



## Juridical Review of the Transition Process of Pre-Conversion, Conversion, and Post-Conversion Business Activities of PT Bank Aceh as PT Bank Aceh Syariah.

Kardiati Toni Abbas<sup>1</sup>, Saiful Anwar<sup>2</sup>

<sup>1</sup>ITB Ahmad Dahlan Jakarta, Jakarta

<sup>2</sup>ITB Ahmad Dahlan Jakarta, Jakarta

Corresponding Author: Kardiati Toni Abbas, E-mail;[kardiati Toni Abbas@gmail.com](mailto:kardiati Toni Abbas@gmail.com)

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<b>ABSTRACT</b> In 2016, PT Bank Aceh underwent a conversion from a bank that used conventional procedures to sharia procedures, thus creating Bank Aceh Syariah. There were many conflicts during the conversion process of PT Bank Aceh Syariah from a conventional bank to a sharia bank, including the fact that not all business activities carried out were in accordance with sharia principles. In the conversion process of a conventional bank to PT Bank Aceh Syariah, this research aims to assess the legal validity of the transition of business activities. This research uses normative methodology and library research design. The findings from this research show that there is no significant difference in assets, financing, profit/loss, DPK and NPF factors between the financial performance of Bank Aceh Syariah during the Covid-19 pandemic and the financial performance of Bank Aceh Syariah during the Covid-19 pandemic based on comparative analysis. Bank Aceh's financial performance from 2016 to 2021. The use of small data samples and unbalanced data comparisons between data collected early and after the pandemic are two reasons why.  Toywords: Sharia Bank, Bank Conversion, Pre-Conversion, Conversion Process.			

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### INTRODUCTION

In encouraging the realization of interest-free banking on the basis of regulations for sharia banking, sharia banking has existed in Indonesia since its inception.

A sharia banking law is needed to accelerate the establishment and expansion of sharia banks in Indonesia and have a greater impact on the country's economy. According to this law, Indonesia has a dual banking procedure technique with two different types of banks: commercial banks and people's credit banks. Banking activities are carried out conventionally and based on sharia principles.

The main source which is the basis for the strong desire to undergo conversion is the confirmation by the Financial Services Authority (OJK) and Bank Indonesia (BI) that they are encouraging Sharia Business Units which are still part of their conventional

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parent to separate themselves and become independent sharia commercial banks. According to Bank Indonesia Policy (PBI) No. 1, which was issued as a rule, in accordance with 11/10/PBI/2009, the bank's Sharia business unit needs to be separated from its parent If:

1. The asset value of the Sharia Business Unit has exceeded 50% of the total asset value of its parent Conventional Commercial Bank.
2. No later than 15 years after the enactment of Sharia Banking Law no. 21 of 2008.(Indonesia, 2009)

The fact that PT Bank Aceh has operated conventionally provides its own challenges because conventional banks introduce interest (riba), speculation (maisir), and uncertainty (gharar) into their procedural techniques. Therefore, the Aceh People's Representative Council and the Aceh Government issued Qanun No. 5 of 2000, which is a direction related to Islamic Sharia. In accordance with Islamic Sharia guidelines, Article 10 states that the Regional Government controls and supervises the implementation of Muamalah in society. .

PT Bank Aceh is a financial institution that has changed from a conventional bank to a Sharia bank. The Aceh Provincial Government together with the Government

Districts and Cities in Aceh Province have PT Bank Aceh. The following are important factors that need to be considered when undergoing a Bank Aceh conversion.

The legal basis for implementing Islamic sharia in Aceh means the repeal of Law no. 42 of 1999 and Law no. 18 of 2001. All aspects of Islamic teachings are referred to as Islamic sharia in Law no. 44. According to Law 18, the Sharia Court will apply Islamic sharia written in the form of qanun first. The Aceh government created a qanun policy to enforce Islamic law for its adherents in Aceh.

Aceh, a region where Islamic law is applied in the daily lives of its people, is known as the Veranda of Mecca. If Bank Aceh completely switches to being a sharia bank, there is no doubt that it will be more supportive of the program for implementing Islamic sharia.

The majority of Indonesia's population of 267 million people should be able to support the existence and development of sharia banking, so that the number of Muslims who constitute the majority should be greater. In addition, existing regional banks began to conduct business outside the region or scope in which they were established.

There are several factors that motivate the transition from conventional banking operating procedures to sharia-based ones, known as conversion. Banking control and supervision, previously under the supervision of Bank Indonesia, is now under the Financial Services Authority following the adoption of Law No. 21 of 2011 concerning the Financial Services Authority. Financial Services Authority Policy no. 64/POJK provides additional details regarding the rules governing the conversion or transition of conventional bank business activities into sharia banks. Therefore, it is important to carry out research using the title "Judicial Review of the Transition of Pre-Conversion, Conversion and Post-Conversion Practices" because there are several problems related

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to the conversion of conventional banks to sharia banks carried out by PT Bank Aceh Syariah. In practice, business activities, procedures and processes in running the business do not always comply with sharia principles.

The transformation of traditional banking procedures into sharia procedures, known as conversion, is driven by several factors. Currently, banking regulation and supervision is under the control of the Financial Services Authority following the enactment of Law no. 21 of 2011 concerning the Financial Services Authority. Financial Services Authority Policy no 64/POJK provides more detailed information about the rules governing the conversion of conventional banks to sharia banks. Therefore, it is important to carry out research entitled "Judicial Review of the Transition of Pre-Conversion, Conversion and Post-Conversion Practices" to understand the problems that arise from the conversion of conventional banks to sharia banks carried out by PT Bank Aceh Syariah. In practice, there are several business activities, procedures and processes that are not always in sync with sharia principles.(Law, 2011)

## **RESEARCH METHODOLOGY**

The methodology used in this research is a normative juridical approach using an approach oriented towards applicable statutory policies. In this research, primary and secondary data will be collected and analyzed. Primary data was collected through interviews with related parties and searching official documents, such as applicable legal policies and internal Bank Aceh documents. Secondary data will be collected through literature study and literature analysis related to procedures for transitioning business activities from conventional banks to Islamic banks.

After the data is collected, descriptive and qualitative analysis will be carried out to understand the transition procedures for business activities and the challenges faced by Bank Aceh in the transition process. Next, a normative juridical analysis will be carried out to examine the applicable legal policies and evaluate how these policies influence the transition process of business activities from conventional banks to Islamic banks.

The results of this research will provide a juridical review of PT's business activity transition procedures. Bank Aceh is PT. Bank Aceh Syariah, identified the challenges faced by Bank Aceh in the transition process, and provided recommendations for improving the transition process for subsequent business activities.

According to Wijaya (2018), comparative research compares the existence of one or more variables from two or more different samples or from different times.(Wijaya, 2018)

This research uses a quantitative approach methodology, or research whose results can be quantified (measured) using statistical techniques or other methods. stated in Sujarweni (2020:39) that the quantitative research process begins with theory, hypothesis, research design, subject selection, data collection, processing, analysis and writing conclusions.(Sujarweni, 2020)

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## **RESULT AND DISCUSSION**

There are also government policies, such as Republic of Indonesia Government Policy No. 28 of 1999 concerning Mergers, (Indonesia PR, 1999) Bank Consolidation and Acquisition, and Financial Services Authority policies such as Policy No. 3/POJK and Policy 24/POJK No. 03.2015 concerning Sharia Business Unit Products and Sharia Rural Financing Banks, must also be taken into account in the conversion process. Financial Services Authority Policy No. 24/POJK also regulates the conversion of conventional bank business activities to sharia bank business activities, as in policy no 03/2016. (Finance, Financial Services Authority Policy No. 3/POJK also regulates conversion, 2016)

There are several ways to change a conventional bank to a sharia bank, including:

**Acquisition:** This is a legal action taken by a legal entity or individual to take over shares of a company, thereby resulting in a transfer of control over the company.

**Modification Conversion:** This process refers to the transition from one procedure technique to another procedure technique. When a conventional bank is converted into a sharia bank, a significant transition occurs and all assets in the conventional bank become assets in a sharia bank. Permission from the Financial Services Authority is required to undergo this conversion.

**Sharia Business Unit:** Conventional Commercial Banks must establish a Sharia Business Unit to provide services based on sharia principles. This is a work unit of the bank's head office that functions like the main office of units that run business based on sharia principles.

**Spin-off:** This is a legal action taken by a company to separate its operational business from its main business, resulting in the transfer of all of the company's assets and liabilities to another company or part of it. In banking, spin-off is defined as the separation of a bank's business from two or more companies in accordance with applicable policies.

PT Bank Aceh is a limited company owned by the district/city government in Aceh amounting to 65.73% and the provincial government of Aceh amounting to 34.27%. This bank will change from a conventional bank to a sharia bank when deciding on its policy direction. Bank Aceh has opened a Sharia Business Unit and has been running business based on sharia principles.

The formation of a Sharia Business Unit (UUS) is also one way to introduce sharia principles in bank services. UUS is part of a conventional bank's head office which functions as a business unit that carries out activities based on sharia principles.

Spin-off or separation is also an option to change a conventional bank to a sharia bank. This involves separating the banking business into several companies that operate in accordance with statutory policies.

For example, PT Bank Aceh, a conventional bank owned by the district and city governments throughout Aceh and the Aceh Provincial Government, decided to change

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to a sharia bank. This bank opened a Sharia Business Unit and initially carried out business activities in accordance with sharia principles.

**PT. Aceh Bank.**

Financial Services Authority Policy No. 1 regulates the conversion of conventional bank business activities into sharia banks. Before undergoing this transition, conventional banks are required to obtain approval from the OJK. so that this is granted through a business activity transition permit contained in Article 4 of OJK Policy No. 64 of 2016. In the bank's business plan, the conversion plan must be included as regulated in Article 5 of the OJK Policy.(Finance, 2016)

To convert operations to a sharia bank, conventional banks must change basic rules, meet capital requirements, replace directors and commissioners, form a Sharia Supervisory Board (DPS), and provide the first financial report in the Islamic banking business. Conventional banks must fulfill several requirements such as transformation mission and vision, transition of articles of association, shareholder identity, business plan, feasibility study of economic potential and market opportunities, and plan for settlement of consumer rights and obligations. If these requirements are met, the OJK will grant permission to conventional banks to change their operations to sharia banks.(Anshori, 2010)

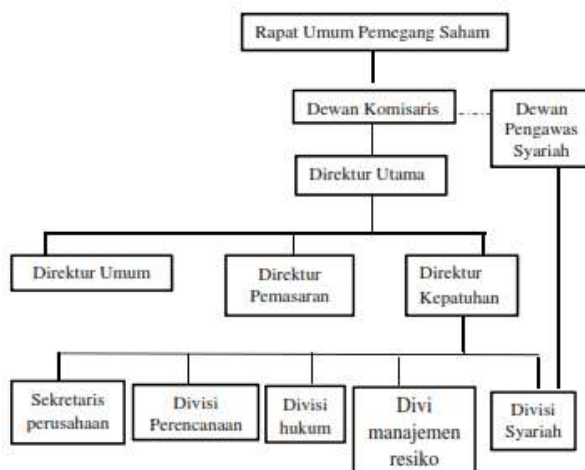
Conventional banks that have obtained permits must change their identity and forms as well as existing goods, offices and office networks to show that they are operating as sharia banks. The bank must start operating within 60 days after the permit is granted and must notify the public of its sharia activities through national or local media. Apart from that, conventional banks must report to the OJK after these activities are completed. Permits granted by the OJK can also be reviewed if they are not implemented within 60 days.(OJK, 2016)

The process of transforming the activities of a conventional bank into a sharia bank requires several factors and requirements that must be met by the bank concerned. Financial Services Authority Policy No. 1 contains more detailed provisions regarding this process. The OJK must give its approval early to transition the business activities of a conventional bank to a sharia bank, with permission granted in the form of a business activity transition permit.(OJK, Article 18 OJK Regulation 64 of 2016, 2016)

This shows that conventional banks that want to change their business to sharia banks must fulfill several requirements determined by the OJK and if they are not met they will be subject to sanctions. Bank Aceh is a successful example of a conventional bank that has succeeded in renewing its business as a sharia bank.

PT Bank organizational structure Aceh is the following early conversion:

Struktur Organisasi PT Bank Aceh sebelum konversi



The conversion from a conventional bank to a sharia bank will affect various legal aspects, including the application of sharia principles in bank operations, the transition of ownership structure, the transition of policies and regulations, as well as the transition of relationships with customers and other related parties.

The application of sharia principles in bank operations requires adjustments and a good understanding of applicable sharia policies and fatwas. This will affect the products and services offered by banks, such as the financing provided must comply with sharia principles such as prudence and not contain elements of usury.

Ownership structure transitions can affect how banks obtain funds and how those funds are allocated. Islamic banks are known for their profit sharing procedure techniques so that shareholders will get a share of the profits earned by the bank.

Policy and regulatory transitions can affect how banks conduct their business and how they meet legal and regulatory demands. Islamic banks have different regulations from conventional banks so there is a need for adjustments and a good understanding of these regulations.

Bank Aceh undergoing conversion from a conventional bank to a sharia bank will have several legal consequences that must be understood and taken into account early in the conversion process.

First, sharia banks must fulfill the terms and conditions that apply to sharia banks such as Law no. 21 of 2008 concerning Sharia Banking and Bank Indonesia Policy (PBI) no. 13/12/PBI/2011 concerning Principles and Governance of Sharia Banking.

Second, Islamic banks must change their products and services in accordance with sharia principles, such as replacing savings and credit products with mudharabah and murabahah products.

Third, Islamic banks must form a Sharia Supervisory Board which plays a role in supervising and controlling bank operations so that they comply with sharia principles.

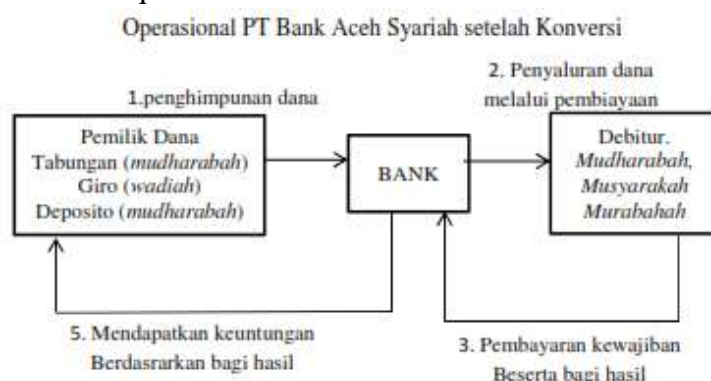
Fourth, because Islamic banks have different consumers than conventional banks, Islamic banks must understand and adapt to the needs and preferences of these different consumers.

The Aceh Qanun regulations play an important role in the context of Bank Aceh's transition from a conventional bank to a sharia bank. The Aceh Qanun rules determine the legal and regulatory policies that apply in the Aceh region, including in the financial and banking sectors. Therefore, Bank Aceh's transition to a sharia bank must meet the terms and conditions determined by the Aceh Qanun. (Law, 2006)

The legal consequences of this conversion must also be analyzed and implemented in accordance with the Aceh Qanun regulations. For example, what policies regarding the management of third party funds or financing in sharia banks must be fulfilled by Bank Aceh. Also, how Bank Aceh must ensure that its business and operations comply with sharia principles determined by the Aceh Qanun.

The following are the legal consequences arising from the conversion of PT Bank Aceh Syariah from a conventional bank to a sharia bank in the event of a lawsuit brought by interested parties:

1. laws subject to PT Bank Aceh Syariah after Conversion.
2. From PT Bank Aceh Syariah, an institutional transition occurred.
3. PT Bank Aceh Syariah has experienced an organizational structure transition.
4. PT Bank Aceh Syariah has undergone a transition from its operational procedures and product techniques.



Sumber: PT Bank Aceh Syariah

The first stage of conversion preparation was carried out in November 2015, starting with the formation of a conversion team, recruiting accompanying consultants, and assigning accompanying teams. According to PT Bank Aceh's conversion schedule, there are three phases: Phase I is dedicated to conversion preparation; Stage II for submitting permit applications; and Phase III is dedicated to operations and post-operations of Islamic banks as well as the transition of rights and obligations of conventional customers. .

Kick-off meetings for the conversion were held from November 2015 as Phase I. The following tasks related to preparation of licensing documents, human resource training, and completion of permits for the conversion were completed between December 2015 to April 2016:

1. proposed transition to articles of association, minutes, bylaws, and shareholder information.

2. Select candidates for the positions of Directors, Commissioners, Sharia Supervisory Board (DPS), and Organizational Structure.
3. RBB stands for Business Plan and Company Budget. (SOUP); standard operating procedures.
4. Proof of Operational Readiness;
5. List of office networks.

Phase II is the period from January 2016 to April 2016 where OJK will receive the conversion permit. Meetings with the National Sharia Council (DSN-MUI) were held from January 2016. After the Ministry of Law and Human Rights gives its approval, the transition can be submitted between March and April 2016 for monitoring. From 2016, Bank management underwent a Fit and Proper Test from March to April. May to June 2016: presentation to OJK and approval of conversion permit (maximum 60 days). public announcement at least ten days before opening from July 2016. .

Phase III, which ran from January to July 2016, implemented several customer-facing strategies, including:

1. socialization process.
2. gather together;
3. visit;
4. via the media, negative confirmation.

Then from August 2016: (1) sharia migration process; (two) reporting of business activities to OJK (10 days after operation); and (three) sharia operations at Bank Aceh. The process of settling the rights and obligations of conventional customers takes place from September 2016 to July 2017 (maximum one year after the permit is issued).

### **DEVELOPMENT OF ASSET PERFORMANCE, PROFIT AND LOSS, DPK, PBY AND NPF OF PT BANK ACEH SYARIAH POST CONVERSION YEAR 2017 - 2021**

Thanks to the efforts and hard work of management and support from all Bank Aceh people and the support and trust of residents and the Regional Government, in 2021 Bank Aceh succeeded in achieving good financial performance. The following are some of Bank Aceh's performance achievements in 2021.

Tabel 4.2: Laporan Kinerja Keuangan Bank Aceh Syariah

No	Ket	2016	2017	2018	2019	2020	2021
1	Aset	18.759.191	22.612.006	23.095.159	25.121.063	25.480.963	28.170.826
2	Rugi/Laba	348.408	433.577	439.433	452.327	333.158	392.127
3	DPK	14.429.246	18.499.069	18.389.948	20.924.597	21.574.036	24.018.009
4	PBY	12.206.001	12.846.657	13.236.773	14.363.251	15.279.249	16.343.845
5	NPF	1,39	0,04	0,04	0,04	0,04	0,03

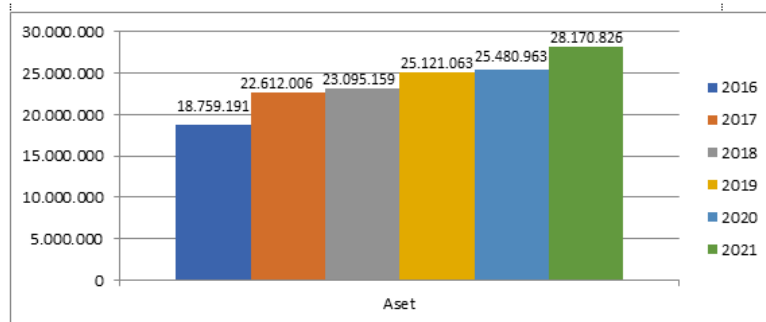
Sumber: Laporan Keuangan Bank Aceh, 2021



Tabel 4.3: Aset Bank Aceh

No	Ket	2016	2017	2018	2019	2020	2021
1	Aset	18.759.191	22.612.006	23.095.159	25.121.063	25.480.963	28.170.826

Sumber: Laporan Keuangan Bank Aceh, 2021

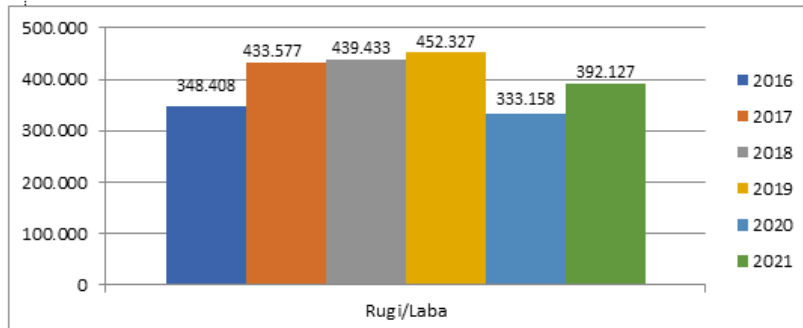


Gambar 4.13: Grafik Pertumbuhan Aset Bank Aceh

Average asset growth over 6 years was 5.65% from 2016 IDR 18,759,191 and in 2021 it grew 10.56% IDR 28,170,826

Tabel 4.4: Rugi/Laba Bank Aceh

No	Ket	2016	2017	2018	2019	2020	2021
1.	Rugi/Laba	348.408	433.577	439.433	452.327	333.158	392.127

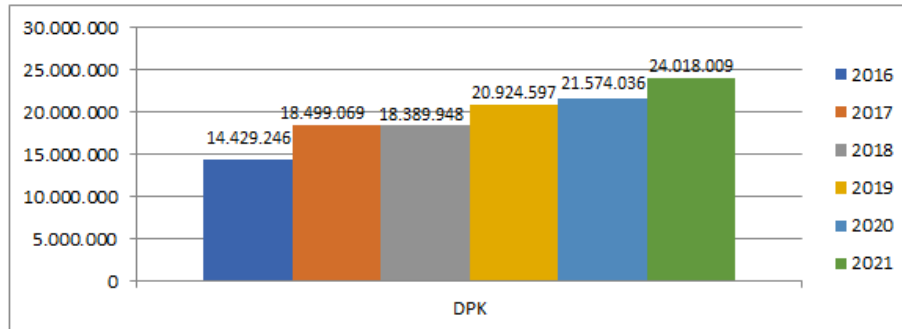


Gambar 4.14: Grafik Rugi/Laba Bank Aceh

The average loss/profit development over 6 years experienced a contraction of 2.48% from 2016 to IDR 348,408 and from 2021 it grew 17.70% to IDR 392,127

Tabel 4.5: DPK Bank Aceh

No	Ket	2016	2017	2018	2019	2020	2021
1	DPK	14.429.246	18.499.069	18.389.948	20.924.597	21.574.036	24.018.009

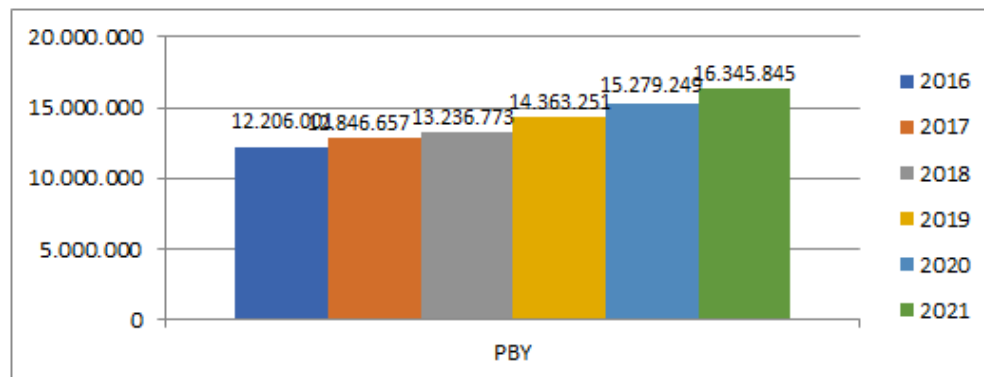


Gambar 4.15: Grafik DPK Bank Aceh

The average growth of third party funds over 6 years was 6.74%, from 2016 IDR 14,429,246 million and from 2021 it grew 11.33%, amounting to IDR 24,018,009\

Tabel 4.6: Pembiayaan Bank Aceh

No	Ket	2016	2017	2018	2019	2020	2021
4	PBY	12.206.001	12.846.657	13.236.773	14.363.251	15.279.249	16.345.845

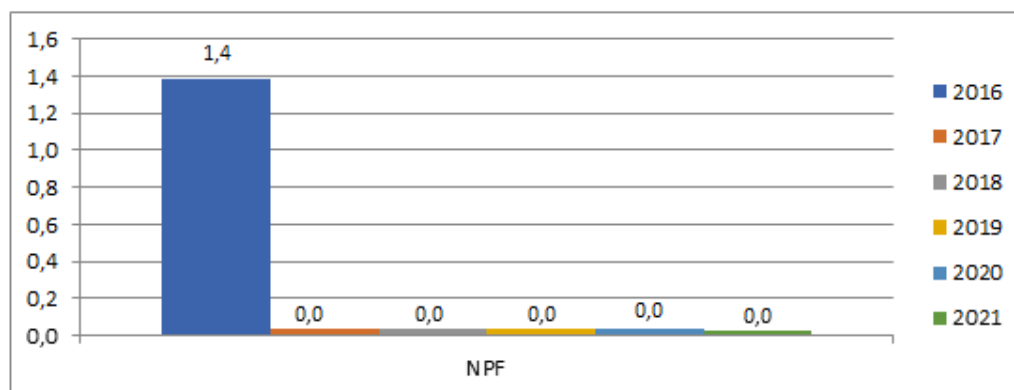


Gambar 4.16: Grafik Pembiayaan Bank Aceh

The development of third party funds takes an average of 6 years a number 6.21% as much as from 2016 IDR 14,429,246 million and from 2021 grow 6.98% amounting to IDR 24,018,009

Tabel 4.7: NPF Bank Aceh

No	Ket	2016	2017	2018	2019	2020	2021
5	NPF	1,39	0,04	0,04	0,04	0,04	0,03



Gambar 4.17: Grafik NPF Bank Aceh

Bank Aceh's financial performance achievement in 2021 is a very good achievement considering that economic and business conditions are still experiencing a slowdown due to the pandemic which has not yet ended. The development of economic indicators in December 2021 indicates an acceleration of the recovery process. This condition is predicted to continue to improve even though the conditions of the pandemic using the omicron variant still surround the condition of the Indonesian people. Economic growth in 2021 was recorded at 5.02% and is predicted to continue to grow in the coming year. The rupiah exchange rate is maintained, supported by the well-maintained fundamental conditions of the Indonesian economy with policy stability measures by Bank Indonesia. Inflation in December 2021 remains low. Permanently low monetary policy interest rates and maintained liquidity are pushing bank credit interest rates on a continuing downward trend. In the midst of continued global financial market uncertainty, Bank Indonesia continues to strengthen the rupiah exchange rate stability policy in accordance with its fundamentals and market procedures, through the effectiveness of monetary operations and the availability of liquidity in the market.

## CONCLUSION

In accordance with observations regarding the comparative analysis of the financial capacity of Bank Aceh Syariah before and during the Covid-19 pandemic exploiting the RGEC formula for the period 2016 to exploiting 2021 which has been carried out, it can be concluded that there are no significant disparities in the NPF, FDR, GCG, ROA, ROE, BOPO factors. and CAR between the financial capacity of Bank Aceh Syariah before the Covid-19 pandemic and the financial capacity of Bank Aceh Syariah during the Covid-19 pandemic. This is due to several similar arguments as follows:

1. The data sample used is relatively small.

Data comparisons are not balanced between data before the pandemic and data during the pandemic.

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