

JURIDICAL REVIEWS ON BRANCHLESS BANKING TOWARD THE POTENTIAL OF FRAUD DUE TO THE USING OF AGENT

Winarsih

The Graduate Student of Law Faculty, University of Indonesia,

email: winarsih.winnn@gmail.com

Abstract

Branchless banking is a new system which is implemented by banks in Indonesia with aims to provide services to rural communities in order to access banking services such as lending or deposit money in the bank through an intermediary agent. At first the rural communities are hard to obtain banking facilities such as micro-credit whereas economic activities are largely actuated by lower-class sector therefore the Financial Services Authority or Otoritas Jasa Keuangan (OJK) issued the regulation number. 19/POJK.03/2014 about the financial services without office in the framework of financial inclusion on November 18, 2014 to face it. In this regulation, there are several things that need to be reviewed such assessment accountability arrangements of agent as a third party who is not clearly regulated whereas according to some research there are some risk in the mechanism of implementation like as potential of fraud due to the using of agent in this system. Though basically branchless banking is one of the strategic national strategies to provide financing to small businesses in rural areas in order to increase the competitiveness of products to compete in the ASEAN economic community. Therefore, a legal instrument that can ensure and provide legal certainty in branchless banking system is a very important thing, more over branchless banking is the strategic of government to develop the quality of the rural economy to face the ASEAN economic community.

Key Words: Regulation, Branchless Banking, Agent, Fraud

INTRODUCTION

Globalization in the ASEAN economic community is something that is inevitable again. In this regard Indonesia as the country with the largest population in ASEAN has a challenge to improve economic development through the improvement of product quality. In line with it, banks that have a strategic

position in the field of financing required to play an active role and support this goal by providing financing services to the entire community in Indonesia, including rural communities need funds to develop their business.

However, Indonesia is an archipelago and based on geographic conditions have some areas which is difficult to reach by the banking system. Therefore, there are many people that are difficult to access banking facilities such as saving and credit or borrowing to finance their business activities. Based on the survey results of the World Bank, as cited in Pungky Purnomo¹, less than 50% of Indonesia's population has a bank account at a formal financial institution, and only 17% of the population have access to credit. Furthermore, the results of a household survey conducted by Bank Indonesia shows that 62% of households have no savings at all. Number of account ownership society Indonesia is still low even in ASEAN. It certainly result in difficult rural communities to access banking facilities provided by Indonesia.

Though economic activity is largely driven by lower-class economic sectors such as micro-enterprises which are still carried out through the mechanism of cash. Based on data from approximately 300 trillion rupiah in cash transacted through this segment. If the number is entered into the banking system and banks channeled back in the form of a credit to them, of course, will be a stimulus for economic growth is very large. Efficiency in the management of cash by Bank Indonesia will be improved by the use of branchless banking transactions through².

Further banking services provided in the branchless banking system in form of the savings, credit or financing for micro customers, micro-insurance or other financial products based on the approval of the FSA³. This is one of the national strategy of inclusive finance to reach rural communities who do not get banking facilities. This policy is considered strategic, especially for Micro, Small and Medium Enterprises (SMEs) which has been experiencing barriers include lack of

¹ Pungky Purnomo Wibowo, *Branchless Banking Setelah Multilicense: Ancaman atau Kesempatan bagi Perbankan Nasional*, (Papers in Terms of Educational Staff Chairman of Bank Indonesia (SESPIBI) Force XXXI, Bank Indonesia), p. iv

² Academic Manuscript Draft Law on Restriction of Cash Transactions compiled by the National Law Center Development Planning, the Ministry of Justice and Human Rights 2013, p. 30

³ See Article 4 of the OJK Regulation No. 19 / POJK.03 / 2014 on the Financial Services without Office in the framework of Financial Inclusive

capital and makes it difficult to develop⁴. Whereas the role of SMEs in the growth of the economy of a country is very important⁵.

The existence of branchless banking is one of its facilities is to provide credit to rural entrepreneurs also will indirectly improve the quality of products produced by businesses in the countryside. This is a positive impact especially considering entry into force of the ASEAN economic community which automatically Indonesia as the country with the largest population is expected to compete by improving product quality. Therefore, branchless banking has a strategic role in facing the ASEAN economic community.

In the implementation of the branchless banking using information technology and requires cooperation with the agency as a third party who mediates between the bank and its customers. The agent became a representative of the bank to provide the facilities provided by the bank to its customers that was not initially familiar with and access to banking facilities.

To support the implementation of branchless banking, FSA issued Regulation No. 19/ POJK.03/2014 about the Financial Services without Office in the framework of Inclusive Finance on November 18, 2014. In the FSA rules one of which regulates the relations of cooperation between the organizers of the agent bank, but not mention the exact provisions or criminal sanctions to be applied to an agent if one day commit criminal acts such as fraud, the opening of bank secrecy or other criminal acts. The regulation sanctions only apply to the bank if one does not perform reporting and some of the prohibitions contained in Article 42 of the FSA Regulation No. 19/POJK.03/2014.

Though there are some legal risks for the implementation of branchless banking as a result of the violations committed by agents of intermediaries such as the fraud committed against customers or violation of bank secrecy for misusing confidential data belonging to customers, eliminating the assets and transactions, errors intermediary agents convey customer complaints to the bank, a customer asked by the agent to pay the costs, which in principle does not exist, the data recording errors committed by agents and poor financial management resulting

⁴ Fitri Nuraini, Rieska Maharani, Andrianto, The Strategy of Enhancing Competitiveness and Cooperation in Dealing SMEs AEC (Asean Economic Community): A Literature Based Study, on National Seminar Journal of Economics and Business and the Call for Papers UMSIDA FEB 2016 p. 482

⁵ Center of Trade Policy in the State, *Analisis Pera Lembaga Pembiayaan dalam Pengembangan UMKM*, (Jakarta: Ministry of Commerce, 2013), p, i

customer can not make a cash withdrawal transactions because the agent does not have sufficient cash⁶.

Furthermore the agents are not employees of the bank, but the parties who cooperate with the bank and become the representative of the bank to provide banking services to the public in accordance contracted⁷. Under these conditions, the legal provisions concerning the protection of clients and accountability agents in branchless banking system is necessary to ensure legal certainty and can be used as a standard implementation of branchless banking. This is a problem that is interesting to study because branchless banking has a strategic role in facing the ASEAN economic community. Under these conditions, the author is interested to do an analysis entitled "Juridical Reviews on Branchless Banking Toward the Potential of Fraud Due to the Using of Agents" with two problem are: The first, how are the protections afforded to clients of the legal risks in the system of *branchless banking*? Secondly, how are the analysis if the agent liability offenses that resulted in the bank and customers suffered losses.

METHOD

In compiling the writer uses the method of writing in the form of the literature by collecting secondary data by conducting a literature study. Literature study was conducted by collecting the relevant literature in the form of books, journals, scientific articles, thesis or dissertations, legislations, ministerial regulations, the FSA regulations and other materials related to writing. Furthermore, the authors perform data analysis based on the results of the literature that has been acquired to obtain the results of the relevant conclusions.

RESULT AND DISCUSSION

Customer Protection Against Legal Risks in Branchless Banking Systems

The Development of Branchless Banking System in Indonesia

The bank is a financial institution whose the existence depends on the trust customers who trust funds and other services that they have done through banks⁸.

⁶ Zhaskia Ajeng Secioktaviany and Hudi Asrori, "Optimaliasasi Manajemen Resiko sebagai Upaya Preventif Resiko Hukum pada Bank Penyelenggara *Branchless Banking* di Indonesia", *Journal of Private Law Vol. IV No. 2 July to December 2016*, p 90.

⁷ See Article 1 Paragraph 4 of the OJK Regulation No. 19/POJK.03/2014 on the Financial Services without Office in the framework of Inclusive Finance

⁸ Adrian Sutedi, *Hukum Perbankan Suatu Tinjauan Pencucian Uang, Merger, Likuidasi dan Kepailitan*, (Jakarta: Sinar Grafika, 2007), p 1.

Furthermore the role and functions of banks in the economy is very strategic, making the position of banks is very important to encourage economic activity. Banks can influence and determine all aspects of economic activity in a country. The inability of banks to provide optimal service will cause disrupted economic activity and can lead to all sectors of the economy can not work optimally⁹. Therefore, banks are required to provide optimum service and can be reached by the public.

In its development banking in the delivery of services and increase the financial services sector in the period of last 5 years expanded widespread, it indicates that financial services being the most important thing in order to improve the welfare for the middle who are not familiar with banking access (unbanked). Banking sector more competitive in the innovation of the products they offer to customers. It also makes access and geographical conditions of the region and become a target of banks to be closer to the people, also in order not to suggest that the financial services only belong to a group of people in the urban areas only¹⁰.

In addition there are many members of the public who do not know, use, and or get banking services and other financial services, such as residing in a location away from the office or the bank and their costs or burdensome requirements. Therefore, the FSA, the banking industry and other financial services industry is committed to support the realization of inclusive finance. Furthermore, the Indonesian government launched a program of the National Strategy for Inclusive Finance in June 2012, which is one of the program is branchless banking¹¹.

The implications of such national strategies FSA issued a regulation as the basis of the implementation of the branchless banking FSA Regulation No. 19/POJK.03/2014 on the Financial Services without Office in the framework of

⁹ Pungky Purnomo Wibowo, *Op, Cit*, p. iii

¹⁰ Triana Fitriastuti, Dhina Mustika Sari, Ike Purnamasari, *Implementasi Keuangan Inklusif Bagi Masyarakat Perbatasan (Studi Kasus Pada Kutai Timur, Kabupaten Kutai Kartanegara Dan Kota Samarinda, Kalimantan Timur, Indonesia)*, (Proceedings of the National Seminar on Economic Management and Accounting, Faculty Economic Padang State University ISBN: 978-602-17129-5-5), p 1.

¹¹ See the booklet published by the Financial Services Authority, *Regarding Financial Information Service without Office in the Framework for Inclusive Finance*) which includes the need for intelligent behavior in the banking system

Inclusive Finance on 18 November 2014¹². Interest FSA publishes this regulation is to support the creation of an inclusive financial so that people can use banking services¹³.

At the level of implementation of branchless banking is a term unfamiliar to most people of Indonesia¹⁴. But internationally, particularly in emerging markets, branchless banking practice is not new. From various studies literature there are more than 100 (one hundred) countries to implement branchless banking. Meanwhile, in the context of Indonesia, branchless banking is a new thing for the banking industry in Indonesia. Therefore, the implementation of branchless banking needs to be done carefully considering the expansion of banking services through Intermediary Financial Services Unit and technology can increase risks, especially operational risk, legal risk and reputation risk for banks and telecommunications companies¹⁵.

Legal Risks in Branchless Banking System

Branchless banking is a new term in the development of products using the technology of information and cooperation from the other party that the agent to provide banking services to people who are not familiar with banking or other financial services. The existence of branchless banking is believed to have the potential to reduce costs and improve services on the contrary branchless banking and can extend the range of the new market, which is a segment of society that were previously not or has not been served by the bank¹⁶. The services entrusted to the agent as a party representing the bank¹⁷.

Furthermore the use of agents as intermediaries between banks and customers in providing financial services may pose greater risks both for the bank and the customer. This can be seen from the model implementation, which uses the agent in serving customers in areas difficult to reach by the office of the bank,

¹² Reports Third Quarter-2014 issued by the Financial Services Authority, p. 49

¹³ Aster Kusumawati, *Tanggungjawab Agen kepada Nasabah Penyimpan dan Simpanannya terhadap Layanan Perbankan Branchless Banking (Ditinjau dari Peraturan Otoritas Jasa Keuangan Nomor 19/POJK.03/2014 tanggal 19 November 2014 tentang Layanan Keuangan tanpa Kantor dalam Rangka Keuangan Inklusif)*, (Thesis on Masters Notary Brawijaya University, Faculty of Law, 2015), p 4.

¹⁴ Nurtjipto, *Aspek Hukum Penggunaan Agen dalam Kegiatan Branchless Banking di Perbankan Indonesia*, (Thesis at Faculty of University of Indonesia, 2012), p. 5

¹⁵ Yesi Hendriani Supartoyo, *Op,Cit*, p. 11

¹⁶ Hidayati Sarah, *Dampak Branchless Banking terhadap Kinerja Keuangan PT Bank Muamalat Indonesia Tbk*, *Jurnal Al-Muzara'ah* 136 (p ISSN: 2337-6333; e: 2355-4363), p 140.

¹⁷ See Article 1 Paragraph 4 of the FSA Regulation No. 19 / POJK.03 / 2014 on the Financial Services without Office in the framework of Inclusive Finance

it is certain level of security and the security service bank client assets in the implementation methods stake. Besides, the bank in this case can not supervise the performance of agents in providing services¹⁸ .

Another problem is the involvement of third parties in this case the agent is taken from the public can pose its own risks for our customers and the bank, it is when the agent to commit fraud. In this case the customers who feel aggrieved will certainly blame the banks and the implication is to reputation banking itself. Though the bank's main capital is the trust its clients¹⁹ .

Furthermore if viewed from the implementation of branchless banking risks that can occur on organizers bank is large enough, it is because the operational risks caused by external factors, namely the use of agents as intermediaries between banks and customers. Legal risks can occur when an agent does not carry out its obligations in providing services as determined by the bank²⁰ .

Besides the risk of external factors other than the one the client can sue the bank as a result of a breach by the intermediary agents who commit criminal acts such as theft or fraud, breach of confidential customer errors in the delivery of customer complaints to the bank or the customer asked to pay a some money, recording errors by agents that could harm customers or some other crimes that may occur in brachless banking activities²¹ .

Because of legal risks that may result in the selection of branchless banking activities as party agents who will work clearly non-negotiable, it is to prevent fraud or irregularities²². In further to ensure the legal relationship between the agent and the bank set of laws on the procedure of cooperation relations between the bank organizers of behavior intelligent agent and obligations for banks organizer of exercising due diligence process to an agent and formed a cooperation agreement and are responsible for deeds and actions agents are included in the scope of services according to the agency specified in the agreement²³ .

¹⁸ Zhaskia Ajeng Sucioktaviany, *Op, Cit*, p. 88

¹⁹ Khanan and Pujiyono, "Aspek Yuridis Keberadaan Agen dalam Model Branchless Banking di sistem Perbankan Indonesia", *Privat Law Journal Vol. IV No. 1 January-June 2016* , p. 14-15.

²⁰ Zhaskia Ajeng Sucioktaviany , *Op, Cit*. p. 90

²¹ *Ibid*, p. 90

²² Primitiva Febriarti, *Agen Sang Ujung Tombak*, the Gerai Info Bank Indonesia Magazine published by Bank Indonesia Issue 39, June 3013, Year 4

²³ See Article 19 of the OJK Regulation No. 19/POJK.03/2014 on the Financial Services without Office in the framework of Inclusive Finance, in addition to the liability of banks also have an

It is the responsibility of both banks should be done with the FSA as a supervisor or to the agent as the parties work together. To ensure the implementation of branchless banking, FSA well performed includes rules on sanctions given to the bank if it violates the provisions²⁴. Violation of the provisions of these terms shall be liable to a written warning and freezing operations and downgrading of the bank²⁵.

If analyzed on the sanctions provisions in the FSA or OJK Regulation No. 19/POJK.03/ 2014, the sanctions were aimed at organizing bank only in the sense that there are no sanctions provisions granted to the agent if the agent doing things that are not in accordance with the provisions. Though in this case the agency is a party involved in branchless banking and not included as a bank clerk²⁶ in accordance with the provisions of Article 1 Paragraph 4 of this rule so it is not covered by the provisions of the FSA.

Whereas the provisions of the sanctions is essential to minimize legal risks. It is urgent to protect the customers, which can cause problems in the future, especially in terms of who should be responsible in case the demands of the customer on open data and stash or anything else that is done by the agent, because it could be, agents evasive or refuse to responsible if the customer makes demands of him, and ended up throwing this error to the bank²⁷.

To anticipate this, and given the high risk of legal and may be incurred by the bank as an agency relationship and organizer of the branchless banking necessary rules covering the legal consequences received by the agent if committing a crime such as fraud, disclosure or misuse of confidential customer

obligation to believe the source of the funds did not originate agent and the result of money laundering or terrorist financing, provides education to agencies, impose sanctions for violations of agent, ensure continuity of the Branchless Banking implementation responsibility in the event of certain circumstances that resulted agent can not operate and supervise the agency as well as some other obligations.

²⁴ The provision intended are Article 5 paragraph (9), Article 8, Article 19 paragraph (6) and (7), Article 22, Article 23 paragraph (4), Article 24 paragraph (2), Article 26 paragraph (2) , Article 28, Article 30 paragraph (3) and (4), Article 31 paragraph (2), Article 32, and the Institute of Financial Services who violate the provisions of Article 3 (1),

²⁵ See Article 42 of the OJK Regulation No. 19/POJK.03/2014 on the Financial Services without Office in the framework of Inclusive Finance.

²⁶ What is meant by bank employees are all officials and employees of the bank. This is consistent with the elucidation of Article 47 Paragraph 2 of Act No. 10 of 1998 on the amendment of Law No. 7 of 1992 concerning Banking

²⁷ Aster Kusumawati, *Op, Cit*, p. 21

becomes the central issue of branchless banking problems and some potential criminal act occurred.

Importance of Customer Protection in *Branchless Banking System*

Based on the risks that may arise in the implementation of branchless banking in on the legal protection of the customer is very important. Moreover who become goal customers of branchless banking is the people who live in remote areas²⁸. Besides the purpose of branchless banking is providing financial products that are simple, easy to understand and appropriate to the needs of people who have not been able to reach today's financial services²⁹.

The legal protection can be provided through regulations that set out clear on the parties involved in branchless banking system. Especially if one of the parties to commit fraud that representative others. In addition to legal protection should be provided by regulation, in this case the bank is run branchless banking should also focus on the protection of customers. Customers who feel protected by the bank it will be the cause confidence in the bank³⁰.

If explored juridical protection in branchless banking customers under Article 34 in conjunction with Article 3 paragraph (3) regulation No.19/POJK.03/2014. Based on this article can be analyzed that the Financial Services Authority requires the bank to provide protection to customers while implementing risk management and prudential principles that emphasize only those obligations apply only to the bank, but in this case the agency as an representative of the bank in the service branchless banking especially in providing services to the public deposits should also be required to provide protection to customers while implementing risk management and the precautionary principle. Besides considering the potential fraud or a criminal offense that can be committed by an agent in providing services is huge which can not be directly supervised by the bank³¹.

Especially considering the demographic conditions of Indonesia are very different so that access to finance community, especially in the rural areas is very

²⁸ Hidayati Sarah, *Op, Cit*, p 137

²⁹ See the pocket book of OJK "*Seputar Informasi mengenai Layanan Keuangan tanpa Kantor dalam Rangka Keuangan Inklusi (Laku Pandai)*" issued by the Financial Services Authority p.1.

³⁰ Khanan and Pujiyono, *Op, Cit*, p. 15

³¹ Aster Kusumawati, *Op, Cit*, p. 8

necessary supervision mechanisms and regulation. Mechanisms and clear regulations concerning the establishment or designation UPLK requirements, related to risk management, as well as consumer protection both at the level of banking customers, users of telecommunications services as well as UPLK expected to make the implementation of *branchless banking* and provide legal protection for customers³².

Based on these descriptions, the customer protection in branchless banking system becomes a very important thing because the targets are rural communities untouched by the service office of the bank and financial services have not been able to reach. Moreover, linked to the possible risks undertaken by the bank because the agency does not oversee the implementation of the agency in providing services that have the potential for the occurrence of some of the fraud and crime. Based on these two things, the regulations on implementation risks everything possible to branchless banking, including acts committed by agents of the customer is very necessary.

Agent Accountability Assessment If the Causes Violations Bank and Customers Experiencing Losses

Based on the risks that may arise from the implementation of the regulation of branchless banking and sanctions can not be given to agents if doing some fraud or a criminal offense in performing its duties and its obligations under the FSA regulations it is interesting to discuss is about accountability agent if a time of the offense which can result in losses for the bank as a customer and who worked with the agent.

If discuss the responsibilities of the agent is necessary to understand the position of the agent and the bank within the framework of branchless banking. Regarding the position of the party's own bank branchless banking providers and agents have a different position. Agent is an representative or a representative of the bank in providing branchless banking services as listed in the agreement made between the agent and the bank³³.

As a representative of the bank in providing services to customers who previously have not received access to banking facilities or agencies themselves at

³² Yesi Hendriani Supartoyo, *Op, Cit*, p. 17

³³ Aster Kusumawati, *Op, Cit*, p 15

risk to commit fraud or a crime in carrying out its duties and its obligations as described above. Therefore, the accountability mechanism is set out in the FSA regulation of branchless banking even though there are still some problems in it.

Regarding the responsibility of agents in branchless banking system itself in the regulation of the FSA stated that in cooperation with the agency, bank organizers shall be responsible for the actions and the actions agents are included in the scope of services according to the agency specified in the agreement³⁴. Based on this provision then everything done by the agent in the provision of services included in the responsibilities of the bank.

Further accountability made by banks against the agent if explored in more then closely related to agreements to be mutually agreed. The agreement between the bank and the agent is the basis of the respective responsibilities of each. If the provisions on liability are not included in an agreement then in this case will apply the provisions of Article 1367 of Civil Code which states that "Everybody is not only responsible for the losses caused by themselves, but also for the losses loss caused by the actions of people who become their responsibilities or caused goods under their controlling".

Based on the provisions governing the liability of agents in listed in the Regulation of the FSA, the Civil Code as well as things that must be contained in the agreement between the agent and the bank then basically the responsibility was specifically contained in the agreement that has been agreed upon and if it is not listed, the bank participated responsible for losses suffered by customers. But based on research it is possible to throw the responsibility between banks and agents. So that clear regulations on the rights and responsibilities of both are considered very important to avoid this.

Besides regulate about the clarity of customer protection and accountability agents also to maintain customer confidence. It is considering the characteristics of different banks with other companies that have had repercussions on society simply lost confidence in the bank. The loss of trust in the community carries serious implications for the survival of a bank which in turn led to a severe economic crisis³⁵.

³⁴ See Article 22 Paragraph 1 letter (f) of OJK Regulation No. 19/POJK.03/2014 on the Financial Services without Office in the framework of Inclusive Finance

³⁵ Zulkarnain Sitompul, *Perlindungan Dana Nasabah Bank Suatu Gagasan tentang Pendirian Lembaga Penjamin Simpanan di Indonesia*, (Jakarta: Graduate Faculty of Law, University of Indonesia, 2002), p. 42-43.

Based on the bank function that is crucial for a country, then the existence of the bank's assets in the form of customer confidence is critical to guarded³⁶. Customer confidence is closely related to the protection provided to customers. The importance of clarity regarding accountability agent is one form of customer protection. It is considering a major development of this service is unbanked communities that have potential as economic actors in the territories "remote", which most do not have access to financial services and the lack of experience in financial transaction³⁷.

Besides the existence of regulatory and agents responsibility in branchless banking system will accelerate the penetration strategy with regard to things: The first, legal certainty for users of branchless banking agents in the system to provide a conducive environment for the development of banking services utilization. The second, the safety factor to protect agents from the risk of a lack of system physical safety of customer funds and the possibility of fraud, data loss, data leakage, physical or electronic security is inadequate to prevent banks and customers from loss or fraud. The third, the customer protection in the event of adverse things including fraud, embezzlement and runaway funds when they use agents to save money and conduct other banking transactions³⁸.

Based on the description above, it is basically responsibility and customer protection agency in the implementation of branchless banking has a close connection. Clear regulations on agency accountability to clients if wrongdoing or criminal act is a form of legal certainty, which is given to the agent in order to protect the interests of customers. With the implementation mechanism, the regulation provides legal certainty and accountability of each party against all possibilities that occur in the implementation of branchless banking is expected that the implementation of branchless banking can be realized well.

Further regulations concerning it is judged too important especially the position of branchless banking is a strategic national strategies in the face of ASEAN Economic Community. Through the implementation of branchless banking rural communities untouched by banking facilities can access funds from

³⁶ Paul Aanawalt " *Russia's Siberbank and a Fresh Look at the Glass-Steagall Act*" in Zulkarnain Sitompul *Perlindungan Dana Nasabah Bank Suatu Gagasan tentang Pendirian Lembaga Penjamin Simpanan di Indonesia*, (Jakarta: Graduate Faculty of Law, University of Indonesia, 2002), p. 2

³⁷ Yesi Hendriani, *Op,Cit*, p 7

³⁸ Nurtjipto, *Op, Cit*, p. 88

the bank to develop its business products. With this mechanism indirectly production community businesses become more qualified and are expected to compete in the era of the ASEAN economic community.

CONCLUSIONS

The protection that given to customers against legal risks in branchless banking system fully submitted to the bank. Bank in this case is obliged to apply the principles of consumer protection and apply risk management as well as the precautionary principle. While agents are not required to provide protection to customers based on the provisions of the FSA. In this case the only agent who worked with a bank and a representative of the bank to provide services to clients. The legal protection through the application of regulations that certainly was considered very important because customers are people who have access to banking facilities and the lack of public knowledge as well as the potential risks arising the implementation of branchless banking system, especially in terms of potential fraud committed by agents.

Accountability agents if the offense that resulted in the bank and customer losses are fully transferred to the bank organizers in accordance with the agreement in the agreement. If the bank does not specify agents responsibility in the agreement shall apply Article 1367 of Civil Code and the bank is responsible for everything done by the agent. Such liability depends on the agreement that has been agreed upon. Though it is possible to throw the responsibility between banks and agents. Therefore, regulation by the FSA considered important to ensure and provide the legal certainty first branchless banking has a strategic position in the era of the ASEAN economic community

REFERENCES

Books

Aanawalt, Paul *"Russia's Siberbank and a Fresh Look at the Glass-Steagall Act"* in Zulkarnean Sitompul, *Perlindungan Dana Nasabah Bank Suatu*

Gagasan tentang Pendirian Lembaga Penjamin Simpanan di Indonesia. Jakarta: Graduate Faculty of Law, University of Indonesia.

Simanjuntak, Ricardo. 2015. *The Dispute Settlement Mechanisms Under the ASEAN Legal Frameworks: A Collective Commitment Creating the Rules-Based ASEAN Economic Community*. Jakarta: Kontan Publishing

Sitompul, Zulkarnain. 2002. *Perlindungan Dana Nasabah Bank Suatu Gagasan tentang Pendirian Lembaga Penjamin Simpanan di Indonesia*. Jakarta: Graduate Faculty of Law, University of Indonesia.

Sutedi, Adrian. *Hukum Perbankan Suatu Tinjauan Pencucian Uang, Merger, Likuidasi dan Kepailitan*. Jakarta: Sinar Grafika.

Journals and Thesis

Febriarti, Primitiva. *Agen Sang Ujung Tombak*, the Gerai Info Bank Indonesia Magazine published by Bank Indonesia Issue 39, June 2013, Year 4

Fitriastuti, Triana, Dhina Mustika Sari, Ike Purnamasari. *Implementasi Keuangan Inklusif Bagi Masyarakat Perbatasan (Studi Kasus Pada Kutai Timur, Kabupaten Kutai Kartanegara Dan Kota Samarinda, Kalimantan Timur, Indonesia)*. Proceedings of the National Seminar on Economic Management and Accounting (SNEMA) Faculty of Economics, University of Padang ISBN: 978-602-17129-5-5).

Khanan and Pujiyono. 2016. "Aspek Yuridis Keberadaan Agen dalam Model Branchless Banking di sistem Perbankan Indonesia", *Privat Law Journal Vol. IV No. 1 from January to June, 2016*.

Kusumawati, Aster. 2015. *Tanggungjawab Agen kepada Nasabah Penyimpan dan Simpanannya terhadap Layanan Perbankan Baranchless Banking (Ditinjau dari Peraturan Otoritas Jasa Keuangan Nomor 19/POJK.03/2014 Tanggal 19 November 2014 Tentang Layanan Keuangan Tanpa Kantor Dalam Rangka Keuangan Inklusif)*. Notary Master Thesis at Faculty of Law Brawijaya University.

Nuraini, Fitri, Rieska Maharani, Andrianto. 2016. *The Strategy of Enhancing Competitiveness and Cooperation in Dealing SMEs AEC (Asean Economic Community): A Litarature Based Study*, on Journal Semiar Nasional Ekonomi dan Bisnis and Call for Paper FEB UMSIDA.

Nurtjipto. 2012. *Aspek Hukum Penggunaan Agen dalam Kegiatan Branchless Banking di Perbankan Indonesia*. Thesis at the Faculty of Law, University of Indonesia

Sarah, Hidayati, “Dampak Branchless Banking Terhadap Kinerja Keuangan PT Bank Muamalat Indonesia Tbk”, *Journal Al-muzara'ah* 136 (p ISSN: 2337-6333; e: 2355-4363).

Secioktaviany, Zhaskia Maya and Hudi Asrori. 2016. “Optimaliasasi Manajemen Resiko sebagai Upaya Preventif Resiko Hukum pada Bank Penyelenggara Branchless Banking di Indonesia”, *Privat Law Journal Vol. IV No. 2 July to December, 2016*.

Simatupang, Richard Burton. 2015. “Aspek Hukum dalam Bisnis, dalam Aster Kusumawati, Tanggungjawab Agen kepada Nasabah dan Simpananya terhadap Layanan Perbankan Branchless Banking (Ditinjau Dari Peraturan Otoritas Jasa Keuangan Nomor 19/POJK.03/2014 Tanggal 19 November 2014 Tentang Layanan Keuangan Tanpa Kantor dalam Rangka Keuangan Inklusif)”. *Journal of the Master of Notary*.

Supartoyo, Yesi Hendriani and Kasmianti. *Branchless Banking Mewujudkan Keuangan Inklusif sebagai Alternatif Solusi Inovatif Menanggulangi Kemiskinan: Review dan Rekomendasi*

Wibowo, Pungky Purnomo. *Branchless Banking setelah Multilicense: Ancaman atau Kesempatan bagi Perbankan Nasional*, (Papers in Terms of Educational Staff Chairman of Bank Indonesia (SESPIBI) Force XXXI, Bank Indonesia).

Regulations

Indonesia, the Act on Banking as amended by Act Number 10 of 1998. Act Number 7 of 1992. LN. No 31, TLN No. 3472.

-----, the Act on Amendment of Act Number 7 of 1992 on Banking. Law No. 10 of 1998, LN. 1998/182, TLN No. 3790.

-----, the Act on Amendment of Act of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia as amended by Act No. 6 of 2009. Act Number 3 of 2004. LN. No. 7, TLN No. 4357.

-----, the Act on the Financial Services Authority, Act Number 21 of 2011. LN. No 111, TLN No.5253.

OJK Regulation No 19/POJK.03/2014 on the the Financial Services without Office in the Framework of Inclusive Finance.

Other Sources

Pocket book issued by the Financial Services Authority, *Seputar Informasi mengenai Layanan Keuangan tanpa Kantor dalam Rangka Keuangan Inklusif (Laku Pandai)*.

Quarterly Report III-2014 issued by the Financial Services Authority.

Quarterly Report IV-2014 issued by the Financial Services Authority.

Academic Paper Bill on Restriction of Cash Transactions compiled by the National Law Center Development Planning, Ministry of Law and Human Rights, 2013.

Selilit Fraud in MPS, Adi Novita, Infobank published in November 2013.