PERFORMANCE GUARANTEE: BANKING BUSINESS REENGINEERING TO FACE INDUSTRIAL ERA 4.0 BASED ON INDONESIAN TRADITIONAL WISDOM

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ABSTRACT

Indonesian banking is very slow in responding to the rapid development of the global paradigm and information technology, so that business actor in the millennial and digital era is finding their own way to obtain business capital. Nowadays, Indonesian Banking still focuses on collateral that held by prospective debtor customers, not the quality of their performance. The traditional paradigm of Indonesian banking that prioritizes excessive bank safety encourages the emergence of shadow banking, namely business actors in the form of non-bank corporations that conduct banking business activities both registered and those not registered with the Financial Services Authority (OJK). In order to overcome the negative impact of shadow banking, it is necessary to reengineering the Indonesian banking business through a performance guarantee system that replaces the collateral system. In addition, business reengineering through the performance guarantee system can also be applied in changing the objectives and functions of Indonesian banking in order to face the industrial era 4.0. The principle applied is the principle of kinship that is in line with Indonesian traditional wisdom.

Keywords: Performance Guarantee, Banking Business Reengineering, Industrial Era 4.0

INTRODUCTION

The business sector is currently experiencing an increasingly strong impetus by the development of the global paradigm through rapid technological advancements and an instant lifestyle. Corporations that hope their business can run sustainably must actively renew various aspects of their business quickly, so they can lead the market or at least survive in running their business.

The corporate profile that can exist in today's business namely in the millennial and digital era is no longer a big company, both in terms of capital, Human Resources (HR), as well as many fields of business being run, but futuristic companies (swiftly anticipating upcoming developments), and work expertly and fast using the latest technology.

At present the industrial world has entered the industrial revolution 4.0, which is characterized by the use of "artificial intelligence" through information technology facilities. Industry 4.0 cannot be defined well, however it includes the following: smart factories, cyber-physical systems, self-organization, new systems in distribution and procurement, new systems in the development of products and services, adaptation to human needs, and corporate social responsibility (Lasi, Fettke, Feld, & Hoffmann 2014).

Many business activities can be replaced by information technology facilities, such as accountants, marketing, manufacturing and manual labor services. In such conditions, corporations must conduct business reengineering, namely business changes fundamentally, fast, accurate, and pay attention to technological developments and precede consumer lifestyles in order to keep running and advancing its business.

Banks as intermediary institutions that provide funds for initial capital and finance the development or expansion of business for business actor may not be spectators of change because they will face a bankruptcy bomb. Banks must conduct business reengineering so that business actor in the millennial and digital era is now increasingly trusting and interesting to use bank services. Banks has shown remarkable capacity to adapt to the evolving system of intermediation, continuing to provide, but in new ways, those services needed to facilitate the matching of supply and demand funds Cetorelli, Mandel, & Mollineaux (2012).

Security of Law in Indonesia is one of the weak points of lending to face the stage of the industrial revolution 4.0, this is nothing else because the guarantee system overloads prospective customers or debtors. In the current guarantee system, prospective debtors must first be proven to provide guarantee when applying for lending. The guarantee must be above the credit ceiling requested and must be real in this case it has executorial nature. In addition, the other weak points are the traditional guarantee procedures, which mean it was done manually, convoluted and inefficient. Under these conditions, millennial business actors will not be interested because they used to work quickly and efficiently using the latest information technology.

The development of the industrial revolution 4.0 that was characterized by the use of artificial intelligence with information technology facilities both through computers and robotic has penetrated the financial sector. This is evidenced by the emergence of a variety of non-formal financial institutions that carry out business activities in the "financial industry" adapted to technological advancements, rapid needs and an instant lifestyle. The non-formal financial industry system is built up bottom-up, it means that people who need, develop and implement a financial system even though they often pay a slight attention to the legal aspects. An example of the financial industry in the industrial era 4.0 is the emergence of financial technology (fintech). Fintech refers to technology enabled financial solutions Varga (2017). In Indonesia, fintech is divided into two types, namely crowfunding and peer-to-peer landing (P2P).

The Financial Services Authority (OJK) as an institution authorized by the Government to regulate and supervise financial institutions (including banks) must evaluate and encourage banks to conduct "business reengineering" with the aim that banks are increasingly trusted and attract millennial business actor. If it is not done immediately, then in a short time prospective customers will leave behind a large number of banking financial institutions.

Business reengineering in security of law in Indonesia is not only in normative systems, but also involves procedures based on information technology and supporting human resources. Until now, the Banking Guarantee System has not yet reached the stage of industrial revolution 4.0, which only entered the initial stage of the 3.0 industrial revolution, one of which was proven by starting to use computers for registration of fiduciary guarantees to the Regional Office of Law and Human Rights in provincial level.

The main problems related to Performance Guarantee are includes: The philosophy of the Performance Guarantee System Concept in terms of aspects of legal justice and certainty, the legal construction of the Performance Guarantee System in accordance with the industrial revolution 4.0 stage, and anticipating the shift in Government policy on the philosophy of Welfare State.

METHODOLOGY

This research is a normative legal research, since the object is regulations. In this case, the regulation is governing the Indonesian banking. The research method used is a transcendental-futuristic method. The study was conducted transcendental to make a paradigm shift in the direction of the Indonesian banking business. The results of the transcendental analysis are three hypotheses to answer the problems that have been formulated. This hypothesis will be used for forecasting the revision of regulation in the future.

Indonesian Banking Independence Regulation

The application concept of an independent central bank is a concept that is applied in many States, as well as in Indonesia. The aim of applying the concept of an independent central bank is to improve economic performance, especially maintaining the stability of the prices of goods and services Hikrnah (2007). The independence of Indonesian banking is regulated normatively under Law No. 23 of 1999 concerning Bank Indonesia and has been amended by Law No. 3 of 2004 concerning Amendment to Law No. 23 of 1999 concerning Bank Indonesia (Bank Indonesia Law). In both laws, the independence of Bank Indonesia is regulated precisely in Article 4 Paragraph (1) determining that Bank Indonesia is the central bank of the Republic of Indonesia, then in Paragraph (2) it is affirmed that Bank Indonesia is an independent State institution in carrying out its duties and authorities freely from the interference of the Government and/or other parties, except for matters expressly regulated in this law.

Banks play a central role in national development by providing strategic capital support to national economic activities. Murwadji & Imamulhadi (2018). Banking authority, other than by Bank Indonesia also by the Financial Services Authority (OJK) which was established under Law No. 21 of 2011 concerning the Financial Services Authority (OJK Law), which functions as a regulator and supervisory institution for banks and non-bank financial institutions. OJK is also an independent institution, it is nothing but based on Article 2 Paragraph (2) of the OJK Law which states that OJK is an independent institution in carrying out its duties and its authority is free from interference from other parties, except for matters explicitly stated in this law.

The provisions on Independence of Bank Indonesia and OJK are not in line with Indonesian banking designs. As stipulated under Article 4 of the Law of the Republic of Indonesia No. 10 of 1998 concerning Amendment to Law Number 7 of 1992 concerning on Banking (Banking Law). Which enacts the objectives of Indonesian banking, namely: “Indonesian Banking aims to support the implementation of national development in order to improve equity, economic growth, and national stability towards increasing the welfare of the people”.

The Banking Law is a product of regulation in the New Order, in which Bank Indonesia was part of the Ministry of Finance. Thus, based on Article 4 of the Banking Law stated that banking as a corporation carries out a dual role, namely as business actor and as a means of the State to support the public services obligation from the State, namely the welfare of the people of Indonesia.

Urgency of the Revision of Indonesian Banking Regulations

At the beginning of the Reform Order, Law No. 7 of 1992 concerning Banking has been revised with the Banking Law, however Article 4 in the Banking Law escapes revision, so that the sound of Article 4 has so far not changed, which has caused the dual function of Indonesian banking to remain unchanged. The consequences of these dual functions for Indonesian banks have caused several impacts, namely:

1. The Indonesian banking business is a vulnerable business because banks must reduce the prudential banking principals in order to comply with the implementation of Government programs. This reduction is dangerous because it will increase Non-Performing Loans (NPLs) which are limited to 5% (five percent). If the NPL number exceeds 5% (five percent), the bank is unhealthy and reasonable to revoke the business permit.
2. In the Global and Regional Era, including the ASEAN Economic Community (AEC) which has been running since 2015 (for bank to 2020), Indonesian banks will have difficulty competing with foreign banks because of the burden of government public service function.
3. In this Millennial and Digital Era, Indonesian banking is difficult to meet the needs of millennial business actor because it is unable to keep up with the speed of their business performance. In a short time, the bank’s functions will soon be taken by shadow banking, namely non-bank finance, both formal and non-formal, even illegal. Shadow Banking is a financial services fund that provides financial services. Sulistyandari, Hastuti, & Setyo (2016).

Thus a paradigm shift in Indonesian banking is needed to avoid the three legal consequences above. In this study, problems will be answered with pragmatic, philosophical and normative analysis of the paradigm shift of Indonesian Banking Law, especially concerning banking functions as stipulated in Article 3 of the Banking Law and the objectives of Indonesian banking as stipulated in Article 4 of the Banking Law.

ANALYSIS

The Philosophy of Performance Guarantee Concept In Terms of Justice and Legal Certainty Aspects

Bank is defined according to Article 1 number (2) of Law Number 7 of 1992 as amended by Act Number 10 of 1998, concerning Banking as "a corporate entity mobilizing funds from the public in the forms of Deposits and channeling them to the public in the forms of Credit and/or other forms in order to improve the living standards of the common people".

In lending, prospective debtor customers are required to prepare guarantees whose amount exceeds the ceiling and are executorial or can be executed. Consequently, the established, bankable and highly reputable large corporations are treated the same as small feasible corporations (business feasible) in fulfilling guarantee requirements. This same treatment causes injustice because it generalizes a condition that is not the same. Surely, those who definitely harmed are well-established, bankable and highly reputable large corporations.

Injustice as a result of generalizing guarantee requirements is one of the characteristics of the Traditional Guarantee System Paradigm. This paradigm is based on the feeling of “fear” that all prospective debtors will take the same action, namely trying not to fulfill their obligations. Even though the fear of this bank only benefits the bank in the short term because the bank only plays safety.

All prospective debtor customers will experience the negative impact of an unfair guarantee system; both feasible and bankable debtors because they bear the burden of preparing guarantees that will have a major effect on the corporation’s cash flow. A feasible debtor is a debtor who can obtain profits and is able to maintain business continuity with his own capital, but has not been able to run a business with banking capital because he is unable to pay installments on principal and interest. With the requirement of providing a real and executorial guarantee of the bank, this feasible debtor will bear the burden of the arrangement and the provision of guarantees that are certainly beyond his capacity. When the lending approval is given to a feasible corporation by forcing guarantees beyond its capabilities, it can be ascertained that non-performing loans lead to bad credit. The loss that will be suffered by the debtor’s customer is that his business is bankrupt, besides that the installment payment and the principal that has been made cannot be withdrawn and the loss of guarantee because it is auctioned which is used to pay the lack of installments.

Bankable debtors are customers who are able to obtain profits and maintain the continuity of their business with their own capital coupled with the development/expansion of business financed by bank credit. This customer is able to pay the principal installments and loan interest according to the agreed time. Adebtor is bankable if lenders are willingto finance it or the sponsor can convince the lenders to support it. Zhu & Chua (2018)

This bankable customer also faces problems with the guarantee requirements because he has to prepare money or collateral objects. Not all of these corporations have adequate guarantees to meet bank requirements, but banks still require it. The business problem experienced by this corporation is the provision of guarantees that will definitely affect the cash flow so that the solvency and liquidity of the corporation will decrease.

Thus, the corporation is ideal for obtaining loan according to the current banking system (iusconstitutum) is a bankable corporation that also has cash collateral or fixed collateral. It can be ascertained that an ideal corporation like this only be achieved by large companies that are bona fide, thus the paradigm of the Indonesian banking system is very liberal and capitalist which is injustice.

At present the financial system required by millennial corporations ranging from micro, small, medium and large scale is to require the services of initial capital providers and development providers that have fast processes, implement reliable computerized systems (online systems), and can be trusted. This is necessity to encourage formal non-bank corporations of all scales to enter the financial industry sector, either with their own capital or as intermediaries by collecting funds through creative means so that creative industry non-bank and non-formal emerges.

Through the natural selection, this creative private corporation is growing rapidly in the number, network of consumers and its capital. This development will certainly threaten the sustainability of the banking business, therefore it is imperative for banks to immediately carry out “business reengineering” in the face of the industrial era 4.0. According to Industry 4.0 concept, the Fourth Industrial Revolution has passed through the use of Cyber-Physical Systems (CPSs), the Internet of Things (IOT), and services Jazdi (2014).

The very fundamental first step in banking “business reengineering” is to change the guarantee system paradigm, which is a guarantee that is traditional to be modern. The traditional guarantee paradigm adheres to the principle of legal certainty, namely the certainty that the prospective debtor can cover all obligations of the principal installments, interest and all costs for the guarantee distribution process. With this paradigm, the bank has guaranteed its certainty to obtain its rights as stated in the loan agreement clause.

It can be concluded that the current banking guarantee system has legal certainty but in justice, meaning that legal certainty for banks to gain profit but is not fair to customers because banks do not apply the concept of “win-win solution”. The idea of overcoming this problem is through the Performance Guarantee System Paradigm, which is expected to bring legal certainty and justice to all parties, both for banks and customers.

The first step that must be taken is to change the guarantee function. In the traditional guarantee,its function is to cover the risk for bank losses, so the bank will never lose, but customers have the potential to experience losses, even bankruptcy. The method taken is by a standard contract that is made by the bank itself so that it is only benefits the bank. On one side, the standard contract has become a business necessity in relation to efficiency and effectiveness. Yasmin, (2016). In performance guarantee, which guaranteed is the corporate feasibility of prospective debtor customers in carrying out their business and business continuity. It requires banks and customers to work together to achieve maximum profits and business continuity.

This performance guarantee gives benefit both to the bank and to the customer because the loss will be borne by both parties if there is a risk of loss caused by non-performing loans or bad credit. For prospective debtor customers, they will try to make their corporations healthy so that they meet the lending approval requirements. Likewise, banks that naturally change from passive roles, namely those that originally channel funds and receive installment payments, become active, that is examining the feasibility of projects/businesses and examining the wellbeing of the company and actively guarding the development of businesses financed by banks.

In the old paradigm, business problems that result in disruption of the loan repayment obligation must be settled by the customer, the bank has no moral obligation and legal obligation to help it. On the contrary, in the new paradigm, business problems are a shared responsibility, for example if payment of principal and/or interest installments is not smooth, the bank can propose loan restructuring, for example by rescheduling, extending installments, and reducing interest or changing interest arrears and principal into participation temporary stock.

Legal Construction of Performance Guarantee System in Accordance with the Industrial Stage 4.0

Performance guarantee is not a new legal instrument at all because there is already a legal basis under Article 8 of the Banking Law. In Article 8 Paragraph (1) stipulated that commercial banks must have confidence based on in-depth analysis of good faith and the ability of debtor customers to repay their debts in accordance with the amount and time agreed. Furthermore, in the Explanation of Article 8 Paragraph (1), it is explained that to obtain this trust before giving loan, the bank must make a careful assessment of the character, capability, capital, collateral and business prospects of the debtor customer.

Based on Article 8 of the Banking Law, guarantees can be grouped into two, which are guarantees in the broad sense and in the narrow sense. Guarantees in the broad sense is business feasibility and business continuity, meaning that prospective debtors must prove that the program or project proposed to be financed by the bank is guaranteed in accordance with the planned and its business continuity because it is able to pay installments of principal and interest in accordance with the agreement until paid off. This guarantee in the broad sense is integrated into 1 (one), namely Performance Guarantee.

The word performance here means guarantee, which performed by the debtor. Of the five aspects stipulated in the Banking Law, namely Article 8 Paragraph (1) along with the explanation, which includes performance there are 4 (four), namely capital, character, capability, and condition of economic. The four aspects of performance are the translation of good faith, willingness and ability and the basis of trust of the bank towards the performance of prospective debtor customers.

Guarantees in the narrow sense only mean 1(one) aspect, namely collateral. Thus, the purpose of the guarantee in the narrow sense is only to cover the risk of loss in the event of a bad credit. This guarantee in the narrow sense is categorized as a traditional guarantee that is suitable for a feasible business. In this condition, prospective debtors are able to do business, gain profits and maintain survival by relying on their own capital. These prospective debtor customers will not be able to carry out business development (stagnant) due to limited funds. Collateral is one of theprinciple elements of 5C but banks still need toanalyze the collateral carefully and thoroughly, because the collateral is very important forbanks when bad credits occur Usanti (2016).

It can be concluded that traditional guarantees are only used for beginner business actor or not feasible business and the bank that does not have trust that prospective customers are able to pay principal and interest obligations on time. This condition cannot be applied in the business era that has entered the industrial revolution 4.0, namely the digital business system, because millennial business actor will abandon it. Banks are still trustworthy and needed by millennial business actor if they do not impose material guarantees to prospective debtor customers.

The Fourth Industrial Revolution has brought new challenges. The extremely rapid Industrial Revolution 4.0 has had an impact on technological and social change so it is incorrect to ensure the right results if only relying on legislation and incentives from the government/regulator because when the implementation of legislation and incentives from the government/regulator it might be outdated or excessive Budhijanto (2019).The fourth industrial revolution, describes a world where individuals move between digital domains and offline reality with the use of connected technology to enable and manage their lives. Xu, David, & Kim, (2018)

Indonesian banking solutions to face the industrial era 4.0 do not facilitate the guarantee conditions in lending applications. However, in this case it has done by changing material guarantees to performance guarantee. The legal instrument used is using the Banking Law under Article 8 Paragraph (1) along with the explanation. It is necessary to develop an in-depth analysis of the guarantee in the broad meaning, in this case 4 (four) aspects are measured, namely capital, character, capability, and condition of economic. The four aspects of performance are determinant aspects that will be measured qualitatively and quantitatively to conclude the level/degree of good faith, willingness and ability of prospective debtor customers. The point of the measurement is to obtain trust by the bank based on objective and thorough analysis.

By obtaining this trust, the guarantee of the smoothness and continuity of the financed business through lending is believed to be realized. As a consequence guarantees in the narrow sense, namely collateral that functions to cover the risk becomes no longer needed. The basis is a guarantee in the sense that collateral is assesoir means that it follows a basic guarantee, in this case a loan from the bank. Purwanto (2012).In the concept of a Performance Guarantee System, guarantee in the sense of collateral is still needed, but adapted to the lifestyle of millennial business actor namely guarantees that do not burden the corporation but encourage corporations to perform higher. The purpose of collateral here is not to cover risks, but to prove that the corporation can be trusted and is able to be responsible for the obligation to pay installments of principal and interest. The new concept of the criteria for collateral is quite simple, namely economic value, real and can be calculated with money. The collateral does not focus on the executive aspect because prospective debtors are believes to be able to pay the principal and interest on time. Examples of corporate assets that can be pledged according to the Performance Guarantee System are: shares, Intellectual Property Rights (copyright, brand, patent), technology systems, securities, and even estimates of corporate profits can also be guaranteed.

As a new paradigm in the performance guarantee system, it is necessary to redefine the 4 (four) principles of the 5 (five) 5C principles related to the performance itself, as follows:

1. **Capital**: It is a sum of money that functions as a down payment which is proof that a prospective debtor has already earned a profit from a business that is being applied for loan. Thus, the prospective debtor will use the requested loan to develop or expand or differentiate their business. The history of assets is the determinant of passing the analysis of capital. In the event that the money is obtained not from the results of the business but from borrowing to another party or even the proceeds of the crime, the request must be rejected. From information aspects of capital can be detected or traced to the presence or absence of the ability of prospective debtors;
2. **Character**: It is a character of entrepreneurship which is essentially a business talent from a business actor. Talent is the innate trait or gene possessed by someone, including saving, calculating, disciplined, resilient, friendly and patience. Good character can be detected in good faith and the willingness of the prospective debtor to be responsible for his loan obligations;
3. **Capability**: It is proof that the prospective debtor customer has succeeded or has good experience to work on a business/project similar to the one proposed in the loan application proposal. This capability must be reflected and proven in the credit proposal and feasibility study of the business;
4. **Condition of Economic:** It is the ability of prospective customers to examine market conditions, consumer lifestyles, technological advancements and business networks that enable products from business ventures to sell quickly and at high prices and sustainable business.

DISCUSSION

From the description above, it can be concluded that the Government policy paradigm must change in the shortest possible time. Global and regional business developments have entered the real sector and the financial sector. Business development has entered industry 4.0, which has characterized by the application of artificial intelligence. The characteristics of the Fourth Industrial Revolution can be completely defined only when technical innovation is combined with institutional Innovation. The State that wins global competition is not a large population and abundant in its natural resources, but a State that has the fastest digital creative business.

In such conditions, if the Indonesian Government does not immediately change the banking business paradigm, its position will be taking over by non-bank and non-formal financial industry business actors. Business practices show that non-formal business actors or in business literacy often called shadow banking by relying on digital systems can quickly perform the functions of banks as financial intermediary institutions and can also penetrate into banking services (fee-based income).

The current Indonesian banking design that can be found in the functions and objectives of Indonesian Banking as stipulated in Article 3 of the Banking Law is: “The main function of Indonesian Banking is to collect and channel public funds”. From the banking functions as stipulated in Article 3 of the Banking Law, it appears that banks in Indonesia still use the old design of traditional banking.

Furthermore, the discussion about the idea of design shift in the functions and objectives of Indonesian Banking are as follows:

The Design Shift of Indonesian Banking Functions

The function of banks as intermediary institutions as stipulated in Article 3 of the Banking Law has the potential to cause banks to be financially weak because most of the sources of funds used for bank cash loan rely on raising funds from the public in the form of savings, deposits and bonds. Community funds will accumulate in a large number if the bank is still trusted by the society. With the development of the on line and digital systems as a distinctive feature of the industrial era 4.0, it is undeniable that the emergence of the crime service industry spread hoaxes. These crimes can quickly destroy public trust in banks which can results in large withdrawals of public funds at the same time (bank rush). None of the countries in the world are strong and able to face the bank rush.

It can be concluded that the intermediation system makes banks vulnerable to hoaxes, solvency, and low liquidity and is threatened by the number of Non-Performing Loan. To overcome this problem the Government must establish a policy to gradually reduce the intermediation function and increase the function of fee-based income as the basis for the banking business. The government needs to inject funds into banks to strengthen capital. Regarding the status of funds from the Government this is a bank loan, the Performance Guarantee System of a bank can be used as a basis for the Government to approve and measure the amount of funds to be channeled accurately to banks.

Thus, the performance guarantee system is dual function, which has implemented by banks to assess the performance of prospective bank customers as well applied by the Government to assess the performance of banks applying for loan funds to the Government. If this happens, there will be a business reengineering of the bank's functions, from traditional to modern business. Through the implementation of a Performance Guarantee System, the bank has the potential to change from a weak bank, vulnerable business, difficult to move into a strong bank, many businesses, and has a great speed to meet the rapidly developing needs of millennial and digital business actors.

The government must seek to strengthen capital for Indonesian banks in various safe ways. With the implementation of the Performance Guarantee System, it is expected that government funds in the form of loans can be returned as soon as possible and can be rolled out to other banks that need them.

The Design Shift of Indonesian Banking Objectives

The Indonesian Banking objective design can be seen from Article 4 of the Banking Law, which states that "Indonesian Banking aims to support the implementation of national development in order to improve equity, economic growth and national stability towards improving the welfare of the people".

From Article 4, the design of Indonesian banking objectives is a financial institution which is a Government instrument for national development. The following conditions show that Indonesian banking is not independent in its business because it follows the direction of national development. For example, the involvement of banks in government programs is that the Government appoints certain State-Owned Enterprises (SOE) banks to run the People's Business Loan (KUR).

Facing the industrial era 4.0, the Government should change the design of bank's objective from public to private purposes. The idea of change is needed so that the bank's objective can meet the needs of millennial business actors and prevent the rampant shadow banking that rely on sophisticated digital systems that quickly take away the functions of banks as financial intermediaries.

The Performance Guarantee System has the potential to be used by banks to conduct business reengineering of the bank's objective so that it becomes an independent bank both in its business objectives and in determining methods for meeting the business objectives. By conducting a business reengineering of the bank's objective as the core of the national financial system will avoid from the security of the non-formal financial industry (shadow bank). The strength of banks by implementing this Performance Guarantee System is that banks have strong intelligence to detect prospective millennial debtors who have high performance, good intentions, are able and willing to carry out basic payment obligations and compensation.

By means of the design shift of functions and objectives through business reengineering, it creates a new burden for the Government, namely providing loans for bank capital and drastically reducing assignments to banks to support Government programs. This will be better because banking can be saved and monetary stability will occur. If this change is not carried out immediately, the loss will be greater because the bank experiences bankruptcy, which means the State's economy will be destroyed as well.

CONCLUSION

1. The performance guarantee has changed the Indonesian banking guarantee system which originally applied traditional guarantees to be modern. Traditional guarantees emphasize the guarantee function as a closing risk if there is a bad credit, the collateral assets will be auctioned to cover the bank's losses. In the application of traditional guarantees the Bank will implement a safety first strategy because banks cannot lose money. With the implementation of the Performance Guarantee, the bank will focus on the performance of prospective debtor customers because the guarantee function is to obtain a balanced maximum profit for banks and customers as well as ensuring the business continuity of debtor customers. By implementing this performance guarantee, the results of a guarantee system that is justice and legal certainty for banks and customers will be obtained.
2. The legal construction of performance guarantee system that is in accordance with the stage of industrial era 4.0 focuses on the feasibility of performance based on 5C analysis to measure maximum profits and the sustainability of the prospective customer's business. With this guarantee, if there is a bad credit, the bank will also incur a loss together with the debtor customer. This joint loss is a joint responsibility.
3. Anticipating a paradigm shift in Government policy on the Welfare State Philosophy in relation to the functions and objectives of Indonesian Banking it is very important and fundamental because the bank must move fast, strong, creative and futuristic. In realizing these conditions, Indonesian banks must be free from the task of implementing Government programs to finance Micro, Small and Medium Enterprises (MSME). The implementation of performance guarantee is a strategy to save the banking system.

RECOMMENDATIONS

1. Through the implementation of the Performance Guarantee System, the bank's paradigm must be changed because in the millennial and digital business, banks will win the competition rather than large banks, but fast-paced banks serve the needs of dynamic business actors. Herewith, it must be able to anticipate the development of digital technology, lifestyle, global interactions, and futuristic needs that are always growing rapidly because millennial and digital business people can quickly recognize the flow of information in the world.
2. In a comprehensive revision of the Banking Law, regulators must redefine the philosophy and standard of 5C analysis by changing the guarantee function as a risk cover to customer performance to measure the profitability and sustainability of the business of prospective debtor customers. In relation to banks, they can no longer rely on collateral assets as a risk cover, futuristic analysis of risk management, especially operational risk becomes important. It is possible that the bank will justify its human resources, to be lean, efficient and able to keep up with the development of business needs. The efficiency of rationalization of HR can be transferred as an addition to the working capital bank.
3. The Indonesian government must review the description of the welfare state or the so-called Reinventing Government. As a consequence of implementing performance guarantees, it must be immediately compiled and applied for business reengineering functions and objectives of the bank. The ultimate objective of this business reengineering is banking independence in determining its business objectives, methods and strategies.

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