamic banks in Indonesia.

According to Ahmed (2011), the indicators of sharia compliant are the fulfillment of legal requirement and social requirement. Legal requirements are the fulfillment of all Islamic bank operations on form and substance. Forms and substances of Islamic bank operations can be traced from aqad, legal documentation and financial aspect (Rosly, 2010). Aqad or contract is defined as “the obligation and engagement of two contracting parties with reference to a particular matter” and the legality of aqad or contract will determine that something is permissible (halal) or prohibited (haram) of the use of financial instruments (Rosly, 2010). The contracts are valid if they fulfill the four principles namely buyer and seller, price, subject matter and offer and acceptance.

The purpose of financial reporting is to provide information about the financial condition of a company to investor as a basis for taking decision. Islamic banks need to provide true information about business transaction because many Islamic financial products may need the different transaction record. From depositor perspective, the information about profit sharing and margin for every product is very important and this can be disclosed in bank's financial report.

Legal documentation is an inseparable part of fulfilling the pillars of the contract, containing provisions that are legally binding on parties who are committed. According to Rosly (2010), Legal documentation has purpose "to provide security and protection to contracting parties when their rights, obligations, and responsibilities are clearly spelt out in the terms of agreement or contract. In fact, legal documents are also the implementation of *alkitabah* (written) on the principle of contract. Its function is to refer to fulfilling the pillars of the contract, namely the rights and obligations of the provisions attached to the contract (*muwaqiwat`aqd*).

Disclosure of SSB on the aspects of legal documents proposes four things. First, disclosure of the number of conflicts or contract defaults and the resolution of problems in sharia disputes (if any). Second, based on the findings (Magalhães & Al-Saad, 2013) that banks do not care whether the customer understands the contract or not, then SSB through quotes test confirms the customer's knowledge of the contract or contract. Third, disclosure of the confirmation of documentary evidence about the object of the contract such as whether the product has a defect, does not match the contract, or has an illegitimate element of *lidzatihi* and *haram lighairihi*. Fourth, a disclosure of comprehensive contract structure that meets the pillars or *form* of *aqad*.

Social requirements are the attention of Islamic banks to their stakeholders with the motive of giving advantage to their activities (Ahmed, 2011). Ahmed (2011) recommends maqashid Sharia framework as a measurement to social requirements following Al-Ghazali through three aspects of necessities of live vis *daruriyat* (necessity/survival need), *hajjiyyat* (complementary/security need) and *tahsiniyyat* (embellishment/growth need).

The aim of Sharia is to protect the basic necessity of man namely *Hifdz Ad-Din* (Religion); *Hifdz An-Nafs* (Caring for the Soul); *Hifdz Al'Aql* (Intellect); *Hifdz AnNasb* (Heredity); *Hifdz Al-Maal* (property). Hudaefi and Noordin (2019) design integrated maqashid Sharia-based performance measure (IMSPM) to measure maqashid sharia of Islamic banks in several countries. They find that Islamic banks for the year of 2013–2015 have highest performance of the objective of *an-nafs*. According to Rosly (2010), the Sharia's purpose and the ruling of *aqad* should not conflict one another. The contract should bring benefit to both parties and does not harm one party.

## 4. Literature review and hypotheses development

### 4.1. Hypotheses development

#### 4.1.1. SSB size

SSB size refers to the number of SSB members. The high number of SSB members is expected consisting of many fiqh or sharia experts. The implication is that more SSB members will be more efficient in the division of tasks and making decisions on the sharia status of banking products, so that the number of Islamic banking products will be increased which has implications for customer satisfaction in choosing products that suitable for them (Nomran, Haron and Hassan, 2017, Nomran et al., 2018).

The size of SSB is one of the main things considered in the governance mechanism (Bukair & Rahman, 2015). Agency theory assumes that the small board reduce agency costs and improve coordination among members of the board (Quttainah et al., 2011). In contrast, larger SSB with

a variety of experiences and skills will lead to better interpretation of product and operating assessments, and thus, produce better performance (Hamza, 2016).

From an Islamic perspective, a reasonable size of board members is preferred because their experience and knowledge related to sharia and banking problems can reduce communication problems (Bukair & Rahman, 2015). Almutairi and Quttainah (2017) find the positive relationship between SSB size and performance of Islamic banks around the world. Therefore, this study proposes the following hypothesis:

*H1: The size of SSB is positively related to the level of sharia compliance*

#### 4.1.2. Cross membership of SSB

In the governance of Islamic banks, SSB and the board of directors have an equal position. In the case of cross membership (multiple board members in other institutions), some scholars state that it may have positive impact in terms of supporting the knowledge and experience of SSB members to enhance the performance of Islamic banks (Nomran et al., 2018). Cross membership will enhance the quality of discussions, perspective and experience in managing the sharia complaint of Islamic bank's products (Farook et al., 2011; Farook & Lanis, 2007). However, the duality of roles reduces board independence, reduces the flexibility of the board and consequently reduces the likelihood that the board can properly carry out their oversight role (Krause et al., 2014), reduce the effectiveness of the board (Alman, 2012), and less contribution of SSB (Hameed, 2009). From the discussion above, the study proposes the following hypothesis:

*H2: Cross membership of SSB is negatively related to the level of sharia compliance*

#### 4.1.3. Education level of SSB

SSB members must have academic qualifications to be able to provide the necessary sharia guidelines (Ginena & Hamid, 2015) because they are important in decision making (Almutairi & Quttainah, 2017). Board members with a good level of education have the ability to handle any action in the best way (Hambrick & Mason, 1984) with a series of rational methods. The higher the level of education, the SSB will be better able to analyze a case, have innovative thoughts and are competent in making policies, so that it has implications for better performance (Almutairi & Quttainah, 2017). Furthermore, education in accordance with SSB is a degree in fiqh, muamalah fiqh and Islamic finance (Ginena & Hamid, 2015; Hassan et al., 2010). The level of education of SSB that qualifying in certain knowledge will increase the capability of SSB in making decision related to the sharia compliant of products or services provided by Islamic banks. For example, the education level of *Islamic jurisprudence* is expected to be able to understand sharia provisions in business and non-business activities of a corporation. Therefore, the hypothesis of this study is derived as:

*H3: Education level of SSB has a positive effect on the level of sharia compliance*

#### 4.1.4. SSB expertise

Usually SSBs have knowledge on muamalah fiqh to supervise and ensure that all business practices of Islamic banks are *compliant* with sharia. However, it is better for them to have another knowledge. The reason is that Islamic banks in their operations face several risks such as credit risk, market risk, liquidity risk, and operational risk and these risks are interconnected, so that broad understanding and knowledge are needed in consideration of sharia compliance (Hassan et al., 2010). SSB expertise can consist of accounting, economics, business and law (Ginena & Hamid, 2015; Hassan et al., 2010). SSB is demanded not only for its sharia education, but also for

expertise because banks are complex business entities (Ginena & Hamid, 2015; Khan et al., 2018). If SSB members have these qualifications of expertise, it will increase the effectiveness of SSB's duties, responsibilities and functions. Hassan et al. (2010) do research about the need of qualifications of SSB expertise other than muamalah fiqh and find out that respondents need SSB with legal qualifications (83%), business (80%), economy (90%), and accounting (83%), even SSB is required to be able to master in English (63%), Arabic (74%), and network skills (85%). In line with the above understanding, we put forward the hypothesis:

*H4: SSB expertise has a positive effect on the level of sharia compliance*

#### 4.1.5. SSB remuneration

SSB has a large responsibility in Islamic banks and it is fair for them to get adequate compensation. Hassan et al. (2010) have emphasized that the role and function of SSB in Islamic banks is very important both in development and improvement of the Islamic banking and financial industry. Furthermore, SSB is required to not only have muamalah fiqh education qualifications but also qualification skills in carrying out their duties. Islamic banking also has a large business segmentation starting from funding activities, financing and services performed. So it can be concluded that there is a complexity of responsibility for the task of SSB in directing, supervising, and reviewing sharia compliance. This complexity of SSB duty encourages Islamic banks to give proper compensation to the sharia supervisory board. This complexity also should be considered to enforce appropriate compensation to the board to be able to provide maximum resources to the company or bank (Hillman & Dan Dalziel, 2003; Hillman et al., 2009). Therefore, the study develops the following hypothesis:

*H5: SSB remuneration has a positive effect on the level of sharia compliance*

#### 4.1.6. Rotation of SSB members

The rotation of the company board is the changing of the members every certain period (Fox & Opong, 1999). This rotation is considered a good indicator because it can bring new members who are experienced, knowledgeable and new-minded with higher motivation (Al-Matari et al., 2014). Generally, new members are chosen for many reasons such as to increase the effectiveness of the company or maybe the chosen person has better qualifications in several fields (Fox & Opong, 1999). For Islamic banks, the rotation of board member may be for expansion of Islamic products by the bank. The rotation of SSB members may have some reasons such as to carry out the mediation function with the regulator with the aim of legalizing new products or product innovations. Mansour et al. (2017) found that the rotation of SSB members have negative relationship to performance of Islamic banks. They assumed that the rotation because of the retirement or death of valuable members impact on the negative relationship. However, according to Alman (2012), the rotation of SSB members will impact positively on the risk-taking of Islamic banks. Therefore, the study conveys the following hypothesis:

*H6: Rotation of SSB have a positive effect on SSB reports*

## 5. Research design

The population in this study are Islamic banks in Asia and GCC. Sampling technique was done by purposive sampling technique that is adjusted with predetermined criteria. The prescribed criteria are Islamic banks that publish annual reports consistently for the period 2010 to 2018 and can be accessed through the banking website and have all data related to this study. The data will be processed using eviws software. Dependent variable of this study is sharia compliance. This variable consists of two parameters namely legal requirement and social requirement (Ahmed,

**Table 1. Measurement of Sharia Compliance**

Concept		Dimension		Element		Final
Concept	Score (a)	Dimension	Percentage (%) (b)	Element	Percentage (%) (c)	Score (d) (a)x(b)x(c)
	50	Aqad	60	SSB Report	50	15
				Product & Activity	50	15
		Legal				Documentation
		20	Document			Confirmation
	100	10				
Financial	20	Zakah	50	5		
		Attestation of Financial Report	50	5		
	50	Daruriyat	75	Faith	20	7.5
				Intellect	20	7.5
				Life	20	7.5
				Posterity	20	7.5
				Wealth	20	7.5
		Tahsiniyyat	15	Tahsiniyyat	100	7.5
		Hajjiyyat	10	Hajjiyyat	100	5
Total	100			Total		100

Source: Rosly (), Ahmed () and modified by authors

2011). Legal requirement consists of aqad, legal documentation and financial reporting with five elements while social requirement includes daruriyat, tahsiniyyat and hajjiyyat aspects with total 7 elements. Every element has its own weight which refers to the importance level of those elements. Table 1 describes the parameters of sharia compliance with their weights (Rosly, 2010; Wan Abdullah et al. 2013; Ahmed, 2011).

Independent variables in this study are SSB characteristics namely SSB size, cross membership, education, expertise, remuneration and rotation. This study uses bank size as a control variable which is often used in previous studies (Matoussi & Grassa, 2012; Nomran et al., 2018). Nomran

**Table 2. Measurement of Independent Variables**

Independent Variables	Measurement
Size	Number of SSB member
Cross membership	Percentage of SSB members who have cross membership with other Islamic banks/financial institutions
Education	Percentage of SSB members who hold doctoral degree
Expertise	Percentage of SSB members who have expertise in Finance/Economic
Remuneration	The remuneration of each SSB member per year
Rotation	The frequency of SSB rotation per period
Bank Size	Ln of total asset



**Table 3. Descriptive statistics of the variables**

Variables	mean	median	max	min	Std Dev
SSB size	3.69	3.00	6.00	2.00	1.37
cross membership	0.81	1.00	1.00	0.20	0.25
education	0.69	0.67	1.00	0.20	0.29
expertise	0.30	0.33	0.67	0.00	0.25
remuneration	11.35	11.32	13.13	9.58	0.65
rotation	0.25	0.00	1.00	0.00	0.44
bank size	21.65	21.69	23.96	17.75	1.32
sharia compliance	0.287	0.30	0.34	0.18	0.03

et al. (2018) find that there is positive relationship between bank size and performance of Islamic banks in Malaysia. Table 2 presents the measurement of independent variables:

The study analyzes the data using data panel regression with software of reviews. The data analysis consists of descriptive statistics and hypothesis testing to find the coefficient determination (R<sup>2</sup>), F- test and t-test.

## 6. Empirical result and discussion

The samples in this study are Islamic banks in Asia and Gulf Cooperation Countries (GCC). Sampling techniques are purposive sampling techniques with predetermined criteria. The prescribed criteria are Islamic banks that publish annual reports consistently for the period 2010 to 2018 and can be accessed through the banking website and have all data related to this study. Based on the criteria, there are 15 Islamic banks from 3 countries (Indonesia, Malaysia and Bahrain) with total data are 135 data. Those countries are the top ten countries which have many consumers in the halal industry for certain sectors (Gati et al., 2020). Table 3 describes the statistics descriptive of the variables.

From the table above it can be seen that the mean value of independent variables. SSB size is 3.69, maximum value is 6 members and minimum value is 2 members. It means that on average, every Islamic bank has 4 members of SSB. Cross membership has mean value of 0.81, maximum value of 1 and minimum value of 0.20. It means that all Islamic banks with at least one SSB member have cross membership of SSB. Education variable has mean value of 0.69, maximum value of 1 and minimum value of 0.20.

The result shows that every SSB has a minimum of one member that holds a postgraduate degree. Expertise has mean value of 0.30, maximum value of 0.67 and minimum value of 0. There is SSB that the members do not have expertise in finance or economic. Remuneration has mean value of 11.35, maximum value of 13.13 and minimum value of 9.58. Rotation has mean value of 0.25, maximum value of 1 and minimum value of 0. Dependent variable in this study is sharia compliance which has mean value of 0.287, maximum value of 0.339 and minimum value of 0.183. The average value of 0.287 shows that the level of sharia compliance in Islamic banks is low (less than 50%).

The analysis process indicates that fixed effect is the best method to be used in this study. Table 4 shows the coefficient of determination (R<sup>2</sup>) to describe the proportion of variation in the dependent variable that can be explained by the independent variable. The Adjusted R Square value is 0.532136 (53.21%) means that the dependent variable of the sharia compliance can be explained by 53.21% by the independent variable in the model, while 46.79% is explained by other factors outside the model.

**Table 4. Regression Result**

Variable	Coefficient	Std. Error	t-Statistic	Prob.
C	-0.378017	0.374147	-1.010342	0.3145
SSBSIZE	-0.008155	0.025677	0.317611	0.0514
CRS	0.002031	0.051938	-0.039111	0.9689
EDU	0.048989	0.062037	0.789668	0.0314
EXPT	0.043879	0.05361	0.818495	0.0148
REMN	0.003721	0.017067	0.218032	0.8278
ROTATION	0.02532	0.015396	1.644543	0.1028
BANKSIZE	0.039451	0.017214	2.29172	0.0238
R-squared	0.605458		F-statistic	8.257539
Adjusted R-squared	0.532136		Prob(F-statistic)	0.0000

The F-test shows whether the independent variables simultaneously influence the dependent variable. Based on the statistical result above, a significant value of 0.0000 > alpha value 0.005 means that the independent variables simultaneously influence sharia compliance as dependent variable.

The partial test results show that the independent variable SSB size has a sig. value of 0.0514 < alpha value of 0.05 with coefficient value is -0.008155. It means that SSB size has a negative significant influence toward sharia compliance and thus H1 is rejected. This study finds that the smaller the SSB size, the higher the Sharia compliance of Islamic banks. This finding supports the study of Quttainah et al. (2011) who state that SSB size has negative correlation with earning management in Islamic banks around the world. The small SSB size can improve the coordination among the board members and supervision function can be conducted more effective. Usually, there are regulations about the number of SSB members. According to AAOIFI, the number of SSB member is at least three people. However, every country may have its own policy that the number of SSB members may vary between three and six members (Hamza, 2013). For example, the regulation in Indonesia requires that the number of SSB in Islamic banks no less than two people or no more than 50% of total number of board of directors.

The cross-membership has a sig. value of 0.9689 > 0.05 and coefficient value is 0.002031. It means that cross membership does not influence sharia compliance and thus H2 is rejected. This study is in line with the results of Nugraheni (2018) who find that cross-membership does not influence social performance of Islamic banks in Indonesia. Some SSB members may have certain position in other institutions and it may influence their performance. However, this study finds that this variable does not influence the performance of SSB related to sharia compliance. In general, Islamic banks have sharia committee or sharia review which the duty is to help the function of SSB in supervising Islamic bank's activities (Hamza, 2013). The objective of the committee is to encourage the efficient supervision. Therefore, although SSB members have duality responsibility in other institutions, the supervision function can be done well and it does not influence the sharia compliance of Islamic banks.

The sig. value of SSB education is 0.0314 < 0.05 and the coefficient value is 0.048989. It means that the education level of SSB influences positively sharia compliance and H3 is accepted. The higher the education level of the members, the higher Sharia compliance of Islamic bank. The data shows that the number of SSB members who have doctoral degree achieved more than 50% in Indonesia while in Malaysia achieved 78%. According to Ginena and Hamid (2015), education is important for SSB members related to the quality of decision making. Rahman and Bukair (2013) also state that the high education level of SSB members will help them to solve both sharia and economic problem. The comprehensive understanding of sharia provision in business will be

influenced by the education of board members (Hambrick & Mason, 1984) and will affect on the level of sharia compliance of Islamic banks.

SSB expertise has significant value of  $0.0148 < 0.05$  and coefficient value of  $0.043879$ , means that the expertise of SSB positively influences sharia compliance of Islamic banks. Therefore, H4 is accepted. Although there is SSB that the members do not have expertise in finance or economic, but sharia knowledge remains a major component in assessing sharia compliance of activities, products and services of Islamic banks. Meanwhile, the members of SSB, either with economics knowledge or not, can discuss each other to make decision or recommendations related to the sharia compliance of Islamic banks. The finding is in contrast with the study of Nomran et al. (2018) who find the negative relationship between the expertise of SSB and performance of Islamic banks. The knowledge will connect the banking operation and other activities with *muamalah fiqh* to determine the sharia compliance (Hassan et al., 2010).

The statistical result shows that the sig. value of remuneration is  $0.8278 > 0.05$  and the coefficient value is  $0.00003721$ . The result shows that remuneration has no influence on the sharia compliance of Islamic banks and H5 is rejected. Garas (2012) finds that remuneration has insignificant relation with conflict of interest in the SSB. The previous studies state that if the remuneration of SSB comes from the percentage of annual report will lead to conflict of interest (Garas, 2012) and may influence the level of supervision. One of the functions of SSB is to get opinion about the sharia compliance of banking products. The guidance of Sharia compliance is Al'Quran and sunnah and those cannot be negotiable to determine the decision about sharia compliance of Islamic banks. although Islamic banks should provide the adequate remuneration related to the right of person who has work on it, but it should not influence the opinion of SSB members about sharia compliance of Islamic business entity. Therefore, the finding that remuneration does not influence the sharia compliance of Islamic banks is the expected result because the performance of SSB members does not depend on their remuneration.

This study finds that the rotation of SSB has significant value of  $0.1028$  and coefficient value of  $0.02532$ . It means that rotation of SSB does not influence sharia compliance of Islamic banks and H6 is rejected. The rotation of board member is considered a good indicator because it can bring new members who are experienced, knowledgeable and new-minded with higher motivation (Al-Matari et al., 2014). SSB members should have the certain requirement determined by the regulator and thus, the elected scholars as members of SSB at list have fulfilled the requirements, such as having strong knowledge in Arabic both written and verbal and have relevant background such as law and finance (Malaysia), or good character and moral values and commitment for developing Islamic banks (Indonesia). If each SSB member has the required qualifications, Islamic banks do not need to worry about SSB rotation because the members will still provide professional performance. Although the rotation is good to bring new motivation (Al-Matari et al., 2014), there is no regulation yet related to the rotation of SSB members. The regulation only set up the number of Islamic financial institutions that can be supervised by SSB members without any limit on the period of supervision. In Indonesia, one member of SSB can supervise a maximum of four IFIs. SSB members should have recommendation from Indonesian Ulema Council (MUI), independent body that has the authority to issue fatwas related to Islamic banks. The appointment and rotation of SSB members depend on the decision of general meeting of shareholders (GMS). Therefore, as long as no decision regarding the rotation of SSB members by GMS, they will still be able to carry out their obligation. While in Malaysia, SSB members are recommended by Shari'ah Advisory committee (SAC) under central banks and having authority to regulate matters related to Islamic banks. SSB members in Malaysia can be disqualified if they do not perform the job properly. Therefore, the rotation of SSB members is expected does not influence the performance of SSB to supervise the sharia compliance of Islamic banks.

**Table 5. Robustness: panel data regression**

Variable	(1)		(2)	
	Coefficient	Prob.	Coefficient	Prob.
C	0.621955	0.0002	0.403973	0.0402
SSBSIZE	-0.026946	0.0008	-0.032201	0.0014
CRS	0.097803	0.0021	0.073084	0.0412
EDU	0.067334	0.0045	0.042563	0.1556
EXPT	0.045294	0.1025	0.049543	0.1411
REMN	-0.055017	0.0000	-0.028629	0.0369
ROTATION	0.002687	0.8661	0.010179	0.4756
BANKSIZE	0.025974	0.001	0.024675	0.0131
N	135		135	
R-squared	0.401590		0.197292	
Adjusted R-squared	0.368607		0.153049	
Hausman test FE vs RE			0.000	
chi-sq	0.005			

For the control variable, total asset has significant value of 0.0238 and coefficient value of 0.039451. This study finds that bank size positively influences sharia compliance of Islamic banks. Hausman test shows that fixed effect model is suitable for this study. This study also compares the results with the comment effect method/CEM (Number 1) and random effect method/REM (number two). The results are presented in Table 5 and they are compared with the main results above.

The table shows that the ssb size influences sharia performance either using CEM or REM, while the others have different results. However, the result of Hausman test (p-value 0.0014) indicates that this study will rely on fixed effect model.

### 7. Summary and conclusion

The function of Sharia supervisory board to supervise the sharia compliance of Islamic banks is influenced by characteristics of SSB members. This study finds that SSB size has negative influence and education and expertise has positive influence toward sharia compliance of Islamic banks. Meanwhile, cross membership, remuneration and rotation of SSB members do not influence sharia compliance of Islamic banks. This shows that the role of SSB in carrying out the function of creating well-being for the community has not been carried out optimally. This reinforces the conjecture (Choudhury, 2018) that there are still implications for sharia compliance that experiences ambivalence in Tawhidis worldly actions which lead to misunderstanding of the essence of Islamic law. This is possible because SSB does not have a good understanding of the Tawhidi epistemology in carrying out its functions and is only limited to understanding aspects of the ijtihaad (fatwa) level compared to the Tawhidi epistemology based on the Quran and As Sunnah.

Sharia compliance of Islamic banks is influenced by the supervision level of SSB. This finding has implications in several aspects, the measurement of sharia compliance in this study is the improvement from the previous studies to describe more detail the SSB's riil activities in monitoring function. Second, this study uses samples from countries that have contribution in the infrastructures of Islamic financial institutions around the world. The result may become the model for strengthening the role of SSB in other countries. Some findings are the expected result to show the good performance of Islamic banks such as significant result for education and expertise, and

insignificant result of remuneration. For remuneration, the insignificant result indicates that SSB is independent from the Islamic banks in doing their function because there is no relation between their remuneration and sharia compliant in bank's activities. In general, this paper would benefit to formulate the development of Sharia compliance parameter and to increase the roles of SSB in optimizing the operation of Islamic banks particularly in fulfilling Sharia principles.

This study has limitation in the countries involved in the samples due to the accessibility of the data. The period of this study is 2010–2018 and therefore it includes only Indonesia, Malaysia and Bahrain. The second limitation is that those countries have different regulation and policy which make the characteristics of SSB may be different. This study also only uses secondary data to examine the influence of SSB characteristics and sharia compliance. The interview method will improve the result of research.

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#### Author details

Rifqi Muhammad<sup>1</sup>

E-mail: [rifqimuhammad@uii.ac.id](mailto:rifqimuhammad@uii.ac.id)

ORCID ID: <http://orcid.org/0000-0002-3276-1264>

Hairul Azlan Annuar<sup>2</sup>

Muhammad Taufik<sup>3</sup>

Peni Nugraheni<sup>4</sup>

ORCID ID: <http://orcid.org/0000-0003-3999-9221>

<sup>1</sup> Accounting, Universitas Islam Indonesia, Fakultas Bisnis Dan Ekonomika UII, Jalan Ringroad Utara, Condongcatu, Depok, Sleman, Yogyakarta 55283, Indonesia.

<sup>2</sup> Accounting, International Islamic University Malaysia, Kuala Lumpur Malaysia.

<sup>3</sup> Accounting, Universitas Internasional Batam, Batam Indonesia.

<sup>4</sup> Accounting, Universitas Muhammadiyah Yogyakarta, Indonesia.

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