

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.

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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;

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**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 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;

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- 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 fulfil 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.
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 - (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.
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.
- 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 determine 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 allowing 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. 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 wilfully 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 wilfully 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 wilfully 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 wilfully:

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 wilfully 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 wilfully:

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 favour 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 misdemeanours.

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 Pith 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.

Article II

(1) With the coming into force of this Act, Provisions concerning Credit Business Conducting by Villages in Kadipaten Paku Alaman Territory (Rijksblad 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 25th 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

THE ACT NUMBER 10 OF 1998

Enacted in Jakarta

On 10th 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