

Indonesian Banking in the Era ASEAN Single Market 2015 (Study of the Indonesian Banking Crisis 1997-1998)

Abdurrahman Konoras
Senior Lecturer at Faculty of Law, Sam Ratulangi University, Manado, North Sulawesi.
Kampus Unsrat, Bahu Manado, 95115.
Email: abdurrahmankonoras@yahoo.com

Abstract

The era of the 2015 ASEAN single market for new banking sector will be realized in 2020 but Indonesia does not have enough preparation for it. Indonesian banking is facing many challenges such as the aspects of banking capital and ownership. In terms of the banking capital, it can not compete with the banks from Singapore or Malaysia. In context of the ownership otherwise, the banks from the two neighboring countries have put their nails into the Indonesian banking sector. It can be said also that the era of the single market is a new era of liberalisme where there is no boundaries anymore amongst states. It means that banking competition amongst states will enter a new phase.

Keywords: Banking, free market, and regulation.

1. Introduction

The ASEAN single market 2015 will begin. It is basically created by the ASEAN member countries leaders through a joint commitment of them resulted from the 13th ASEAN Summit (KTT) in Singapore 2007. The Summit succeeded to formulate a blueprint of economic stability and political-security in the ASEAN region. The expectation of it, ASEAN will become a single market for goods and services, investment, labor, and capital flows.

The single market is understood as a free market. The free market is then equaled as a liberalisme. This understanding is becoming controversy amongst scholars in Indonesia because some of them think that the concept of the free market is legally unconstitutional. On the other hand, other scholars think the idea of liberalisme in Indonesia can be found explicitly in the Law Number 7 Year 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization (WTO).

In terms of Indonesian banking, one aspect of the Indonesian banking challenges to compete, particular with banks from Singapore and Malaysia, in the era of the ASEAN single market is the limitation of capital. Some bankings regulation as if the Law Number 21 Year 2008 concerning the Financial Services Authority and other regulation either the traditional banking or Islamic Banking are prepared to handle the problem of the limited capital. However in order to implement the ASEAN single market, those Indonesia banking regulations shall govern specifically a new aspect and principle of the Indonesian banking to support of the ASEAN single market.

In the context of the regulation of the ownership of bank shareholder majority in Indonesia, the regulation does not determine the legal status of Indonesian citizen who become the ultimate shareholders on behalf of foreign company. The regulation does not govern clearly about it because of the provisions of the banking law only distinguish between foreign banks and national banks. It means that the status of the flag carrier or the national flag of banks and citizens does not enough regulate in Indonesian banking law.

The ASEAN single market is not only applicable in ASEAN region but also it can be applied to ASEAN partner region like APEC, NAFTA, and some global organizations such as Citibank, JP Morgan Chase Bank, and Bank of America. Those banks either come from ASEAN countries or other region as mentioned before actually have not seen as a major competitor for Indonesian bank. But, when the Industrial and Commercial Bank of China (ICBC) enter to Indonesia, they realize that *this is the real competitor* for them.

2. Growth and Comparative of Indonesian Banking

Banks in Indonesia practically have existed long time before the Republic of Indonesia was formed. Since the time, the Indonesian banking is growing. According to Thomas Suyatno, et.al.,¹ in the Dutch East Indies era, there was three banks in which the government has a certain role, as follows:

¹ Thomas Suyatno, et.al., *Banking Institution*, Gramedia Pustaka Utama, Jakarta, 1991, p.4.

1. De Javasche Bank N.V, was established on October 10, 1927, then nationalized by the Government of the Republic of Indonesia on December 6, 1951 and finally became the Central Bank in Indonesia governed by the Law Number 13 Year 1968.
2. De Algemene Volkscredietbank was established on 1934 in Batavia (Jakarta), and then this bank activity followed by Japanese credit institutions (during the Japanese occupation) called Syomin Ginko and now known as the Bank Rakyat Indonesia.
3. De Postpaarbank, was established in 1898, and based on the Law Number 9 Drt. Year 1950, its name then replaced with Bank Tabungan Pos. Its name re-replace became the Bank Tabungan Negara in 1968 through the Law Number 20 Year 1968.

The three banks still exist right now. De Javasche Bank NV changes to become a Bank Indonesia (BI) or also called as the Bank Sentral. De Algemene Volkscredietbank changes to become PT. Bank BRI (Persero) Tbk. and De Postpaarbank changes to become PT. Bank BTN (Persero) Tbk. Both PT Bank BRI and PT Bank BTN is member of state-owned enterprises. (BUMN). Those banks as mentioned above actually had been governed by several legal instruments.

Those legal instruments can be said as the growth and comparative of the Indonesian banking. Post-independence of the Republic of Indonesia, the Bank Indonesia was regulated under the Law Number 13 Year 1968 concerning the Bank Sentral, which removed by the Law Number 23 Year 1999 concerning Bank Indonesia pursuant to Article 78 paragraph 1. As we known, the Law Number 13 Year 1968 is the oldest legal instruments of validity. The Law Number 23 Year 1999 then also had been amended under the Law Number 3 Year 2004 concerning the Amendment of the Law Number 23 Year 1999 concerning Bank Indonesia as the first amendment of the The Law Number 23 Year 1999. The second amendment of it could be seen under Regulation in lieu of Law Number 2 Year 2008 concerning the Second Amendment of the Law Number 23 Year 1999 concerning Bank Indonesia.

The changes of several legal instruments in BI as mentioned above contain different legal substance. The most important and fundamental changes is the establishment of the Financial Services Authority {called the Otoritas Jasa Keuangan (OJK)}, which is mandated to be formed no later than December 31, 2002 pursuant to Article 34 paragraph 2 of the Law Number 23 Year 1999. The Law Number 3 Year 2004 itself also mandated the establishment of the OJK no later than December 31, 2010. The OJK itself was then formed under the Law Number 21 Year 2011 concerning OJK, which contained some fundamental aspects and taking several objectives, functions, obligations, and authority of the Bank Indonesia to become the goals, functions, duties, and authority of the OJK (Article 4 to Article 9).

The presence of the OJK in accordance with the law basically relies on regulation and supervision aspects, called microprudential. Its scope includes its institution, health, precautionary aspect and bank checks. While the scope of the regulation and supervision of macroprudential becomes the duties and authority of Bank Indonesia. In the framework of macroprudential regulation and supervision, the OJK assists BI to conduct moral suasion to the Indonesian Banking in general.

After the independence of the Republic of Indonesia, the growth and comparative of the Indonesian banking can be seen by an enacting the Law Number 14 Year 1967 concerning the Principles of Banking. This law then repealed by Article 60 point c the Law Number 7 Year 1992 concerning Banking. The development of the Law Number 7 Year 1992 then amended by the Law Number 10 Year 1998 concerning the Amendment of the Law Number 7 Year 1992 on Banking.

Instruments of Banking Law as mentioned above basically have substantially different each to other. The Law Number 7 Year 1992 for example introduces new banking form called the principle of profit sharing. It means that in Indonesia practically there is two banking systems namely conventional banking and Islamic banking. However, in terms of legal basis, under the Law Number 7 Year 1992 and the Law Number 10 Year 1998, both laws rise to various questions and difficulties in their operation.

Both Conventional banking and Islamic banking have been set together in the Law Number 10 Year 1998. In terms of the principle of profit sharing, the Law Number 10 Year 1998 raise some questions amongst the public whether the principle is governed equally between Conventional banking or Islamic banking. According to Ahmad Fuad, the public debating related to the position of Profit Sharing Principle creates misleading in

society.¹

To deal with the misleading of the position of the profit sharing principle, the Law Number 21 Year 2008 concerning Islamic Banking is an answer of the misleading as discussed above. The scope of the principle according to the Law Number 21 Year 2008 is wider than the Law Number 10 Year 1998. The Law Number 21 Year 2008 emphasizes more the Shariah Principle than the Law Number 10 Year 1998.

Article 19 paragraph 1 letter q and Article 19 paragraph 2 letter o is one criticism of the provisions of the Law Number 21 Year 2008. The usage of phrase "other activity commonly performed in banking and in the social field does not contradict to Syariah principles and provisions of the legislation" become the point of the critique. Abdul Ghofur Anshori² argues that as a blanket norm in these provisions, it is not necessary because the phrase "...does not contradict to Syariah principles ..." has not been known in the terminology of Islamic law in the context of banking products.

3. Indonesian Banking: Learning from the Crisis (1997-1998)

Indonesia's banking crisis in 1997-1998 has raised awareness that there is something wrong either at the level of law or the level of implementation related to Indonesian banking. Before the banking crisis, there were 240 banks with total assets of approximately Rp. 600 billion and the number of non-bank financial institutions around 1,300 with a total wealth of about Rp. 53 trillion.³ The number of banks in the banking crisis of 1997-1998, according to some ratings, among others conducted by Infobank Magazine, there is a tendency of decrease in the number of banks in Indonesia. When the banking crisis period of 1997-1998, Infobank Magazine decreased the rating of 239 banks in June 1997. In the October 1997, it was reduced to 200 banks,⁴ compared in June 2014 with a rating of 120 banks.⁵

There are several factors that cause reduction in the number of banks in Indonesia. Firstly, the impact of the banking crisis in 1997-1998. Secondly, a process of merger, acquisitions and consolidation. Finally, the owner of the bank itself is not interested in continuing its banking business activities. The impact of the banking crisis resulted in the survival of a good number of banks entered into the Bank Beku Kegiatan Usaha (BBKU) and Bank Beku Operasi (BBO) and Bank Dalam Likuidasi (BDL).

Kusumaningtuti Sandriharmy notes that there is closure of 16 banks to be Bank Dalam Likuidasi (BDL) in November 1997, and followed by the closure of the troubled bank or is no longer feasible to operate to be 7 banks in April 1998 as Bank Beku Operasi (BBO), and 4 banks in August, then 38 banks in April 1999 as Bank Beku Kegiatan Usaha (BBKU).⁶ Those closures are a series of Indonesian banking problems that result in the shrinking number of banks. The banking crisis with a large number of banks BBKU, BBO and BDL is the real condition of Indonesian banking. For example, the widespread practice of banks in the bank that bank lends credits to groups affiliated companies so that violate the legal lending limit as the many causes of the banking collapse.

Muhammad Djumhana,⁷ explains that credit management should be carried out with regard to the principles of the Basel 2 Accord. This principle has one of the most important features in the management of credit risk. The principle is the development of the principle of separation of the functions of marketing and credit in the entire credit portfolio. In the context of the violation aspect of maximum limit lending during the 1997-1998 banking crisis; basically it violated the Article 11 of the Law Number 7 Year 1992. The same article is also confirmed in the Law Number 10 Year 1998. However, the fact shows that violation of the provisions of maximum limit lending is still taking place, which cause a default.

¹ Ahmad Fuady, *Regulation of Islamic Banking in the System of National Laws*, National Law Journal, Number 1 Year 2005, Badan Pembinaan Hukum Nasional Departemen Kehakiman, Jakarta, 2005, p.163.

² Abdul Ghofur Anshori, *Islamic Banking Law*, Refika Aditama. Bandung. 2009, p.39

³ Darmin Nasution. *Towards Establishment of the Otoritas Jasa Keuangan (OJK) as the Financial Institutions Supervisory Authority: Conception Thought of Establishment Otoritas Jasa Keuangan*, in Heru Subiyantoro and Singgih Riphath (ed.), *Thought Fiscal Policy Concept and Implementation*, Penerbit Buku Kompas. Jakarta. 2004. p.526

⁴ InfoBank Magazine, Number 217. Issue Oktober II 1997. pp.34-45

⁵ InfoBank Magazine, Number 423. Issue Juni 2014. pp.24-33

⁶ Kusumaningtuti Sandriharmy. *The Role of Law in Banking Crisis Resolution in Indonesia*, RajaGrafindo Persada. Jakarta, 2009. p.8

⁷ Muhammad Djumhana. *Banking Law in Indonesia*, Citra Aditya Bakti. Bandung, 2006. p. 480

The impact of bad credit that happened in the 1997-1998 banking crisis influence and spread to various sectors and areas such as trade, industry, consumption, and etc. This impact will apply the contagion effect. Starting from the crisis, one of the remedies to be taken is the process of mergers, acquisitions and consolidation of banking as well as banking restructuring reinforced with a number of legal instruments such as the Law Number 23 Year 1999 concerning Bank Indonesia, the Law Number 10 Year 1998 on the Amendment of the Law number 7 Year 1992 concerning Banking, Presidential Decree Number 26 Year 1998 on Government Guarantee Program, Presidential Decree Number 97 Year 1999 on the Commercial Court, Presidential Decree Number 27 Year 1998 concerning Indonesian Bank Restructuring Agency (IBRA) and others.

A fundamental change is a change of ownership of bank shares because of the acquisition process. The change of ownership in order to mergers, acquisitions and consolidation also dampen the number of banks in Indonesia. Another factor to reduce the number of banks in Indonesia is bank owners do not pay attention anymore to continue their business in banking sector.

According to Kusumaningtuti Sandriharmy, the 1997-1998 banking crisis is one of the factors of vulnerability companies in Indonesia because of the weakness of liberal corporate governance mechanisms that bring negative impact on the crisis. The failure Indonesian companies to implement prudent corporate governance practically in the management due to several factors including the high concentration of ownership and lack of transparency in the acquisition and monitoring procedures. In addition to problems of inefficient, companies in Indonesia are also vulnerable to the risk exposure associated with excessive dependence of external financing.¹

In the frame of good corporate governance in banking, the Law Number 10 year 1998 does not govern it. Differently with the Law Number 21 year 2008 concerning Islamic Banking, which is specifically govern in Chapter VI Part One, under the heading of Governance of Islamic Banking. In the context of Commercial Bank (Conventional), it has issued provisions in the form of Bank Indonesia Regulation (PBI) Number 8/4/PB1/2006 on the Implementation of Good Corporate Governance for Commercial Banks as amended by Regulation Number 8/14/PBI/2006.

The principle of *Good Corporate Governance (GCG)* in the banking sector is aimed to improve bank performance, to protect the interests of stakeholders and to improve compliance with legislation and regulations, as well as ethical values generally accepted in the banking industry.² Although it has been long enough force in the banking sector in Indonesia, but as a twin of the good governance, it still seemed less earnest in creating good governance which resulted in corruption. The most prominent is the corruption scandal in the Directorate General of Tax and Bank Century that include Bank Indonesia.³

In terms of an effort to tackle troubled banks through Indonesian Bank Restructuring Agency (IBRA) is to: (a) undertake the administration of government guarantees given to the Commercial Bank as defined in Presidential Decree Number 26 Year 1998; (b) supervise, coach, and improvement efforts including bank restructuring by Bank Indonesia was problematic; and (c) perform the necessary legal action in order to repair the troubled banks.⁴ In fact, it raises a new problem when some IBRA officials conduct corruption.

Due to the banking crisis is very large and complex, the effect of it is still felt today. In the aspect of taxation for example, as a comparison, in the explanation of the Law Number 2 year 2010 on the amandement of the Law Number 47 Year 2009 concerning State Government Budget (called APBN in Bahasa Indonesia), notes that taxes receivable of former IBRA is around Rp. 1.086.613.632,00 (one billion eighty six million six hundred thirteen thousand six hundred and thirty-two), as stated in explanation of Article 3 Paragraph 2 of the Law Number 2 year 2010. It is actually a testament to the amount of funds disbursed in the framework of the banking Restructuring.

4. Banking in the Free Market: FromCrisistoCrisis?

The era of the free market actually is not a new era in Indonesia because it has a legal instrument like the Law Number 7 Year 1994 concerning the Ratification of the WTO passed and enacted on November 2, 1994. The presence of the WTO, APEC, NAFTA, are parts of internationalization and to the regional scope, as

¹ Kusumaningtuti Sandriharmy, *Op.Cit.*, p.237

² Abdul Ghofur Anshori, *Op.Cit.*,p. 79

³ R. Siti Zuhro, *Good Governance and Bureaucratic Reform in Indonesia*, Posted in Journal of Political Research, Volume 7 Number 1, Lembaga Ilmu Pengetahuan Indonesia (LIPI), Jakarta, 2010, p.15

⁴ KusumaningtutiSandriharmy. *Op.Cit.*,p.171

regionalization free market is essentially pushing the process of globalization of trade. The era of globalization has opened the limits of state sovereignty and national interests. While the impact of globalization makes the borderless.

Globalization is the integration of the entire state, nation, and mankind on earth become a life together, fused, and coupled with the loss of time and space.¹ Kenichi Ohmae stipulates the globalization from business-economic angle called the 4-1 (Investment, Industry, Information Technology, dan Individual Consumer). In his concept, he is drawing 4-1 as:

- a. "Investment is no longer geographically constrained";
- b. "Industry is also far more global in orientation today than it was a decade ago. In the past, with the interests of their home governments clearly in mind, companies would strike deals with host governments to bring in resources and skills in exchange for privileged access to local markets. This, too, has changed...";
- c. "Information Technology which now makes it possible for a company to operate in various parts of the world without having to build up an entire business system in each of the countries where it has a presence..."; and the last
- d. Individual Consumer states that "Individual consumers have also become more global in-orientation."²

Ohmae said furthermore that geographic focal point is lost. It means that "*there are the border-and the connections that matter in a borderless world.*"³ Consequently, the boundary between countries become lost and globalization make state sovereignty is limited to political sovereignty whereas the economic sovereignty including banks become integrated and united.

In Indonesia perspective for example, the phrase "*restore food sovereignty, restore sovereignty of natural resources, and so on*," is a manifestation and reflection of the loss of state sovereignty over food and natural resources (SDA) due to the mastery of a foreign corporation. Meanwhile, state sovereignty and the rule of law will be in tandem or parallel (convergent) even intersect (divergent) that continue to require new regulations. Legal instruments and legislation from the perspective of the constitutional rule have supported law and the sovereignty of the Indonesian economy. The rule of law is realized from the provision that "Indonesia is nation state" (Article 1 Paragraph 3). Economic sovereignty is embodied in the provisions of Article 33 of the Constitution of the Republic of Indonesia Year 1945.

Both the rule of law and the economic sovereignty concepts as mentioned above are carrying fundamental values - called the national interest. It means that law and economic are devoted to the national interest, not the interests of other parties, especially economic and foreign laws. However, in terms of implementation, level paradox takes place when liberal economic system strengthens and influence to the national interest. In this area, the concept of the *rechtsstaat* with its variant of a welfare state also has diverged to another concept. According to Satjipto Rahardjo,⁴ the rule of law ideally is how a state protects and makes its people to reach welfare. To embody this concept of state, the state will always actively take the initiative to act. Not the people who have to "beg" to be served by the state.

The paradox as explained above is explained by Lucky W. Sondakh by comparing communist-socialist economic system and the liberal-capitalist economic system. Those systems see the concept of welfare states that they apply already eliminate economic competitiveness. It also makes people to become spoiled including free tuition, free hospitals, given employment benefits, and so on.⁵ Those practices such as school fees and tuition-free, cost-free treatment (hospital) under the provisions of the Law Number 24 Year 2011 on Social Guarantee Council, and various types of subsidies e.g. fuel subsidies, fertilizer subsidies are counterproductive because it weakens the work ethic, the ability to compete, and in the end of it is not able to face tough competition and hard in the free market era. Orientation to the inward looking orientation becomes dull and stiff as far lulled by the guarantee and protection by the state. If it is compared with outward looking orientation which would

¹ Rianto Nugraha D., and Tri Hanurita S., *Indonesian Challenge: Solution of Political Development of Developing Countries*, Elex Media Komputindo, Jakarta, 2005, p. 45.

² Kenichi Ohmae. *The End of The Nation State*, Free Press, New York. 1995. p.24

³ *Ibid.*, p.5

⁴ SatjiptoRahardjo, *Finally: State Law Indonesia. People are happiest country'*, dalam Ufran (ed.), *The Rule of Laws happy Subjects*, Genta Publishing Yogyakarta, 2009. p.106

⁵ Lucky W. Sondakh. *System and the New Paradigm of Contemporary Economics*, in Abdi W. Buchari (ed.). *Globalisation and Desentralisation :The Local Economic Perspective*. Lembaga Penerbit Fakultas Ekonomi Universitas Indonesia. Jakarta, 2003.p.10

increasingly put a weak competitiveness.

Liberalism investment starting from the basic conceptions, according to Thomas L. Brewer and Stephen Young is drawn as:¹

- *Freedom of entry, that is, a commitment to grant foreigners the legal right to invest in the economy (sometimes referred to as reestablishment national treatment or the right of establishment);*
- *National treatment for foreigner investors, so that the host country treats the investor operating in its territory in a generally similar way as a domestic investor or enterprise (i.e., post-establishment national treatment);*
- *Most-favoured-nation treatment (non-discrimination), meaning that host governments do not accord preferential treatment to investors from certain nations and thereby discriminate against them;*
- *In addition, investment-protection rules and dispute-settlement procedures establish the bases of relations between investors and host country governments.*

Brewer and Young thought as explained above is relevant to be compared with article 6 and article 7 of the Law Number 25 Year 2007 concerning Investment. "Equal treatment to all investors" as stated in article 6 and "shall not undertake nationalization or expropriation of property rights" as stated in article 7 are equaled to the Brewer and Young thought.. However, the Law Number 25 Year 2007 provides wider opportunities to foreign investors (most people called "very liberal") and ensures equal treatment between foreign investors and domestic investors.²

The Law Number 25 Year 2007 basically plays an important role to cover foreign investment especially in the banking sector in Indonesia. Generally, the Law Number 25 Year 2007 applies the investment portfolio model rather than investment directly (*Foreign Direct Investment/FDI*). Through the investment portfolio model, a process of acquisitions by foreign investors occurs. In terms of it, it is embodied in the area of transfer of ownership of domestic shareholders banks (national) to a foreign party as a new shareholder. For this condition, it will be linked with the constitutional provisions under Article 33 of the Constitution of the Republic of Indonesia.

Article 33 of the Constitutional as mentioned above carries value and principle of the family, which is different from the principles and liberal. Aminuddin Ilmar explained,³ family principle clearly rejects the concept of a liberal on the economy. Moreover, it also rejects the absolutely and arbitrary state power in the form of ownership of the goods production (etatisme system). The question raised by him related to the family principle as stated above is whether the principle of family still exist dealing with the enactment of the free market era or not?

Much legislation proposes judicial review to the Constitutional Court (MK) because they are considered to promote the free market system based competition in the market mechanism (very liberal). Those legislations are legal instruments in the field of forestry, horticulture, mining, conservation of natural resources and ecosystems, and others, including also The Law Number 25 Year 2007.

Indonesian banking law also determines provisions regarding to Single Presence Policy (SPP). The SPP only allows one group to control one bank whereas in fact, it is debatable whether the provisions of the SPP apply to a number of banks in Indonesia. An example of it, PT. Bank Mandiri (Persero) Tbk, also owns PT. Bank Syariah Mandiri; PT. BRI (Persero) Tbk, also is the owner of PT. Bank BRI Syariah; PT Bank Central Asia Tbk, is also the owner of PT. Bank BCA Syariah; PT. Panin Bank Tbk, also the owner of PT. Panin Bank Syariah; and PT. BukopinTbk Bank, is also the owner of PT. Bank Syariah Bukopin, and other.

Several Indonesian banking law instruments in the era of free market is still faced with so many challenges such as regulations and consideration to make balance of national interests and foreign interests. The enacting of the Law Number 21 Year 2011 concerning the Financial Services Authority (OJK) resulting the need to create further regulation of Bank Indonesia, the provisions of the Banking under the Law Number10 Year 1998, and the

¹Thomas L. Brewer dan Stephen Young.*Investment Policies in Multilateral and Regional Agreement : A Comparative Analysis*, Published in the Transnational Corporations Journal. Volume 5, Number 1, UNCTAD. Switzerland. April 1996. p.12

²Mahmul Siregar. *UUPM and Dispute Resolution International Trade in Investment Activity*, Published in the Journal of Business Law, Volume 26, Number. 4, Jakarta, 2007, p.24

³Aminuddin Ilmar.*Privatization of BUMN in Indonesia*, Hasanuddin University Press.Makassar, 2004.p.118-119

Islamic Banking provisions under the Law Number 21 Year 2008. This further regulation is needed because the provisions of the OJK in accordance with Law Number 21 Year 2011 are invalid to some of the provisions in the Article (Chapter XIV Final Provisions).

From 50 articles of Law Number 10 Year 1998, there are 30 articles becomes article's useless because those provision are not applicable in respect of entry into force of the provisions of the OJK. The same thing is also occurring in the Law Number 21 Year 2008 concerning Islamic Banking, which has as many as 70 Article. Pursuant to Article 69 paragraph 1 letter c the Law Number 21 Year 2011 on the OJK, becoming Articles's useless, using the terminology "switch into the functions, duties, and authority of the OJK".

Some regulation in the Indonesian banking sector should be placed in the formulation of a clear and coherent policy in the form of the Indonesian Banking. Vision, mission and plan of actions should be able to bring the Indonesian banking to escape from the crisis. The era of the ASEAN Single Market should be able to lift the Indonesian banking in the shadow of the crisis, which until now "present but not real".

5. Conclusion

The era of the ASEAN Single Market in the banking sector requires a number of legal instruments related to banking. The regulation in certain contexts will bring divergence of legal system and economic system that can weaken the rule of law state and the country's economic sovereignty.

References

- Anshori, Abdul Ghofur, (2009), *Islamic Banking Law*, Bandung: Refika Aditama
- Brewer, Thomas L. and Young, Stephen. (1996), Investment Policies in Multilateral and Regional Agreement: A Comparative Analysis, in *Jurnal Transnational Corporations*. Volume 5, Number 1, UNCTAD. Switzerland.
- Djumhana, Muhammad, (2006), *Banking Law in Indonesia*, Bandung: Citra Aditya Bakti.
- Fuad, Ahmad, (2005), Islamic Banking Arrangement in the System of National Laws and Regulations, *National Law Journal*, Number 1, Badan Pembinaan Hukum Nasional Departemen Kehakiman Jakarta.
- Ilmar, Aminuddin, (2004), *Privatization of BUMN in Indonesia*, Makassar: Hasanuddin University Press.
- Nasution, Darmin, (2004), *Towards Establishment of the Otoritas Jasa Keuangan (OJK) as the Financial Institutions Supervisory Authority: Conception Thought Establishment Otoritas Jasa Keuangan*, in Hem Subiyantoro and Singgih Riphath (ed.), *Thought Fiscal Policy Concept and Implementation*, Jakarta: Penerbit Buku Kompas.
- Nugroho, D. Riant, and Hanurita S, Tri (2005), *Indonesia Challenge: Political Development Solutions Developing Countries*, Jakarta: Elex Media Komputindo.
- Ohmae, Kenichi, (1995), *The End of The Nation State : The Rise of Regional Economies*, New York: The Free Press.
- Rahardjo, Satjipto, (2009), *Finally: State Law Indonesia. People are happiest country'*, dalam Ufran (ed.), *The Rule of Laws happy Subjects*, Yogyakarta: Genta Publishing.
- Sandriharmy, Kusumaningtuti, (2009), *The Role of Law in Banking Crisis Resolution in Indonesia*, Jakarta: RajaGrafindo Persada.
- Siregar, Mahmul, (2007), UUPM and Dispute Resolution International Trade in Investment Activity, *the Journal of Business Law*, Volume 26, Number. 4, Jakarta.
- Sondakh, Lucky W, (2003), *System and the New Paradigm of Contemporary Economics*, in Abdi W. Buchari (ed.). *Globalisation and Desentralisation: The Local Economic Perspective*, Jakarta: Lembaga Penerbit Fakultas Ekonomi Universitas Indonesia.
- Suyatno, Thomas, dkk,(1991), *Institutional Banking*, Jakarta: Gramedia Pustaka Utama.
- Zuhro, R. Siti, (2010), Good Governance and Bureaucratic Reform in Indonesia, *Journal of Political Research*, Volume 7 Number 1, Lembaga Ilmu Pengetahuan Indonesia (LIPI), Jakarta.

Majalah

- InfoBank Magazine, Number 210. Issue Juny 1997.
- InfoBank Magazine, Number 217.Issue October II 1997.
- InfoBank Magazine, Number 423. Issue Juny 2014.

The IISTE is a pioneer in the Open-Access hosting service and academic event management. The aim of the firm is Accelerating Global Knowledge Sharing.

More information about the firm can be found on the homepage:

<http://www.iiste.org>

CALL FOR JOURNAL PAPERS

There are more than 30 peer-reviewed academic journals hosted under the hosting platform.

Prospective authors of journals can find the submission instruction on the following page: <http://www.iiste.org/journals/> All the journals articles are available online to the readers all over the world without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. Paper version of the journals is also available upon request of readers and authors.

MORE RESOURCES

Book publication information: <http://www.iiste.org/book/>

Academic conference: <http://www.iiste.org/conference/upcoming-conferences-call-for-paper/>

IISTE Knowledge Sharing Partners

EBSCO, Index Copernicus, Ulrich's Periodicals Directory, JournalTOCS, PKP Open Archives Harvester, Bielefeld Academic Search Engine, Elektronische Zeitschriftenbibliothek EZB, Open J-Gate, OCLC WorldCat, Universe Digital Library, NewJour, Google Scholar

