

**LAW OF THE REPUBLIC OF INDONESIA
NUMBER 7 OF 1992
ON
BANKING**

BY THE GRACE OF GOD ALMIGHTY,

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that in order to maintain a sustainable national development to create a just and prosperous Indonesian society based on Pancasila and the 1945 Constitution, the implementation of economic development based on the principles of family values requires a greater attention to harmony, congruity, and balance of elements of the Development Trilogy;
- b. that banking, which is based on the principles of economic democracy with the primary function of mobilizing and channeling the public funds, which has a strategic role in supporting the implementation of national development to improve equitable distribution of development and its results, economic growth and national stability, aimed towards the improvement of common people's standard of living;
- c. that the national banking which must keep up with the rapid changes shall take place constantly in both national and international economic development which is coupled with the increasingly widening challenges in order to carry out their functions and responsibilities to the public;
- d. that the Law Number 14 of 1967 on Banking Principles and several other Laws on banking, which are still valid until now, are no longer able to keep up with the national and international economic development;
- e. that the efforts to achieve the above purposes, it has been deemed necessary to enact a new Law on Banking.

Observing:

1. Article 5, Paragraph (1), Article 20 Paragraph (1) and Article 33 of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 5 of 1962 on Regional Owned Enterprise (State Gazette of the Republic of Indonesia of 1962 Number 10, Supplement to the State Gazette of the Republic of Indonesia Number 2387);
3. Law Number 12 of 1967 on Principles of Cooperation (State Gazette of the Republic of Indonesia of 1967 Number 23, Supplement to the State Gazette of the Republic of Indonesia Number 2832);
4. Law Number 13 of 1968 on the Central Bank (State Gazette of the Republic of Indonesia of 1968 Number 63, Supplement to the State Gazette of the Republic of Indonesia Number 2865);
5. Law Number 9 of 1969 on Establishment of Regulation of the Government in Lieu of Law Number 1 of 1969 on Forms of State-Owned Enterprise (State Gazette of the Republic of Indonesia Number 16 of 1969, Supplement to the State Gazette of the Republic of Indonesia Number 2890) into Law (State Gazette of the Republic of Indonesia Number 40 of 1969, Supplement to the State Gazette of the Republic of Indonesia Number 2904).

By the Mutual Consent of:

THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact:

LAW ON BANKING

CHAPTER I
GENERAL PROVISIONS

Article 1

Under this Law, the following definitions are employed:

1. Bank is a corporate entity which mobilizes funds from the public in the forms of savings, and channels them to the public in order to improve the standard of living of the common people;
2. Commercial Bank is a bank which provides services in payment transactions;
3. Rural Bank is a bank which accepts deposits only in the form of time deposits, savings deposits, and/or other similar forms;
4. Joint Venture Bank is a commercial bank which is established jointly by one or several commercial banks which is domiciled in Indonesia and is established by Indonesian citizens and/or Indonesian legal entities which is entirely owned by Indonesian citizens, with one or several foreign-based banks;
5. Branch Office is a bank office which is directly responsible to its head office of the relevant bank, with a permanent place of business where the Branch Office conducts its activities;
6. Deposits are funds which are entrusted by the public to the Banks in the form of demand deposits, time deposits, certificates of deposit, savings, and/or other similar forms;
7. Demand deposit is a deposit which may be withdrawn at any time by checks, other payment order, or by book transfer;
8. Time deposit is a deposit whose withdrawal may only be made at a specified time which is based on the agreement between the depositor and the relevant Bank;
9. Certificates of Deposit is time deposits whose certificate is tradeable;
10. Saving is a deposit which may only be withdrawn under certain agreed conditions, however, it is unable to be withdrawn by means of checks or other equivalent instruments;
11. Security is letters of credit, notes, stocks, bonds, credit securities, or any derivative of securities or other interests or liabilities of the issuer, which is issued in a form commonly traded in the capital market: and money markets;
12. Credit is the provision of money or equivalent claims, on the basis of a loan agreement between a Bank and another party, which obligates the borrower party to repay the debt after a certain period of time with interest, return or profit sharing;
13. Custodial service is the keeping of property which is based on a contract between a Commercial Bank and a custodian of the property, in which it is stated that the relevant Commercial Bank holds the deposit of property without ownership of the relevant property;
14. Trustee is a commercial bank, which, based to an agreement between the commercial bank and the issuer of the relevant securities, is appointed to represent the interests of all holders of such securities;
15. The affiliated parties are:
 - a. members of the board of commissioners or supervisors, directors, officers or employees of the

- Bank;
- b. members of the management, auditors, board of directors, officers or employees of the Bank, especially for a Bank which is established in legal form of cooperative in accordance with applicable laws and regulations;
 - c. a party which provides services to the relevant Bank, including consultants, and legal consultants, public accountant, appraiser;
 - d. a party which is based on the provision stipulated by Bank Indonesia who also influences the management of a bank.
- 16. Bank Secrecy is anything which is related to information relating to finance and other matters of Bank customers which, according to the prevalence of the banking business, must be kept confidential;
 - 17. Bank Indonesia is the Central Bank of the Republic of Indonesia as stipulated in the applicable law;
 - 18. Monetary Board is the Monetary Board as referred to in the applicable Law;
 - 19. Minister is the Minister of Finance of the Republic of Indonesia;
 - 20. Government is the Government of the Republic of Indonesia.

CHAPTER II

PRINCIPLES, FUNCTIONS AND OBJECTIVES

Article 2

Indonesian Banking shall conduct its business based on the principles of economic democracy by applying the prudential principles.

Article 3

The main function of Indonesian banking is to mobilize and channel the public funds.

Article 4

Indonesian Banking shall aim at supporting the implementation of national development to improve equitable distribution, economic growth, and national stability towards the improvement of common people welfare.

CHAPTER III

BANK CATEGORY AND BUSINESS

Division One

Bank Category

Article 5

- (1) Banks are categorized into:
 - a. Commercial Bank;
 - b. Rural Bank;
- (2) Commercial Bank may be specialized to perform particular activities or focus towards particular

activities.

Division Two

Commercial Bank Business

Article 6

Commercial Bank Business shall include:

- a. mobilizing funds from the public in the form of deposits, comprising demand deposits, time deposits, certificates of deposit, savings, and/or other equivalent forms;
- b. extending credit;
- c. issuing debt instruments (letters of credit);
- d. purchasing, selling or guaranteeing against its own risk or on behalf of and at the orders of its customers:
 - 1. bills of exchange, including bills which are accepted by a Bank whose maturity is no longer than the common practice in trading of such documents;
 - 2. letters of credit and other commercial papers whose maturity is no later than the common practice in trading of such documents;
 - 3. state treasury bills and government guarantees;
 - 4. Bank Indonesia Certificates (Surat Berharga Bank Indonesia/SBI);
 - 5. bonds;
 - 6. commercial papers with maturity of up to 1 (one) year;
 - 7. other securities instruments with maturities of up to 1 (one) year.
- e. transferring money both for own account and for the interests of a customer;
- f. placing funds in, borrowing funds from, or lending funds to other banks, whether by mail, telecommunication instruments or by sight draft, checks or other means;
- g. receiving payment of invoices on securities and settling accounts with or among third parties;
- h. providing safety deposits boxes for valuable goods and securities;
- i. conducting custodial activities on behalf of others based on a contract;
- j. conducting placement of funds from customers to other customers in the form of securities which are not listed in the stock exchange;
- k. purchasing through a collateral auction either in whole or in part in the event that the debtor fails to fulfill his/her obligations to the Bank, provided that such collateral is required to be disbursed as soon as possible;
- l. conducting business in factoring, credit card and trusteeship;
- m. providing financing for customers based on principles of profit sharing in accordance with the provisions stipulated in Regulation of the Government;
- n. conducting other activities which are commonly undertaken by banks insofar as that they so not contravene with this Law and applicable laws and regulations.

Article 7

In addition to conducting banking business as referred to in Article 6, Commercial Bank may also:

- a. engage in foreign exchange activities in compliance with provisions which are stipulated by Bank Indonesia;
- b. engage in equity participation in other banks or companies which operate in financial services, such as leasing, venture capital, securities companies, insurance, and clearing, house settlement and depository institutions, in compliance with the provisions which are stipulated by Bank Indonesia;
- c. engage in temporary equity participation activities to settle bad credit problems, provided that they have to withdraw their participation, in compliance with the provisions which are stipulated by Bank Indonesia; and
- d. act as the founder and management of pension fund in accordance with the applicable laws and regulations on pension fund.

Article 8

In extending credits, a Commercial Bank must have the confidence in the capability and ability of a debtor to settle the debts in accordance with the agreed terms.

Article 9

- (1) A Commercial Bank which conducts custodial activities as referred to in Article 6 Letter i, shall be responsible for the safe-keeping the depositor's property and fulfilling other obligations according to the contract.
- (2) The deposited property must be recorded in bank's administration and recorded separately.
- (3) In the event that a bank goes into bankruptcy, all properties which are deposited in the custody of the bank shall not be included in the bankruptcy property and must be returned to the concerned depositors.

Article 10

Commercial Bank is prohibited to:

- a. conduct capital participation, except as those as referred to in Article 7 Letter b and Letter c;
- b. conduct insurance business;
- c. conduct other businesses other than those as referred to in Article 6 and Article 7.

Article 11

- (1) Bank Indonesia shall stipulate the provisions on the legal lending limits for extending credit, granting of guarantees, placement of investment in securities, or other similar business activities, which may be performed by a bank to a debtor or a group of related debtors, including to companies within the same group of the concerned bank.
- (2) The maximum limit as referred to in Paragraph (1) shall not exceed 30% (thirty percent) of bank capital as in the provisions which are stipulated by Bank Indonesia.
- (3) Bank Indonesia shall stipulate the provisions on legal lending limits, granting of guarantees, placement security investments, or other similar business activities, which may be conducted by a bank to:
 - a. a shareholder who owns 10% (ten percent) or more of the paid-up capital of the bank;
 - b. members of the board of commissioners;
 - c. members of the board of directors;
 - d. relatives of the parties as referred to in letter a, letter b and letter c; and

- e. other bank's officers; and
 - f. business entities in which interests of the parties as referred to in Letter a, Letter b, Letter c, Letter d, and Letter e.
- (4) The maximum limit as referred to in Paragraph (3) shall not exceed 10% (ten percent) of bank capital as in the provisions which are stipulated by Bank Indonesia.
- (5) The implementation of the provisions as referred to in Paragraph (1) and Paragraph (3) must be reported in accordance with the provisions which are stipulated by Bank Indonesia.

Article 12

The Government may assign Commercial Banks to execute government programs to develop certain sectors of the economy or may give greater attention to cooperatives and economically weak/of small-scale entrepreneurs to improve the living standards of common people, based on the provisions as regulated in Regulation of the Government.

Division Three

Rural Bank Business

Article 13

Rural Bank Business shall include:

- a. mobilizing funds from the public in the form of deposits, comprising time deposits, savings, and/or other equivalent forms;
- b. extending credit;
- c. providing financing for customers based on principles of profit sharing in accordance with the provisions which are stipulated in Regulation of the Government;
- d. placing its funds in the form of Bank Indonesia Certificates (SBI), time deposits, certificates of deposit and/or savings in other banks.

Article 14

Rural Bank is prohibited to:

- a. accepts deposits in the form of demand deposits and participate in transactions;
- b. conducts business activities in foreign currency;
- c. carries out capital participation;
- d. conducts insurance business;
- e. conducts businesses other than those as referred to in Article 6 and Article 13.

Article 15

The provisions as referred to in Article 8 and Article 11 shall also apply to Rural Bank.

CHAPTER IV

LICENSING, FORM OF LEGAL ENTITY AND OWNERSHIP

Division One

Licensing

Article 16

- (1) Any party who conducts activities of collecting funds from the public in the form of demand deposits, time deposits, certificates of deposit, savings, and/or other forms of equivalent, must first obtain a business license as a Commercial Bank or Rural Bank from the Minister, except the relevant activities of collecting funds from the public are stipulated in a separate law.
- (2) Business license of Commercial Banks and Rural Banks shall be granted by the Minister upon hearing the consideration from Bank Indonesia.
- (3) In order to obtain business license for Commercial Bank and Rural Bank as referred to in Paragraph (2), the applicant is required to fulfill the requirements on:
 - a. organization structure;
 - b. capital;
 - c. ownership;
 - d. expertise in banking;
 - e. feasibility of business plan; and
 - f. other matters which are stipulated by the Minister, upon hearing the considerations by Bank Indonesia.
- (4) In order to obtain Rural Bank business license, in addition to fulfilling the requirements as referred to in paragraph (3), the applicant must also fulfill the requirement on domicile of head office of Rural Bank in sub-district.
- (5) Without reducing the provisions as referred to in Paragraph (4), subject to the provisions as regulated in Regulation of the Government, Rural Bank may be established in a district or municipal capital, as long as there is no Rural Bank in the district or municipal capital.
- (6) The requirements as referred to in Paragraph (3), Paragraph (4), Paragraph (5), and the licensing procedures are further stipulated with Regulation of the Government.

Article 17

To obtain a business license as a Commercial Bank in the form of joint venture bank, the requirements as referred to in Article 16 Paragraph (3) and Paragraph (6), and the provisions as stipulated by Regulation of the Government must be fulfilled, which regulates:

- a. the amount of ownership and management of permitted foreign parties;
- b. parties which are permitted to cooperate;
- c. other matters according to the Monetary Board which need to be regulated in the interest of national development.

Article 18

- (1) Branch office of a Commercial Bank may only be established pursuant to a license which is granted by the Minister, upon hearing consideration from Bank Indonesia.
- (2) Overseas branch or representative office of Commercial Bank may only be established pursuant to a license which is granted by the Minister, upon hearing consideration of Bank Indonesia.

- (3) The establishment of a sub-branch office of a Commercial Bank must be reported to Bank Indonesia.
- (4) The requirements and procedures for the establishment of Commercial Bank Offices as referred to in Paragraph (1), Paragraph (2) and Paragraph (3) are stipulated by the Minister upon hearing the consideration of Bank Indonesia.

Article 19

- (1) Establishment of a branch office of a Rural Bank in the state capital, provincial capital, regency and city may only be allowed pursuant to a license which is granted by the Minister, upon hearing the considerations of Bank Indonesia.
- (2) Establishment of a branch office outside the state capital, provincial capital, district and city capital, and the establishment of sub-branch office of a Rural Bank must be reported to Bank Indonesia.
- (3) The requirements and procedures for the establishment of Rural Bank Offices as referred to in Paragraph (1) and Paragraph (2) are stipulated by the Minister upon hearing the consideration of Bank Indonesia.

Article 20

- (1) The establishment of a branch office, sub-branch office and representative office of an overseas bank may only be allowed pursuant to a license by the Minister, upon hearing the consideration of Bank Indonesia.
- (2) The establishment of under a sub-branch office of a bank as referred to in Paragraph (1) must be reported to Bank Indonesia.
- (3) The requirements and procedures for the establishment of offices as referred to in Paragraph (1) and Paragraph (2) shall be further stipulated by Regulation of the Government.

Division Two

Legal Entity Form

Article 21

- (1) Commercial Bank may be established in the following legal forms:
 - a. Liability Company (PERSERO);
 - b. Regional Owned Enterprise;
 - c. Cooperative;
 - d. Limited Liability Company.
- (2) Rural Bank may be established in the following legal forms:
 - a. Regional-Owned Enterprise;
 - b. Cooperative;
 - c. Limited Liability Company.
 - d. Other forms which are stipulated in a Regulation of the Government.
- (3) The legal form of representative and branch offices which are domiciled overseas shall correspond to the legal form of the respective head office.

Division Three Ownership

Article 22

Commercial Bank may only be established by:

- a. Indonesian citizens and/or Indonesian legal entities which is wholly owned by Indonesian citizens and/or Indonesian legal entities; or
- b. Banks whose founders are as referred to in Letter a with a bank which is domiciled overseas.

Article 23

Rural Bank may only be established and owned by Indonesian citizens, Indonesian legal entities which is wholly owned by Indonesian citizens, local governments, or may be jointly owned by all three.

Article 24

The ownership of a Commercial Bank and a Rural Bank in the form of cooperative law shall be regulated in accordance with the provisions of the applicable cooperative law.

Article 25

The shares of Commercial Bank and Rural Bank which is established in the form of limited liability company may only be issued in the form of registered shares.

Article 26

- (1) Commercial Bank may issue shares through stock exchange in Indonesia.
- (2) Indonesian citizens, foreign nationals, Indonesian legal entities and/or foreign legal entities may purchase the shares of Commercial Bank which is sold under the provisions as referred to in Paragraph (1).
- (3) Foreign nationals and/or foreign legal entities may purchase shares of a Commercial Bank through the stock exchange, provided that they shall not become the majority shareholder.
- (4) Specifically for State-Owned Commercial Banks, the issuance of shares as referred to in paragraph (1) may only be allowed without causing a change in the majority of shareholder by the state.
- (5) The execution of such provisions as referred to in Paragraph (2), Paragraph (3), and Paragraph (4) shall be further stipulated in a Regulation of the Government.

Article 27

Any changes in Bank ownership must:

- a. fulfill the provisions as referred to in Article 16 paragraph (6), Article 17, Article 22, Article 23, Article 24, Article 25, and Article 26;
- b. be reported to Bank Indonesia.

Article 28

- (1) Merger and consolidation between banks, as well as bank acquisitions must first obtain a license from



the Minister upon hearing the consideration of Bank Indonesia.

- (2) The provisions on merger, consolidation and acquisition are stipulated in Regulation of the Government.

CHAPTER V

DEVELOPMENT AND SUPERVISION

Article 29

- (1) Development and supervision of Bank shall be conducted by Bank Indonesia.
- (2) Bank Indonesia shall establish the provisions on bank soundness by taking into account the adequacy of capital, asset quality, management quality, profitability, liquidity, solvency, and other aspects which are related to the bank's business.
- (3) Bank must maintain its soundness in accordance with the provisions as referred to in Paragraph (2) and shall conduct business in accordance with the principles of prudence.
- (4) In extending credits and conducting other business activities, bank must adhere to methods which are not detrimental to the bank and the interests of customers who entrust their funds to the bank.
- (5) In the interest of its customer, a bank shall provide information on the possible risks of loss which relates to customer transactions which is conducted through a bank.

Article 30

- (1) Bank must submit to Bank Indonesia, all information, and clarifications of its business operations according to the procedures which are stipulated by Bank Indonesia.
- (2) At the request of Bank Indonesia, bank must provide an opportunity for examination of the books and files thereof and shall provide any necessary assistance to obtain verification of all information, documents and explanations which are reported by the relevant bank.
- (3) Information on a bank which are obtained under the provisions referred to in Paragraph (1) and Paragraph (2) shall not be made public and shall be confidential.

Article 31

- (1) Bank Indonesia shall conduct examination on banks, both periodically and at any time which is deemed necessary.
- (2) In the event that it is necessary to establish a macro policy, the Monetary Board may request Bank Indonesia to:
- submit a report on any necessary result of the examination on a Bank;
 - conduct special examination on Bank and report the examination result.

Article 32

If it is deemed necessary, the Minister may also request Bank Indonesia to submit a report on the examination result on bank or to request Bank Indonesia to conduct a special examination on bank and to report the examination result.

Article 33

- (1) Bank examination report as referred to in Article 31 and Article 32 shall be confidential.
- (2) Requirements and procedures for examination as referred to in Article 31 and Article 32 shall be stipulated by Bank Indonesia.

Article 34

- (1) Bank must submit its annual balance sheet and profit/loss calculations and its explanatory notes to Bank Indonesia, as well as other periodical reports, within the time and in the form which is stipulated by Bank Indonesia.
- (2) The annual balance sheet and profit/loss calculation as referred to in paragraph (1) must first be audited by a public accountant.
- (3) The fiscal year of a bank shall be the calendar year.

Article 35

Bank must announce the balance sheet and profit/loss calculation within the time and form stipulated by Bank Indonesia.

Article 36

Bank Indonesia may stipulate an exemption from the provisions as referred to in Article 34 paragraph (2) for Rural Banks.

Article 37

- (1) If Bank Indonesia assesses that a bank is expected to undergo difficulties which endanger its business continuity, Bank Indonesia shall notify this to the Minister.
- (2) In the event a bank undergoes difficulties which endanger its business continuity, Bank Indonesia may:
 - a. take measures so that:
 1. The shareholders increase the capital;
 2. The shareholders replace the board of commissioners and/or the bank's board of directors;
 3. The bank writes off the bad debts, and sets off the bank's losses against its capital;
 4. The bank undertakes a merger or consolidation with other banks;
 5. The bank is sold to buyers who are willing to take over all liabilities.
 - b. take other measures in accordance with applicable laws and regulations.
- (3) If Bank Indonesia assesses that:
 - a. the state of a bank endangers the banking system; or
 - b. the actions as referred to in Paragraph (2) are insufficient to overcome the difficulties which are faced by bank;Bank Indonesia shall propose to the Minister to revoke the business license of the relevant bank.
- (4) Based on the proposal of Bank Indonesia as referred to in Paragraph (3), the Minister shall revoke the business license of the bank and instructs the board of directors to liquidate the bank.
- (5) In the event that the board of directors does not liquidate the bank as referred to in Paragraph (4), upon hearing the consideration of Bank Indonesia, the Minister may request the Court to liquidate the

relevant bank.

CHAPTER VI

BOARD OF COMMISSIONERS, BOARD OF DIRECTORS AND FOREIGN WORKERS

Article 38

- (1) The appointment of members of the board of commissioners and board of directors of a bank must comply with the provisions as referred to in Article 16 Paragraph (6) and Article 17.
- (2) Changes in membership of the board of commissioners and board of directors of bank as referred to in Paragraph (1) must be reported to Bank Indonesia.

Article 39

- (1) In carrying out its activities, a bank may employ foreign workers.
- (2) Requirements on the use of foreign workers as referred to in Paragraph (1) shall be stipulated in a Regulation of the Government.

CHAPTER VII

BANK SECRECY

Article 40

- (1) Bank is prohibited from providing information recorded in the bank on financial condition and other matters of its customers, which must be kept confidential by the bank according to the prevalence in the banking world, except in the event as referred to in Article 41, Article 42, Article 43 and Article 44.
- (2) The provisions as referred to in paragraph (1) shall also apply to affiliated parties.

Article 41

- (1) In the interest of taxation, the Minister has the authority to issue a written order to a bank to disclose information and to present written evidence and documents on the financial condition of particular customers to taxation officer.
- (2) The written order as referred to in paragraph (1) shall state the name of the tax officer and the name of the taxpayer whose information is desired.

Article 42

- (1) In the interest of the court procedures in a criminal case, the Minister may grant permission to the police, prosecutor or judge to obtain information from a bank on the financial condition of a suspect/defendant on the bank.
- (2) The permission as referred to in Paragraph (1) shall be issued in writing upon the written request by the Chief of Police of the Republic of Indonesia, the Attorney General, or the Chief Justice of the Supreme Court.
- (3) The request as referred to in Paragraph (2) shall state the name and position of the police officer, the prosecutor or judge, the name of the accused/defendant, the reasons for which such information required and the relationship between the criminal case and the required information.

Article 43

In a civil suit between a bank and its customers, the board of directors of the relevant bank may inform the court on the financial condition of the customer on and provide other relevant information to the case.

Article 44

- (1) In order to exchange information between/among banks, the board of directors of bank may disclose the financial condition of its customers to other banks.
- (2) The provisions on the exchange of information as referred to in paragraph (1) shall be further stipulated by Bank Indonesia.

Article 45

Party who feels aggrieved by the information which is provided by bank as referred to in Article 41, Article 42, Article 43 and Article 44, shall be entitled to know the contents of such information and to request rectification if there are errors in the given information.

CHAPTER VIII

PENAL PROVISION AND ADMINISTRATIVE SANCTION

Article 46

- (1) Any person who collects funds from the public in the form of deposits as in demand deposits, time deposits, certificates of deposit, savings, and/or other forms of equivalent without a business license from the Minister as referred to in Article 16 and Article 17, shall be punishable by imprisonment a maximum of 15 (fifteen) years and a maximum fine of Rp10,000,000,000 (ten billion rupiah).
- (2) In the event that the activity as referred to in Paragraph (1) is committed by a legal entity in the form of a limited liability company, association, foundation or cooperative, the charges of such entity shall be imposed either against those who gave such order or those who act as the leaders in the acts or against both.

Article 47

- (1) Any person without a written order from the Minister to a bank as referred to in Article 41, or without permission of the Minister as referred to in Article 42, deliberately forcing the bank or affiliated party to disclose information as referred to in Article 40, shall be punishable by imprisonment of a maximum 3 (three) year and a maximum fine of Rp3,000,000,000 (three billion rupiah).
- (2) Members of the board of commissioners, directors, bank employee or other affiliated parties who deliberately disclose information which must be kept confidential under Article 40, shall be subject to a maximum imprisonment of 2 (two) years and a maximum fine of Rp2,000,000,000 (two billion rupiah).

Article 48

- (1) Members of the board of commissioners, directors or bank employee who deliberately withhold the required information as referred to in Article 30 Paragraph (1) and Paragraph (2) and Article 34 Paragraph (1) and Paragraph (2) shall be subject to a maximum imprisonment of 2 (two) years and a maximum fine of Rp2,000,000,000 (two billion rupiah).
- (2) Members of the board of commissioners, directors or bank employee who through negligence fail to

provide the required information as referred to in Article 30 Paragraph (1) and Paragraph (2) and Article 34 Paragraph (1) and Paragraph (2) shall be subject to a maximum imprisonment of 1 (one) year and/or a maximum fine of Rp1,000,000,000 (one billion rupiah).

Article 49

- (1) Member of the board of commissioners, board of directors or a bank employee who deliberately:
- creates false or falsifies records in the books or in reports, in documents or reports of business activities, transaction or bank accounts;
 - eliminates or fails to enter or causes not to be recorded in the books or in reports, in documents or reports of business activities, transaction or bank accounts;
 - changes, obscures, conceals, erases, or removes any record in the books or in a report, in documents or reports of business activities, transactions or bank accounts, or deliberately changes, obscures, erases, conceals or destroys such accounting records of the books,
- shall be subject to a maximum imprisonment of 15 (fifteen) years and a maximum fine of Rp10,000,000,000 (ten billion rupiah).
- (2) Member of the board of commissioners, board of directors or a bank employee who deliberately:
- solicits or accepts, allows or accepts to receive any remuneration, commission, gratuity, service, money or valuables, for personal gain or for the benefit of his family, in order to obtain or seek to obtain in favor for another person a down payment, bank guarantee, or credit facility from a bank, or in the course of purchase or discounting by the bank on bill of exchange, promissory notes, checks, and commercial papers or other proof of liability, or in the course of providing approval to others to withdraw funds in excess of their credit limit at the bank;
 - fails to take the necessary measures to ensure the compliance of the bank to the provisions of this Law and the provisions in other applicable laws and regulations to banks,
- shall be subject to a maximum imprisonment of 6 (six) years and a maximum fine of Rp6,000,000,000 (six billion rupiah).

Article 50

Affiliated party who deliberately fails to take the necessary measures to ensure the compliance of a bank to the provisions of this Law and other applicable laws and regulations to the bank shall be subject to a maximum imprisonment of 6 (six) years and a maximum fine of Rp6,000,000,000 (six billion rupiah).

Article 51

- (1) Criminal acts as referred to in Article 46, Article 47, Article 48 paragraph (1), Article 49, and Article 50 are considered as felonies.
- (2) The criminal acts as referred to in Article 48 Paragraph (2) are considered as violations.

Article 52

Without prejudice to the penal provisions as referred to in Article 47, Article 48, and Article 49, Bank Indonesia may impose administrative sanctions on a bank which fails to fulfill its obligations as stipulated in this Law or may submit consideration to the Minister to revoke the business license of the relevant bank.

Article 53

Without prejudice to the penal provisions as referred to in Article 50, Bank Indonesia may impose



administrative sanctions on affiliated party who fails to fulfill its obligations as stipulated in this Law or submit consideration to authorized institution to revoke the relevant license.

CHAPTER IX

TRANSITIONAL PROVISION

Article 54

- (1) Upon the effective enforcement of this Law:
- Regulation of the Government in Lieu of Law Number 21 of 1960 on Indonesian Development Bank (State Gazette of the Republic of Indonesia Number 65 of 1960, Supplement to the State Gazette of the Republic of Indonesia Number 1996);
 - Law Number 13 of 1962 on Basic Provisions of Regional Development Bank (State Gazette of the Republic of Indonesia of 1962 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 2490);
 - Law Number 17 of 1968 regarding Bank Negara Indonesia 1946 (State Gazette of the Republic of Indonesia of 1968 Number 70, Supplement to the State Gazette of the Republic of Indonesia Number 2870);
 - Law Number 18 of 1968 on Bank Dagang Negara (State Gazette of the Republic of Indonesia Number 71 of 1968, Supplement to the State Gazette of the Republic of Indonesia Number 2871);
 - Law Number 19 of 1968 on Bank Bumi Daya (State Gazette of the Republic of Indonesia Number 72 of 1968, Supplement to the State Gazette of the Republic of Indonesia Number 2872);
 - Law Number 20 of 1968 on Bank Tabungan Negara (State Gazette of the Republic of Indonesia Number 73 of 1968, Supplement to the State Gazette of the Republic of Indonesia Number 2873);
 - Law Number 21 of 1968 on Bank Rakyat Indonesia (State Gazette of the Republic of Indonesia Number 74 of 1968, Supplement to the State Gazette of the Republic of Indonesia Number 2874);
 - Law Number 22 of 1968 on Bank Ekspor Import Indonesia (State Gazette of the Republic of Indonesia Number 75 of 1968, Supplement to the State Gazette of the Republic of Indonesia Number 2875);
- shall remain valid for a maximum period of 1 (one) year from the effective enforcement date of this Law.
- (2) Within the period as referred to in Paragraph (1), banks which are established under Law as referred to in Paragraph (1) must comply with the provisions of this Law.
- (3) In the event that bank as referred to in Paragraph (2) has adjusted to the provisions of this Law prior to the period as referred to in Paragraph (1), then the Law as referred to in Paragraph (1) shall be declared to be invalid.

Article 55

- Bank which has obtained business license from the Minister upon the effective enforcement of this Law, is declared to have obtained a business license in accordance with this Law.
- Bank as referred to in Paragraph (1) must comply with the provisions of this Law within a maximum period of 1 (one) year from the enforcement date of this Law.

- (3) A Rural Bank which has obtained a business license at the time this law comes into force, and domiciled in the state capital, provincial capitals, district capitals and municipalities, may continue its business as a Rural Bank until it may be upgraded into Commercial Bank.

Article 56

The provision on the maximum credit limit as referred to in Article 11 Paragraph (2) and Paragraph (4) must be complied by bank within a maximum period of 5 (five) years since the enforcement of this Law.

Article 57

Non-Bank Financial Institution which already had a business license from the Minister upon the effective enforcement of this Law, may adjust its business activities as a bank pursuant to provisions of this Law, within a maximum period of 1 (one) year from the enforcement date of this Law.

Article 58

Bank Desa, Lumbung Desa, Bank Pasar, Bank Pegawai, Lumbung Pitih Nagari (LPN), Village Credit Institution (Lembaga Perkreditan Desa/LPD), Village Credit Board (Badan Kredit Desa/BKD), District Credit Board (Badan Kredit Kecamatan/BKK), Small Business Credit (Kredit Usaha Rakyat Kecil/KURK), District Credit Institution (Lembaga Perkreditan Kecamatan/LPK), Village Production Work Bank (Badan Karya Produksi Desa/BKPD) and/or other similar institutions shall be granted the status of Rural Bank pursuant to this Law by fulfilling the requirements of procedures as regulated by Regulation of the Government.

Article 59

Laws and regulations which have been issued before the enforcement of this Law, provided that they are not contravene to this Law, shall remain valid until revoked, replaced or renewed.

CHAPTER X

CLOSING PROVISIONS

Article 60

Upon the effective enforcement of this Law:

- a. Staatsblad Number 357 of 1929 on 14 September 1929 on provisions on Village Credit Entities within provinces of Java and Madura outside municipal areas;
- b. Law Number 12 of 1962 on Private Development Bank (State Gazette of the Republic of Indonesia of 1962 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 2489);
- c. Law Number 14 of 1967 on Principles of Banking (State Gazette of 1967 Number 34, Supplement to the State Gazette Number 2842) is declared invalid.

Article 61

This Law comes into force from the date of its promulgation.

For public cognizance, it is hereby ordered that this Law be promulgated in the State Gazette of Republic of Indonesia.

Enacted in Jakarta,

On 25 March 1992

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Signed.

SOEHARTO

Promulgated in Jakarta,

On 25 March 1992

MINISTRY/SECRETARY OF THE REPUBLIC OF INDONESIA,

Signed.

MOERDIONO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 31 OF 1992



**ELUCIDATION OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 7 OF 1992
ON
BANKING**

I. GENERAL REVIEW

In order to create a just and prosperous Indonesian society which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia, a continuity and an improvement of national development based on the principles of family values needs to be properly maintained. To achieve the above objective, implementation of economic development shall be given a greater attention to the harmony, congruity, and balance of the various elements of equitable development, economic growth, and national stability.

One of the means which plays a strategic role in harmonizing and balancing every element of the Development Trilogy is the banking. This strategic role stems from the bank's main function as an institution which may mobilize and channel public funds effectively and efficiently and based on the economic democracy which supports the implementation of national development to improve equitable distribution of development and its fruits, economic growth and national stability, which directed towards improving the living standards of the common people.

Considering the very strategic role of banking institutions in achieving the goal of national development, the banking institutions need a constant effective supervision, which is based on a solid foundation of its systems so that banking institutions in Indonesia are capable to function efficiently, soundness and reasonably, and to face the increasingly globalized competition, to appropriately secure the funds entrusted by the public, and to channel such funds into productive sectors to achieve the target of development goal.

In an effort to support the sustainability and improvement of national development, the banking institutions along with the progress of development in Indonesia and development of international economy, and the increasing demand for a strong and healthy banking service, have shown a rapid growth.

Considering the rapid increase demand for banking services, it has been deemed necessary to take various adjustments on the existing foundation of banking systems in order to accommodate the demand of banking service development.

In order to improve the sustainably progress of banking institution and to truly able to provide the greatest benefit to the implementation of national development, and to ensure that the economic democracy is implemented, so that all potentials, initiatives and creativity of the public may be mobilized and developed into a real strength to improve prosperity of the people, the development and supervision of banking and the foundation of banking systems which have been based on the provisions of the 1967 Banking Law needs to be developed and improved. With these improvements, banking institutions will be better prepared and able to play a better role in supporting the process of development increasingly confronted with challenges from the development in international economy.

As commonly known, the 1967 Banking Law was formulated in a situation and under economic condition which was far different from the current economic situation and condition. The rapid changes taking place constantly in both national and international economic development coupled with the increasingly widening challenges, must continually be kept up with appropriate response from national banking in carrying out their functions and responsibilities to the public; so that the national banking needs:

1. to be improved into a more straightforward institutional structure, based on a broader foundation, and more clearly-defined scope of activities;
2. to be given the opportunities to expand its services throughout the country, both providing

- services as commercial banking which reaches all walks of life and rural banking who focuses its services for the economically weak groups/small-scale entrepreneurs;
3. to be reinforced by the legal basis needed to implement guidance and supervision which supports the improvement of banking capability to perform its functions in a sound, reasonable and efficient manner, while allowing Indonesian banking to make necessary adjustments in line with the development of international banking norms.

Furthermore, in order to improve the banking system in Indonesia, the following measures have been taken:

1. Simplifying bank categories into Commercial Bank and Rural Bank, and clarifying the scope and limit of activities each category can carry out;
2. Stipulating the basic requirements to establish a bank in detail, so that implementation of the provisions relating to banking activities is more well-defined and focused;
3. Increasing the protection of public funds entrusted to banking institutions through the application of prudential principles and fulfillment of bank soundness requirements;
4. Improving the professionalism of human resources in banking;
5. Expanding the opportunities to organize activities in a sound and responsible banking sector, while preventing the occurrence of practices that are detrimental to public interests.

These improvement efforts are intended for Indonesian banking institutions to have the responsive attitude towards changes in national development and hence, the role of improving the living standard of the common people, distribution of development and its fruits, and improvement of economic growth and national stability may be realized realistically, in the effort to create a just and prosperous society based on Pancasila and the 1945 Constitution.

II. ARTICLE BY ARTICLE

Article 1

Number 1 until Number 20

Self-explanatory

Article 2

'economic democracy' is economic democracy which is based on Pancasila and the 1945 Constitution.

Article 3

Self-explanatory

Article 4

Self-explanatory

Article 5

Paragraph (1)

Self-explanatory

Paragraph (2)

"specialized to perform particular activities" covers, among others, conducting long-term financing activity, financing to develop cooperatives, development of weak economic groups/small-scale entrepreneurs, development of non-oil-gas exports, and housing development.

Article 6

Commercial Bank may perform parts or all of the business activities as referred to in letter a to letter n. Every bank may choose the type of business that is appropriate with the expertise and the business field that it wishes to develop. In this manner, the banking business shall be able to meet the public needs for various types of bank services without ignoring the principles of soundness and efficiency.

Letter a

Self-explanatory

Letter b

Self-explanatory

Letter c

The Bank may issue both short-term and long-term debt instruments (letters of credit). The short-term debt instrument is as stipulated in Article 100 to Article 229 k of the Code of Commercial Law, known in the money market as the Money Market Securities (SBPU), which consists of promissory notes and money orders or other forms that may be developed in the future. Long-term debt instruments may take the forms of either bonds or credit securities.

Letter d

The word 'business' as referred to in this letter includes the activities of buying, selling or guaranteeing such securities as mentioned in letter c, and securities issued by the government and/or Bank Indonesia.

Point 1

Self-explanatory

Point 2

Self-explanatory

Point 3

Self-explanatory

Point 4

Self-explanatory

Point 5

Self-explanatory

Point 6

Self-explanatory

Point 7

This provision is intended to accommodate the possibility of other types of securities, other than those mentioned in Point 1 to Point 6.

Letter e

Self-explanatory

Letter f

Self-explanatory

Letter g

This activity includes, among others, collection and clearing.

Letter h

"providing a place" in this provision is a bank activity which merely carries out the rent of a space for goods securities (safety box) without the necessity for the Bank to know any mutations and the contents of the safety boxes.

Letter i

In conducting custodial activities, a bank shall accept a deposit of property by administrating it separately from the bank's assets. A mutation of deposited properties shall be carried out by the bank by the order of the depositor.

Letter j

In this activity a bank acts as an intermediary between customers who needs fund with customer who has fund.

Letter k

The obligation of a bank in this provision is intended to carry out the disbursement of the collateral purchased through an auction at the earliest opportunity so that the proceeds of disbursement from the sale of the collateral can immediately be utilized by the bank. In the event there is a remainder from the auction proceeds after being accounted for the customer's liabilities to the bank, such remainder shall be given to the customer.

Letter l

Factoring activity is accounts receivable management or short-term receivables from domestic or foreign trade transactions, carried out by way of expropriation or purchase of such receivables.

Credit card business is a business in crediting or financing activities for purchase of goods or services, such withdrawal is conducted by means of a card. In technical terms, a credit card serves as a means of book-transfer in making payments of a transaction.

Letter m

Self-explanatory

Letter n

Other activities commonly undertaken by a bank in this case are business activities other than those activities in letters a through Letter m, which are not contrary to the applicable laws and regulations, such as providing bank guarantees, acting as fiscal agent, interest swap, assisting customers in their business administration, etc.

Article 7

Self-explanatory

Article 8

Credit extended by a bank bears risks; therefore, a bank should in its implementation take into account the principles of sound credit. To mitigate such risks, credit purchase guarantees in the sense of confidence in the capability and ability of debtors to settle their debts in accordance with the agreed terms is an important factor that must be considered by a bank.

To obtain such confidence, before extending a credit, a bank must undertake a careful appraisal of the character, capability, capital, collateral, and business prospects of the debtor.

Considering that collateral is one of the aspects of credit guarantee, if confidence has been obtained based on other aspects in respect to the debtor's ability to repay his/her debts, the collateral may only be in the form of goods, projects or the right to collect account receivables financed by the credit concerned. The land whose ownership is based on customary law, i.e. land whose proof of ownership comprises the form of 'girik', 'petuk', etc., may be used as collateral. Bank is not obligated to request collateral in the form of goods not directly related to the financed object, which is commonly known as "additional collateral".

Article 9

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 10

Letter a

Self-explanatory

Letter b

Self-explanatory

Letter c

Other businesses prohibited in this letter c include activities as underwriter.

Article 11

Credit extended by a bank bears the risk of failure or loss in settlement; therefore, it may affect the soundness of the bank. Considering that the source of the credit is public funds deposited in a bank, the risks faced by the bank may also affect the security of the said public funds. Therefore, in order to maintain its soundness and to improve its endurance, the bank is required to diversify the risk by arranging credit distribution, granting of guarantee or other facilities in such a way that it is not concentrated on a particular debtor or a group of debtors.

Paragraph (1)

A group is a collection of persons or legal entities that are related one to another by virtue of ownership, management, and/or financial relationships.

Paragraph (2)

Bank Indonesia may stipulate a maximum limit which is less than 30% (thirty percent) of a bank's capital. The definition of bank capital shall be determined by Bank Indonesia in accordance with the definition used in assessing bank's soundness/rating. The maximum limit shall be applicable to each debtor or group of debtors including companies in the same group.

Paragraph (3)

Letter a

Self-explanatory

Letter b

Self-explanatory

Letter c

Self-explanatory

Letter d

The word "relative" in this provision includes family relationships up to the second degree by both a vertical line and horizontal line of descent including in-laws.

Letter e

Self-explanatory

Letter f

Self-explanatory

Paragraph (4)

Bank Indonesia may stipulate a maximum limit which is less than 10% (ten percent) of a bank's capital. The definition of bank capital shall be determined by Bank Indonesia in accordance with the definition used in assessing bank's soundness/rating.

Paragraph (5)

Self-explanatory

Article 12

"Government may assign Commercial Banks", is in order to elaborate the provisions concerning banking principles, functions and objectives set forth in Chapter II, the implementation of which is constantly adjusted to the demands of national development.

"certain sectors of the economy", covers among others, the development program of housing, as well as non-oil-gas exports.

The Government Regulation as referred to herein shall also stipulate the implementation of certain programs by one or several commercial banks.

Article 13

Letter a

"other equivalent forms" is intended to accommodate the possibility of any form of fund mobilization from the public by a Rural Bank similar to time deposit and saving, but not in the forms of other current accounts or deposits that may be withdrawn by checks.

Letter b

Self-explanatory

Letter c

Self-explanatory

Letter d

Self-explanatory

Article 14

This prohibition is intended to conform to Rural Bank's business activities, primarily aimed at serving small-scale businesses and communities in rural areas. Therefore, the types of services which may be provided by

a Rural Bank shall be adjusted for that purpose.

Letter a

Self-explanatory

Letter b

The prohibitions stipulated in this letter do not include any activities of money changer. To conduct business of money changer, a Rural Bank must fulfill the provisions of Bank Indonesia.

Letter c

Self-explanatory

Letter d

Self-explanatory

Letter e

Self-explanatory

Article 15

Self-explanatory

Article 16

Paragraph (1)

The activity of raising funds from the public by any party is basically an activity that must be supervised, since such activity involves the interests of the people whose funds are deposited in the party that raises the fund.

Accordingly, this paragraph stresses that the activity of raising public funds in the form of savings may only be conducted by a party, after the concerned party first obtains a business license, as a Commercial Bank or as a Rural Bank.

However, there are also other types of institution in the society that also engage in raising public funds in the form of savings or some kinds of savings, such as those conducted by the post office, pension funds, or insurance companies. The activities of these institutions do not fall within the scope of banking business activities, subject to the provisions of this paragraph. The activities of raising public funds conducted by these institutions are regulated in a separate law along with its implementing regulation.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

The phrase "sub-district" in this paragraph is a sub-district located outside the capital of a district, municipality, provincial capital, or state capital. This provision is stipulated so that Rural Banks can still function as supporting development and modernization in rural areas.

Paragraph (5)

In order to support the development of more equitable development, specifically the regional governments of the cities referred to in this paragraph may be establish Rural Banks, either established only by the government or jointly with cooperative, state-owned bank and/or local

government-owned bank.

Paragraph (6)

Government Regulation that regulates implementation of Paragraph (3), Paragraph (4), and Paragraph (5), needs to take into account the provisions concerning cooperatives as stipulated in Law on cooperatives e.g. organizational structure, ownership, and stewardship.

Article 17

Letter a

The provision concerning the amount of foreign ownership and management also includes the understanding of Indonesianization process.

With the enactment of this provision, it is expected that the national banking may increasingly rely on its own strength.

Letter b

Self-explanatory

Letter c

Regarding other matters required in preparing such Government Regulation, they shall be obtained from the Monetary Board, considering that the Monetary Board functionally has duties concerning formulation of monetary policy in accordance with the applicable Law and Regulations. However, in formulating such Government Regulation, the Monetary Board may also request inputs from other government agencies.



Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Article 19

Paragraph (1)

To enable services rendered to weak economic groups/small-scale entrepreneurs in urban areas, upon hearing considerations of Bank Indonesia, the Minister may grant a license to a Rural Bank to establish a branch office in capital of a district, municipality and/or province. This license may be granted to a Rural Bank domiciled in the sub-district in the neighboring areas of the state capital to establish a branch office in the state capital.

Paragraph (2)

Self-explanatory

Paragraph (3)

In order to maintain a sustainable business of Rural Banks, upon hearing consideration of Bank Indonesia, the Minister may stipulate requirement and procedure for establishing a Rural Bank office, which include among others, the bank soundness and readiness for establishing an office. In particular, should a Rural Bank establish an office in the state capital, provincial capital, district capital and municipality, it must meet the requirements of bank soundness and office opening readiness and other requirements such as capital, and the availability of professional human resources.

Article 20

Paragraph (1)

"a bank whose head office is domiciled overseas" is a bank established based on foreign law and having its head office overseas. Therefore, the concerned bank is subject to the law in which the bank is established.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 21

Paragraph (1)

Letter a

Self-explanatory

Letter b

Self-explanatory

Letter c

Self-explanatory

Letter d

Self-explanatory



Paragraph (2)

Letter a

Self-explanatory

Letter b

Self-explanatory

Letter c

Self-explanatory

Letter d

This provision is intended to provide a platform for organization of smaller-scale banking institution of Rural Banks, such as bank desa, lumbung desa, village credit entities, and other institutions as referred to in Article 58.

Paragraph (3)

Self-explanatory

Article 22

Letter a

In the event the founder of a bank is a legal entity, the legal entity concerned must be wholly owned by Indonesian citizens. The understanding of Indonesian legal entity includes among others, state-owned enterprises, regional-owned enterprises, cooperatives, and private-owned enterprises.

Letter b

Self-explanatory

Article 23

In the event a Rural Bank is owned by an Indonesian legal entity, all owners of the referred Indonesian legal entity shall be Indonesian citizens.

Article 24

Self-explanatory

Article 25

Bank shares in the form of registered shares are intended to facilitate the disclosure of changes in share ownership of a bank.



Article 26

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

"majority" is defined as to have at least 51% (fifty one percent) of the total shares sold through the stock exchange.

Paragraph (4)

"the majority of share ownership by the state" shall be at least 51% (fifty one percent) of paid up capital.

Paragraph (5)

Self-explanatory

Article 27

Letter a

Self-explanatory

Letter b

Self-explanatory

Article 28

Paragraph (1)

Merger is a merger of two or more banks in which one of the banks maintains its establishment and liquidates the other banks. Consolidation is combining two or more banks by establishing a new bank and liquidating the existing banks. Acquisition is the takeover of ownership of a bank.

For state-owned commercial banks, mergers or consolidations may only be conducted between/among state-owned commercial banks. Thus, private share ownership of state-owned commercial banks can only be executed through the stock exchange.

In conducting mergers, consolidations and acquisitions, it is required to avoid concentration of economic power within one group in the form of monopoly that is harmful to the public interest.

Likewise, the said mergers, consolidations or acquisitions shall not harm the customers' interests.

Paragraph (2)

Self-explanatory

Article 29

Paragraph (1), Paragraph (2), Paragraph (3) and Paragraph (4)

Considering that banks operate primarily with the funds from the public deposited in the banks based on trust, every bank shall maintain its soundness constantly and maintain the public trust. Accordingly, Bank Indonesia is authorized and obliged to foster and to supervise banks by pursuing preventive measures both in the form of provisions, guidance, advice and direction as well as repressive measures in the form of examination followed by remedial actions.

Paragraph (5)

The information provided to such customers is information regarding the risk level of activities which is the targeted use or placement of funds. If such information is already available, the bank is deemed to have carried out this provision. Such information shall be provided by a bank, in the event that the bank acts as an intermediary in placing the fund from customers or buying/selling of security on behalf of and at the request of its customers.

Article 30

Paragraph (1) and Paragraph (2)

The obligation to report information and explanation relating to the business activity of a bank to Bank Indonesia is necessary considering that such information is required to monitor the condition of a bank. Monitoring the condition of a bank is necessary in order to protect public funds and maintain the existence of banking institutions.

Public confidence in banking institutions can only be enhanced if the banking institutions always operate in soundness condition. Therefore, in order to verify the truthfulness of report submitted by a bank, Bank Indonesia is authorized to conduct examination on the books and documents available to the bank.

Paragraph (3)

Self-explanatory

Article 31

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Article 32

The request of the Minister to Bank Indonesia to conduct a special examination of a bank or to submit the examination report of a bank is executed whenever there is an indication in which according to the opinion of the Minister endangers the soundness and survival of the bank as well as public interest and the sustainability of national development.

Article 33

Paragraph (1)

Self-explanatory

Paragraph (2)

"requirements and procedures of examination" shall include among others the types of examination, examination procedures, the scope of examination, reporting, and follow-up measures of examination results in the framework of guidance and supervision.

Article 34

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 35

Self-explanatory

Article 36

These exemptions may be granted with due regard to the capabilities of the concerned Rural Bank.

Article 37

Paragraph (1)

Self-explanatory

Paragraph (2)

This paragraph stipulates the measures that may be performed by Bank Indonesia on banks undergoing difficulties that endanger the continuity of their business, prior to revocation their business license and/or liquidation action. Such measures are taken in order to maintain/save the position of banks as trusted public institutions.

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Paragraph (5)

Self-explanatory

Article 38

Paragraph (1)

The provisions of this Article shall also apply on a bank legally established as a cooperative in the event of appointments or changes of the officials of the same level of the directors and members of the board of commissioners.

Paragraph (2)

Self-explanatory

Article 39

Paragraph (1)

A bank may employ foreign workers, in accordance with the needs of the bank concerned.

As for Rural Bank and Commercial Bank, the said foreign worker shall be temporary and limited to experts, advisors and consultants, in accordance with the needs of the bank concerned. As for joint venture bank and a branch of a bank domiciled overseas, such foreign workers shall be employed adjusted to the nature of foreign ownership. However, the employment of foreign workers in joint venture bank and branches of bank domiciled overseas must be adjusted to the Indonesianization program.

Paragraph (2)

This Government Regulation regulates, among others, the requirements as elaboration of the provisions in Paragraph (1) such as the type of work or expertise in which foreign workers are still required and the period of employment, in accordance with the laws and regulations applicable within manpower.

Article 40

Paragraph (1)

In this regard, the phrase 'must be kept confidential by the bank according to the norms in the banking business includes all data and information concerning all matters related to finance and other matters of persons and entities known by the bank for its business activities.

This confidentiality is necessary for the sake of the bank which requires trust from the public who deposits their money in the bank. The public will only entrust their money in a bank or take advantage of the bank's services if there is a guarantee from the bank that the bank shall not misuse any information about the deposit and financial condition of the customer. Given the above stipulation, it is important that a bank must hold the bank secrecy. Nevertheless, data and information release to other parties are possible, as stipulated in Article 41, Article 42, Article 43, and Article 44.

Paragraph (2)

Self-explanatory

Article 41

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Article 42

Paragraph (1)

For the sake of the court procedures in a criminal case at the request of Chief of Police of the Republic of Indonesia, the Attorney General, or the Chief Justice of the Supreme Court, the Minister may issue a written permission to obtain information from a bank regarding the financial condition of a suspect/defendant. The word "may" is intended to confirm that a permit by the Minister will be granted provided that the terms/procedures administration of a permit are met by the party requesting the permission, such as name, rank, employee identification number (NRP/NIP) and the position of the police officer, prosecutor or judge, the purpose of the hearing, the official authorized to submit the application to the Minister, the name of the customer suspected/accused in the case, as well as reasons for which the information required related to the criminal case.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 43

In a civil case between a bank and its customer as referred to in this Article, the bank may inform the customer's financial condition and other information relevant to the case, without the permission from the Minister.

Article 44

Paragraph (1)

Exchange of information between/among banks is intended to facilitate and secure banking operations, among others, to prevent credit duplication and to ascertain the condition and status of another bank. Thus, a bank can assess the level of risk encountered, before making a transaction with a customer or with other banks.

Paragraph (2)

Further provisions stipulated by Bank Indonesia include, among others, regulation concerning the procedures for submission and request of information as well as the form and type of certain information which may be exchanged, such as general indicators of a credit received by a customer, the collateral, and whether or not the customer is included in bad debt list.

Article 45

If a bank does not fulfill a request for rectification by the party who in his/her opinion feels aggrieved due to information disclosed by the bank, the matter may be filed by the party concerned to a competent court.

Article 46

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Article 47

Paragraph (1)

Self-explanatory

Paragraph (2)

The term "bank employees" shall refer to all officials and employees of the bank.

Article 48

Paragraph (1)

"bank employee" shall refer to a bank official who has the authority and responsible to execute bank operational duties, and an employee who has access to information regarding the condition of the bank.

Paragraph (2)

Self-explanatory

Article 49

Paragraph (1)

"bank employees" shall refer to all officials and employees of the bank.

Paragraph (2)

Letter a

"bank employees" shall refer to all officials and employees of the bank.

Letter b

"bank employee" shall refer to a bank official who has the authority and responsibility on matters pertaining to the business of the bank concerned.

Article 50

Self-explanatory

Article 51

Paragraph (1)

The acts as referred to in these articles are classified as criminal offenses, which mean that the offender shall be charged with committing a more serious crime than just a violation. Considering that a bank is an institution that holds the funds entrusted by the public; therefore, actions that may

undermine the public trust to the Bank, which will basically harm the bank and the people, should always be avoided.

By classifying such offenses as criminal acts, it is expected that there will be utmost adherence to the provisions of this law.

The provisions on criminal sanctions in Chapter VIII are, in principle, applied to criminal acts committed by members of the board of commissioners, board of directors or employees of a Rural Bank, considering that the nature of criminal sanction is generally applied. With the stipulation of the maximum penalty for the crimes committed, the weight of the penalty may be considered by taking into account, among others, the losses incurred.

Paragraph (2)

Self-explanatory

Article 52

The administrative sanctions in this article may comprise:

- a. a fine, i.e. the obligation to pay a certain amount of money as a result of failure to meet the provisions of this Law;
- b. delivery of written warning;
- c. degradation of bank soundness/rating;
- d. prohibition to participate in clearing;
- e. suspension of the bank's business activities either as a whole or for some branches of the bank;
- f. revocation of business license.

Further implementation regarding administrative sanctions shall be regulated by Bank Indonesia. Specifically, the sanctions under Letter e and Letter f shall be implemented in accordance with the provisions of applicable laws and regulations.

Article 53

The administrative sanctions in this article may comprise:

- a. a fine, i.e. the obligation to pay a certain amount of money as a result of failure to meet the provisions of this Law;
- b. delivery of written warning;
- c. prohibition to perform functions as a bank director or commissioner;
- d. prohibition to provide services to banks;
- e. submission of proposals to the authorized agency to revoke or cancel business licenses as a provider of service to banks (among others to consultants, legal consultants, public accountant, and appraiser).

Article 54

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Adjustment of legal forms of state-owned banks as stipulated in this Article shall be implemented in accordance with Law Number 9 of 1969 in conjunction with Government Regulation Number 12 of 1969. Thus, after the adjustment of legal form of the state-owned banks is completed, the Law on establishment of the banks shall be declared invalid.

Likewise, Law Number 13 of 1962 is no longer valid 1 (one) year since the enactment of this Law.

Article 55

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 56

This provision is intended to enable a bank to gradually meet the provision of maximum limit of credit lending under this Law, so as not to cause any serious difficulties for banks in fulfilling such provisions, with consideration that the prevailing limit on the provision of maximum credit limit is higher than the provisions referred to in Article 11 Paragraph (2) and Paragraph (4).

Article 57

Business adjustment of Non-Bank Financial Institution into a bank based on this Law may be executed within a period of no more than 1 (one) year since the enactment of this Law. Meanwhile, the adjustment of Non-Bank Financial Institution to a securities company shall be based on the provisions in capital market.

Article 58

Since the institutions referred to in this Article have grown and developed within the Indonesian society, and are still needed by the public, the existence of such institutions is acknowledged. Therefore, this Law shall clarify the status of the institutions concerned. Furthermore, to ensure a unity and uniformity in guiding and supervising, the requirements and procedures for granting the status of institutions referred to as Rural Banks are stipulated in a Government Regulation.

Article 59

This provision is stipulated to prevent any legal vacuum and to accommodate the regulation of issues arising until enactment of new regulation.

Article 60

Self-explanatory

Article 61

Self-explanatory

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 3473



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