

CHAPTER IV

CONCLUSION AND RECOMMENDATION

A. Conclusion

1. Asymmetry information violated the sharia principle that is *Azh-Zhulum* because give damage to other parties. Asymmetry information also can be categorized as *gharar* because there was a secret action conducted by *mudharib* in managing the capital and have a purpose to enrich themself.
2. Islamic banking law in Indonesia has clearly stipulated administrative sanctions as mentioned in Law Number 21 Year 2008 Article 56 and 58. Criminal penalties can also be imposed on people who hold important positions or have direct responsibility to carry out the economic activities in Islamic banking, but must be accompanied by evidences related to violations of Islamic principles that should be applied in Islamic banking. According to article 26 and 193 of Compilation of Sharia Economic Law, the practice of asymmetry information on *mudharabah* financing made contract became invalid (*bathil*) if the contact contains an element of fraud, dishonesty, and other bad influences.

B. Recommendation

The enforcement of sharia principles in Islamic banking is obligatory, since the sharia principles are the basic reasons for the existence of Islamic banking. But in practice, violations of sharia compliance still occur even though every Islamic banking has a Sharia Supervisory Board. If a violation of sharia compliance is found, it will damage the image and credibility of the sharia bank in the society and often leads to various risks for the Islamic bank.

Sharia compliance improvement can be achieved by improving the quality of human resources from the Sharia Supervisory Board itself. Nowadays, Sharia Supervisory Board is chosen from the religious leaders or the community organizations that do not necessarily understand about the *muamalah* field. They may not have enough competence in the fields of banking and Islamic finance. On the other hand, Sharia Supervisory Board should have a good understanding of the theory of sharia economic, and have extensive experience in the fields of law, economics and the banking system.

The improvement of the quality of the Sharia Supervisory Board can be done by restructuring the board. It means, it can be done by appointing the Sharia Supervisory Board of Islamic economists who are competent in the application of sharia economic law and do a certification training which held by Islamic financial institutions. Therefore, the Sharia Supervisory Board not only knows fatwas and regulations but also expected to the understand risk management. So that the contribution of the Sharia Supervisory Board can be felt in maintaining sharia compliance in Islamic banking.