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**LEGAL POLICY OF BANK INDONESIA
IN THE MONETARY STABILITY**

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Abstrak:

This study aimed (1) analyze the strategies and policies related to the functions of the BI law of monetary stability, (2) analyze the role of BI in the Up and supervision of facilities funding in the context of monetary stability. This study uses a combination of normative and juridical methods empirically. The main function of the central bank, namely (a) The functions of regulation and supervision and (b) function as a lender of last resort. Throughout 2007 until 2009 there are many external factors which influence the dynamics of financial stability (monetary) of Indonesia, among others, the subprime-mortgage in the U.S. and Europe, fluctuations in world oil prices and the General Election in 2009. Crisis prevention and response actions conducted by Bank Indonesia include: (i) the handling of liquidity difficulties and / or problems affecting systemic bank solvency, and (ii) the handling of liquidity difficulties and / or solvency problems of non-bank financial institutions (LKBB) a systemic impact. Function as the Lender of the Last Resort (LoLR) conducted by Bank Indonesia is done by granting credit facilities to the Bank who have difficulty funding the short term and unsecured high-quality, liquid securities, but the setting of criteria for financing facility is being made by attention to periodic monetary dynamics.

Keywords: legal policy, monetary stability, bank

A. Introduction

In the midst of global economic conditions worsened, and in line with the weakening of inflationary pressure, Bank Indonesia will continue to direct attention to the efforts to maintain economic growth and avoid a decline in purchasing power that deepens. Various Bank Indonesia monetary policies pursued in order to support the rise of the real sector, especially SMEs, to support domestic economic growth. In addition to the loosening of monetary policy, Bank Indonesia policy package of other supplements that can be done is to accelerate the disbursement of bank credit and lower credit risk.

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Some additional packages conducted by Bank Indonesia in the form of early restructuring of the banking industry, asking the Government's credit guarantee for strategic projects such as drinking water, electricity, housing, and the infrastructure of roads and bridges, which are financed by the state budget development, and facilitating meetings with banking-sector sector, potentially encouraging increase in banking intermediation. Efforts to focus more on business to SMEs and bank linkage program between commercial banks and rural banks (BPR), or microfinance institutions, such as cooperatives and Baitul Maal wa Tamwil (BMT), being conducted in earnest. It is expected to support community life and prevent further slowdown in the economy.

Further deterioration in the global economy continues to take effect on the domestic economy during the first quarter-2009. This causes the Indonesian economy forecast to grow more slowly than expected. Not only caused by the slowing down of export performance, is also due to start weakening consumer purchasing power. Nevertheless, the continuation of economic activity during the democratic party done in the framework of the General Election, expected to be able to withstand further domestic economic slowdown. In the year 2009, the economy is still faced with the uncertainty of global economic recovery so that the Indonesian economy forecast to grow less than expected at the beginning of the year amounted to 4.0 to 5.0%. Taking into account economic developments and prospects, in April 2009, Bank Indonesia lowered the BI rate by 25 bps to 7.5%. The decrease in the BI Rate is the fifth time since December 2008. Cumulatively (December 8 to April 9), the BI Rate has decreased by 175 bps. During the first quarter-2009, economic growth is forecasted at 4.6%.

The trend decline in inflation pressures continue. Inflationary pressures during the first quarter-2009 still tended to decrease to reach 0.36% (on a quarterly basis, QtQ) or 7.92% (on an annual basis, YoY). Decline in inflationary pressure was mainly caused by the continuation of direct and indirect impacts of fuel reduction. Besides improvement in expectations of inflation and weakening domestic demand is also a contributor to the low inflation pressure. Meanwhile, pressure from the prices of controlled goods that the government (administered prices) and food prices volatile (volatile food) is also associated with sustained low domestic food production. On the external side, the Balance of Payments Indonesia in Quarter I-2009 is estimated to record a surplus amounting to 3.5 billion U.S. dollars.

On the banking side, the domestic banking industry is forecasted to experience the impact of the global financial crisis and slowing economic growth. But in general, national banks and still have good endurance, which is reflected from the main indicator of banking CAR and NPL. The capital adequacy ratio (CAR) is still high, 17.7%. Banking liquidity conditions also increased in line with the high increase in Third Party Funds (TPF) of 19.8%. However, the trend is still ongoing slowdown in credit growth associated with the attitude of banking prudence in times of uncertainty in the economic outlook. By considering the various developments mentioned above, the Board of Governors of Bank Indonesia in April 2009 decided to lower the BI Rate by 25 bps to 7.50%. Bank Indonesia direct the monetary policy that is conducive to domestic demand to remain committed to maintaining economic stability in the medium and long term. Operationally, the BI rate reduction of space to the front is still open if the inflation outlook remain on target over the medium term inflation. In the banking sector, Bank Indonesia will continue the steps in creating a healthy banking sector, strong and competitive. In addition, efforts to improve prudential banking industry in the past the global crisis is also a concern of Bank Indonesia.

Once the complex problems faced by Bank Indonesia in the face of inflationary monetary stability in parallel with the above, of the BI has some authority a set of policies and strategies in banking. In order to maintain monetary stability, the authority of Bank Indonesia is not only at the macroeconomic level, based in the capital city (Jakarta), but also distributes the authorization on the scope of provincial-level regions. This is based on the fact that there is in fact the real sector in the region.

Therefore, this study intends to discuss the implementation of the Bank Indonesia law of policies related to monetary stability in the region by focusing on efforts to analyze several problems as follows:

1. How strategies and policies related to the functions of the BI law of monetary stability?
2. How does the role of BI in funding facilities and supervision up?

B. Result

Results from this study will be very useful in providing analysis that will enrich the study of law regarding the scope central-bankingness regions. This result can be expected to contribute positively in shaping public policy related functions and authority of Bank Indonesia in connection with the implementation of policy and law-enforcement strategy in the monetary stabilization in the region.

CHAPTER II . LITERATURE REVIEW

a. Normative Reviews

Regulation which is directly related to the banking sector, among others: (a) Law Number 7 Year 1992 on Banking as amended by Act No. 10 of 1998; (b) Law Number 21 Year 2008 regarding Islamic Banking (July 16, 2008); (c) Law Number 23 Year 1999 Concerning Bank Indonesia as already amended several times, most recently by Act no. 6 Year 2009 on Stipulation of Government Regulation in Lieu of Law No.2 of 2009 on the Second Amendment to Law Number 23 Year 1999 Concerning Bank Indonesia Becoming Law; (d) Bank Indonesia Regulation

In general, based on the regulations mentioned above, Bank Indonesia have some authority, namely:

- a) Define the rules in the banking sector (right to regulate), includes:
 - Provide guidelines for the management of banking activities in order to realize a sound banking system;
 - Optimizing the banking function as an institution of trust and intermediary institutions;
 - Optimizing the banking function as the executor of monetary policy;
 - Optimizing the banking function as institutions that participate in assisting the growth and economic equality.
- b) To provide and revoke permits (right to license), includes licensing of Banks provided by BI, and the things that would require a permit:
 - the establishment of commercial banks and rural banks
 - opening of the KC and KC Rural Commercial Bank
 - opening of the KC, KCP and KPw from Foreign Banks

- Ownership and management of the bank
 - The operations of certain mergers, consolidations and acquisitions
- c) Perform a direct or indirect control (right to supervise/control) Indirect supervision (Off-site Supervision)
 - Based PD analysis report of banks and other information
 - Communication with the management of the bank:Direct Supervision (On-Site supervision)
 - Examination is conducted periodically or every time when needed
 - Inspection can be made to the parent company, subsidiaries, related parties, affiliated parties, if necessary.
 - d) Impose sanctions in accordance with statutory provisions (right to impose sanction)

b. Theoretical Review

In the theoretical realm, there are some major functions of central banks, namely (a) The functions of regulation and supervision and (b) function as a lender of last resort.

1. Settings and Control function

Principal target of regulation and supervision is to promote safety and health of financial institutions through continuous evaluation and monitoring, including assessment of risk management, financial condition and compliance with laws and regulations. Effective regulation and supervision is the first safety net which aims to create and maintain financial systems, in particular sound banking. Weak oversight is often quoted as one of the causes of the weakness of the financial system (Mayes, Halme and Liuksila, 2001). As stated by Mishkin (2001), encouraging the emergence of asymmetric information problems of adverse selection and moral hazard that has important implications to the financial system and therefore needs to be done prudential supervision. The main focus in determining the condition of banks before the crisis is so that supervisors can quickly distinguish between banks that are likely to survive with the troubled banks. The main characteristic of systemic crises is that the financial condition of a bank can quickly deteriorate due to worsening economic conditions and / or massive withdrawals by customers (bank run).

In line with industry developments and the increasing complexity of business and the risks faced by the financial industry, the various multilateral institutions have been developing and setting standards and supervisory principles applicable to the financial industry internationally. Standards and regulations for banking institutions, refer to the Basic Principles of Effective Banking Supervision set by the Basel Committee. Some analysts such as Goodhart et al. (1998) and Llewellyn (1999) formulated the principles of good banking regulation. Some of the principles that they argued outside the 25 basic principles of Basel is about the importance of incentives for management and bank management, design and implementation of safety nets that encourage stakeholders to act carefully, and the importance of market discipline and good governance.

Stability of the financial system will only be achieved if there is a balance of interests between various stakeholders - shareholders, depositors, debtors, creditors, managers and supervisors. Therefore, good governance (good corporate governance) are key elements in a framework of financial sector supervision (Mayes et al., 2001). Associated with good governance, it is important to further implement a more market-based regime. In this context, the need to further develop the transparency of financial institutions through duty of disclosure. New Zealand is an example of one of the countries which rely more on market-based regime. The weakness of governance and supervision is often quoted analysts as one of the factors that aggravate the 1997/98 financial crisis in Asia, particularly Indonesia ((Halim (2000), Nasution (2000), Batunanggar (2002)).

This has been a commitment by Bank Indonesia to improve the effectiveness of bank supervision in a planned and comprehensive in line with the post-crisis banking sector restructuring program; has achieved much progress in both related to regulatory oversight and supervision. However, there are still some challenges that need to be addressed seriously. On the side of the supervisory authority, it is necessary to improve the quality and quantity of continuous oversight and development of information systems and tools that better supervision in line with increased business complexity and risks of banks. On the side of the banking industry, need to implement good corporate governance and risk management and internal control standards consistently. In addition, to strengthen the structure of the banking industry needs consolidation through mergers and capital improvement.

Abram and Taylor (2000), and Goodhart (2001) suggested a good discussion about issues surrounding the merger of financial sector supervision. Goodhart argues that banking supervision in developing countries are better maintained at the central bank because it has a budget of more adequate, more independent and more skilled, and trusted. For the case of Indonesia, who plans to transfer the functions of bank supervision from Bank Indonesia to a supervisory agency independent financial services sector, this needs to be considered so as not to cause new problems that in fact worsen the stability of the financial system.

2. BI Functions as Lender of Last Resort (LLR)

Lender of last resort (LLR) can be defined as a liquidity facility provided by the discretionary to a financial institution (or the market overall) by the central bank as a response to a disturbing turmoil, which caused an excessive increase in demand for liquidity can not be met from an alternative source of Freixas et al., 1999). LLR concept began in the early 19th century by Henry Thornton (1802) who proposed the basic elements of good practice of central banks in relation to the granting of emergency loans. Later, Walter Bagehot (1873), better known as the foundation stone of modern LLR theory developed by Thornton (although his name does not refer at all). Bagehot put forward three principles of LLR namely: (i) give the loan if supported by adequate collateral (only for solvent banks), (ii) give the penalty interest rate loans (only for banks illiquid), and (iii) announce a willingness to lend without limit (to ensure credibility).

CHAPTER IV. LEGAL POLICY OF BANK INDONESIA IN MONETARY STABILITY

a. Monetary Stability in the Framework API

National banking architecture not only a policy recommendation for the national banking industry in the face of all the changes that occur in the future but also the policy direction regarding the direction that must be adopted by banks in a sufficiently long period of time. Thus banking architecture is a blueprint of the order of the banking industry in the future, how the direction and shape and involves almost all aspects related to such banking institutions, structures, supervision, arrangements and other supporting agencies. Although the character of policy direction, banking

architecture must also include the stages and steps of the activities (action plans) on a concrete implementation.

b. Financial System Stability

Stability of the financial system that is a financial system with effective financial intermediation where institutions, markets and market infrastructure to facilitate the flow of funds between savers and borrowers so that support economic growth. Financial system stability can be measured and viewed from the index of stability. Financial Stability Index (FSI) is an indicator used to assess the development of a country's financial stability. FSI is built from 3 (three) main block in Indonesia's financial sector, namely banking, the stock market and bond market. These three blocks are interconnected and their interaction affect financial stability. Each block is represented by a set of behavioral equations, whereas the connection between blocks is described by an equation of identity. This looks as follows: First, the equation of Conduct, consisting of Blocks Banking measured from the Non-Performing Loans, Stock Market Block as measured from the Composite Index, which measured Block Market of Government Bonds Yield Bond (5 Years); Second Equation identity is measured from the formula that the earnings (income) is the sum of consumption (consumption) plus investment (investment).

c. Financial Stability Policy and Monetary Dynamics 2007-2009

During the first semester of 2007, the payment system is a major financial infrastructure in Indonesia remains a reliable and supportive of maintaining financial system stability. Despite the increase in volume and value of settlement, the payment system to function without constraint. Meanwhile, efforts to strengthen the Financial System Safety Network (JPSK) continued. In addition, the Financial System Stability Forum (FSSK) whose organization has been further enhanced recently started operating. In the future, will also be a container FSSK coordinate the implementation of the Financial Sector Assessment Program (FSAP) and the Indonesian Financial System Architecture (ASKI).

Coordination in order to maintain the stability of the financial system through the Financial System Stability Forum (FSSK). FSSK was formed on December 30, 2005 through a Joint Decision (KB) between the Minister of Finance, Governor of Bank Indonesia and Chairman of the

Board of Commissioner's Deposit Insurance Agency (DIA). Furthermore, given the reorganization and structural changes occurred in the Ministry of Finance and Bank Indonesia, which affect the membership in FSSK then on June 29, 2007 has been signed between the Ministry of Finance of family planning, the Governor of Bank Indonesia, and Chairman of the Board of Commissioners LPS Number 99/KMK.010/2007, No. 9/27/KEP. GBI/2007, and Number 015/DK-LPS/VI/2007 dated June 29, 2007 which confirmed its new membership and reinforce the functions of the forum concerned. FSSK has commenced operations and has conducted meetings on a regular basis since July 1, 2007. Forum Steering Committee met quarterly, while the Executive Forum held a monthly meeting every second week Monday. Beyond that, the meeting was conducted at the level of the Working Team. In the short term future, will become a place FSSK coordinate the implementation of the Financial Sector Assessment Program (FSAP) and the Indonesian Financial System Architecture (ASKI). FSSK Task Team will work for preparation and implementation of the FSAP to be conducted by the World Bank and IMF. FSAP objective was to assess the resilience of the sector determination of a reasonable interest rate in order to pay proper claims determination. With the signing of the Memorandum of Understanding between BI and LPS, Indonesia has become a complete legal tools and clear guidelines for the prevention and handling of financial crisis.

The study that published in the year 2007 conducted by the Bureau of Financial System Stability discuss the relationship of risk in the banking industry and financial stability. Objective of the study was to analyze the structure, dynamics, and performance measurement industry with the HHI concentration index, HTI, CR 15, CR-15 and HHI. Analysis of industry dynamics and risk using Markov probability transition matrix approach, whereas industrial stability and strategic risk is measured by the value of Entropy Dynamics Performance Ranking in both industrial and individual levels. The data used comes from the monthly financial reports of commercial banks all banks in Indonesia during September 2000 (156 banks) to May 2006 (131 banks). The results showed that the Indonesian banking industry is in a stable condition because it has not been activity on the level of normal competition. However, intense competition among the different sub-industries based on asset size and performance. Competition strictest medium was sub banks. The results also showed a reduction in the number

of banks in the industry followed by a decrease in the concentration indices, especially the HHI and timber, as well as reducing the market share of 15 large banks. At the beginning of the period, 15 major banks have a market share of + / -70% and then to + / - 60% at the end of the period. Mathematically, the reduction in the number of banks in the industry, *ce-teris paribus*, should be followed by increasing the concentration index. Nevertheless, the results indicated the fact on the contrary, it indicates the process of industry consolidation.

Meanwhile, based on publications in the year 2008 by the Financial Stability Review, Bank of Indonesia concerning the study of financial system stability can be summarized as follows. Indonesia's financial system stability during the second half of 2007 remain intact with a positive outlook. This was successfully achieved with the support of macroeconomic stability and real sector performance continued to show improvement although not entirely as expected. The performance of the financial sector is also increasingly encouraging especially banks so as to enhance greater loan growth with improved credit quality. Non-bank financial institutions, particularly finance companies, and the stock market also continued to grow in the middle emakin increasing pressure of global financial market turmoil. Debt market is also experiencing strong growth although there are several times the pressure in the year 2007, which can mitigate the negative impacts. Looking ahead, the sources of instability, the need to continue to be monitored and mitigated the negative impact, including the formulation of the Crisis Management Protocol for increased coordination between the authorities and the banking and capital market authority and non-bank financial institutions.

Resilience of financial systems in the second half of 2007 to face a tougher challenge than the previous semester. Sources of instability that already exists on the previous semester to continue in the increasingly dynamic financial sector development. In general, the greatest pressure on the financial system during the second semester of 2007 more turmoil caused by the external environment. This is especially seen from the increasingly volatile global financial markets. In fact, global stock markets corrected significantly more often triggered by rising uncertainty and declining confidence among businesses in the world financial markets as the continued impact of the subprime mortgage crisis. Although banks in Indonesia, there does not seem directly involved in subprime mortgage

transaction, but in line with the growing integration of national economies with the world economy, the global money market turmoil caused by the crisis rapidly affected the domestic financial sector. As a result, every time there was pressure on global stock markets, the Indonesian stock market corrected too deeply. This situation can endanger the financial system at a time when capital flows out occurred simultaneously and suddenly (sudden reversal).

Increased turbulent external environment also emerged as a result of the increase in world oil prices and basic commodities. In the reporting period, world oil prices could even exceed USD110 per barrel. Meanwhile, the price of basic commodities continues to soar, especially the price of agricultural products, minerals and natural products. The increase in prices raises the threat of high inflation which can decrease people's purchasing power at both global and domestic level. For the financial sector, high inflation will reduce the ability of debtors to pay off his credit thus potentially increasing non-performing loans (NPLs). Other significant problems that contributed to the increase in the external environment is turbulent world economic slowdown triggered by the heavy burden the U.S. economy. Passover subprime mortgage crisis, economic growth in the United States becomes very slow and even some observers call it the verge of recession. Slowing world economic growth will generate pressure on the financial sector because of disturbing the performance of exporters who become customers of banks and other financial institutions.

Meanwhile, the high dependence on banking, various obstacles in the real sector and a concentration of credit in the consumer financing also remains a source of instability. With the high dependence on the banking turmoil or a banking crisis would quickly spread to other industries in the financial sector. The delay in completion of various obstacles in the real sector, such as labor problems and the limited infrastructure, can inhibit the activities of investment and disruption of business activities of the business world. Although in the first half report an increase in consumption loans was slightly lower than the working capital loans, but caution should still be improved to prevent a concentration of loans at consumer finance. These concentrations may be harmful to the financial sector, particularly if the household income (household income) are not strong enough to meet the obligations on banks and other financial institutions. In addition, the concentration of consumer loans can be made less attention to improving

the productive purpose loans even more necessary to support economic growth.

Natural disaster after another in Indonesia in recent years is also one source of instability that needed to be aware of. Although Bank Indonesia has issued a regulation on special treatment for bank loans in areas affected by natural disasters, but if a natural disaster that occurs widely and persistently, the resilience of the financial sector will also be disturbed. Another important source of instability associated with the growing integration of banking business to the business of non-bank financial institutions that caused the boundaries between banking products and products of other financial institutions increasingly blurred. This needs to be very skeptical considering innovative financial products that are not accompanied by clarity about risk mitigation and transparency sufficient products could harm our customers and endanger the stability of the financial system.

Furthermore, the possibility of increased security threats due to the approach of holding an election is also a concern. Although the experience of elections in the period before the Reformation era, there are no things to worry about and community also has more adaptable with the dynamics of the democratic party, but the financial sector is always sensitive to any possibilities that could disrupt the stability of the financial system.

During the second semester of 2007 macroeconomic stability in Indonesia is still awake from the turmoil in global financial markets. Meanwhile, the economic expansion continues, although it is expected to slow in 2008 due to rising world oil prices triggered. Under such conditions, inflation remains under control, even domestic interest rates started to decline which can provide opportunities for economic activity. International economic developments in the second semester in 2007 was dominated by fears of U.S. economic recession triggered by the subprime mortgage crisis and declining rate of consumption of the United States. Subprime mortgage crisis was a turning point from high-risk lending schemes given financial institutions in the context of housing finance. This crisis has occurred since 2006, but its impact extends from the beginning of new semester II 2007. A report on the losses suffered by major investors of sub-prime mortgage loans, including the highly reputable banks in the United States and Europe, accompanied by reports of continued rising delinquency rate and foreclosure rate of subprime mortgage borrowers into negative senti-

ment sparked investor conduct large-scale redemption simultaneously. Action redemption affects the financial markets of other countries, including in emerging markets, resulting in weakening of the global stock market indices. However, in contrast to that, the Indonesian stock market index by the end of December 2007 still increased although with higher volatility. The small impact of the subprime mortgage crisis into the domestic financial market in the absence of Indonesia's financial institutions that conduct direct investment in this type of credit. In addition, the permanent stimulation of the domestic stock markets also supported by the improving macroeconomic fundamentals.

In the second semester of 2007 the Indonesian financial sector is still maintained its stability, especially in the banking sector that is able to absorb the relatively high volatility of volatility in government bond market. The banking industry which dominates the financial sector continued to show an encouraging performance with a high rate of credit growth although the composition of credit for productive purposes still needs to be improved. Improved credit quality, reflected in the ratio of gross NPLs in December 2007 that the final position for the first time since the crisis was under 5%. Banks remain liquid with better risk management in the face of market turmoil, which is accompanied by adequate profitability and capitalization.

During the second half of 2007, Indonesia's financial infrastructure and equipment to support the maintenance of financial system stability. Although there is an increase volume and value of settlement, the payment system to function without constraint so that it can mitigate settlement risk and operational risk. Meanwhile, the Credit Information Bureau increasingly play a role in providing credit information to businesses. Financial infrastructure is also getting stronger with more and functioning of the Financial System Stability Forum (FSSK). Mitigate risk in the financial system, various efforts have been made include improving the effectiveness of coordination of various agencies involved in the Financial System Stability Forum (FSSK). During the second semester of 2007, the Financial System Stability Forum (FSSK) further enhance its function. As reported in previous editions of the CWC, FSSK consists of the Forum Steering Committee, Executive Forum and the Working Team, with among others the following functions:

1. decision support to troubled banks, suspected systemic.

2. coordinate and exchange information in order to synchronize legislation and regulation in banking, non bank financial institutions, and capital markets.
3. do setup (macros early warning system) to the problems of financial sector institutions in the financial system that potentially systemic early warning system based on results compiled from the relevant supervisory agency.
4. coordinate and synchronize the preparation of the Indonesian Financial System Architecture (ASKI).
5. preparation cooperating Financial Sector Assessment Program (FSAP).

To support the implementation of the functions above, so in October 2007 has established two sub-team and third-level Task Force Executive Forum. Sub new Task Team consisted of Sub and Sub-Working Team Work Team ASKI FSAP. Meanwhile, the new Task Force which includes the Subprime Crisis Task Force, the Crisis Management Task Force and Task Force Repo Protocol. Routinely, FSSK has held meetings to discuss the latest developments in Indonesia's financial sector. In meetings discussed the steps that need to be anticipated. In addition, to encourage information exchange, Bank Indonesia has regularly every month FSSK convey to the latest information about developments of banking industry and the results of evaluating the overall financial system stability.

Related to the property sector, there is some research that indicates a significant relevance between the property industry and monetary stability. Property industry, is one of the main sources driving the rise of a nation's economy. In most developing countries, industrial property industry plays a strategic role because it involves upstream to downstream industries. The rise of rapid growth in the property industry will be transmitted to other industries such as cement industry, iron, concrete, bricks, wood, consultants and property agents. However, the implications of industrial development property is not only limited to the above industries. Rapid growth in the property industry will spread to the financial services sector as a property company needs funds construction investment from banks / financial institutions. On the other hand, property buyers in need of funds to finance their property will also be asked financing to banks / financial institutions. At this time that the financial system began related by the property indus-

try. The development of property and real estate industries in Indonesia during the last three years showed symptoms of growth improved after suffering from the economic crisis in 1997. Development of property and real estate industry this can be an indicator for the improvement of the national economy because industrial development is closely linked with employment issues and supporting industries (like cement, bricks, ceramics, paint, metal, wood), transportation and other related sectors.

Literature Studies in various countries (eg Nathakumaran and Krysiatogianni) also indicates that the property and real estate industries also become an important indicator of economic health. The performance of the property and real estate industry is at the same time can also be used as a signal for the financial sector, particularly the banking sector. Past events show that the pressure on property and real estate industries capable of triggering the crisis, among others, as reflected by the case of U.S. savings and loan crisis in the U.S. late 1980s, the financial crisis in Sweden and Japan the early 1990s and the U.S. subprime mortgage crisis April 2007 loan.

Studies in Indonesia itself, as was done by Santoso show the following. Household balance sheets is one important indicator for the process of implementing the surveillance of financial system stability. Household balance sheets, set out an analysis of expected household ability to obtain bank credit and the potential for credit default of the household sector can be made more accurate. Furthermore, using random sampling techniques to survey respondents in all districts in six different locations: West Sumatra, West Java, BodeTABEK, Central Java, Yogyakarta and East Java. The survey shows that the average household is able to meet its obligations both to banks and non bank financial institutions as reflected in the value of the ratio of total liabilities / core income, the ratio of bank liabilities / income and the ratio of core non-bank liabilities / core income that each reached 19.98%, 14.42% and 5.56%.

As one of the units in the economic system, households play an important role in the financial system. Households in the financial system may act as an Investor / Debtor (surplus units) and Creditors (deficit units). Thus, the pressure faced by the household balance sheet potentially affect the performance of financial institutions and vice versa. If not well anticipated, the risk can cause disruption to the overall financial system. Therefore, surveillance of the sector becomes very important so that potential

risks can be measured and monitored. To support the process of surveillance of the household sector requires the availability of data, especially in the form of the Balance Sheet of Households (Household Balance Sheet), which now feels it is still inadequate. Household balance sheets, set out above are expected to analyze the potential risks faced by the household sector can be performed adequately.

Stability of financial systems in the second semester in 2008 still remain intact. During this period, affected by the global crisis, pressure on the domestic financial sector Become bigger. Stock price index (CSPI) had fallen sharply, while the prices of Government Securities (SUN) has decreased significantly. Banking also experienced liquidity pressures, not only because of the influence of the global liquidity crisis, but also because of the high credit growth that lasted until October 2008, mostly financed by the secondary reserves. In addition, the fall in the currency since the beginning of October 2008 also increased the risk in the financial sector. Turmoil in the financial sector have resulted in the Financial Stability Index rose sharply during the semester report, even exceeding the maximum limit of the indicative figure 2 in November and December 2008.

d. BI policy towards Funding Facility

To maintain financial system stability, the Government issued several Government Regulation in Lieu of Law (Perppu), while the Bank Indonesia issued new regulations, including changing the minimum reserve requirement (GWM). The positive impact of the banking industry was the liquidity condition has improved and the rupiah on the wane volatility although not back to levels pre-October 2008. However, towards the end of 2008 and beginning of 2009 there are signs that bank credit growth became increasingly slow. If this continues feared to impact negatively on the economy because banks had been a primary source of financing. Looking ahead, prospects for stability in the financial system is still projected to remain positive despite the challenges faced increasingly severe as it would further slowing of economic growth.

Stability of financial systems in the future will still face the challenge of an increasingly heavy primarily because the economic recovery yet, both domestic and global. Background underlying this estimate as follows. First, the financial turmoil that occurred in recent years occurred more because of external factors, while domestic banks are relatively no

problems weighing on the banking sector abroad. Second, today's banking and bank supervision authorities are better prepared to face the crisis of 1997/1998 compared with the condition. Third, infrastructure is more complete financial sector, among others, characterized by the Deposit Insurance Agency (DIA) is quite reliable and lead to tranquility for depositors in the banking sector. The next important factor that supports the financial stability of the Financial Sector Safety Net (JPSK) that was recently passed in the House of Representatives. Amid the optimism of the above, caution needs to be further improved because the current global crisis was rated as the worst after the Great Depression (Great Depression) 1929. Slowing global economic growth will be difficult to avoid collective impact on the domestic economy. Therefore it is important to fortify the domestic financial sector by creating an adequate safety net and promote prudence in carrying out banking business activities.

During the second semester of 2008 Indonesia's macroeconomic stability is maintained despite the pressure from global financial crises. Decline in market confidence caused the financial crisis spread to the real sector, thus encouraging the economic slowdown in many countries including Indonesia. Meanwhile, the decline in purchasing power coupled with falling prices led to declining profitability of the corporate sector. As a result, doing business as reduced labor efficiency and limiting the expansion of activities which in turn can cause a decrease in household income. If continued, this is the potential to cause disruption to the domestic financial system stability.

International economic developments during the second semester of 2008 was highlighted by the widespread global financial crisis to spread to the real sector. Scarcity of liquidity and increased volatility in financial markets triggered a decrease trust the corporate sector (producers) and the household sector (consumer) of the condition of the economy. This is reflected in the decline in Business Confidence Indicators issued by the IMF. This condition causes producers and consumers do anticipate by refraining to make an investment and consumption. This is an impact on slowing economic growth particularly in developed countries. During the year 2008 the world economy expected to grow only about 3.4%, slower than the growth in the year 2007 which amounted to 5.2%. This slowdown is expected to continue in 2009 is down to just 0.5%. In 2010, the state is estimated to be slightly improved with growth of 3.0%. The development

of financial stability over time is reflected in the indices of Finance or the Financial Stability Stability Index (FSI).

Due to be affected by global financial crisis, domestic financial sector turmoil that financial stability during the second semester of 2008 was under pressure (see Box 2.1). Consequently, FSI has significantly increased from 1.60 at the end of June 2008 to 2.10 in late December 2008, with the highest position in November 2008 amounted to 2.43. Along with that, since October 2008, the rupiah was also stressed. Thus, the number of FSI in the last two months of 2008 has exceeded the maximum indicative limits. FSI is the high number of more because the price decline of JCI and SUN as the impact of global crisis. Recent development shows that the pressure of global financial crisis began to slightly decrease with the start marked improvement in the price of JCI and SUN. Policy responses taken by the Government and Bank Indonesia also managed to minimize the financial turmoil that had occurred. Accordingly, the FSI decreases, reaching 2.06 per January 2009. FSI decline reflects that financial stability in general are still relatively intact. In fact, in the future at the end of June 2009, FSI is expected to reach about $1.77 \sqrt{2.13}$, with a moderate scenario of 1.95 or lower compared to the relative position of the end of December 2008. Therefore, the prospects for financial stability is still positive and the future stability of the financial system would be relatively maintained.

The condition of the financial sector in the year 2008, especially during the second semester, full of turmoil. As explained earlier, these upheavals have made index Financial Stability (Financial Stability Index - FSI) rose sharply during the semester reports, even beyond the maximum indicative number two in November and December 2008. Meanwhile, the rupiah was also stressed. In the latest development, FSI began a slight decline in line with the improving price of JCI and SUN, but the rupiah was still not back to levels prior to October 2008, although volatility already on the wane.

d.1 Policy Response to the 2008/2009 Financial Turmoil

Here is presented a chronological summary of the financial turmoil in Indonesia during the second semester of 2008 and the policy responses that have been taken to safeguard financial system stability.

Table 1
Chronology of the Financial Sector Volatility in Indonesia 2008/2009

| Date | Event |
|--------------|---|
| October 8-10 | Indonesian Stock Exchange closed temporarily. |
| October 28 | Composite Index: 1111.39, its lowest since December 2005. |
| October 29 | SUN Price Index (IDMA): 67.11, the lowest since |
| November 20 | SUN publishing first time in January 2005. LPS take over a bank that assessed systemic impact. |
| November 24 | The exchange rate USD / EUR: 12 650, the lowest since the crisis of 1997/1998 |

In the second half of 2008 semester there are two problems in the banking much attention. The first is the acquisition of Century Bank by LPS and the second is the closure of Bank Indover. Century Bank is the result of the merger of CIC Bank and Bank Pikko in December 2004. Along with the global liquidity drought which affected the domestic market, in July 2008, Century Bank experienced liquidity problems marked by violations of minimum reserve requirements several times. After that, the performance continues to decline and banks included in the special supervision (Special Surveillance) of Bank Indonesia. However, conditions continued to deteriorate so that the bank declared a bank failure on November 20, 2008. Furthermore, since the bank is valued at the systemic impact of Century Bank and then taken over by LPS for recovering. In fact, the takeover of Century Bank by LPS does not cause significant upheaval or shock in banking. Both the client and banking institutions are relatively quiet so as not to cause pressure on the stability of the financial system. Takeover bank that does not cause this upheaval as well as a reflection of the strengthening of coordination between relevant institutions in the financial system in Indonesia and the functional mechanism of crisis management protocol (crisis management protocol) that has been agreed upon.

Meanwhile, De Indonesische Overzeese Bank or better known as Indover Bank is a subsidiary of Bank Indonesia, which is located in Amsterdam, Netherlands. Indover Bank could have a pretty good performance before experiencing liquidity problems due to a drastic decline in money market line as the impact of global financial market turmoil, particularly

in Europe. The Bank was finally frozen by the Dutch court on October 6, 2008. One of the potential pressures on financial stability is the planting done by domestic banks at the Bank Indover. Existing data shows that there are approximately 14 domestic banks that do the planting on Indover Bank before it closes. Given the amount of exposure of domestic banks ke14 Indover Bank is only about Rp1, 6 trillion, or 0.07% of total banking industry assets as of October 2008, the closing of the Bank Indover not cause significant impact to the Indonesian financial system resilience. In addition, the impact on capital ratios (CAR), the banking industry is also not large. Closing Bank Indover only resulted in a decrease of 16.18% CAR to 16.09%. Interbank stress test results also indicate that banks which decreased due to closure of Bank Indover CAR is not the banks that can cause systemic effects. In terms of liquidity, is also significant because it affects not only resulted in a reduction of liquidity in the range between 0.01% to 7.28% of secondary reserves of banking. Chronologically, the action can be summarized briefly Ahal BI related matters potentially threaten monetary stability in those days as follows.

Table 2
Policy Respond 2008/2009

| Date | Event |
|--------------|---|
| September 16 | BI lowered the O / N repo rate from BI Rate plus 300 bps to BI rate plus 100 bps. FASBI customize BI-rate minus the rate of 200 bps to BI rate minus 100 bps. |
| September 23 | BI extend the term Fine Tune Operation (FTO) from 1 day to 14 days to 1 day up to three months (PBI No.10/14/PBI/2008). |
| October 13 | BI modify the provisions concerning foreign exchange reserve amount and the reserve requirement for commercial banks (PBI No.10/19/PBI2008). BI abolish restrictions on the daily balance position External Debt (PLN) of short-term (PBI No.10/20/PBI/2008). Publishing Perppu No.2 of 2008 concerning changes in the Bank Indonesia Act which allows current collectability credit pledged as collateral to get a Short Term Financing Facility (FPJP). |

| Date | Event |
|-------------|---|
| October 15 | Publishing Perppu No.3 Year 2008 which regulates the increase in the value of customer deposits that are secured LPS from Rp100 million to USD 2 billion. BI extend the tenor of the FX Swap longer than 7 days to 1 month (PBI No.10/21/PBI/2008). BI committed to providing foreign exchange for domestic corporation through banks (PBI No.10/22/PBI/2008). Publishing Perppu No.4 of 2008 on the Financial System Safety Net (JPSK). |
| October 24 | BI issued a PBI No.10/19/PBI2008 changes to improve the calculation of reserve requirements amount to be the main reserve of 5% of deposits amount, and the secondary reserve requirement of 2.5% of TPF Rupiah (PBI No.10/25/PBI/2008). |
| October 29 | BI issued a regulation on Short-Term Financing Facility for Commercial Banks (FPJP) (PBI No.10/26/PBI/2008) |
| November 13 | BI issued a regulation to limit speculative foreign exchange transactions against the rupiah to require the underlying transaction for each purchase of foreign exchange that exceeds 100,000 (PBI No.10/28/PBI/2008). |
| November 14 | BI issued a change of PBI No.10/26/PBI/2008 about Short-Term Financing Facility (FPJP) for Commercial Banks (PBI No. 10/30/PBI/2008). |
| November 18 | BI issued a regulation on Emergency Lending Facility (FPD) (PBI No.10/31/PBI/2008). |
| November 16 | BI prohibit transactions structured derivative products related foreign exchange transactions (PBI No.10/38/PBI/2008). |

d.2 Banning Policy on Structured Products

Some banks, especially branches of foreign banks and private banks, foreign owned, the active lately to make an offer investment products in Indonesia, known as structured products. In general, structured derivative products can be viewed as conventional financial products with the structure of assets that are expected to produce the most optimal return or provide yield enhancement for customers, based on certain assumptions of the general financial market indicators, such as interest rates, exchange rates and stock indices .

Structured products are developed in Indonesia is generally a derivative of the deposit with the option or hedging (usually forward) with the option. Data show that the development of option transactions very rapidly, ie in the year 2007 increased 251% and in 2008 increased by 134%. Meanwhile, forward transactions also increased for the years of 2007 and 2008 respectively increased by 24% and 46%. Meanwhile, the worsening global economy hit Indonesia's balance of payments performance. This then becomes the negative sentiment that makes the exchange rate depreciates. In the year 2008, exchange rate USD / CAD weakens around 18.5% so that the exchange rate at the end of December reached about Rp11.120/USD. Weakening of rupiah exchange rate is then affects the performance of structured products which in general have never predicted that the rupiah would depreciate significantly.

In further developments, poor performance structured products result in losses for investors, while investors still have to provide funds to maintain the value of deposits. Even customers of certain structured products, such as exporters, today there is a unilateral cancellation problems faced by overseas importers related to the worsening global economy. As a result, these customers do not have enough funds to maintain the value of deposits, but they are also difficult to cancel the transaction because of the high cost of structured products transaction cancellations (unwinding cost). Meanwhile, because the banks still have an obligation to the other bank-related transactions are structured products customers, the bank often cover the obligations that fall as customers first. However, these practices will increase the bank's credit risk exposure, and can be a source of dispute with a customer. Thus, structured transactions products has created a new difficulty in banking and if not completed accurately, potential to reduce the financial stability. Valuable lessons can be learned from the problems of structured products that is currently busy implementing discussed was the importance of banking prudence and transparency in marketing the product, including in explaining aspects of risk mitigation and consumer protection. If the problem of structured products is not completely resolved, this will increase the reputational risk and legal risk of each bank concerned.

d.3 Financial System Safety Net

Other financial infrastructure which is considered very important for the stability of the financial system of a State is the Financial System Safety Net (JPSK). Conceptually, the JPSK will greatly assist in mitigating systemic risk. Normally in the management protocol set JPSK crisis (crisis management protocol) as part of the mechanism of coordination between institutions at the time of the financial sector is experiencing pressure. In detail, the benefits that can be obtained from JPSK are:

- there are strong legal basis in conducting prevention and crisis management;
- there is transparency and accountability in decision-making mechanisms within the framework of crisis prevention and response;
- there are mechanisms of coordination among related institutions in the face of disturbances that potentially threaten the stability of national financial systems, without compromising the independence of each authority;
- handling of issues affecting systemic financial institutions can be done thoroughly;
- there is a clear source of funding for prevention and handling of the crisis by taking into account the manner and mechanism of the House of Representatives budget right.

Meanwhile, in Indonesia during the second semester of 2008 there were a few stressful months in the financial sector, among others, characterized by dryness of rupiah and foreign currency liquidity coupled with a decline in the rupiah exchange rate is quite significant. To that end, in mid-October 2008, the Government has issued Government Regulation in Lieu of Law (Perppu) that one of them is about JPSK (Perppu 4 of 2008 dated October 15, 2008). Based on these Perppu, JPSK is a mechanism of securing the financial system from threats that include crisis prevention and crisis management.

The crisis prevention and response measures include: (i) the handling of liquidity difficulties and / or problems affecting systemic bank solvency, and (ii) the handling of liquidity difficulties and / or solvency problems of non-bank financial institutions (LKBB) a systemic impact. To achieve the goal of JPSK, established the Financial System Stability Committee

(KSSK) which consists of the Minister of Finance (as Chairman) and Governor of Bank Indonesia. KSSK is the authority to set policies and measures in the framework of prevention and handling of the crisis in the financial sector and to coordinate with various authorities in the implementation. In the journey Perppu No.4 of 2008 on the House of Representatives approved JPSK not therefore be rearranged and presented back to the House of Representatives. At this time Bill (the Bill) JPSK been successfully developed and has begun to be discussed in Parliament. As for the scope set out in the Bill JPSK is the prevention and handling of the crisis, including measures to overcome problems of liquidity and solvency problems in banks and LKBB a systemic impact. Crisis prevention includes actions to overcome the problem:

- Banks are experiencing liquidity problems affecting Systemic;
- Banks are experiencing solvency problems or failure of payment of Emergency Loan Facility (FPD), a systemic impact; and
- LKBB experiencing liquidity problems and / or systemic issues that impact solvency.

Meanwhile, the handling of the crisis include measures to overcome the problem: (I) some banks experiencing liquidity problems and / or solvency of an individual's systemic impact; (Ii) the Bank which individually under normal circumstances do not affect systemic but in conditions of systemic crisis and the potential impact of the crisis; and (Iii) Some LKBB experiencing liquidity problems and / or systemic impact solvency. Meanwhile, the proposed framework is as stated in the following table.

Table 3

The Proposed Framework

| Goals and Scope | Decision Making | Decision | Tool Kits/ Mechanisms | Resources |
|-------------------------------------|--|--|---|--|
| Crisis Prevention | | | | |
| 1. Bank Liquidity | KSSK do: a. The evaluation problem | 1. Providing assistance liquidity | FPS by BI, guaranteed Government | Sources of funding Government for the prevention and handling comes from the State Budget Crisis through the issuance of SBN (Securities State) or cash. |
| 2. Solvency Bank / Failed Banks | b. Determining issues c. Determination step handling problems | 2.a. Capital Investment While (PMS) for Systemic Bank. 2. b. Settlement Bank Non-systemic | 2.a. PMS by LPS 2.b. Closure of Banks and Payment guaranteed by LPS | BI can buy SBN referred to in the primary market. |
| 3. Liquidity and / or solvency | | 3. Lending or equity participation to LKBB | 3. Loan or capital investment by Government | |
| Handling Crisis | | | | |
| 1. Liquidity and / or Bank solvency | KSSK do: a. Evaluation issues b. Determining issues c. Determination step handling problems | 1.a. Providing assistance liquidity 1.b. Capital Investment While | 1.a. FPS by BI 1.b. PMS by LPS or Government or Specialized Agencies | The use of state budget funds for the prevention and handling of the crisis must obtain approval from the House of Representatives |
| 2. Liquidity and / or solvency LKBB | | 2. The provision of liquidity assistance / Investment While capital | 2. Loans / STDs by the Government or Agency Special | |

Apparently there are still many who believe that the Emergency Financing Facility (FPD) is the same with the Bank Indonesia Liquidity Assistance (BLBI). That view is not only attached to the public the general public, but unfortunately still haunt the viewer and also academics. Most observers seem to quite understand that the FPD is needed to maintain financial system stability, but still fragile learn of the existence of moral hazard BLBI. Meanwhile, there are reporters who hold extreme that the FPD is the reincarnation of BLBI. More ironically, it turns out there are academics who also think that FPS is a potential reincarnations BLBI cause moral hazard.

Seeing this fact, it is important to explain in a rational and transparent policies and BLBI FPS is that posed no public misperceptions. For practitioners of finance - bankers and central bankers, financial analysts and academics, should FPD familiar. These devices should be held to add security to market participants in particular and the public generally, rather than being a scary specter.

FPD is a common tool provided by the central bank in its role as lender of last resort (LLR). Generally LLR facility can be differentiated into two types namely LLR and LLR for normal conditions to overcome the risks (impact) systemic. LLR principles have been introduced in the early 19th century by Henry Thornton (1802) and later popularized by Walter Bagehot (1873). Bagehot LLR formulate three principles: (i) loans only to banks but illiquid solvent have adequate collateral, (ii) wear high interest rates; and announce willingness to lend without limit to ensure credibility. All central banks in the world providing LLR facilities as part of the financial safety net (financial safety nets) necessary to maintain financial system stability. The absolute stability of the financial system to support monetary stability maintained in order to support sustainable economic growth. In addition to referring to these principles, there are additional principles that must pay attention to the crisis conditions that: (i) the LLR policy must be integrated with the crisis management strategy and should be decided together with the monetary authority, regulatory and fiscal policy, (ii) the process must be open as far as not giving disturb financial stability, and (iii) the requirements may be loosened to accommodate the implementation of a systemic bank restructuring program. Although the framework used differs from one country to another, there is a general consensus on

key considerations in the provision of emergency loans on normal conditions and crises.

In essence LLR is given to overcome the liquidity problem (mismatch). The gap is one of liquidity risk faced by the bank everyday to remember banks have leverage (debt to equity ratio) high and instability in the balance structure asset (generally medium-long term) and liabilities (mainly short term). Liquidity problems are generally resolved by the banks to borrow overnight in the interbank money market (interbank money market). Occasionally a very limited liquidity in the interbank money market and had to be borrowed from Short-Term Financing Facility (FPJP) from BI. In general, banks rarely borrow FPJP because in addition to collateralized by liquid and high value such as government securities, banks are also subject to interest rate (penalty rate) is high. In addition, there is the possibility that a bank is hit by a massive withdrawal of funds (run) by the customer. In some cases the liquidity problems faced by one bank, if not resolved soon may spread to other banks so that they can disturb public confidence in the banking system.

If that happens and just let it happen systemic bank run that could undermine the banking system. That is what happened in the year 1997/1998 so that the BI should be disbursed BLBI to save the banking system. I can not imagine what is happening with the banking system and economy, if not given at the time BLBI banks experienced systemic bank run.

Indeed there are weaknesses in the provision of such BLBI. The main criticism expressed by many parties, especially the CPC and the IMF to the process of granting control weaknesses BLBI is causing moral hazard by the owners and administrators of the bank. Ideally, BI should check whether the use of BLBI really to pay the withdrawal of customer deposits. In fact, BI has put several supervisors in each of troubled banks. But, of course, it is difficult to verify all bank transactions. Unfortunately, the misuse of BLBI cases these have not yet been processed consistently due to weak law enforcement and the judicial process. Additionally, in times of crisis there is not a crisis management policy and clear rules.

Some observers argue that in a limited time, difficult and probably impossible for central banks to distinguish between liquidity and solvency problems, therefore, the principal problem is the vagueness BLBI criteria for distinguishing between healthy banks and the sick, and the absence of LLR policies and clear guidelines for ensure accountability. There is also

a weakness of inter-institutional coordination in handling the crisis at that time. Historical experience suggests that the LLR function can effectively prevent a panic on the various events.

Although there is good reason to maintain the ambiguity over the criteria in the provision of liquidity, appropriate procedures, clarity of accountability and authority and rules of disclosure will enhance financial stability, reduce moral hazard, and protect the LLR of the high political influence. There are important benefits for developing countries and transition to apply the rule-based approaches (rule-based) with the set before (ex ante) the necessary conditions for granting aid. LLR approach, Japan has shifted from the "constructive ambiguity" policy toward transparency and accountability. Although the framework used differs from one country to another, there is a general consensus on key considerations in the provision of emergency loans on normal conditions and crises. Learning from bitter experience BLBI, Government (Department of Financial) and Bank Indonesia and then to formulate a clear policy FDP LLR refers to the practice adopted in other countries as well and the advice of the IMF. FPS is a financing facility from the BI to solvent banks experiencing liquidity difficulties as systemic impact. FPS is based on the decision granting the meeting of Finance Ministers and central bank governor, while funding a burden Government (APBN). Systemic impact is the potential spread of the problem (contagion effect) from a troubled bank can lead to liquidity problems of other banks so that they can interfere with public trust in the banking system and threatens the stability of the financial system.

Here are outlined the principal characteristics that distinguish the BLBI FPS. First, policies on FPD regulated distinctly in regulations applicable to convince the transparency and accountability in the gift. Law No. 23/1999 as amended to Act No. 3 / 2004 stipulates that "In the event of a bank experiencing financial difficulties which affect systemic and potentially lead to a crisis endangering the financial system, BI can provide emergency financing facilities with funding to be a burden Government" (art. 11 paragraph 4). In the Memorandum of Understanding among the Ministry of Finance with the Governor of BI on March 17th, 2004 has been disclosed about the provisions and procedures for decision support to the financial difficulties affecting the systemic banks, the provision of emergency financing facilities, and sources of funding coming from the

State Budget. Moreover, FPS has established mechanisms for Commercial Banks in Bank Indonesia Regulation (PBI) No. 8/1/2006 dated January 3, 2006 and Regulation of the Minister of Finance (PMK) Number 136/PMK.05/2005 dated December 30, 2005. Second, the provision of FPS is done very selectively and only had a bank that meets the strict requirements that must be solvent, liquidity problems affecting systemic and collateral. Banks experiencing liquidity problems shall seek other funding sources, including from the interbank money market (interbank money market). If not managed to obtain loans from the interbank money market the bank may ask for collateral FPJP by submitting high-value liquid and the SUN. If the liquidity problem can not be overcome by FPJP and systemic problems affecting banks, banks can apply to gain FPS.

However, the decision granting full FPS are resolution in the Ministry of Finance and the Governor of BI. In addition to having assessed the impact of systemic liquidity problems receiving banks are required to have FPS minimum capital adequacy ratio (CAR) of banks for at least 5% (five percent) and must ensure the FPD with the collateral. In other words, not all banks that filed FPS necessarily obtain. Third, the provision of FPS based on the decision with the Minister of Finance and central bank governor objectively so that potential conflicts can be avoided. In the case of the BI indicates that the Bank requesting FPS systemic impact, BI governor immediately asked the Minister of Finance to hold meetings. Indications of the existence of bank systemic impact is based among others on the BI analysis of the Bank's financial condition and its impact on the banking system. Furthermore, the Meeting of Finance Ministers to discuss the problems with central bank governor and Bank's financial prospects and to determine the necessary steps to overcome them.

Fourth, funding for FPS are obtained from the State Budget including the issuance of government securities so that BI does not face any credit risk. If the State Budget of the difficult conditions, to fund the Minister of Finance may issue government securities in accordance with applicable regulations. Fifth, the FPD shall secured by collateral which is sufficient to minimize credit risk. Assets that can be used as collateral by the Bank are Bank assets available with the priorities of the most liquid assets and the quality and can be combined with other assets, including but not limited to the assets of the controlling shareholder and / or shares that have been recorded from the controlling shareholder of the

bank. The assets pledged as collateral by the Bank shall be free of encumbrances, not being guaranteed to the other party, and not entangled in a lawsuit or dispute. In addition, the assets pledged as collateral can not be transferred, resold or re-pledged by the Bank. To ensure accountability, the collateral is valued by independent values appointed by the Minister of Finance based on the nomination list submitted by an independent appraisal of the Bank. Collateral shall be added to the Personal Guarantee of controlling shareholders and / or Corporate Guarantee from the company's controlling shareholders are provided with a list of other assets. Personal Guarantee and / or Corporate Guarantee shall be made in a notary and must be submitted to the Bank no later than at the time of FPD signed. Sixth, to ensure that no abuse (moral hazard), the central bank will monitor the recipient bank is specifically FPS. Banks will be included in the special supervision in accordance with PBI on Follow-Up and Determination of Status of Bank Supervision. Special Supervision of Banks in the end if the Bank has completed the receiver FPD FPD repayment obligations and meet the requirements as stipulated in the prevailing PBI. FPD recipient bank is also required to devise an action plan to solve the problem of liquidity and repayment plans at the latest FPS five working days after realization of the FPD. The Action Plan must be submitted to the BI with a copy to the Minister of Finance.

Furthermore, the Bank shall submit reports on implementation of action plans on a weekly basis to BI with a copy to the Minister of Finance. FPD receiving banks are required to report to the BI liquidity conditions on a daily basis. Also there are some restrictions for the management and controlling shareholders of the bank accepting FPS. FPD receiving banks are prohibited from: (i) liquidate the related-party deposit account at the Bank receiving FPS unless otherwise specified by the Minister of Finance meeting with the Governor of BI, and (ii) pay dividends in any form during the liability for unpaid FPS. Controlling Shareholders FPS recipient is also prohibited to transfer ownership shares to other parties without the permission of BI. For banks who violates the provisions of PBI is subject to administrative sanctions such as dismissal or prohibition of bank management and participated in the clearing activities. In addition, course owners and managers who violate the bank can be snared with an administrative sanction in accordance with Law Number 7 Year 1992 on Banking as amended by Act No. 10 of 1998. With a clear and transparent regulations,

requirements that selectively - only to solvent banks and systemic impact, the collateral - and the decision with the Minister of Finance and central bank governor believed BLBI bitter experience will not happen again.

e. Bank Indonesia Law Policy on Funding Facility

The impact of the current global financial crisis impacts on various countries including Indonesia, because of mutual interdependence of the global financial system. Responding to the global financial crisis the Indonesian government has been, middle, and will continue to conduct various anticipatory measures and take responsive measures in stemming the global financial crisis that the national financial system stability is maintained. During this legislative function, as the Lender of the Last Resort (LoLR) conducted by Bank Indonesia through the provision of credit facilities to the Bank who have difficulty funding the short term and unsecured high-quality, liquid securities, but a regulation of the collateral criteria are not consistent with current economic conditions. One effort to maintain public confidence in the banking agar did not cause short-term funding difficulties for the Bank because among cash inflow discrepancy is smaller than the flow of funds out by with change the criteria that the collateral pledged by the Bank to obtain credit or financing based on Sharia principles from Bank Indonesia. Government assess the needs of these criteria is a change in state of emergency that forced so that the President has issued Government Regulation in Lieu of Law Number 2 Year 2008 on the Second Amendment of Law Number 23 Year 1999 on Bank Indonesia.

One of the important policies taken by the government in mid-October 2008 was the issuance of Government Regulation in Lieu of Law (Perppu) of the Republic of Indonesia No. 2 Year 2008 on the Second Amendment of Law Number 23 Year 1999 on Bank Indonesia. Perppu is important to the stability of the financial system because it provides the legal basis for Bank Indonesia to provide Short-Term Financing Facility (PTJP) more broadly for banks that need.

Expanded access for the bank based on the changes to Article 11 of Law of Bank Indonesia. Before the change, in essence, Article 11 stipulates that Bank Indonesia may provide credit or financing based on Sharia principles for a period longer than 90 days to the bank to overcome the difficulties of short-term bank financing. Implementation of credit or financ-

ing based on Islamic principles shall be guaranteed by a bank recipients with high-quality collateral whose value is minimal for the amount it receives a credit or consumer financing. While collateral is high quality and liquid securities include securities and / or bills issued by the Government or other legal entities that have a high ranking based on the results of the assessment of competent agencies and at any time can easily be sold into the market for money cash.

Changes required Perppu mention that the collateral is of high quality and easy to find, not only include securities and / or bills issued by the Government or other legal entities that have a high ranking based on the assessment of the competent agencies and at any time with ease can be sold to the market to be used as cash, but also including loans classified as current assets. Thus, objects that can be used as collateral by the bank to get FPJP become more kind, thus expanding access for banks to use FPJP. In the prevention and handling of the crisis, needed a strong legal basis and a clear working mechanism to support making the important decisions to prevent a crisis or rescue the economy from the crisis. Changes in the Law of Bank Indonesia conducted through Perppu mentioned above is an example of anticipatory steps the Government of the legal basis in order to maintain the stability of financial systems in the face of global crisis.

C. Conclusion

Based on discussions in previous chapters, it can be concluded as follows:

1. The main functions that central banks are (a) regulatory and supervisory functions and (b) function as a lender of last resort.
2. Throughout 2007 until 2009 there are many external factors which influence the dynamics of financial stability (monetary) of Indonesia, among others, the subprime-mortgage in the U.S. and Europe, fluctuations in world oil prices and the General Election in 2009.
3. Crisis prevention and response actions conducted by Bank Indonesia include: (i) the handling of liquidity difficulties and / or problems affecting systemic bank solvency, and (ii) the handling of liquidity difficulties and / or solvency problems of non-bank financial institutions (LKBB) a systemic impact.

4. Function as the Lender of the Last Resort (LoLR) conducted by Bank Indonesia is done by granting credit facilities to the Bank who have difficulty funding the short term and unsecured high-quality, liquid securities, but the setting of criteria for financing facility is being made by attention to periodic monetary dynamics.

From these results, then there are a few suggestions that could be recommended as follows:

1. It needs a comprehensive understanding in assessing the development of legal policy of Bank Indonesia in connection with monetary dynamics, both in national and international scope.
2. It is necessary to the adoption and harmonization between positive law and the financial dynamics of the various aspects, whether external factors such as political background and the real sector, and internal chest of interest rates and financing facilities.
3. It needs a critical assessment of a massive study the implementation of regulations in the field central-bankingness at the local level, because the economy is generally associated with Bank Indonesia and macroeconomic character only when the local economy also affects the dynamics of national monetary stability.

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Abstrak:

Pemberlakuan hukum acara perdata di lingkungan peradilan agama secara mekanistik formal dapat menjawab permasalahan yang muncul di bidang hukum keluarga, namun secara substansial terdapat beberapa kelemahan, terutama menyangkut sengketa di bidang perkawinan. Positivisasi hukum acara pada kenyataannya seringkali tidak sejalan dengan hukum materil di lingkungan peradilan agama. Pemberlakuan dilakukan secara mutatis mutandis tanpa menyentuh aspek substansial, berimplikasi pada proses penegakannya yang cenderung mengarah pada deskularisasi hukum Islam. Pembaruan hukum acara di lingkungan peradilan agama perlu dikembangkan berdasarkan hukum materil yang berorientasi pada prinsip keadilan dan prosedur yang selaras dengan nilai hukum Islam. Berdasarkan hasil penelitian yang telah dilaksanakan, memperlihatkan hukum acara yang berlaku di lingkungan peradilan agama ternyata dalam beberapa hal sangat menjauh dari prinsip kebenaran dan keadilan yang berangkat dan bersumber dari nilai-nilai dan prinsip syariat Islam. Kebenaran yang dilakukan berdasarkan prinsip kepastian hukum Hukum Perdata Barat seringkali bertentangan bahkan bertentangan dengan prinsip kebenaran berdasarkan hukum Islam. Praktek hukum acara yang dilaksanakan berdasarkan HIR dan R.Bg perlu di reformulasi ulang melalui proses legislasi, sehingga ke depan peradilan agama mempunyai hukum acara yang selaras dengan kebenaran hukum materil/substansial berdasarkan prinsip syariat Islam.

Kata kunci: Hukum Acara, Peradilan Agama, Keadilan Substansial

A. Pendahuluan

Keberadaan peradilan agama sebagai subsistem peradilan di Indonesia,¹ seiring dengan perkembangan agama Islam dan hukum

¹Peradilan Agama Islam di Nusantara dijumpai sebelum kedatangan bangsa Portugis, Belanda dan Inggris. Urusan syariat dilakukan tentang muslim *mukallaif*, bidang *faradhu ain*, maupun *faradhu kifayah*, umumnya tidak harus ada undang-undang (*taqni/ganun*). Pemerintah Kolonial mengeluarkan beberapa ordonansi, seperti Stbl 1882 No.152 Tentang Pengukuhan *Priesterraad*, di Jawa Madura. Kemudian Stbl No. 1931 No. 153 merubah *Priesterraad* menjadi *Penghoeloeogerecht*. Stbl 1937 No.116 yang mengeluarkan kewenangan perkara waris tanpa merubah *Priesterraad*. Kemudian keluar Stbl 1937 No.638 dan 639 tentang pembentukan peradilan agama di Kerapatan Qadhi Besar Banjarmasin dan PP No.45 Tahun 1957 tentang Pembentukan Mahkamah Syariah di luar Jawa dan Madura. Lihat H. Zaimi Ahmad Noeh "Lima Tahun Peradilan Agama" dalam Mimbar Hukum No. 17 Tahun V 1994. (Jakarta: Departemen Agama R.IAI-Hikmah, 1993) hlm 12-29.

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