

**Unofficial translation**

Should there be any ambiguity or lack of clarity, it will be necessary to refer to the original regulation in the Indonesian language

**ACT OF THE REPUBLIC OF INDONESIA  
NUMBER 7 OF 1992  
CONCERNING  
BANKING  
AS AMENDED BY  
ACT  
NUMBER 10 OF 1998**

**WITH THE BLESSING OF GOD ALMIGHTY,  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,**

- Considering* : a. *that national development is a continuous development undertaking with the aim of realizing Indonesian people justice and prosperity based on Pancasila and the 1945 Constitution;*
- b. *that in facing the rapid development of national economic, competitiveness of national economy and integrated national economy with challenges of ever increasing complexity and more developed financial system, an adjustment in the economic policies, including Banking, is needed;*
- c. *that in entering of globalization era and due to the ratification of several international agreements on trade in*

*goods and services, a revision on the regulations in economic sector, especially Banking sector, is needed;*

- d. that based on considerations as referred to in letter a, letter b, and letter c above, it is considered necessary to amend Act Number 7 of 1992 concerning Banking with an Act;*

- In view of* : 1. *Article 5 paragraph (1), Article 20 paragraph (1), Article 23 paragraph (3) and Article 33 of the 1945 Constitution;*
2. *Act Number 13 of 1968 concerning Central Bank (State Gazette of the Republic of Indonesia Number 63 of 1968, Supplement to the State Gazette Number 2865);*
3. *Act Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Number 31 of 1992, Supplement to the State Gazette Number 3472);*

*With the approval of*

**THE HOUSE OF REPRESENTATIVES  
OF THE REPUBLIC OF INDONESIA**

**HAS DECREED:**

*To enact* : **THE ACT CONCERNING BANKING.**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**

*The terminologies used in this Act shall have the following meanings:*

- 1. Banking is anything related to a Bank, comprising the institutions, business activities, and procedures as well as processes in the realization of such business activities;*
- 2. Bank is a corporate entity mobilizing funds from the public in the forms of Deposits and channeling them to the public in the forms of Credit and/or other forms in order to improve the living standards of the common people;*
- 3. Commercial Bank is a Bank which based its activities on conventional and/or Syariah Principles in doing so provides services in payment transactions;*
- 4. Rural Bank is a Bank which based its activities on conventional or Syariah Principles in doing so shall not provide any service in payment transactions;*
- 5. Deposits are funds entrusted to the Bank by the public based on an agreement in the forms of Demand Deposits, Time Deposits, Certificate of Deposits, Savings and/or other similar forms;*
- 6. Demand Deposit is a deposit which may be withdrawn at any time by means of a cheque, 'bilyet giro', other payment order, or by transfers;*

7. *Time Deposit is a Deposit which may only be withdrawn at a certain time based on an agreement between the Depositor and the Bank concerned;*
8. *Certificate of Deposit is a Deposit in the form of Time Deposit, the certificate of which is negotiable;*
9. *Saving Deposit is a Deposit which can only be withdrawn according to certain agreed conditions, but which shall not be withdrawn by means of a cheque, 'bilyet giro', and/or other equivalent instruments;*
10. *Securities is a note, bill of exchange, share, bond, credit security, or any derivative of securities, or any other interests, or liabilities of the issuer, issued in a form negotiable in the capital market and money market;*
11. *Credit is the provision of money or equivalent claim to money based on a loan agreement between a Bank and another party, obligating the borrowing party to repay his debt after a certain period with interest.*
12. *Financing based on Syariah Principles is the provision of money or equivalent claim to money based on a Financing agreement between Bank and another party obligating the party receiving the fund to repay the Financing after a certain period with fees or profit share;*
13. *Syariah Principles are rules of agreement based on Islamic Law between Bank and other party for depositing fund and/or financing business activities, or other activities which is stated as in accordance to Syariah Principles, i.e. financing based on profit sharing principle (mudharabah), financing based on equity participation (musharakah), sales of goods with profit principle (murabahah), or financing of capital goods based on pure lease without option (ijarah) or with an option of ownership transfer of goods leased from Bank to the other party (ijarah wa iqtina);*

- 14. Custodial service is the keeping of property based on a contract or agreement between a Commercial Bank and the depositor of the property, provided that the Commercial Bank concerned has no right of ownership on the property concerned;*
- 15. Trustee is a business activity which may be conducted by a Commercial Bank to represent the interest of security holders based on an agreement between the Commercial Bank and the issuer of Securities concerned;*
- 16. Customer is any party who uses Bank's services;*
- 17. Depositor is a Customer who places fund in the form of Deposits according to an agreement between Bank and the Customer concerned;*
- 18. Debtor is a Customer who receives Credit facility or Financing based on Syariah Principles or other similar forms based on an agreement between Bank and the Customer concerned;*
- 19. Branch Office is an office of a Bank which directly responsible to its head office, with a permanent address of business place where the Branch Office doing its business;*
- 20. Bank Indonesia is the central bank of the Republic of Indonesia as stipulated in the prevailing law;*
- 21. The Chairmen of Bank Indonesia is the Chairmen as stated in the prevailing law;*
- 22. Affiliated Parties are:*

- a. *a member of the board of commissioners, auditors, the board of directors, or their attorneys, the officers, or the employees of a Bank;*
  - b. *a member of the board of management, auditors, board of directors, or their attorneys, the officers, or the employees of a Bank, especially for a Bank established in the legal form of a cooperative in accordance with the prevailing law;*
  - c. *a party providing services to the Bank, such as public accountant, appraiser, legal consultant and other consultants;*
  - d. *a party which according to Bank Indonesia's judgement influences the management of a Bank, i.e. shareholders and their relatives, the relatives of the board of commissioners, the relatives of the auditors, the relatives of the board of directors, and the relatives of the board of management;*
23. *Collateral is an additional guarantee provided by a debtor to a Bank in order to obtain a Credit facility or Financing based on Syariah Principles;*
24. *Deposit Protection Institution is a legal entity conducting deposit protection activities on Deposit Customer, through insurance scheme, pooling fund or other schemes;*
25. *Merger is the combining of two or more Banks by retaining the existence of one Bank and winding up the other Banks with or without liquidating them;*
26. *Consolidation is combining of two or more Banks by establishing a new Bank and winding up such existing Banks with or without liquidating them;*
27. *Acquisition is the takeover of the ownership of a Bank;*
28. *Bank Secrecy is anything related to information regarding a Depositor and his Deposits.*

**CHAPTER II**  
**PRINCIPLE, FUNCTION, AND OBJECTIVE**

**Article 2**

Banks in Indonesia shall conduct their business according to the principle of economic democracy applying the prudential principle.

**Article 3**

The primary function of banks in Indonesia is to mobilize and to channel funds from the public.

**Article 4**

Banks in Indonesia shall have the objective of supporting national development for the purpose of improving equitable distribution, economic growth, and dynamic sustainable growth, and dynamic sustainable national stability, aimed at improving the welfare of the common people.

**CHAPTER III**

## **CATEGORIES AND OPERATIONS OF BANKS**

### **Part One**

#### **Categories of Banks**

##### **Article 5**

(1) By category, banks consist of:

- a. Commercial Banks;
- b. Rural Banks.

(2) A Commercial Bank may operate exclusively in a particular activity or focus greater attention to a particular activity.

### **Part Two**

#### **Operations of a Commercial Bank**

##### **Article 6**

The operations of a Commercial Bank shall encompass:

- a. mobilizing funds from the public in the form of deposits, comprising demand deposits, time deposits, certificate of deposits, savings and/or other equivalent forms of deposits;
- b. extending credits;
- c. issuing notes;
- d. purchasing, selling or guaranteeing against own risk or on behalf of and/or at the request of a customer:
  - 1. bills of exchange, including banker's acceptances of which the maturity is no longer than the common practice of trading such documents;



2. notes and other commercial paper of which the maturity is no longer than the common practice of trading such documents;
  3. treasury bills and government guarantees;
  4. Bank Indonesia Certificates (SBIs);
  5. bonds;
  6. commercial paper with a maturity of up to 1 (one) year;
  7. other securities with a maturity of up to 1 (one) year.
- e. transferring money, either on own behalf or at the request of a customer;
- f. placing funds in, borrowing funds from, or lending funds to other banks, whether by letter, telecommunications device, or by sight draft, cheque, or other means;
- g. accepting payments in respect or claims for securities, settling accounts with or among third parties;
- h. providing safety deposits boxes for valuable goods and papers;
- i. undertaking custodial activities on behalf of another party based on contracts;
- j. undertaking placement of funds among customers in the form of securities not listed in the stock exchange;
- k. Deleted***
- l. conducting business in factoring, credit cards, and trusteeship;
- m. providing financing and/or conducting other activities based on Syariah Principles, in accordance with the regulations stipulated by Bank Indonesia; and***
- n. conducting other business commonly undertaken by banks providing that such activities shall not be in contravention of this Act and prevailing laws.

## Article 7

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

- a. conduct activities in foreign exchange with due observance to the regulations of Bank Indonesia;
- b. conduct equity participation in other banks or business entities operating in financial services, such as leasing, venture capital, securities house, insurance, and securities clearing house, with due observance of the regulations stipulated by Bank Indonesia;
- c. *conduct temporary equity participation to settle problems of bad debt or bad Financing based on Syariah Principles, on the condition that in due time the equity participation shall be withdrawn, with due observance to the regulations stipulated by Bank Indonesia; and*
- d. act as founder and the management of a pension fund in accordance with the prevailing law on pension funds.

#### **Article 8**

*(1) In extending Credits or Financing based on Syariah Principles, a Commercial Bank shall have confidence based on thorough analysis on the intention, capability and ability of a Debtor Customer to repay its debt or the financing according to the agreed terms.*

*(2) A Commercial Bank shall formulate and implement a guidance on Credit and Financing based on Syariah Principles, according to regulations stipulated by Bank Indonesia.*

#### **Article 9**

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

#### **Article 10**

A Commercial Bank is prohibited from:

- a. conducting equity participation, with the exception of those referred to in Article 7 letter b and letter c;
- b. conducting business in insurance;
- c. undertaking business other than those referred to in Article 6 and Article 7.

#### **Article 11**

- (1) ***Bank Indonesia shall stipulate regulations concerning the legal lending limits for extending Credit or the maximum limit for Financing based on Syariah Principles, granting guarantees, placement in securities, or other similar business activities, which a Bank may undertake to a borrower or a group of related borrowers, including to business entities within the group of the concerned Bank.***
- (2) The maximum limit as referred to in paragraph (1) may not exceed 30% (thirty percent) of the capital of a bank as stipulated in Bank Indonesia regulations.

***(3) Bank Indonesia shall stipulate regulations concerning the legal lending limits for extending Credit or the maximum limit for Financing based on Syariah Principles, granting guarantees, placement in securities, or other similar business activities, which a Bank may impose on :***

- a. a shareholder possessing 10% (ten percent) or more of the paid-up capital of the Bank;***
- b. a member of the board of commissioners;***
- c. a member of the board of directors;***
- d. a relative of the parties referred to in letter a, letter b, and letter c;***
- e. other officer of the Bank; and***
- f. business entities in which interest of parties as referred to in letter a, letter b, letter c, and letter d are found.***

**(4)** The maximum limit as referred to in paragraph (3) may not exceed 10% (ten percent) of the capital of a bank as stipulated in Bank Indonesia regulations.

***(4A) In extending Credit or Financing based on Syariah Principles, a Bank is prohibited to exceed the legal lending limits or the maximum limit for Financing based on Syariah Principles as referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4).***

**(5)** The implementation of the provisions as referred to in paragraph (1) and paragraph (3) shall be reported in accordance with Bank Indonesia regulations.

## **Article 12**

***(1) To support the implementation of a program for improving the living standards of the common people through development of cooperatives, small and medium***

*scale of entrepreneurs, the Government and Bank Indonesia may conduct cooperation with Commercial Banks.*

- (2) *Regulations concerning the cooperation with Commercial Banks as referred to in paragraph (1) shall be further stipulated in a Government Regulation.*

#### **Article 12A**

- (1) *A Commercial Bank may purchase Collateral, whether in whole or in part, either through auction or outside auction according to wilful submission by the owner of the Collateral or according to power of attorney by the owner of the collateral to sale outside auction in the event that a Debtor Customer fail to meet its obligations to the Bank, provided that the purchased Collateral shall be chased in at the earliest opportunity.*
- (2) *The provisions concerning procedures of the purchasing and chasing of the Collateral as referred to in paragraph (1) shall be further stipulated in a Government Regulation.*

#### **Part Three**

#### **Operations of a Rural Bank**

#### **Article 13**

The operations of a Rural Bank encompass:

- a. mobilizing funds from the public in the form of deposits, comprising time deposits, savings, and/or other equivalent forms of deposits;
- b. extending credit;
- c. *providing financing and placing fund based on Syariah Principles, according to regulations stipulated by Bank Indonesia;*

- d. placing funds in Bank Indonesia Certificates (SBIs), time deposits, certificate of deposits, and/or savings in other banks.

#### **Article 14**

A Rural Bank is prohibited from:

- a. accepting deposits in the form of demand deposits and participating in transactions;
- b. conducting business in foreign exchange;
- c. conducting equity participation;
- d. conducting business other than those referred to in Article 13.

#### **Article 15**

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

### **CHAPTER IV**

#### **LICENSING, FORM OF LEGAL ENTITY, AND OWNERSHIP**

##### **Part One**

##### **Licensing**

#### **Article 16**

- (1) Any parties conducting activities of collecting funds from the public in the form of Deposits shall be required to obtain an operating license as a Commercial Bank or a Rural Bank from the Chairmen of Bank Indonesia, except the*

*concerned activities of collecting funds from the public is stipulated in a separate act.*

*(2) In order to obtain an operating license as a Commercial Bank or a Rural Bank as referred to in paragraph (1), the applicant is required to fulfill requirements concerning :*

*a. Organization and management structure;*

*b. Capital;*

*c. Ownership;*

*d. Expertise in Banking;*

*e. Feasibility of the business plan.*

*(3) The requirements and procedures for Bank licensing as referred to in paragraph (2) shall be stipulated by Bank Indonesia.*

#### **Article 17**

*Deleted*

#### **Article 18**

*(1) A Branch Office of a Commercial Bank may only be established pursuant to a license granted by the Chairmen of Bank Indonesia.*

*(2) An overseas Branch Office, a representative office, and other types of overseas office of a Commercial Bank may only be established pursuant to a license granted by the Chairmen of Bank Indonesia.*

*(3) The establishment of a sub-branch office of a Commercial Bank shall be prior reported to Bank Indonesia.*

*(4) The requirements and procedures for the establishment of offices of a Commercial Bank as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be stipulated by Bank Indonesia.*

#### **Article 19**

*(1) A Branch Office of a Rural Bank may only be established pursuant to a license granted by the Chairmen of Bank Indonesia.*

*(2) The requirements and procedures for the establishment of offices of a Rural Bank as referred to in paragraph (1) shall be stipulated by Bank Indonesia.*

#### **Article 20**

*(1) A Branch Office, a sub-branch office, and a representative office of a Bank whose head office is domiciled overseas (foreign Bank), may only be established pursuant to a license granted by the Chairmen of Bank Indonesia.*

(2) The establishment of a sub-branch office of a bank referred to in paragraph (1) shall 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 provided in further detail in a Government Regulation.

### **Part Two**

#### **Form of Legal Entity**



**Article 21**

*(1) A Commercial Bank may be established in one of the following legal forms:*

- a. Limited Liability Company;*
- b. Cooperative; and*
- c. Regional Government Enterprise.*

(2) A Rural Bank may be established in one of the following legal forms:

- a. Regional Development Enterprise;
- b. Cooperative;
- c. Limited Liability Company;
- d. Other form of legal entity stipulated in a Government Regulation.

(3) The legal form of a representative office and a branch office of a bank whose head office is domiciled overseas (foreign bank), shall correspond to the legal forms of the respective head office.

**Part Three****Ownership****Article 22**

*(1) A Commercial Bank may only be established by:*

- a. Indonesian citizens and/or an Indonesian legal entity; or*
- b. Joint venture between Indonesian citizens and/or an Indonesian legal entity with foreign citizens and/or a foreign legal entity.*

*(2) Provisions concerning the establishment requirements which shall be fulfilled by parties as referred to in paragraph (1) shall be stipulated by Bank Indonesia.*

### **Article 23**

A Rural Bank shall only be established and owned by Indonesian citizens, and Indonesian legal entity wholly owned by Indonesian citizens, a Regional Government, or jointly among the three parties.

### **Article 24**

The ownership of a Commercial Bank and a Rural Bank established in the form of a cooperative shall be based on the provisions of the prevailing cooperative law.

### **Article 25**

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

### **Article 26**

*(1) A Commercial Bank may issue shares through a stock exchange.*

*(2) An Indonesian citizen, a foreign citizen, an Indonesian legal entity, and/or a foreign legal entity may purchase the shares of a Commercial Bank, directly and/or through the stock exchange.*

*(3) The implementation of provision as referred to in paragraph (2) shall be further stipulated in a Government Regulation.*

**Article 27**

*Any change of ownership of a Bank shall:*

- a. meet the requirements stipulated in Article 16 paragraph (3), Article 22, Article 23, Article 24, Article 25 and Article 26; and*
- b. be reported to Bank Indonesia.*

**Article 28**

- (1) Merger, Consolidation, and Acquisition shall be subject to prior approval from the Chairmen of Bank Indonesia.*
- (2) Provisions concerning merger, consolidation, and acquisition shall be stipulated in a Government Regulation.*

**CHAPTER V  
SUPERVISION**

**Article 29**

- (1) Bank supervision shall be conducted by Bank Indonesia.*
- (2) A Bank shall be required to maintain its soundness in accordance with the provisions concerning the adequacy of capital, quality of assets, quality of management, liquidity, profitability, solvency, and other aspects related to the operations of a Bank, and shall be required to conduct operations in accordance with the prudential principle.*
- (3) In extending Credits or Financing based on Syariah Principles and conducting other form of businesses, a Bank shall be required to adhere to methods not*

*detrimental to the Bank and the interests of Customers entrusting their funds to the Bank.*

*(4) In the interest of its Customer, a Bank shall provide information concerning the risk of possible losses relating to Customer transaction conducted through a Bank.*

*(5) Provisions that shall be fulfilled by a Bank as referred to in paragraph (2), paragraph (3), and paragraph (4) shall be stipulated by Bank Indonesia.*

### **Article 30**

(1) A bank shall submit to Bank Indonesia all information and clarifications concerning its operations according to procedures stipulated by Bank Indonesia.

(2) At the request of Bank Indonesia, a bank shall provide full-cooperation for the audit of its books and files in its possession, and shall provide any necessary assistance in the verification of any information, documents, and clarifications submitted by bank concerned.

(3) Information concerning a bank obtained pursuant to the provisions referred to in paragraph (1) and paragraph (2) shall not be made public and shall be confidential.

### **Article 31**

*Bank Indonesia shall conduct examination on Banks, both periodically and at any time deemed necessary.*

**Article 31A**

*Bank Indonesia may appoint a Public Accountant for and on behalf Bank Indonesia to conduct examination on Banks as referred to in Article 31.*

**Article 32**

*Deleted*

**Article 33**

*(1) A Bank examination report as referred to in Article 31 and Article 31A shall be confidential.*

*(2) Requirements and procedures for examination as referred to in Article 31 and Article 31A shall be determined by Bank Indonesia.*

**Article 34**

(1) A bank shall submit its annual balance sheet and profit-loss statement to Bank Indonesia, together with explanatory notes, as well as other periodical statements, within the time and in the form determined by Bank Indonesia.

(2) The balance sheet and profit-loss statement as referred to in paragraph (1) shall first be audited by a public accountant.

(3) The fiscal year of a bank shall be the calendar year.

**Article 35**

A bank shall publish its balance sheet and profit-loss statement within the time and in the form determined by Bank Indonesia.

**Article 36**

Bank Indonesia may determined exemptions from the provision as referred to in Article 34 paragraph (2) for Rural Bank.

**Article 37**

*(1) In case of a Bank undergoes difficulties endangering the survival of its business, Bank Indonesia may take measure so that :*

- a. The shareholders increase the capital;*
- b. The shareholders replace the board of commissioners and/or board of directors;*
- c. The Bank writes-off bad debts or bad Financing based on Syariah Principles, and set-off the losses against its capital;*
- d. The Bank undertakes a Merger or Consolidation with another Bank;*
- e. The Bank is sold to a party willing to take over all liabilities;*
- f. The Bank transfers the management of its operations, either in whole or in part, to another party;*
- g. The Bank sales a part or a whole of the Bank's assets and/or liabilities to another Bank or another party.*

*(2) If :*

- a. the measures taken as referred to in paragraph (1) are insufficient to overcome the difficulties faced by a Bank; and/or*
- b. according to Bank Indonesia the condition of a Bank endangers the Banking system,*

*the Chairmen of Bank Indonesia may revoke the operating license of the Bank concerned and order the board of directors to immediately call a General Meeting of the Shareholders for the purpose of winding up the Bank legal entity and forming a liquidation team.*

- (3) *If the board of directors does not organise the General Meeting of the Shareholders as referred to in paragraph (2), the Chairmen of Bank Indonesia shall request a court to issue a decree containing the winding up of the legal entity of the Bank, the appointment of a liquidation team, and an order for the execution of liquidation in accordance with the prevailing law.*

#### Article 37A

- (1) *If in the opinion of Bank Indonesia there occurs a Banking problem which are detrimental to the national economy, at the request of Bank Indonesia, the Government after having consult to the House of Representatives of the Republic of Indonesia may establish a temporary special agency for the purpose of Bank restructuring.*
- (2) *The special agency as referred to in paragraph (1) will undertake a Banking restructuring program with respect to Banks that are determined and transferred by Bank Indonesia to the special agency.*
- (3) *In conducting Banking restructuring program, the special agency as referred to in paragraph (1) is granted powers as referred to in Article 37 paragraph (1) as well as other powers, namely :*
- a. *to take over and exercise all rights and authorities of shareholders including the rights and power of a General Meeting of Shareholders;*

- b. to take over and exercise all rights and powers of the board of directors and board of commissioners of the Bank;*
- c. to control, manage, and undertake ownership actions over the assets owned by the Bank or on which the Bank has the rights held by a third party, whether inside the country or abroad;*
- d. to review, cancel, terminate or amend contracts of the Bank with a third party in which the special agency considers detrimental to the Bank;*
- e. to carry out the sale or transfer of the assets of the Bank, board of directors, board of commissioners and certain shareholders, whether inside the country or abroad, whether directly or through a public auction/offer;*
- f. to sell or transfer the receivables of the bank and/or hand over the management of such receivables to another party, without the approval of the Debtor Customer;*
- g. to transfer the management of assets and/or management of the Bank to another party;*
- h. to make a temporary equity participation in the Bank, whether directly or by converting the claims of the special agency to be equity participation in the Bank;*
- i. to carry out collection of Bank's fix claims, by issuing of distress warrant (Surat Paksa);*
- j. to carry out vacating of land and/or building owned by or over which the Bank has the right of possession held by a third party, whether by the special agency itself or by assistance of the related authorized State's law enforcement agencies;*
- k. to carry out due diligence and investigations to obtain all required information from and relating to the Bank under the restructuring program and any other party involved, or is considered to be involved, or aware of any activity which detrimental to such Bank;*
- l. to calculate and determine the losses suffered by the Bank under the restructuring program and to charge such losses to the equity of such Bank, or if the losses are caused due to the fault or negligence of the board of*



- directors, board of commissioners and/or shareholders, such losses to be charged to the related party;*
- m. to determine the amount of additional paid up capital to be paid by the shareholders of a Bank under the restructuring program;*
- n. to carry out any other necessary action to support the enforcement of powers as stipulated under point a to m.*
- (4) The Bank restructuring actions carried out by the special agency referred to in paragraph (3) are valid by virtue of this Law.*
- (5) At the request of the special agency referred to in paragraph (1), the Bank under the restructuring program must provide all information and explanation with regard to its business including to allow an inspection of accounts and files in its possession, and must provide any required assistance in order to obtain information, documents and explanation obtained by this Bank.*
- (6) The parties as stipulated in paragraph (3) letter k must provide all information and explanation as requested by the special agency.*
- (7) The special agency referred to in paragraph (1) shall provide the activity report to the Finance Minister.*
- (8) If in opinion of the Government, the special agency has accomplished its task, the Government shall declare the termination of such special agency.*
- (9) The provisions which is required for the implementation of this Article shall be further stipulated in a Government Regulation.*

#### Article 37B

- (1) Each Bank shall guarantee public funds deposited in the Bank concerned.*
- (2) In order to protect Deposits of the public in Banks as referred to in paragraph (1), it shall be established a Deposit Protection Institution.*
- (3) The Deposit Protection Institution as referred to in paragraph (2) shall be in the form of Indonesian legal entity.*
- (4) The provisions concerning the protection of public funds and the Deposit Protection Institution shall be further stipulated in a Government Regulation.*

**CHAPTER VI**  
**BOARD OF COMMISSIONERS, BOARD OF DIRECTORS, AND**  
**EXPATRIATES**

**Article 38**

- (1) The appointment of the members of the board of commissioners and the board of directors of a banks must adhere to the provisions as referred to in Article 16 paragraph (6) and Article 17.
- (2) Change in the membership of the board of commissioners or the board of directors of a banks as referred to in paragraph (1), shall be reported to Bank Indonesia.

**Article 39**

- (1) In conducting its activities a bank may employ expatriates.

- (2) Requirements for the employment of expatriates as referred to in paragraph (1) shall be stipulated in a Government Regulation.

**CHAPTER VII**  
**BANK SECRECY**

**Article 40**

- (1) *A Bank shall keep information concerning Deposit Customer and their Deposits confidential, except those stipulated in Article 41, Article 41A, Article 42, Article 43, Article 44, and Article 44A.*
- (2) *The provision as referred to in paragraph (1) shall also apply to Affiliated Parties.*

**Article 41**

- (1) *In the interest of taxation, the Chairmen of Bank Indonesia is entitled to issue a written order to a Bank to disclose information and produce written evidence and documents concerning the financial condition of a particular Deposit Customer to a taxation officer.*
- (2) The written order as referred to in paragraph (1) shall state the name of the taxation officer and the name of the tax payer about whom information is desired.

**Article 41A**

- (1) *In order to settle Bank's claims which have been transferred to Agency for State Debt and Auction Affair/State Debt Affair Committee, the Chairmen of Bank Indonesia may issue permission to the officer of Agency for State Debt and Auction Affair/State Debt Affair Committee to obtain information from a Bank concerning Deposits of a Depositor Customer.*

- (2) *The permission as referred to in paragraph (1) shall be issued in writing upon written request by the chief of Agency for State Debt and Auction Affair/State Debt Affair Committee.*
- (3) *The request as referred to in paragraph (2) shall state the name and position of the officer of Agency for State Debt and Auction Affair/State Debt Affair Committee, the name of the Debtor Customer concerned, and the reasons for which such information is required.*

#### Article 42

- (1) *In the interest of court procedures in a criminal case, the Chairmen of Bank Indonesia may issue permission to the police, a prosecutor, or a judge to obtain information from a Bank concerning Deposits of a Deposit Customer suspected of a crime or facing a criminal charge.*
- (2) *The permission as referred to in paragraph (1) shall be issued in writing upon 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 a police officer, a prosecutor, or a judge, the name of the customer suspected of a crime or facing a criminal charge or parties related to the crime concerned, the reasons for which such information is required, and the relationship of the criminal case concerned with the requested information.*

#### Article 42A

*A Bank shall provide information as referred to in Article 41, Article 41A, and Article 42.*

**Article 43**

In a civil suit between a bank and its customer, the board of directors of the concerned bank may disclose information to the court concerning the financial condition of the customer concerned, and other relevant information.

**Article 44**

- (1) For the purpose of exchange of information between/among banks, the board of directors of a bank may disclose the financial condition of its customer to other banks.
- (2) Provisions concerning the exchange of information as referred to in paragraph (1) shall be stipulated further by Bank Indonesia.

**Article 44A**

- (1) *Upon a written request, approval, or letter of attorney from a Deposit Customer, a Bank shall provide information concerning Deposits of a Deposit Customer in the Bank concerned to any party appointed by the Deposit Customer concerned.*
- (2) *If a Deposit Customer has been deceased, the legal heirs of the Deposit Customer concerned have a right to obtain information concerning Deposits of the Deposit Customer concerned.*

**Article 45**

A party disadvantageously affected by the disclosed information 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 errors are found in the disclosed information.

**CHAPTER VIII**  
**PENAL PROVISIONS AND**  
**ADMINISTRATIVE SANCTIONS**

**Article 46**

- (1) Whoever collects funds from the public in the form of Deposits without an operating license from the Chairmen of Bank Indonesia as referred to in Article 16, shall be imprisoned to a minimum of 5 (five) years and maximum of 15 (fifteen) years and fined to a minimum of Rp10.000.000.000,00 (ten billion rupiah) and maximum of Rp200.000.000.000,00 (two hundred billion rupiah).*
- (2) If the activity as referred to in paragraph (1) is committed by a legal entity in the form of limited liability company, association, foundation, or cooperative, the charges against such entity shall be imposed on those who ordered such activities, or those who are responsible for the management of these acts, or against both.

**Article 47**

- (1) Whoever without a written order or permission from the Chairmen of Bank Indonesia as referred to in Article 41, Article 41A, and Article 42, knowingly*

*and willfully forces a Bank or affiliated party to disclose information as referred to in Article 40 shall be imprisoned to a minimum of 2 (two) years and maximum of 4 (four) years and fined to a minimum of Rp10.000.000.000,00 (ten billion rupiah) and maximum of Rp200.000.000.000,00 (two hundred billion rupiah).*

- (2) Whoever being a member of the board of commissioners or board of directors, Bank employee, or other Affiliated Party who knowingly and willfully discloses confidential information as referred to in Article 40, shall be imprisoned to a minimum of 2 (two) years and maximum of 4 (four) years and fined to a minimum of Rp4.000.000.000,00 (four billion rupiah) and maximum of Rp8.000.000.000,00 (eight billion rupiah).*

#### **Article 47A**

*Whoever being a member of the board of commissioners, board of directors, or Bank employee, who knowingly and wilfully withholds information that must be disclosed as referred to in Article 42A and Article 44A, shall be imprisoned to a minimum of 2 (two) years and maximum of 7 (seven) years and fined to a minimum of Rp4.000.000.000,00 (four billion rupiah) and maximum of Rp15.000.000.000,00 (fifteen billion rupiah).*

#### **Article 48**

- (1) Whoever being a member of the board of commissioners, board of directors, or Bank employee, who knowingly and willfully withholds information that must be disclosed as referred to in Article 30 paragraph (1) and paragraph (2) and Article 34 paragraph (1) and paragraph (2), shall be imprisoned to a minimum*

*of 2 (two) years and maximum of 10 (ten) years and fined to a minimum of Rp5.000.000.000,00 (five billion rupiah) and maximum of Rp100.000.000.000,00 (one hundred billion rupiah).*

- (2) Whoever being a member of the board of commissioners, board of directors, or Bank employee, who through negligence fails to provide information that must be disclosed as referred to in Article 30 paragraph (1) and paragraph (2) and Article 34 paragraph (1) and paragraph (2), shall be imprisoned to a minimum of 1 (one) years and maximum of 2 (two) years and/or fined to a minimum of Rp1.000.000.000,00 (one billion rupiah) and maximum of Rp2.000.000.000,00 (two billion rupiah).*

#### **Article 49**

- (1) Whoever being a member of the board of commissioners, board of directors, or Bank employee, who knowingly and willfully:*
- a. creates or causes to exist falsified records in the books or in a report, in a document or report on business operation, a transaction report or an account of a Bank;*
  - b. eliminates or fails to enter or cause not to be recorded in the books or in a report, or in a document or report on business operation, a transaction report or an account of a Bank;*
  - c. changes, obscures, conceals, erases, or eliminates the existence of a record in the books or in a report, in a document or report on business operations, a transaction report or an account of a Bank, or knowingly and willfully changes, obscures, conceals, erases, or destroys such accounting records;*
- shall be imprisoned to a minimum of 5 (five) years and maximum of 15 (fifteen) years and fined to a minimum of Rp10.000.000.000,00 (ten billion rupiah) and maximum of Rp200.000.000.000,00 (two hundred billion rupiah).*



***(2) Whoever being a member of the board of commissioners, board of directors, or Bank employee, who knowingly and willfully:***

- a. requests or accepts, permits or approves to accept a remuneration, commission, gratuity, service, money or valuables for personal gain or for the benefit of his family in return of his efforts to obtain in favor of another person a down payment, Bank guarantee, or Credit facility from a Bank, or as part of the purchase or discounting by a Bank in bill of exchange (draft), promissory notes, cheques, and commercial paper, or other proof of liability, or in return of providing approval for another person to draw funds in excess of his Credit ceiling at the Bank;***
- b. does not take the necessary measures to assure the adherence of the Bank to the provisions of this Act and the provisions in other prevailing laws and regulations applicable to Banks;***

***shall be imprisoned to a minimum of 3 (three) years and maximum of 8 (eight) years and fined to a minimum of Rp5.000.000.000,00 (five billion rupiah) and maximum of Rp100.000.000.000,00 (one hundred billion rupiah).***

#### **Article 50**

***Any Affiliated Party who knowingly and wilfully does not take the necessary measures to assure the adherence of a Bank to the provisions of this Act and the provisions in other prevailing laws and regulations applicable to Banks shall be imprisoned to a minimum of 3 (three) years and maximum of 8 (eight) years and fined to a minimum of Rp5.000.000.000,00 (five billion rupiah) and maximum of Rp100.000.000.000,00 (one hundred billion rupiah).***

#### **Article 50A**

*Any shareholder who knowingly and wilfully instructs the board of commissioners, board of directors, or Bank employee to conduct or not to conduct any action resulting that the Bank does not take the necessary measures to assure the adherence of the Bank to the provisions of this Act and the provisions in other prevailing laws and regulations applicable to Banks, shall be imprisoned to a minimum of 7 (seven) years and maximum of 15 (fifteen) years and fined to a minimum of Rp10.000.000.000,00 (ten billion rupiah) and maximum of Rp200.000.000.000,00 (two hundred billion rupiah).*

#### **Article 51**

- (1) The offenses as referred to in Article 46, Article 47, Article 47A, Article 48 paragraph (1), Article 49, Article 50, and Article 50A are felonies.*
- (2) The offenses as referred to in Article 48 paragraph (1) are misdemeanors.*

#### **Article 52**

- (1) Without prejudice to the penal provisions as referred to in Article 47, Article 47A, Article 48, Article 49, and Article 50A, Bank Indonesia may impose administrative sanctions on a Bank which fails to meet obligations as stipulated in this Act, or the Chairmen of Bank Indonesia may revoke the operating license of the Bank concerned.*
- (2) The administrative sanctions as referred to in paragraph (1), i.e.:*
  - a. Imposition of a fine;*

- b. Dispatch of written warnings;*
  - c. Degradation of Bank's soundness rating;*
  - d. Prohibition from taking part in clearing activities;*
  - e. Freezing of certain business activities of a Bank, both for certain Branch Offices and for a Bank as a whole;*
  - f. Dismissing the Bank management and then appointing a temporary substitute of the management until the General Meeting of Shareholders or the Meeting of Cooperative Members appoints the permanent substitute with the approval of Bank Indonesia;*
  - g. Inclusion of members of management, Bank employees, shareholders in a list of disreputable (disgraceful) persons in Banking sector.*
- (3) Further implementation of administrative sanctions shall be determined by Bank Indonesia.*

### **Article 53**

Without prejudice to the penal provisions as referred to in Article 50, Bank Indonesia may impose administrative sanctions on an affiliated party which fail to meet obligations as stipulated in this Act, or submit recommendations to the competence agency to revoke the concerned license.

## **CHAPTER IX TRANSITIONAL PROVISIONS**

### **Article 54**

- (1) With this Act coming into force:

- a. Government Regulation in substitution of Act No.21 of 1960 concerning Bank Pembangunan Indonesia (State Gazette of the Republic of Indonesia No.65 of 1960, Supplement to the State Gazette of the Republic of Indonesia No.1996);
- b. Act No.13 of 1962 concerning Principal Provisions for Bank Pembangunan Daerah (State Gazette of the Republic of Indonesia No.59 of 1962, Supplement to the State Gazette of the Republic of Indonesia No.2490);
- c. Act No.17 of 1968 concerning Bank Negara Indonesia 1946 (State Gazette of the Republic of Indonesia No.70 of 1968, Supplement to the State Gazette of the Republic of Indonesia No.2870);
- d. Act No.18 of 1968 concerning Bank Dagang Negara (State Gazette of the Republic of Indonesia No.71 of 1968, Supplement to the State Gazette of the Republic of Indonesia No.2871);
- e. Act No.19 of 1968 concerning Bank Bumi Daya (State Gazette of the Republic of Indonesia No.72 of 1968, Supplement to the State Gazette of the Republic of Indonesia No.2872);
- f. Act No.20 of 1968 concerning Bank Tabungan Negara (State Gazette of the Republic of Indonesia No.73 of 1968, Supplement to the State Gazette of the Republic of Indonesia No.2873);
- g. Act No.21 of 1968 concerning Bank Rakyat Indonesia (State Gazette of the Republic of Indonesia No.74 of 1968, Supplement to the State Gazette of the Republic of Indonesia No.2874);
- h. Act No.22 of 1968 concerning Bank Ekspor Impor Indonesia (State Gazette of the Republic of Indonesia No.75 of 1968, Supplement to the State Gazette of the Republic of Indonesia No.2875);

shall remain in force for a maximum period of 1 (one) year from the date this Act coming into force.

- (2) Within the period referred to in paragraph (1), banks established pursuant to the Act as referred to in paragraph (1) shall be required to fulfill the provisions of this Act.

(3) In the event that a bank as referred to in paragraph (2) has adjusted of this Act prior to the period mentioned in paragraph (1), the concerned Act is referred to in paragraph (1) shall no longer be valid.

#### **Article 55**

*A Bank, in possession of an operating license at the time of this Act coming into force, is declared to have obtained an operating license pursuant to this Act.*

#### **Article 56**

A bank shall be required to adhere to the provisions concerning the legal lending limit as referred to in Article 11 paragraph (2) and paragraph (4) within a maximum period of 5 (five) years from the date of this Act coming into force.

#### **Article 57**

A Non-Bank Financial Institution, in possession of a license from the Minister at the date of this Act coming into force, may transform its business into that of a bank pursuant to the provisions of this Act within a maximum period of 1 (one) year from the date of this Act coming into force.

#### **Article 58**

A Bank Desa, Lumbung Desa, Lumbung Pitih Nagari, Lembaga Perkreditan Desa, Badan Kredit Desa, Badan Kredit Kecamatan, Kredit Usaha Rakyat Kecil, Lembaga Perkreditan Kecamatan, Bank Karya Produksi Desa, and/or other similar institution shall be granted the status of Rural Bank pursuant to this Act after the requirements and procedures to be stipulated in a Government Regulation are fulfilled.

**Article 59**

Laws and regulations issued prior to the date of this Act coming into force, provided that they are not contradictory to this Act, are declared to remain in force until revoked, replaced, or renewed.

**Article 59A**

*A special agency conducting Banking restructuring task that has been existing before this Act coming into force, is declared to be continually exist.*

**CHAPTER X****CONCLUDING PROVISIONS****Article 60**

With the coming into force of this Act:

- a. State Gazette No.357 of 1929 dated 14 September of 1929 concerning provisions on Badan Kredit Desa outside the territories of municipalities in Java and Madura;
- b. Act No.12 of 1962 concerning Private Development Bank (State Gazette of the Republic of Indonesia No.58 of 1962, Supplement to the State Gazette of the Republic of Indonesia No.2489);
- c. Act No.14 of 1967 concerning Banking Principles (State Gazette of the Republic of Indonesia No.34 of 1967, Supplement to the State Gazette of the Republic of Indonesia No.2842);

are declared no longer valid.

**Article 61**

This Act shall come into force on the date of its enactment.

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**Article II**

*(1) With the coming into force of this Act, Provisions concerning Credit Business Conducting by Villages in Kadipaten Paku Alaman Territory (Rijksblaad of Paku Alaman Territory Year 1937 Number 9), is declared no longer valid.*

*(2) This Act shall come into force on the date of its enactment.*

For the public to be informed, it is instructed to promulgate this Act in the State Gazette of the Republic of Indonesia.

1. THE ACT NUMBER 7 OF 1992

Enacted in Jakarta

On 25<sup>th</sup> May 1992

THE PRESIDENT

OF THE REPUBLIC OF INDONESIA

SOEHARTO

Enacted in Jakarta

On 25th May 1992

STATE MINISTER STATE SECRETARY  
OF THE REPUBLIC OF INDONESIA

MOERDIONO

STATE GAZZETE OF THE REPUBLIC OF INDONESIA NUMBER 31 OF 1998

2. THE ACT NUMBER 10 OF 1998

Enacted in Jakarta

On 10<sup>th</sup> November 1998

THE PRESIDENT  
OF THE REPUBLIC OF INDONESIA

BACHARUDDIN JUSUF HABIBIE

Enacted in Jakarta

On 10th November 1998

STATE MINISTER STATE SECRETARY  
OF THE REPUBLIC OF INDONESIA

AKBAR TANDJUNG



STATE GAZZETE OF THE REPUBLIC OF INDONESIA NUMBER 182 OF 1998

**ELUCIDATIONS  
TO  
THE ACT NUMBER 7 OF 1992  
CONCERNING  
BANKING  
AS AMENDED BY  
THE PROPOSED ACT OF THE REPUBLIC OF INDONESIA  
NUMBER 10 OF 1998**

*GENERAL REVIEW*

The national development, which has been carried out, constitutes a continuous effort in order to bring about justice and prosperity based on the Pancasila and the 1945 Constitution. To achieve this objective, the implementation of development shall give a greater attention to the harmony, congruity, and balance of the various elements of development, including in the economic and financial sectors.

*The current national economic development has demonstrated a greater integration with the regional and international economy, which could bring about the benefits as well as unexpected impact, to the domestic economy. Mean while, national economic has developed rapidly with the associated ever widening challenges. Based on the above consideration, it is considered necessary to take various adjustments in the economic sector including banking. The adjustments taken are expected to improve and strengthen national economy.*

*In view of the strategic role of banking in the economy both as an intermediary institution and supporting agent for the payment system plays a very decisive factor in the adjustment process. The improvement of the national banking system is needed not only to improve individual bank soundness, but also to improve the soundness of the banking system as a whole. The soundness of national banking system is the responsibility of all parties concerned namely the Government, the banks themselves, and the bank's customers. The existence of common responsibility could help maintain the national banking soundness, so that the bank could play a maximum role in the national economy.*

*In order for the banking supervision to work effectively, the authority and the responsibility regarding to bank's license, which formerly under the authority of the Finance Minister shall be transferred to the Chairmen of Bank Indonesia. So that Bank Indonesia has a sole authority and responsibility relating to licensing, supervising, and imposing sanction on a bank which fails to adhere to the prevailing banking regulations. Therefore, Bank Indonesia has the authority and responsibility to evaluate and to decide the feasibility for the establishment of a Bank and/or opening Bank offices.*

*Prudential principles must be adhered consistently , meanwhile the regulations on bank activities have to be improved especially those relating to the extension of funds, including the increasing role of an Analysis on the Environmental Impact ("AMDAL") for big scale company or high risk company.*

*The role of national Banking needs to be improved in line with its functions in mobilizing and extending public fund with greater attention toward financing domestic economic sector activities, the priority shall be given to the cooperative, small and medium scale entrepreneurs, and all standing of community without discrimination so that to strengthen the national economic structure. Banks also have to give greater attention to improve the economic performance of the region/area where the bank office operated.*

*Meanwhile, the role of a Bank which conduct its operation based on Syariah Principle needs to be increased in order to meet the people's aspiration and needs. This Act provides broader opportunity for the public to establish a Bank which conduct its operation based on Syariah Principle, including the opportunity for Commercial Bank to establish a branch office which conduct activities solely based on Syariah Principle.*

*In order to increase social control toward Banking institution, the provision of Bank Secrecy, which previously considered as too rigid, shall be reviewed. Bank Secrecy constitutes as one of the elements which a Bank must have as a public trust institution managing the public funds. However, not the entire aspects of banking activities administrated by a Bank constitute a Bank Secrecy.*

*In order to support the national banking performance, the supporting agencies are needed, either the one with temporary nature or the one with more permanent nature such as Deposit Protection Institution. To strengthen the banking institution, as a public trusts institution, the regulation concerning responsibility of shareholder whom knowingly and willfully to cause the Bank not to comply with regulations are needed with the imposition of more stringent penal sanctions.*

*In line with the above development, with the existence of the Government commitments in the various international forum such as The World Trade Organization (WTO), Asia Pacific Economic Cooperation (APEC), and Association of South East Asian Nations (ASEAN), various adjustments are required in domestic banking regulations including the opening up of market access and non-discrimination treatment toward foreign service suppliers. Liberalization in the Banking sector is conducted in such a way so as to improve national Banking performance as well. In that regard, it is necessary to provide a greater opportunity to Foreign Service suppliers to participate in the ownership of domestic Bank through the “partnership” with domestic investor.*

*In light of this, It is necessary to take into account the rules and regulation relating to this Act, such as Act Number 5 of 1962 concerning Regional Government Enterprise, Act Number 25 of 1992 concerning Cooperative, Act Number 7 of 1994 concerning Ratification on Agreement Establishing World Trade Organization, Act Number 1 of 1995 concerning Limited Liability Company, Act Number 8 of 1985 concerning Stock Exchange, Act Number 9 of 1995 concerning Small Scale Enterprise, and Act Number 4 of 1996 concerning The Right of Land Mortgage including Goods attached to the Land.*

## ARTICLE BY ARTICLE

### Article 1

*Self explanatory.*

### Article 2

The term “Economic democracy” is economic democracy based on the Pancasila and the 1945 Constitution.

### Article 3

*Self explanatory.*

### Article 4

*Self explanatory.*

## Article 5

### Paragraph (1)

Self explanatory.

### Paragraph (2)

The expression “operate exclusively in particular activity” covers among others conducting long term finance, financing development of cooperatives, developing entrepreneurs from economically weak groups/small-scale entrepreneurs, developing non oil-gas exports, and developing housing.

## Article 6

A Commercial Bank may exercise some or all of the business activities stipulated in letter a to letter n. A Bank may choose a type of business activity appropriate to the expertise and the business that it wishes to develop. Thereby public demand for various Banking services may be accommodated by Banking business without neglecting the principles of soundness and efficiency.

### Letter a

Self explanatory.

### Letter b

Self explanatory.

### Letter c

A Bank may issue both short term and long term debt instruments. Short term debt instruments are as stipulated in Article 100 to Article 229 k of the Commercial Code known as Money Market Securities on the money market and consist of promissory notes, commercial paper, and other types of Securities which may be developed in the future. Long term debt instruments may take the forms of bonds or Credit Securities.

### Letter d

The term “operation” as referred to in this letter covers the activities of purchasing, selling or guaranteeing the Securities, mentioned in the elucidation of letter c, and Securities issued by the government and/or Bank Indonesia.

#### Item 1

Self explanatory.

Item 2

Self explanatory.

Item 3

Self explanatory.

Item 4

Self explanatory.

Item 5

Self explanatory.

Item 6

Self explanatory.

Item 7

This problem is stipulated for Securities other than those mentioned in item 1 to 6

Letter e

Self explanatory.

Letter f

Self explanatory.

Letter g

This activity includes collection and clearing.

Letter h

The expression “providing space” in this provision is an activity of a Bank merely to rent safety boxes, without any necessity for the Bank to be informed of any changes or the contents of the safety boxes.

Letter i

In conducting Custodial activities, a Bank accepts the safe-keeping of deposited property and records such property separately from the assets of the Bank. Changes in the accounting of such property shall be performed by the Bank at the request of the Depositors.

Letter j

In this activity, a Commercial Bank acts as intermediary between a Customer in need of funds and a Customer possessing funds.

**Letter k**

***Deleted*****Letter l**

Factoring is the management of accounts receivable or short term payment claims in respect of both domestic and foreign commercial transactions conducted by means of the take over or purchase of such accounts receivable. Credit card operations are a business in which Credit or finance is extended in respect of the purchase of goods or services by means of a card. In technical terms, the Credit card serves as an instrument for the transfer of account in settling the payment of transaction.

***Letter m***

***A Commercial Bank conducting conventional businesses may conduct its activities based on Syariah Principles through :***

- a. Establishment of new Branch Office or office under Branch Office; or***
- b. Converting the existing Branch Office or office under Branch Office which is previously conducting conventional Banking businesses to become an office which is conducting businesses based on Syariah Principles. In order to prepare the conversion of a Commercial Bank office to become an office based on Syariah Principles, Branch Office or office under Branch Office may initially form a separate unit which conduct its businesses based on Syariah Principles within the office concerned.***

***Commercial Bank conducting businesses based on Syariah Principles shall not conduct conventional businesses.***

***Salient features of Bank Indonesia provision includes among others :***

- a. Business activities and bank's products based on Syariah Principles;***
- b. The formation and tasks of Syariah Supervisory Council;***
- c. The requirements for the establishment of Branch Office conducting conventional Banking businesses to conduct business activities based on Syariah Principles.***

**Letter n**

Other business commonly conducted by a Bank in this respect is business other than the activities mentioned under letter a to m, and not contravention of the prevailing law, for example, providing bank

guarantees, acting as a fiscal agent, interest rate swap, assisting consumer in their administration, etc.

## Article 7

### Letter a

Self explanatory.

### Letter b

Self explanatory.

### **Letter c**

***Salient features of Bank Indonesia provision included among others:***

- a. Temporary equity participation by a Bank through the conversion of bad debts or bad Financing based on Syariah Principles in the company concerned;***
- b. The requirements for bad debts or bad Financings based on Syariah Principles which may be converted to equity participation;***
- c. Temporary equity participation concerned shall be withdrawn if:***
  - i) exceeding the maximum of 5 (five) years period; or***
  - ii) the company has yielded profits;***
- d. The temporary equity concerned shall be write-off from Bank's balance sheet, should within 5 (five) years period, Bank has not been succeeded to withdrawn its participation;***
- e. Reporting requirement to Bank Indonesia concerning the temporary equity participation by a Bank.***

### Letter d

Self explanatory.

## Article 8

### **Paragraph (1)**

***Credit or Financing based on Syariah Principles extended by the Bank posed a risk, so in its implementation Bank shall pay due observance on sound Credits principles and sound Financing based on Syariah Principles. In order to reduce such risk, guarantee of Credit in the***

*sense of confidence in the capability and capacity of the Debtor to repay his debt according to the agreed terms needs to be taken into account by the Bank.*

*To obtain such confidence, before extending Credit, the Bank must undertake an accurate appraisal of the character, capability, capital, Collateral, and condition of the economy. Because Collateral is one of the aspects of guarantee for extending Credit, if confidence has been obtained from the other aspect in respect of the ability of the Debtor to repay his debt, Collateral may only take the form of the goods, project, or accounts receivable financed by the Credit concerned. Land held by traditional ownership, i.e. land whose proof of ownership comprises traditional titles such as “girik”, “petuk”, and so on, may be used as Collateral. Banks are not required to ask for Collateral in the form of property not directly related to the financed property, activity project, commonly known as “supplementary Collateral”.*

*In addition, in the extension of Credit or Financing based on Syariah Principles Bank shall take into account the result of Analysis Concerning the Environment Impact (AMDAL) for big scale companies and/or high risk so that the project being financed protects the sustainability of the environment.*

**Paragraph (2)**

*The salient features of Bank Indonesia provisions included among others:*

- a. The extension of Credits or Financing according to Syariah Principles shall be in written agreement;*
- b. Bank shall have confidence on in the capability and capacity Debtor Customer which, among others, obtained by an accurate appraisal of the character, capability, capital, Collateral, and business prospect of Debtor Customer;*
- c. The requirements of a Bank to formulate and implement the procedures for the extension of Credit and Financing based on Syariah Principles.*
- d. The requirement of a Bank to provide clear information concerning procedures and requirements of Credit or Financing based on Syariah Principles;*
- e. Prohibition for a Bank to extent Credit or Financing based on Syariah Principles based on discriminatory conditions toward Debtor Customer and/or Affiliated parties;*



*f. Dispute settlement.*

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 business activities prohibited in this letter c cover among others acting as underwriter.

Article 11

***Credit or Financing based on Syariah Principles extended by a Bank bears the risk of failure or loss on its repayment, which may affect the soundness of the Bank. Considering that the source of the Credit or financing according Syariah Principles is funds from the public, the risk faced by the Bank may also affect the security of funds from the public. Therefore in order to maintain its soundness and to improve its resilience, the Bank is required to diversify the risk by managing Credit or Financing based on Syariah Principle distribution, providing guarantees and other facilities in such manner so as to avoid the concentration of its Credit or Financing***

*according Syariah Principle portfolio, provisions of guarantee, and other similar facilities on certain Debtor or group of Debtors.*

***Paragraph (1)***

*A group is a number of person or legal entities related one to another by virtue of ownership, management, and/or financial relations.*

***Paragraph (2)***

Bank Indonesia may stipulate a maximum limit which is less than 30% (thirty percent) of the capital of a Commercial Bank. The definition of capital of the Bank shall be determined by Bank Indonesia, based on the definition used in Bank rating. The maximum limit shall be applicable to each borrower, including companies within the same group.

***Paragraph (3)***

***Letter a***

*Self explanatory.*

***Letter b***

*Self explanatory.*

***Letter c***

*Self explanatory.*

***Letter d***

*The term “relative” in this provision means family relationship to the second degree by both vertical and horizontal lines 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 the capital of a Commercial Bank. The definition of the capital of the Bank shall be determined by Bank Indonesia based on the definition used in Bank rating.

**Paragraph (4A)**

*This prohibition is intended that in the extension of Credit or Financing based on Syariah Principles, Bank shall implement sound Credit principles. Bank is declared as violation of this paragraph if at the time of its extension, Credit balance or financing concerned exceeding the maximum limit as stipulated by Bank Indonesia.*

## Paragraph (5)

Self explanatory.

**Article 12****Paragraph (1)**

*As a realisation of the principle, function and objective of Banking, the implementation of which shall be carried out in line with national development needs, as well as does not contradict monetary programmings of Bank Indonesia.*

**Paragraph (2)**

*Salient features of the Government Regulations will include among others :*

- a. The requirements of Commercial Bank to extent Credit or Financing based on Syariah Principles to cooperatives, small and medium scale entrepreneurs with concessionaire interest or concessionaire Financing based on Syariah Principles;*
- b. Programmeme to improve the living standard of common people in the forms of provision of Credits with subidized interest or subsidized Financing based on Syariah Principles;*
- c. The interest subsidy or profit sharing shall be born by the State's budget.*

**Article 12A****Paragraph (1)**

*A possibility of a Bank to purchase Collateral through public auction is meant to supporting a Bank in order to speed up the process of settlement of claims by Customer Debtor. In case a Bank acts as purchaser of Collateral, the Bank status is of equal with those other non-bank's purchasers.*

*A possibility of a Bank to purchase Collateral outside public auction is meant to speed up the settlement of Creditor Customer's liabilities.*

*Bank is prohibited to possess ownership title of the Collateral purchased and shall without delay resale the Collateral, so the proceed of which can be utilised by the Bank immediately.*

**Paragraph (2)**

*The salient features of the Government Regulation include among others :*

- a. The Collateral purchased by a Bank shall be the Collateral of Credit categorised as loss for certain period of time;*
- b. The purchased Collateral shall be chase in at the latest of one year period;*

*Within one year period, a Bank may postpone its obligations relating to the transfer of ownership of Collateral concerned in accordance with the prevailing laws and regulations.*

**Article 13****Letter a**

The expression "other equivalent forms of deposit" is mentioned to accommodated the possibilities of other forms of deposit for a Rural Bank to mobilize from the public funds equivalent to Time Deposits and savings, but not in the forms of Demand Deposits or other Deposits which may be withdrawn by cheque.

**Letter b**

Self explanatory.

**Letter c**

***A Rural Bank conducting businesses based on Syariah Principles is prohibited from conducting conventional activities. A Rural Bank conducting conventional activities is prohibited from conducting activities based on Syariah Principles.***

***The salient features of Bank Indonesia provisions include among others :***

- a. Business activities and Bank's product based on Syariah Principles;***
- b. The formation and tasks of Syariah Supervisory Council.***

## Letter d

Self explanatory.

## Article 14

This prohibition is intended to adapt the activities of a Rural Bank, the primary objective of which is to serve small-scale businesses and the people in rural areas. Thus the type of services which may be rendered by a Rural Bank shall be adjusted to this purpose.

## Letter a

Self explanatory.

## Letter b

The prohibition stipulated in this letter does not cover the activities as a money changer. Prior to exercising its function as a money changer, a Rural Bank is required to adhere to Bank Indonesia regulations.

## Letter c

Self explanatory.

## Letter d

Self explanatory.

## Letter e

Self explanatory.

**Article 15**

Self explanatory.

**Article 16****Paragraph (1)**

*The collection of funds from the public by any party is in principle an activity that must be supervised, since such activity involves the interest of public whose funds are deposited at the party concerned. In this regard, this paragraph emphasizes that the activity of collecting funds in the form of Deposits may only be undertaken by a party after having obtained an operating license.*

*Nevertheless, other types of entities exist in society, which also collect funds from the public in the form of Deposits or types of Deposits, for example, as performed by the post office, pension funds, or by insurance companies. The activities of these entities do not fall within the scope of Banking according to the provisions of this paragraph. Regulations for implementation concerning the collecting of funds from the public by such entities shall be provided in a separate act.*

**Paragraph (2)**

*In order to issue an operating license as a Commercial Bank and a Rural Bank, Bank Indonesia shall take into account the requirements stated in this Article as well as the degree of healthy competition among Banks, the degree of Bank density within certain area, and the distribution of national economic development.*

**Letter a**

*Expatriates are allowed to take part in Commercial Bank management in accordance with the prevailing laws and regulations.*

**Letter b**

*Self explanatory*

**Letter c**

*The ownership requirements included the amount and composition of foreign ownership allowed in the Commercial Bank.*

*Letter d*

*Self explanatory*

*Letter e*

*Self explanatory*

*Paragraph (3)*

*The salient features of Bank Indonesia provisions shall include among others:*

- a. The requirements to become management of the Bank e.g. relating to expertise in the Banking sector and good reputation;*
- b. Prohibition of the existence of family relationship among Bank's management;*
- c. Minimum subscribed capital for the establishment of Commercial Bank and Rural Bank;*
- d. The maximum ownership and management;*
- e. Feasibility of business plan;*
- f. Time period for the issuance of license for the establishment of a Bank.*

*Article 17*

*Deleted.*

*Article 18*

*Paragraph (1)*

*Self explanatory.*

*Paragraph (2)*

*Self explanatory.*

*Paragraph (3)*

*The term sub-branch office refers to among others auxilliary and other offices under branch office. In order to provide Banking services, it is also possible for a Bank to establish other types of office under a Branch Office, such as payment point, mobile cash office, and automated teller machine (ATM).*

*A plan for the establishment of such offices shall be prior reported to Bank Indonesia.*

**Paragraph (4)**

*The salient features of Bank Indonesia provisions shall include among others:*

- a. The requirements of Bank soundness rating;*
- b. The degree of healthy competition among Banks;*
- c. The degree of Bank density within certain area;*
- d. The distribution of national economic development;*
- e. Time period for the issuance of a license for the establishment of an office at the latest of 60 (sixty) days after all documents have been completely received;*
- f. Time period and the reasons of a rejection;*
- g. Time period for the reporting of the establishment of sub-branch offices.*

**Article 19**

**Paragraph (1)**

*In order to issue a license for the establishment of a Brach Office of a Rural Bank, Bank Indonesia shall take into account the requirements stated in this paragraph as well as the degree of healthy competition among Banks, the degree of Bank density within certain area, and the distribution of national economic development.*

*The establishment of a sub-branch office of a Rural Bank does not require a license. A plan for the establishment of such office shall be prior reported to Bank Indonesia.*

**Paragraph (2)**

*The salient features of Bank Indonesia provisions shall include among others:*



- a. The requirements of Rural Bank soundness rating;*
- b. The degree of healthy competition among Rural Banks;*
- c. The degree of Rural Bank office density within certain area;*
- d. The distribution of national economic development;*
- e. Time period for the issuance of a license for the establishment of an office at the latest of 30 (thirty) days after all documents of request have been completely received;*
- f. Time period and the reasons of a rejection.*

## Article 20

### ***Paragraph (1)***

*The term a Bank whose head office is domiciled overseas (foreign Bank) refers to a Bank established based on the foreign law and having its head office overseas. Therefore, the Bank concerned is subject to the law in the place where the Bank is established.*

### Paragraph (2)

Self explanatory.

### Paragraph (3)

Self explanatory.

## Article 21

### ***Paragraph (1)***

*Self explanatory.*

### Paragraph (2)

Letter a

Self explanatory.

Letter b

Self explanatory.

Letter c

Self explanatory.

Letter d

This provision provides a possibility for the operation of a Banking institution in a smaller scale than a Rural Bank, such as a bank desa, a badan kredit desa and other institution as referred to in Article 58.

Paragraph (3)

Self explanatory.

## **Article 22**

**Paragraph (1)**

**Letter a**

*Indonesian legal entity covers among others the state of the Republic of Indonesia, state-owned enterprise, regional government enterprise, cooperative, and private enterprise.*

**Letter b**

*In the event that one of the parties willing to establish a Commercial Bank is a foreign legal entity, the foreign legal entity concerned shall be required to obtain a recommendation from the monetary authority of its country of origin. Such a recommendation at least includes information that the foreign legal entity concerned has a good reputation and never conducted any disgraceful act in Banking.*

**Paragraph (2)**

*The salient features of Bank Indonesia provisions shall include among others:*

- a. The ownership of shares;*
- b. The required document;*
- c. Financial condition of the applicants.*

## **Article 23**

If a Rural Bank is owned by an Indonesian legal entity, all owners of such Indonesian legal entity shall be Indonesian citizens.

**Article 24**

Self explanatory.

**Article 25**

Bank shares in the form of registered shares is provided to facilitate disclosure of changes in the share ownership of a Bank.

**Article 26*****Paragraph (1)***

*The provisions in this paragraph are meant to strengthen the structure of capital, distribution of ownership, and to improve the performance of the Bank concerned.*

*Emission of shares may be conducted through the stock exchange in Indonesia and/or abroad.*

***Paragraph (2)***

*The provisions in this paragraph are meant to give a broader opportunity to any parties, both Indonesian or foreigner, to participate in the ownership of Commercial Banks.*

***Paragraph (3)***

*The salient features of Bank Indonesia provisions shall include among others:*

- a. The requirements of ownership, including financial condition of the prospective Bank owner;*
- b. The required documents.*

**Article 27*****Letter a***

*Self explanatory.*

***Letter b***

*A plan for a direct transfer of Bank's ownership shall be reported to Bank Indonesia. This reporting is aimed to ensure that the ownership is transferred to parties meet requirements as a Bank owner.*

*The transfer of the bank is shares ownership conducted through stock exchange shall be reported to Bank Indonesia if the ownership of a party has reached a certain amount which capable of influencing the Bank management in accordance with provisions stipulated by Bank Indonesia.*

## Article 28

### *Paragraph (1)*

*In conducting Merger, Consolidation, and Acquisition, the parties shall prevent a concentration of economic power within one group in the form of a monopoly detrimental to the public interest. A Merger, Consolidation, and Acquisition shall not harm the interest of the Customers.*

### Paragraph (2)

Self explanatory.

## Article 29

### *Paragraph (1), paragraph (2), and paragraph (3)*

*The term supervision in paragraph (1) means efforts carried out by stipulating regulations concerning institution, ownership, management, business activities, reporting, and other aspects related to operational activities of a Bank.*

*The term supervision in paragraph (1) comprises off-site supervision especially in the form of early warning system through reviewing, analysing, and evaluating Bank's reports, and on-site supervision in the form of examination followed by remedial measures.*

*In line with that, Bank Indonesia shall be granted complete powers, responsibilities, and liabilities to carry out Bank supervision by taking measures both preventive and repressive.*

*On the other side, a Bank shall formulated and implement internal supervision system in order to ensure that the decision making process in the Bank management is conducted in accordance with prudential principles.*

*Considering that a Bank especially operates with funds from the public deposited on the Banks based on trust, each Bank shall be required to maintain its soundness and public trust.*

**Paragraph (4)**

*The provision of information concerning the risk of possible losses for Customer is aimed to give more access for the Customer to obtain information regarding business activities and conditions of a Bank and at the same time to guarantee the transparency in Banking sector.*

*The information may include the condition of a bank, including capital adequacy and assets quality. If the information concerned has been provided, the Bank is considered to comply with this provision. The information concerned shall be provided by a Bank in the event that the Bank acts as an intermediary in the placement of fund of a Customer or purchases/sells securities on behalf of or at the request of a Customer.*

**Paragraph (5)**

*The salient features of Bank Indonesia provisions shall include among others:*

- a. Scope of Bank supervision;*
- b. Criteria of Banking soundness assessment;*
- c. Prudential principles in Bank management;*
- d. Guidance for providing information to Customers.*

Article 30

Paragraph (1) and paragraph (2)

The requirements for reporting and clarifying the operations of a Bank to Bank Indonesia is necessary considering that such information is utilized to monitor the condition of the Bank and thereby protects funds from the public and safeguards the existence of Banking institutions.

It is only possible to enhance confidence in the Banking system if Bank are consistently operated in a sound condition. For this reason, Bank Indonesia is authorized to audit the books and files of a Bank in order to verify the reports submitted by the Bank.

Paragraph (3)

Self explanatory.

**Article 31**

*In principle the examination carried out by Bank Indonesia is conducted periodically at least once a year for each Bank. In addition, an examination may be conducted any time as deemed necessary for the clarification of indirect supervision result, and if there is any indication that a Bank has violated the sound Banking practice.*

*In connection with State funds managed by a Bank, Financial Auditor Agency (Badan Pemeriksa Keuangan) may conduct an examination on a Bank concerned.*

**Article 31A**

*The Bank examination conducted by a Public Accountant is a field examination which constitutes a delegation of power from Bank Indonesia as the Bank supervisory authority.*

**Article 32**

*Deleted*

**Article 33**

**Paragraph (1)**

*Self explanatory.*

**Paragraph (2)**

*The salient features of Bank Indonesia provisions shall include among others :*

- a. Types, procedures, and scope of examination;*
- b. Period of time and the reporting of the result of examination;*
- c. Follow-up/actions to the result of examination.*

## Article 34

## Paragraph (1)

Self explanatory.

## Paragraph (2)

Self explanatory.

## Paragraph (3)

Self explanatory.

## Paragraph (4)

Self explanatory.

## Article 35

Self explanatory.

## Article 36

This exemption may be granted having taken into account the ability of the Rural Bank concerned.

**Article 37****Paragraph (1)**

***The condition of a Bank is considered as facing difficulties endangering the survival of its business if according to Bank Indonesia's assessment the condition of the Bank's business is deteriorating, inter alia, indicated by decreasing of its capital, quality of assets, liquidity and profitability as well as the Bank has not been managed in compliance with prudential and sound Banking principles.***

***This Article states the steps which are necessary to be imposed on Bank facing difficulties endangering the survival of its business, in order to avoid the revocation of its operating license and/or liquidation as referred to in paragraph (2).***

***The steps mentioned are carried out in the framework of safeguarding the Bank as a public trust institution.***

*The third parties as mentioned in this paragraph are the parties outside the bank concerned, whether Bank, other business entity, or individual that meet the requirements.*

**Paragraph (2)**

*Criteria of endangering the banking system is if the degree of difficulties is such that the Bank could not meet its liabilities to other Banks which ultimately create the contagious effects to other Banks.*

**Paragraph (3)**

*Self explanatory.*

**Article 37A**

**Paragraph (1) and paragraph (2)**

*The Banking difficulties which is endangering the national economy is a condition of the Banking system that according to Bank Indonesia's assessment there is a crisis in public trust to Banking which influences the welfare of common people. To cope with this problem, it is required a direct role of the Government through policies and measures affecting the State's Budget.*

*Considering the above matters, in the establishment of a special agency as referred to in paragraph (1), the Government need a consultation with the House of Representatives of the Republic of Indonesia. The consultation is carried out with the Commission in charge of Finance and Banking to obtain its approval.*

*The special agency is established by a Presidential Decree and shall be responsible to the Minister of Finance.*

*The special agency as referred to in this paragraph shall be established on a temporary basis until the completion of its duties which are:*

- a. Restructuring Banks which are transferred by Bank Indonesia;*
- b. Settlement of the Bank's assets, whether physical assets or the receivables from the debtor through an Asset Management Unit;*
- c. Seeking the repayment of State funds which have been extended to Banks.*

**Paragraph (3)**



**Letter a**

*By taking over all rights and authorities of the shareholders, including the rights and authorities of General Meeting of Shareholders, the special agency may carry out the management of the Bank under restructuring programme; furthermore all rights and authorities of the shareholders including the General Meeting of Shareholders of the Bank under restructuring programme shifted to the special agency.*

**Letter b**

*Self explanatory.*

**Letter c**

*Based on this provision, the special agency may control, manage, and conduct any ownership actions as the owner.*

**Letter d**

*In case of the reviewing, cancellation, termination and/or amendment of a contract by the special agency causes losses on certain party, such party may only seek damages not exceeding the benefit value which has been derived from such contract after being proven that the losses are actual and certain.*

**Letter e**

*The selling and transferring of assets by the special agency shall be accompanied by transferring of ownership title of the assets to the buyer. Therefore the buyer obtains legal certainty regarding the transfer of the assets concerned.*

*The selling or transferring of the assets may be carried out directly or through public offering to get the best price.*

**Letter f**

*Other parties as mentioned in this paragraph are individual person, state owned company, private company, and/or other legal entity.*

**Letter g**

*Other parties as mentioned in this paragraph are individual person, state owned company, private company, and/or other legal entity.*

**Letter h**

*Self explanatory.*

***Letter i***

***According to this provisions, against the receivables of a Bank to third parties which have been taken over by the special agency, the special agency may collect such receivables by issuing a distress warrant (“Surat Paksa”) based on the records of the debtor’s debts in the Bank under the restructuring programme.***

***This distress warrant shall have a title “In the Name of Justice under God Almighty” having an execution power and the same legal power as a final and binding court decision. In case the action for collecting receivables is ignored by the Debtor, the special agency may seize the Debtor’s assets and furthermore may conduct an auction on such assets for the purpose of repayment of the debt concerned. Assets which may not be seized include household equipment, books, and other work equipments which are needed for carrying on the debtor’s life. Although this special agency is granted the power for conducting a forced collection, the implementation procedures thereof shall always subject to the principles of legal certainty and justice.***

***Letter j***

***Self explanatory.***

***Letter k***

***In order to obtain the information concerned, the special agency may ask the assistance authorized State’s law enforcement agencies.***

***Any other parties means Affiliated Parties and other parties who involved or to be considered involved, including any legal entity owned by the Bank or Affiliated Parties.***

***Letter l***

***The losses concerned may be caused by an unfair transaction which involves the bank under the programme. The unfair transaction i.e.:***

- a. Transaction which is illegally favouring certain parties;***
- b. Transaction which does not provide terms and conditions resulted from negotiation between parties which are not affiliated each other; or***
- c. Transaction which causes the Bank concerned receiving value unequal to the value released or given by the Bank.***

***Letter m***

***Self explanatory.***

***Letter n***

***Other actions referred to in this provision are i.e. establishing a division within the special agency or establishing and/or conducting an equity participation in a legal entity.***

***Paragraph (4)***

***Any legal actions carrying out by any parties shall not prevent or delay the legal actions conducting by the special agency as referred to in this Article. In the event that a final and binding court decision is issued in favour of the other party, the special agency shall obey such a court decision.***

***Paragraph (5)***

***Self explanatory.***

***Paragraph (6)***

***Self explanatory.***

***Paragraph (7)***

***Self explanatory.***

***Paragraph (8)***

***Self explanatory.***

***Paragraph (9)***

***The salient features of the Government Regulation shall include among others :***

- a. The establishment of the special agency;***
- b. Budget and expenditure of the special agency;***
- c. The collection procedures of receivables owned by Banks under restructuring programme;***

- d. The procedures for the temporary equity participation;*
- e. The winding up;*
- f. The Bank restructuring procedures.*

#### **Article 37B**

##### **Paragraph (1)**

*Self explanatory.*

##### **Paragraph (2)**

*The establishment of the Deposit Protection Institution is deemed necessary for the purpose of protecting the Customer interest and in the same time improving the public trust to Banks.*

##### **Paragraph (3)**

*Self explanatory.*

##### **Paragraph (4)**

*The salient features of the Government Regulation shall include among others:*

- a. The establishment of the Deposit Protection Institution;*
- b. The organisation structure;*
- c. The option of the protection schemes;*
- d. The obligation of a Bank to be a member of the Institution.*

#### **Article 38**

##### **Paragraph (1)**

The provisions in this Article shall also apply to a Bank legally established as a cooperative in the event of an appointment or change of the officials on the same level as the directors and members of the board of the commissioners.

##### **Paragraph (2)**

*Self explanatory.*

**Article 39****Paragraph (1)**

A Bank may employ expatriates in compliance with the need of the Bank.

As for a Rural Bank or a Commercial Bank, such expatriates shall be temporary, and shall be limited to experts, advisors, and consultants, in accordance with the needs of the Bank. As for a joint Bank or branch of a Bank, the head office of which domiciled overseas, such expatriate staff shall be employed in compliance with the characteristics of foreign ownership. Nevertheless, the employment of expatriates in the joint Bank or a branch of a Bank, the head office of which domiciled overseas, shall be adjusted to the Indonesianization programme.

**Paragraph (2)**

This Government Regulation shall provide requirements covering among others elaboration of the provisions of paragraph (1), for example, the type of work or expertise which the expatriates are still needed and period of employment based on the prevailing manpower laws.

**Article 40*****Paragraph (1)***

***If a Customer of a Bank is a Deposit Customer who at the same time is also a Debtor Customer, the Bank shall keep confidential (undisclosed) the information concerning the Customer in its status as a Deposit Customer.***

***Information concerning Customers other than Deposit Customer, is not information that shall be kept confidential by the Bank.***

***A Bank conducting activities as a stock exchange supporting institution, such as a Bank as a Custodian and/or Trustee, subject to the prevailing provisions and regulations concerning the stock exchange.***

***Paragraph (2)***

***Self explanatory.***

Article 41

*Paragraph (1)*

*Self explanatory.*

Paragraph (2)

Self explanatory.

*Article 41A*

*Paragraph (1)*

*Self explanatory.*

*Paragraph (2)*

*Self explanatory.*

*Paragraph (3)*

*Self explanatory.*

*Article 42*

*Paragraph (1)*

*The word “may” emphasizes that the permission of the Chairmen of Bank Indonesia will be granted as long as the request concerned meets the provisions as referred to in paragraph (3).*

*Paragraph (2)*

*The permission from Bank Indonesia shall be given at the latest of 14 (fourteen) days after the documents of request are completely received.*

*Paragraph (3)*

*Self explanatory.*

*Article 42A*

*Self explanatory.*

Article 43

In a civil case between a Bank and its Customer as referred to in this Article, the Bank may disclose the financial condition of the Customer and other information relevant to the case in the court proceeding without permission from the Minister.

#### Article 44

##### Paragraph (1)

Inter-bank exchange of information which is meant to smoothen and secure Banking operations covers among others efforts to prevent double Credit, and to ascertain the condition and status of another Bank. Thus a Bank will be able to appraise the degree of risk before entering into a transaction with a Customer or with another Bank.

##### Paragraph (2)

Further provisions determined by Bank Indonesia cover among others the procedures to submit and to request information, forms and types of particular information to be exchanged, such as general indicators of Credit extended by the Customer, Collateral, and the inclusion of the Customer in the bad debt list, if any.

#### **Article 44A**

##### ***Paragraph (1)***

***Self explanatory.***

##### ***Paragraph (2)***

***Self explanatory.***

#### Article 45

If a bank does not fulfil the request for the rectification by a party who in his opinion has suffered harm as a result of information disclosed by the Bank, the matter may be submitted to a competent court by the party concerned.

#### Article 46

##### ***Paragraph (1)***

*Self explanatory.*

Paragraph (2)

*Self explanatory.*

**Article 47**

**Paragraph (1)**

*Self explanatory.*

**Paragraph (2)**

*The term “Bank employees” refers to all officials and employees of a Bank.*

**Article 47A**

*Self explanatory.*

**Article 48**

**Paragraph (1)**

*The term “Bank employees” refers to officials of a Bank authorized and responsible for performing the operational duties of the Bank, and employees with access to information regarding the condition of the Bank.*

**Paragraph (2)**

*Self explanatory.*

**Article 49**

**Paragraph (1)**

*The term “Bank employees” refers to all officials and employees of a Bank.*



**Paragraph (2)****Letter a**

*The term “Bank employees” refers to all officials and employees of a Bank.*

**Letter b**

*The term Bank employees refers to officials of a Bank authorized and responsible for performing the operational duties of the Bank, and employees with access to information regarding the condition of the Bank.*

**Article 50**

*Self explanatory.*

**Article 50A**

*Self explanatory.*

**Article 51****Paragraph (1)**

*The offences as stipulated in the articles of this paragraph are categorized as felony, meaning that for such offences stronger legal penalties will be imposed than for misdemeanors. This provision is imposed under the consideration that Bank is an institution entrusted by the public to hold their funds. Therefore it is always necessary to avoid any offence that may result in destruction of public trust in a Bank, which is in principle detrimental to the interest of the Bank and the public.*

*By classifying such offences as felonies, it is expected that there will be utmost adherence to the provisions in this Act.*

*The penalty provisions stated in Chapter VIII shall in principle apply to felonies committed by the members of the board of commissioners, the board of directors or employees of a Rural Bank, as such criminal penalties apply on general scale.*

**Paragraph (2)**

*Self explanatory.*

**Article 52**

**Paragraph (1)**

*Self explanatory.*

**Paragraph (2)**

*Self explanatory.*

**Paragraph (3)**

*The salient features of the Bank Indonesia provisions shall include among others:*

- a. The types of administrative sanctions;*
- b. The implementation procedures of administrative sanctions;*
- c. The further implementation of administrative sanctions;*
- d. The supervision of the implementation of administrative sanctions.*

**Article 53**

In this Article, administrative sanctions may comprise:

- a. a fine, i.e. the obligation to pay specific sum of money as a result of failure to adhere to a provision in this Act;
- b. dispatch of written warning;
- c. prohibition from performing the function as a director or a member of the board of commissioners;
- d. prohibition of rendering services to Banks;
- e. dispatch recommendation to the competent agency to revoke or cancel the operating license as a provider of services to Banks (e.g. consultant, legal consultant, public accountant, and appraiser).

**Article 54**

## Paragraph (1)

Self explanatory.

## Paragraph (2)

Self explanatory.

## Paragraph (3)

The change of the form legal entity of state Banks as referred to in this Article shall be implemented pursuant to Act No. 9 of 1969 and the Government Regulation No. 12 of 1969. After the change has been conducted, the Acts concerning the establishment of the state Bank shall no longer be valid.

Similarly, Act No. 13 of 1962 shall no longer be valid within 1 (one) year after this Act coming into force.

***Article 55***

***Self explanatory.***

## Article 56

This provision provides Banks with the opportunity to adjust gradually with the provisions on legal lending limit stipulated in this Act, thus enabling Banks to avoid serious difficulties in meeting such requirements, with the consideration that the prevailing legal lending limit is higher than that set forth in Article 11 paragraph (2) and paragraph (4)

## Article 57

The transformation of a non-bank financial institution to a Bank as stipulated in this Act may be implemented within a period of not more than 1 (one) year from this Act coming into force. The transformation of a non-bank financial institution to a Securities house shall be based on capital market regulations.

## Article 58

In the view of the fact that the institution referred to in this Article have grown and developed in Indonesian society, and are still in demand by the public, the existence of such institutions is still acknowledged. Therefore, this

Act shall clarify the status of such institutions. To attain uniformity, the requirements and procedures for conferring the status of the Rural Bank to such institutions shall be stipulated in a government regulation.

Article 59

This provision is stipulated to avoid the existence of a legal vacuum and to accommodate solutions to problems that may arise until the enactment of the new provisions.

**Article 59A**

*The special agency as referred to in this Article shall have a temporary nature, with special tasks to carry out any necessary steps for the national Banking restructuring.*

*An existing agency established for the purpose of carrying out Banking restructuring tasks, may continuously carry out its tasks according to this Act.*

Article 60

Self explanatory.

Article 61

Self explanatory.

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**Article II**

*Self explanatory.*

1. ELUCIDATIONS TO THE ACT NUMBER 7 OF 1992

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF  
INDONESIA NUMBER 3472

**2. ELUCIDATIONS TO THE ACT NUMBER 10 OF 1998**

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF  
INDONESIA NUMBER 3790

