

## Regulation of CSR of Banking as a Part of GCG in Indonesia

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### Abstract

Bank does not perform its business in the field of and in relation with natural resources. Hence, it does not required to implement the Social and Environmental Responsibility by Indonesia Act of Company Law, Act Number 40 of 2007. While, Article 61 paragraph (2) point 1 of Bank of Indonesia Regulation concerning on the Implementation of Good Corporate Governance for banks, Bank of Indonesia Regulation Number 8/4/PBI/2006, orders all domestic and foreign commercial banks operated in Indonesia shall perform Corporate Social Responsibility (CSR).

**Keywords:** Concept of CSR, Act 40 of 2007, corporate governance, CSR Bank.

### 1. Introduction

The concept of CSR genuinely is a moral concept. According to the creative capitalist, a group of capitalist that promote CSR, believes that the money and property acquired by any company may be shared as much as possible for conducting moral duty for building people's welfare. CSR in Indonesia become a concept of law soon as it is set out under article 15 of Indonesian Act of Investment, Act Number 25 of 2007, and article 74 of the Indonesia Company Law. Article 74 paragraph (1) says that any company conducting its business in the field of and in relation with natural resources is under obligation to perform Social and Environmental Responsibility. Social and Environmental Responsibility as referred as to paragraph (1) is an obligation which shall be self-budgeted and accounted as an expense by the company which its implementation shall be performed under appropriateness and fairness in conformity with Article 74 paragraph (2) of the Indonesian Company Law. Bank does not conduct its business in the field of and in relation with natural resources, therefore it may not required to implement Social and Environmental Responsibility under Indonesian Company Law. However, Article 61 Paragraph (2) point 1 ordered all domestic and foreign commercial banks operated in Indonesia shall under obligation for performing CSR.

Those facts indicate that there are legal issues requires research and analyses, namely: why Bank is required to conduct CSR while the Law of Limited Liability Company requires only company running its business in the field of and related with natural resources perform CSR? This question tend to discover reasons of why does the bank under requirement on performing CSR even though it does not conduct its business on or in relation with natural resources. Hence, the purpose of this study is to find the underlying philosophical background of why the Bank is required to perform CSR.

### 2. Methodology

This research is a normative legal research and a policy oriented research.<sup>3</sup> This research intends to examine the correlation (consistency) between the construction of norms and the conformity of the concept as the content of norm with the actual appearance (the reality or nature) of the objects of the norm; the completeness of the substance of norm (coherency) and the consistency of the substrate element of the norm with the characteristics nature of the object in the arrangement of the CSR in Indonesia. This study uses statute approach, conceptual approach, and functional approach (functional normative approach) with more sharpen approach on policy-oriented approach to law.<sup>4</sup> The results of the study shall be analyzed under substantive normative of analyses.

<sup>3</sup>Ida Bagus Wyasa Putra, Legal Theory to Orientation Policy (Policy - Oriented Theory of Law ) : Problems Solving in the Legislative Process Indonesian context, " Legal Theory Lecture Materials Science Doctoral Program of Law and Master of Law Graduate Program, Udayana University " (Denpasar : Udayana University , 2012), p.17. Myres S. McDougal and W. Michael Reisman, *International Law in Policy-Oriented Perspective*, dalam R. St Johnston and J. Macdonald Douglas, *The Structure and Process of International Law: Essays in Legal Philosophy, Doctrine and Theory*, (Martinus Nijhoff Publishers, The Hague, 1983), p. 103.

<sup>4</sup> *Ibid.*

The substantive analysis, under the policy-oriented approach to law, shall use constructive and contextual analysis over the norm.

### 3. Results And Analyses

#### 3.1. Results

The Regulation of the Bank of Indonesia Number 8/4/PBI/2006 dated January 30, 2006 on the Implementation of Good Corporate Governance for Banks, State Gazette of the Republic of Indonesia Year 2006 Number 6, Supplement to State Gazette of the Republic of Indonesia Number 4600, and the Bank of Indonesia Regulation Number 8/14/PBI/2006 dated October 5, 2006 concerning on Amendment to Bank of Indonesia Regulation Number 8/4/PBI/2006 on the Implementation of Good Corporate Governance for Banks (State Gazette of the Republic of Indonesia Year 2006 Number 71, Supplement to State Gazette of the Republic of Indonesia Number 4640 ), has been stipulated further under the Announcement of the Bank of Indonesia, Announcement Letter Number 9/12/DPNP, dated May 30, 2007 regarding the Implementation of Good Corporate Governance for Banks (GCG for Banks).

The Announcement Letter determines that all banks on performing their business under the GCG principles, bank industry shall always relay on the five GCG basic principles. First, transparency, suggests openness in material and relevant information and transparency in the decision-making process. Second, accountability includes clarity of function of all company's organs and implementation of accountability, so the Bank is under obligation to perform effective management. Third, accountability (responsibility), that the Bank management may be performed its business in conformity with any relevant legislation and the principles of sound management of the Bank. Fourth, independency includes professional management of the Bank without influence or pressure from any outsider. Fifth, fairness, it is justice and equality in meeting stakeholders' rights arising under treaties and laws. In order to apply the five basic principles, the Bank shall be guided by various regulations and legislation relating to the implementation of GCG.

Banks are required to implement the principles of GCG in all levels of organization of its business. All levels of the organization shall means all the boards and employees' structure of the Bank and it shall start from the Board of Directors up to the all executive levels employees. The implementation of GCG requires the existence of an Independent Commissioner and Independent Party. The existence of these parties is expected to create a check and balance, avoiding conflicts of interest in the performance of duties and protect the interests of the stakeholders, especially the owner of the funds and minority shareholders. In order to support the independency of the Board of Directorship in performing duties, arrangements about the waiting period (cooling off) for those who will become independent parties are needed to be clear. In implementing the principles of transparency, the Bank is required to submit the implementation of GCG Report. The existence of the report is necessary to educate and improve the Bank's check and balance, maintenance of its stakeholders, and competition through market mechanisms. In relation with effort to repair and improve the quality of the implementation of GCG, the Bank is required periodically conducting a comprehensive self-assessment over the adequacy of the implementation of GCG, so that if there are shortcomings in the implementation, the Bank may soon establish any necessary action plan (action plan) which includes corrective action for solving the problems.

In general, GCG is very much related with efforts to attract investors to invest in a country, either in the form of direct or indirect investment. It is directly relating to the implementation of GCG to the extent of the company's management in terms of respect and adheres to the legal rights of the shareholders. The mechanism of GCG will encourage the growth of checks and balances in the management environment, especially in giving attention to the interests of shareholders.<sup>5</sup>

Based on the perception of GCG, the Indonesian Government has amended its previous Company Law, Act Number 1 of 1995 concerning on Limited Liability Company by Act Number 40 of 2007. At the time of the government to provide information such bill to the House, one of the goals of the renewal legislation on the limited liability company is to support the implementation of GCG. The reason of the government is well-founded, because of some of research results, such as Asian Stocks, security report Credit Lyonnais (CLSA) on corporate governance in 2003, in which the position of Indonesia is the bottom in the region by earning a score of 1.5 to the problem of law enforcement, 2.5 to institutional mechanisms, and 3.2 for corporate governance culture. The results of this research indicate that Indonesian business is the "weakest" business in implementing the principles of GCG.<sup>6</sup>

<sup>5</sup> Hamud M. Balfas, *Indonesian Capital Market Law*, (Jakarta: PT. Tatanusa, 2006), p. 231. See also Ridwan Khairandy & Camelia Malik, *Good Corporate Governance*, (Yogyakarta: Total Media, 2007), p. 1-2.

<sup>6</sup> Busyra Azheri, *Corporate Social Responsibility Voluntary be mandatory*, (Jakarta: PT. Raja Grafindo Persada, 2012), p. 178.

Then in June 2006, the Political and Economic Risk Consultancy (PERC) released the perception of corporate governance standards. Of the 12 countries surveyed, Indonesia ranked 10th with a score of 7.5., Singapore was occupied the first rank with a score of 2.4, followed by Japan (3.8) and Hong Kong (4.2). Low score was impressive, although the principles of GCG has been introduced in 1999, and the establishment of the National Committee on Corporate Governance (NCCG) has successfully gave birth to the Code for Good Corporate Governance (CGCG), has yet again brought significant changes to the development of companies in Indonesia. Whereas in the GCG there are many related issues, such as insider trading, transparency, accountability, independence, business ethics, corporate social responsibility (CSR)<sup>7</sup>, and the protection of investors<sup>8</sup>. There are some implementations of CSR which has been implemented by the Banking Companies as part of the implementation of GCG which contains in the GCG implementation of some of the following banks:

### 3.1.1. The Bank of Riau<sup>9</sup>

CSR Program of Bank of Riau in 2011 consisted of Bank Partnership Program and Bank Care Program. Bank Partnership Program is a partnership program of the Bank of Riau, a program of institutional cooperation between the Bank of Riau with some partner institutions (the Finance Institute of Micro or cooperatives) through revolving loans to then be distributed to its agent partners and funding for programs or mentoring and coaching Micro, Small and Medium Enterprises, in order to improve the ability of Micro, Small and Medium Enterprises in order to support them to become strong and independent. The Bank of Riau Care Program is a community development programs that may be interpreted as a moral responsibility of the Bank of Riau over the Riau stakeholders, particularly the community around the work area and operations through community development programs by referring to the concept of sustainable development by taking into account the social dimension and the environment.

For related activities on the Bank of Riau Care Program, the Bank of Riau is always proactive in looking for the most optimal form of giving assistant. In addition to proactive, the Bank of Riau is open to various inputs, among others, from the news media, the information from local government agencies, and cooperation proposals. Although the Bank of Riau is open, for the year 2011 activities program distributed the Bank of Riau Care Program is preferred in Riau and Riau Province. This is done so that the help provided by the Bank of Riau and Riau Island optimal impact is expected to be sustainable even longer, so it can be a stimulus for the economy, the increase in area.

As of December 31, 2011, the activities of the Bank of Riau Care Program which has been implemented includes the fields of social and community development, the environment, labor/workplace safety and customer protection. During 2011, the Bank had engaged in Riau CSR with a total funds amounting to IDR 1,733,074,899 (one billion, seven-hundred and thirty-three million seventy-four thousand eight hundred ninety-nine hundred rupiah).

### 3.1.2. The Bank of Lampung<sup>10</sup>

The process of implementing GCG in the Bank of Lampung begins with the internalization process to gain understanding in all management and employees of the Bank with regard to the importance of the implementation of GCG through execution of each function of the Bank, followed by the application correctly and consistently. The next set of governance restructuring is reorganizational designing including the formation of committees and charging or placement of competent officials with the division or determination of duties and responsibilities are clear and the commitment of each of the officers stationed.

Role of the Board of Commissioners and Board of Directors in the implementation of corporate governance principles, applied in eleven GCG's aspects stipulated in the Bank of Indonesia Regulation and the *BAPEPAM* rules includes duties and responsibilities of the Board of Commissioners and Board of Directors, completeness and implementation committee, assignments-committee, handling matters involving conflict of interest, the application of bank compliance function, internal audit function and external audits, implementation of the risk management function and internal control, the provision of funds to related parties (related party) and debtors (large exposures), the transparency condition financial and non-financial, GCG reports and internal reports as well as the bank's strategic plan.

<sup>7</sup> *Ibid*, p. 179. Regarding CSR (Corporate Social responsibility (CSR)) has been provided for in Article 74 of Law No. 40 of 2007 on Limited Liability Company.

<sup>8</sup> Joni Emrizon, *Principles of Good Corporate Governance*, (Yogyakarta: Genta Press, 2007), p. 6-7, in Busyra Azheri, *op.cit*, p. 179.

<sup>9</sup> [www.bankriaukepri.co.id](http://www.bankriaukepri.co.id), accessed on December 12, 2013.

<sup>10</sup> [www.banklampung.co.id](http://www.banklampung.co.id), accessed on December 12, 2013.

Based on the results of self-assessment on the implementation of GCG in Bank Lampung's environment, includes eleven aspects of the assessment, in accordance with the Regulation of Bank Indonesia, Bank Lampung gains 2:00 score or equal to a "Good" in the composite value.

The Bank of Lampung has not provide support for political activities, while social assistance is given Reporting Period December 31, 2009 amounted to IDR 155.628.000, - (one hundred and fifty-five million six hundred twenty-eight thousand rupiah).

### 3.1.3. The Bank of DKI <sup>11</sup>

In order to apply the principles of GCG under the Bank of Indonesia Regulation Number 8/4/PBI/2006 including its amendment and Announcement, the Bank of DKI has conducted the following things:

1. Prepared reports and conducted assessments (self-assessment) GCG period of 2010 and submit it to the Bank of Indonesia on May 30, 2011.
2. Participated in Corporate Governance Perception Index (CGPI) in 2010, organized by the Indonesian Institute of Corporate Governance (IICG) and SWA magazine under the theme "Corporate Governance in Ethical Perspective", DKI Bank Reliable for participants grabbing the Issuer Non - Finance Non- SOEs with a total of 78.17 total score of 100.
3. Implemented GCG principles at all levels of the organization and activity levels of the company, as well as the implementation of the Code of Conduct (Code of Conduct), the whole range of the Bank of DKI has committed to not accept gratuities as conveyed through the mass media. Violation of this commitment can be submitted to the Management of Capital Bank through the Bank's Call Center (021) 2354-5555, [www.bankdki.co.id](http://www.bankdki.co.id) website, or mail to the address Ir. H. Juanda Street No. III. 7-9 Central Jakarta 10120.
4. The Bank signed an MOU with the Corruption Eradication Commission (KPK). Capital City Bank in cooperation with the Commission in the form of gratuities control functions that begin with the workshop to the Board of Management, the preparation of the Company Manual Control Gratuities and training for prospective trainer control socialization gratification.
5. The Bank has a control unit gratification, namely the Department of Know Your Customer Application and Control Gratification, which is under the supervision of the Division of Compliance as stipulated in Decree No. Directors. 28 of 2012 dated February 29, 2012 on the improvement of the Compliance Division Organizational Structure of the Bank of DKI.
6. Board of Commissioners, Directors and Management Capital Bank has committed to implement the control of gratification with the Integrity Pact signed/Statement of Commitment, which in essence is as follows:
  - a. Realizing Capital Bank as the bank always obeys and enforce the implementation of the principles of good Corporate Governance / GCG.
  - b. Applying Control Program Gratification by not accepting and giving gifts or gratuities other than those stipulated in the Capital City Bank on control of gratification , either directly or indirectly , on behalf of individuals or institutions , of all stakeholders such as partners or associates , communities and the parties another related to the Bank of DKI potential conflict of interest ( conflict of interest ) or influence policy or decision -making considerations in the implementation of the principal functions and duties in accordance with applicable regulations .
  - c. Transparently deliver on this commitment statement to all stakeholders to support the implementation of the Statement of Commitment enforce this.

7. Realization findings Settlement Bank Indonesia in 2011 was in the form of position finding in 2007 that have not been completed, namely the preparation of Customer Risk Rating (CRR) and Industry Risk Rating (IRR). Follow-up to the completion of these findings , the Bank has determined that the application of the device (tool) internal ratings as a tool to support the decision making process of credit and financing in the business unit with the Decision of the Board of Directors of PT . Bank DKI No. 259 of 2011.

The Bank does not engage in political activities and does not make donations to political interests. Conversely, increased interest in social and environmental issues is an important part of the duties and responsibilities of the Bank of DKI to society.<sup>3</sup>

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<sup>11</sup> [www.bankdki.co.id](http://www.bankdki.co.id), accessed on December 12, 2013.

### **3.1.4. PT. Regional Development Bank of Papua<sup>12</sup>**

Since the enactment of the Bank of Indonesia Regulation, including its amendment and Announcement, as well as Act Number 40 of 2007 on Limited Liability Company, and other laws governing it, PT. Regional Development Bank of Papua as a commercial bank owned by the Government of Papua Province and Regency or City in the Land of Papua and Papua Bank employees, is a legal entity that is guided by the rules so the implementation of GCG and best practices in the Bank of Papua is not only referring to the rules of Bank Indonesia, but also on the Company's Act and the Code of Good Corporate Governance issued by the National Committee on Governance (NCG).

In the period of 2009 Bank has not supply political activities, but it supplies social activities such as development of religion buildings, religion activities, the victims of natural disasters in Sorong, Manokwari, Merauke and Padang in West Sumatra and any other social aid (education, medical, and sport, etc.) by CSR Bank Papua funds in amount of IDR 738.205.000.

### **3.1.5. OCBC NISP Bank<sup>13</sup>**

OCBC NISP Bank always be able to improve business performance and long-term growth with high commitment and consistent application of the main principles of GCG, among others transparency, accountability, responsibility, independence and justice which is OCBC Bank's commitment NISP to stakeholders.

The Bank has firmly concerned on bearing on its social responsibility. The presence of the Bank is expected to add value and meaning to people's welfare. Each employee of the Bank, under sincerity and humility, has also at the service in carrying the confidence of all parties. Therefore, since 2009 the Bank has had a policy of CSR which is the reference for the Bank in carrying out its social responsibility activities.

CSR is an integral part of the development plan has been announced by the Bank. Earning both competitive business advantage and committed on running social and environmental responsibility. Concern for social responsibility has become a virtue that has its roots from the founders and employees.

In the implementation of social responsibility, OCBC NISP Bank implemented GCG by two mechanisms: the implementation and execution of independently partnership involving the active participation of employees and neighboring communities and refers to the spirit of CSR, namely:

- Partnering with all stakeholders with the principle of equality.
- Provide added value through programs and community development activities for the creation of self-reliance.
- Continuing to provide benefits.

The focus of the social responsibility of the Bank has been undertaken during 2011 include environmental conservation activities, protection to customers, employment, and social and community development.

### **3.1.6. International Bank Indonesia (BII)<sup>14</sup>**

With reference to the Bank of Indonesia Regulation including its amendment and Announcement, BII has implement GCG under five basic principles of GCG, namely: transparency, accountability, responsibility, independency, and fairness.

The implementation of the basic principles of GCG by the Bank includes the deliverance annually reports to the parties according to applicable regulations. In an effort to repair and improve the quality of the implementation of GCG, BII periodically conduct a comprehensive self-assessment of the implementation of good corporate governance to monitor and evaluate the implementation and conduct a follow-up study plans, including corrective action where necessary in order to obtain better results.

During 2009, the Bank conducts various activities of CSR, in the areas of health, education, environment and disaster management, including "School Feeding Program", "End Hunger-Walk the World 2009", through "BII Apprentice Program" provide an opportunity for students to practice professional work or internships. BII also help relieve the earthquake victims through the fund-raising "Gold Purse BII Sharing" which will be distributed to the recovery program, including the rebuilding of social facilities such as schools and others.

### **3.1.7. Bank Central Asia (BCA)<sup>15</sup>**

Board of Commissioners, Directors and all employees of the Bank have a firm commitment to implement the GCG in any activity at all levels of the organization, by constantly referring to the five basic principles of GCG stipulated in the Bank of Indonesia Regulation, including its amendment and Announcement. First, Transparency, openness in expressing information that is material and relevant as well as transparency in the decision-making process. Second, accountability includes clarity of organ function and implementation of BCA

<sup>12</sup> [www.bankpapua.com](http://www.bankpapua.com), accessed on December 12, 2013.

<sup>13</sup> [www.ocbcnisp.com](http://www.ocbcnisp.com), accessed on December 12, 2013.

<sup>14</sup> [www.bii.co.id](http://www.bii.co.id), accessed on December 12, 2013.

<sup>15</sup> [www.klikbca.com](http://www.klikbca.com), accessed on December 12, 2013.

in running effective management of the company. Third, accountability covers the conformity of the management of the Bank with the legislation in force and the principles of sound management of the Bank. Fourth, independency includes Bank management in a professional manner without influence or pressure from any party. Fifth, fairness, justice and equality that meets all stakeholders' rights arising under treaties and laws in force. In order to apply the five basic principles, BCA guided by various regulations and legislation in force relating to the implementation of good corporate governance, especially the Bank Indonesia regulations, regulations of the Capital Market Supervisory Agency - Financial Institution (*Bapepam-LK*) and the Limited Liability Company Law. In order to fulfill corporate social responsibility, the Bank also actively contribute to the public welfare or environmental conditions. BCA has a program 'Bakti BCA' which focused on the development of education and health for people in need.

### **3.1.8. Bali Regional Development Bank (Bank BPD Bali)<sup>16</sup>**

Bank BPD Bali has put corporate governance as the system in the management of the company so that the effective implementation of good corporate governance is a strategic challenge that must be continuously improved and continues to improve itself towards an organization that is committed to implementing GCG.

The GCG development accommodates the change in dynamic and open to new concepts. Credibility and public trust, shareholders, customers and other stakeholders is a crucial factor for the development and survival as well as increase the company's values. In realizing credibility and confidence is closely associated with the company's behavior in interacting with stakeholders. Awareness of ethical good run and do not ignore the rules will realize the success of Bank BPD Bali. For this reason Shareholders, the Board of Commissioners and Board of Directors as an organ of the company has always been committed to continue to carry out the implementation of GCG. The commitment is embodied in all the activities that always refer to the applicable rules and policies apply ethical values are stated explicitly as a standard of behavior that is required for all organs of the company through the formulation of the Code of Conduct (Code of Conduct).

CSR as part of the Good Corporate Governance of Bank BPD Bali is a program of the company as the company is always concerned and participating in social activities that positively impact the local community and society in general as a form of responsibility the social enterprise and its environment and participate as part of poverty alleviation. In the realization of social and environmental responsibility or CSR, the Board of Directors of Bank BPD Bali has issued Decision Number: 1036.A.102.10.2009.2, dated December 4, 2009 on the Establishment and Use of Funds Procedures CSR PT. Regional Development Bank Bali and Decision Number: 0202.102.10.2010.2, dated May 4, 2010 on Technical Guidelines for Disbursement of funds and use of CSR PT. Regional Development Bank Bali. But then the second decision is revoked and replaced by the Board of Directors Decision No. 0372.10.102.2011.2, dated December 28, 2011 on Guidelines Division Company Secretary of the Company. Regional Development Bank Bali in which they load on CSR.

Bank BPD Bali decided to participate in sustainable economic development to improve the quality of life and the environment that benefit both the company's own, local community, and society in general with regard to the appropriateness and reasonableness.

### **3.2. Analyses**

Law Number 40 of 2007 on Limited Liability Company only require the CSR to any company conducting its business in the field and/or related to natural resources, as defined in Article 74 paragraph (1) and (2). Meanwhile, Bank Indonesia Regulation Number 8/4/PBI/2006 on Implementation of Good Corporate Governance for Banks Article 61 paragraph 2 letter l requires the Bank to implement CSR, whereas the Bank is not the Company is conducting its business activities in the field and / or related to natural resources.

CSR is a company's commitment to social activities budgeted costs for stakeholders consisting of the company's workforce, communities around the corporate environment and the wider community for the sake of a better life or well-being together in order to keep the non-market environment for the sustainability of the company's business.

CSR is a component of the calculation of cost and benefit analysis (CBA) in the administration of the company. CSR is a cost that must be budgeted and expended by the company to maintain a social environment for the sustainability of the company as the company benefits. The greater the social responsibility of the company budgeted and implemented, the more prosperous the company's social environment, which will benefit the company's sustainability.

CSR based on Indonesian law is the duty of all companies to allocate a company's costs, and implemented as a joint venture between the state, employers and the public, especially the surrounding communities, protecting the

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<sup>16</sup> [www.bpd Bali.co.id](http://www.bpd Bali.co.id), accessed on December 12, 2013.

environment in the form of non-market (social, cultural, and security) in addition to conducting business in a market environment based on a family basis to promote the general welfare, the intellectual life of the nation for the sake of the company's business sustainability and sustainable development, with penalties for companies that do not implement and respect for the company that has done it.

CSR arrangements in Article 74 of Law No. 40 of 2007 on Limited Liability Company which only requires CSR for Limited Liability Company which carries on business in the field or in connection with the Natural Resources incompatible with the concept of CSR Company Limited by legal ideals Indonesia. It should therefore be amended to restore the concept of CSR to the original concept that requires CSR for all companies, limited liability companies, doing business in Indonesia.

The Bank of Indonesia Regulation No. 8/4/PBI/2006 on Implementation of Good Corporate Governance for Banks Article 61 paragraph 2 letter l obliges the Bank to implement CSR in accordance with the concept of CSR (Corporate Social Responsibility) Company Limited by Indonesian law ideals. Therefore, it must be maintained, even needs to be set in legislation relating to banking such as the Law on the Financial Services Authority, the Law on Bank Indonesia, and the Law of Banking.

A rule of law should be constructed based on the source and context. A norm must be sourced, must comply, and must not conflict with the source. Test to determine the level of conformity with recourse, conformity, and consistency with the norms of a legal norm is called TEST VALIDITY source. A norm must also be constructed based on the needs of the context, based on the expectations and interests of the community where the law will be applied. Test to determine the fulfillment or not the fulfillment of the needs, interests, and expectations called TEST CONTEXT.<sup>17</sup>

Test Validity includes: (a) test of the legal basis of the establishment of the authority, (b) a test of conformity with recourse law (derived/not sourced); appropriate/not appropriate- test consistency (consistency); complete/incomplete absorption material-test coherence (coherency), (c) horizontal consistency test - a test of harmonization (harmonization), and (d) test the vertical value. Besides, such a scientific test, validity test also includes technical test norms, include: (a) test the logic of norms, (b) structural test norms, and (c) test the completeness of the organization component/material/substance norm, and (d) clarity test formulation of norms. Test the validity of this construction has undergone mixed with the test of norms under Roscoe Pound Legal Theory, which emphasizes the Test Substance Norm.

Context test includes testing the response to the expectations of society where the law will be enforced. Test Response to expectations include construction of test norms based on: (a) test the suitability value, and (b) test the fulfillment of the interests/needs.

Tabel 1: Test Validity And Context Of Article 61 Paragraph 2 Letters l  
 Bank Indonesia Regulation 8/4/PBI/2006

No	Testing	Results
I.	Test Validity	Valid
I.1.	consistency test	is consistent
	a. The authority	Article 25 paragraph (2) of Law No. 23 of 1999 concerning Bank Indonesia,
	b. conformity with resource	Article 33 of the Constitution of the Republic of Indonesia Year 1945.
	c. Conformity	in accordance
I.2.	Coherency test	coherence
	Completeness	complete absorption material
I.3.	harmonization of test (Harmonization)	harmonic
	Consistency horizontal	harmony
I.4.	Not Contrary test	vertical value
II.	Context	in context
II.1.	test the suitability value	of appropriate value
II.2.	test the fulfillment	of the interests / needs are met

<sup>17</sup> Ida Bagus Wyasa Putra, Legal Theory to Orientation Policy (Policy-Oriented Theory of Law): Problems Solving in the Legislative Process Indonesian context, "Legal Theory Lecture Materials Science Doctoral Program of Law and Master of Law Graduate Program, University of Udayana" Denpasar: University Udayana, 2012, p.50.

The legal basis for the establishment of Bank Indonesia Regulation Number 8/4/PBI/2006 on Implementation of Good Corporate Governance for Banks stated in the preamble given to Bank Indonesia Regulation Number 8/4/PBI/2006 namely Law No. 7 of 1992 concerning Banking (State Gazette Republic of Indonesia Year 1992 Number 31, Supplement to State Gazette of the Republic of Indonesia Number 3472 ) as amended by Act No. 10 of 1998 (State Gazette of the Republic of Indonesia Year 1998 Number 182, Supplement to State Gazette of the Republic of Indonesia Number 3790 ) and Law No. 23 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia year 1999 Number 66, Supplement to State Gazette of Republic of Indonesia Number 3843 ) as amended by Act No. 3 of 2004 (State Gazette of the Republic of Indonesia Number 7 of 2004 , State Gazette of Republic of Indonesia Number 4357). In considering this no preamble mentioned provisions of the Act and the Banking Act of Bank Indonesia appointed as the legal basis for the establishment of the authority of Bank Indonesia Regulation Number 8/4/PBI/2006.

Article 24 of Law No. 23 of 1999 concerning Bank Indonesia decisive: "In order to carry out the tasks referred to in Article 8 c, Bank Indonesia has set the rules, give and revoke permits for certain institutional and business activities of the Bank, carrying out banking supervision and impose sanctions on the Bank in accordance with the legislation. "Further to Article 25 paragraph (2) determined:" Implementation of the authority referred to in paragraph (1) shall be stipulated by Bank Indonesia Regulation. "

Requiring corporate social responsibility to all limited liability company doing business in Indonesia with the aim of providing a sense of fairness to the parties by giving everything they are entitled to, or are supposed to receive, so that each party has the opportunity to exercise the rights and obligations without obstacles. Justice is giving to others everything that the property of the parties or that should be accepted by the parties, so that the resulting state of each other and accept each other (exchange justice). Provide and implement everything that advance the prosperity and welfare of the community together as absolute goals (social justice). Distribute all the pleasures and burdens along with equally and evenly, according to the nature and degree of alignment of spiritual and bodily differences of citizens, both as individuals and groups, to establish your common sense principle of equal-average (fairness in sharing).

CSR of the Limited Liability Company in accordance to the ideals of Indonesian law is a company's obligation of all Limited Liability to budget social cost as a company costs, and implemented as a joint venture between the state, employers and the public, especially the surrounding communities, protecting the environment in the form of non-market (social, cultural and security ) in addition to conducting business in a market environment based on a family basis to promote the general welfare, the intellectual life of the nation for the sake of the company's business sustainability and sustainable development, with penalties for companies that do not carry a Limited Liability Company and appreciation for Limited Liability company that has done it.

#### 4. Conclusion

The CSR under the science of law is governed by the Law on Limited Liability Companies Limited Liability Company for all. Corporate Social Responsibility according to the science of law is required for all Limited Liability companies, including the Bank's limited liability. Corporate Social Responsibility is regulated under the Limited Liability Company Act, budgeted as an expense (cost) of the company.

#### 5. Recommendations

Banking Corporate Social Responsibility should still be implemented and followed in accordance with the arrangements that have been made in the Bank Indonesia Regulation 8/4/PBI/2006 numbers, while the provisions of Article 74 of Law No. 40 of 2007 amended the provisions that are required for all CSR Limited Liability Company including Banking Company Limited Liability Company.

#### References

- Bambang Banu Siswoyo , Implementation of Corporate Social Responsibility ( CSR ) Urgency and Issues , Inauguration Speech in binding Management Sciences at the Faculty of Economics , Presented in Open Session Senate State University of Malang ( UM ) Wednesday, November 7, 2012.
- Busyra Azheri, Corporate Social Responsibility Voluntary be mandatory, Jakarta: PT. Raja Grafindo Persada, 2012.
- David P. Baron, Business and Its Environment, Fourth Edition, New Jersey : Prentice Hall, 2003.
- Hamud M. Balfas, *Indonesian Capital Market Law*, Jakarta: PT. Tatanusa, 2006.
- Hendrik Budi Fortunately, Corporate Social Responsibility, New York: Graphic Rays, 2009.
- Ida Bagus Putra Wyasa , Legal Theory to Orientation Policy ( Policy - Oriented Theory of Law ) : Problems Solving in the Legislative Process Indonesian context , " Legal Theory Lecture Materials Science Doctoral

Program of Law and Master of Law Graduate Program , University of Udayana " Denpasar : University Udayana , 2012.

Manuel G. Velasquez, *Business Ethics: Concepts and Cases*, London: Andi, 2002.

Matthew Bishop, *Economics*, London: Mixed Source, 2009.

Ridwan Khairandy & Camelia Malik, *Good Corporate Governance*, Yogyakarta: Total Media, 2007.

St Johnston and R. Douglas J. Macdonald, *The Structure and Process of International Law: Essays in Legal Philosophy, Doctrine and Theory*, Martinus Nijhoff Publishers, The Hague, 1983.

Sri Pembudi firm, *CSR A Necessity, the Social Investment*, Jakarta: Puspinsos 2005.

William C. Frederick, *Business and Society: Corporate Strategy, Public Policy, Ethics*, Singapore: McGraw - Hill, 1992.

[www.bankriaukepri.co.id](http://www.bankriaukepri.co.id), accessed on December 12, 2013

[www.banklampung.co.id](http://www.banklampung.co.id), accessed on December 12, 2013

[www.bankdki.co.id](http://www.bankdki.co.id), accessed on December 12, 2013

[www.bankpapua.com](http://www.bankpapua.com), accessed on December 12, 2013

[www.bii.co.id](http://www.bii.co.id), accessed on December 12, 2013

[www.ocbcnisp.com](http://www.ocbcnisp.com), accessed on December 12, 2013

[www.klikbca.com](http://www.klikbca.com), accessed on December 12, 2013.

[www.bpd Bali.co.id](http://www.bpd Bali.co.id), accessed on December 12, 2013.

[www.wbcsd.org](http://www.wbcsd.org). *Corporate Social Responsibility: Making Framework for Corporate Social Responsibility* , Washington , 2001.

Republic of Indonesia, the Constitution of the Republic of Indonesia Year 1945.

Republic of Indonesia , Law Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Year 1992 Number 31 , Supplement to State Gazette of the Republic of Indonesia Number 3472 ) as amended by Act No. 10 of 1998 (State Gazette of the Republic of Indonesia Year 1998 Number 182 State Gazette of the Republic of Indonesia Number 3790 ) .

Republic of Indonesia , Law No. 3 of 2004 on the Amendment of the Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia , the Republic of Indonesia Year 2004 No. 7 , and the explanation in the State Gazette of the Republic of Indonesia Number 4357 .

Republic of Indonesia , Law No. 25 of 2007 on Investment, Republic of Indonesia Year 2007 Number 67 , and the explanation in the State Gazette of the Republic of Indonesia Number 4724.

Republic of Indonesia, Law No. 40 of 2007 on Limited Liability Company, the Republic of Indonesia Year 2007 Number 106. The description in the State Gazette of the Republic of Indonesia Number 4756

Bank Indonesia Regulation. 8/14/PBI/2006 dated October 5, 2006 on the Amendment No. 8/4/PBI/2006 Bank Indonesia Regulation on the Implementation of Good Corporate Governance for Banks ( State Gazette of 2006 Number 71 , Supplement to State Gazette of the Republic of Indonesia Number 4640 ) .

Bank Indonesia Regulation No. 8/4/PBI/2006 on the Implementation of Good Corporate Governance for banks, the Republic of Indonesia Year 2006 No. 6 DPNP. The description in the State Gazette of the Republic of Indonesia Number 4600.

Circular Letter of Bank Indonesia (BI SE) No. 9/12/DPNP on GCG Implementation for Commercial Banks.