REGULATION AND IMPLEMENTATION OF SUSTAINABLE FINANCE: A CHALLENGE TO INDONESIAN BANKS

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ABSTRACT

Indonesian banking has become one of the frontlines in supporting Indonesia's commitment to realize sustainable development goals. Banks must gradually adopt and internalize the 8 principles of sustainable finance as stipulated in Regulation of the Indonesia Financial Service Authority (POJK) No. 51/2017 on Sustainable Finance in their business activities. As a result, it is mandatory that banks run their business not in a 'business as usual' manner, but rather as part of implementing sustainable finance. One of the challenges for banks in realizing the long-term plans (2020-2024) is the integration of social and environmental risk aspects into their business processes. Therefore, one of the banking policies that must be carefully regulated and managed is the management of social and environmental risk aspects. In addition, to realize sustainable finance, banks should implement a principle of prudence through the aspect of social and environmental risk governance. This being the case, the Banks must make strategic steps to integrate social and environmental aspects into the activities and services/products offered. The result shows that the applicable regulations that provide and relate to sustainable finance in Indonesia are distributed in several rules and involve the government, corporations and society. Cooperation between banking and the government is required in order to ensure priority industries comply with all regulations relating to environmental preservation. Meanwhile, considering that development of regulations related to the environment is highly dynamic, banks are required to have flexible policies to be able to keep up with the dynamic in the community while still complying with the principles of sustainable finance. Regulatory synchronization is still needed considering the current banking provisions require an Environmental Impact Analysis (AMDAL) for industries with a high risk to the environment. Meanwhile, a recent regulation on business permits stipulated in Law No. 11/2020 on Job Creation applies a risk-based regulatory approach that must be translated by banks into more realistic guidelines.

In addition, the Bank needs a corporate role to support the implementation of sustainable principles both as creditors and debtors. Corporate regulations in Indonesia are only limited to requiring corporate social responsibilities for types of business related to natural resource management. Therefore, it is necessary to strengthen regulations that encourage corporations to apply sustainable principles. Currently, the Financial Services Authority has submitted a draft of a plan for financial development/investment guidelines that will facilitate financial service institutions, especially banks, to conduct a feasibility analysis of funding/investment in sustainable priority economic sectors.

Keywords: Sustainable Finance Principles, Banking Regulations, Social and Environmental Aspects of Governance.

1532-5806-24-S1-72

Citation Information: Abubakar, L., Handayani, T., & Sukmadilaga, C. (2021). Regulation and implementation of sustainable finance: A challenge to indonesian banks. *Journal of Management Information and Decision Sciences, 24*(S1), 1-12.

INTRODUCTION

Indonesia's commitment to implement an achievement of Sustainable Development Goals (SDG's) as a global commitment to put the world on a sustainable direction (Bertazzi et al., 2016) has been stipulated in Presidential Regulation No. 59 of 2017 on the Implementation of Achieving the Sustainable Development Goals (Perpres TPB). The aims are to keep the upward trend of the sustainable economic welfare of the community; maintain the social life of the community sustainability; maintain the environmental quality; as well as inclusive development and good governance implementation that are able to maintain life quality improvement from one generation to the next. In the financial services sector, Indonesia's commitment has implicated changes in banking regulations and functions (Abubakar & Handayani, 2019). Based on the Financial Services Authority Regulation (POJK) No. 51/POJK.03/2017 on the Implementation of Sustainable Finance for Financial Service Institutions, Issuers and Public Companies (POJK Sustainable Finance), the banking sectors should have gradually applied sustainable finance principles by 1 January 2019 for Commercial Banks with Business Activities category (BUKU) 3, BUKU 4, as well as Foreign Banks, and finally *Bank Perkreditan Rakyat*/Rural Banks (BPRs) on 1 January 2024. There are 8 principles that are the basis for implementing sustainable finance based on POJK Sustainable Finance, namely: a principle of responsible investment; a principle of sustainable business strategies and practices; a principle of social and environmental risk management; a principle of governance; a principle of informative communication; a principle of inclusion; a principle of developing priority leading sectors; and a principle of coordination and collaboration. Based on Article 7 of the POJK Sustainable Finance, there are 3 priorities for implementing sustainable finance, namely the development of sustainable financial products/services including an increase in financing portfolios, investments, finance, or placement of financial instruments or projects that are in line with the implementation of sustainable finance; internal capacity building of Financial Services Institutions (LJK); or adjustments to the organization, risk management, governance, and/or standard operating procedures of LJK in accordance with the principles of sustainable finance. The implementation plan for the 3 priorities is implemented gradually and must be included in the long- and short-term Sustainable Finance Action Plans (RKAB). Furthermore, the implementation of the RAKB must be submitted in a Sustainability Report. Prior to the enactment of the POJK Sustainable Finance, in 2017, the sustainability report that was originally voluntary in nature has gradually changed to mandatory rules for banking since 1 January 2019.

To implement POJK Sustainable Finance, Indonesian Banking is faced with quite resilient legal challenges, especially in applying the principle of responsible investment; principle of sustainable business strategies and practices; as well as the principle of social and environmental risk management. In terms of regulations, the aforementioned principles are relatively new and there is no standard regulation, thus, the principles are interpreted differently by each bank. In the sustainability reports published, most of the banks are still focused on the internal implementation of the bank through green banking programs such as saving water, electricity, paper, e-office and optimizing CSR as outlined in company policies (Abubakar & Handayani, 2018). These principles will involve all stakeholders including government, companies and communities as an integral part of realizing sustainable finance.

Some of the challenges referred to are as follows. **First**, banking must integrate economic, social and environmental aspects in its activities including investment, hence, changing the strategy and business plan of the Bank. In addition, banks are required to have policies that can encourage corporations both as creditors and debtors to apply sustainable

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Principles. Corporate sustainability is becoming critical for the long-term success of the company (Ballestero et al., 2015). To be sustainable, companies must operate responsibly according to universal principles and take actions that support the surrounding communities (Compact, 2014). When corporations have implemented sustainable principles, it is easier for banking to fund or invest because they find partners who have the same vision and mission. Therefore, it is necessary to reform the Indonesian Corporate Law by expanding the company's obligation to manage social and environmental risk aspects beyond just CSR; or inversely, redefining CSR programs in line with sustainable principles (Kurnia et al., 2020). The Financial Services Authority is faced with the challenge of how to prepare regulations and policies to incorporate social and environmental risk governance as part of risks that must be managed by the Bank. In general, the Bank conducts environmental checks only on loans for large projects that are considered to be potentially harmful to the environment (Weber, 2012). Based on Article 2 of POJK No. 5/POJK.03/2016 on the Bank's Business Plan, the obligation to pay attention to external factors that may affect the banks' sustainability includes social and environmental aspects. In addition, social and environmental aspects will change the scope of risk that must be managed by the Bank. Thus, Banks are required to make adjustments to their internal policies by incorporating social and environmental aspects as factors that must be considered, but also risks that must be managed.

Second, the achievement of SDGs in the banking sector is not only an obligation and concern for the Bank, but must be supported by corporations, individuals and communities, as well as the government/institutions both private and public, thus, the goals must be approached in an interdisciplinary manner, and all actors have their own responsibilities (Feijoo et al., 2020). Therefore, a collaborative approach between banks and business actors is urgent. This approach must be translated appropriately in banking regulatory reform.

Third, the legal problem currently faced by national banks is the involvement of many regulations and institutions with regards to applying the principles of sustainable finance. In particular, the provisions related to environmental aspects are stated in many regulations and involve many government institutions that, in practice, cause interpretation issues. Based on the said problems, in addition to structuring regulations using a collaborative and integrative approach, banking requires the support from all elements; hence, it can be a solution to achieve the sustainable development goals (Weber, 2018).

RESEARCH METHODOLOGY

This study applies a normative juridical approach that prioritizes secondary data in the form of primary legal materials, namely statutory regulations; secondary legal materials, namely, journals and results of related studies; and tertiary legal materials. The study specification is descriptive-analytical that is to make systematic, factual and accurate descriptions of legal facts, especially regulations and policies that govern the principles of sustainable finance. Therefore, this study examines, analyzes and presents the results derived from secondary data that are analyzed in a juridical qualitative manner.

This research examines the implementation of sustainable finance principles in the banking sector and the challenges faced by Indonesian banks.

1532-5806-24-S1-72

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DISCUSSION

Corporate Social Responsibility: Corporate Supports to Realize Sustainable Banking

Environmental damage and forest fires issues in Indonesia have become part of global environmental issues. The issues can be linked to the role of national banks as creditors. Rainforest Foundation Norway (RFN) has published that Nordic investment in 4 major Indonesian banks (Bank Mandiri, Bank BRI, Bank BNI and BCA) as creditors has accelerated the expansion of oil palm plantations in Indonesia that do not support sustainable practices. National banking is considered to have an indirect contribution to environmental damage through credit provision and does not take a role in sustainable practices. One of the reasons is weak regulations and easy access to loans so that companies can undermine the ongoing efforts of responsible companies (Regnskogfondet, 2017). From a banking regulatory perspective, it is difficult for banks to impose responsibility for environmental damage to corporations. Even though banking regulations require banks to apply the prudential banking principle, the role of the bank is mostly conducted at the beginning before credit is granted and subsequently ensures that credit as a productive asset remains performing. Based on Article 2 POJK No. 40/POJK.03/2019 on Asset Quality Assessment for Commercial Banks (POJK Asset Quality), credit is one of the productive assets that must be managed based on prudential principles. Banks are required to assess, monitor, and take the necessary steps to maintain their assets in good quality. Furthermore, Article 10 of the POJK on Asset Quality regulates that one of the factors for assessing credit quality is business prospects that include components of, among others, the efforts made by the debtor to maintain the environment. Therefore, the obligation to protect the environment is the responsibility of the corporation.

In addition, all corporate actions are under the corporate law system, instead of banking law. Referring to Article 74 of Law No. 40 of 2007 on Limited Liability Companies (UU PT), Companies that carry out their business activities in the field of or related to natural resources are required to carry out social and environmental responsibilities. Furthermore, the paragraph (2) regulates that "Social and Environmental responsibility is an obligation that is budgeted and calculated as the cost of the Company, whose implementation takes into account appropriateness and fairness principles". Meanwhile, currently, CSR is still regarded as a legal obligation, not part of corporate ethics and governance (Tuan, 2012). This social and environmental responsibility is carried out by the Board of Directors based on the Company's annual work plan after obtaining approval from the Board of Commissioners and the GMS. There are 2 legal issues in CSR regulations in Indonesia, namely 1) CSR is a legal obligation but there are no sanctions that are explicitly regulated in the corporate legal system, especially in the Law on Limited Liability Company and Government Regulation No. 47 of 2012 on Social and Environmental Responsibility of Limited Liability Companies; 2) CSR obligations are charged as company costs and are only intended for companies whose business activities manage or are related to natural resources. For other companies, CSR can be carried out voluntarily.

A rejection of CSR obligations in the Law on Limited Liability Company arises from company associations (Kamar Dagang Indonesia/Indonesian Chamber of Commerce) postulating that CSR will burden the industry, reduce competitiveness, hinder the investment climate in the country, and trigger the flight of capital out from Indonesia so that it will reduce exports and impact unemployment (Nugroho, 2014). An interesting finding is that the disclosure

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of CSR expenses of public non-financial companies on the Indonesia Stock Exchange has a significant negative effect (Wini et al., 2017). Therefore, the implementation of CSR in Indonesia is still in the stage for the company's commercial interests, namely profit sharing that is used to respond to people's *felt* needs rather than the *real* needs (Nayenggita et al., 2019).

In general, CSR is a concept in which business organizations consider the interests of society by taking responsibility for the impact of their activities on customers, suppliers, employees, shareholders, society, and other stakeholders as well as the environment (Ismael, 2009). CSR must be interpreted in this context to be defined as an integrated part of business ethics and values-driven management because it relates to necessary responsibility that a corporation must have towards its internal and external stakeholder and constituencies (Buhmann et al., 2011). CSR is also believed to provide a competitive advantage, companies can use CSR strategically to increase barriers to entry, increase the relative level of industry concentration through, for example, the influence on the regulatory system. In addition, employees can also motivate other employees that in turn results in high labor productivity (Newman et al., 2020). The challenge is to change CSR into part of the company's needs to increase the company's added value and make CSR as the intellectual capital to gain a competitive advantage that leads to sustainable performance (Aras et al., 2011). Both companies and banks need to reinterpret CSR regulations. In sustainability reports published by both companies and banks, CSR is still interpreted as activities related to social and environmental issues such as channeling part of the company's profits to community activities such as education, health, social assistance, or environmental concerns such as greening, sanitation and waste management (Abubakar & Handayani, 2018) This means that CSR is still seen as a legal obligation, not company morals and ethics as a legal subject.

From Environmental Impact Analysis (AMDAL) to Risk-based Regulation: Bank Requirements to Realize Sustainable Banking

One of the Bank's obligations to achieve sustainable development goals is to internalize the principle of sustainability in their operations (Melisa, 2019). With regard to environmental aspects, Indonesian banking regulations explicitly require banks to consider environmental aspects in a company’s business activities, particularly in the provision of credit/financing to that particular company (Maramis, 2016). Article 8 of Law No. 10 of 1998 on the Amendments to Law No. 7 of 1992 on Banking (Banking Law) regulates that Banks must pay attention to the results of Environmental Impact Analysis (AMDAL) and use AMDAL to ensure that certain projects that are financed continue to sustain the environment.

Based on Article 1 Number 11 of Law No. 32 of 2009 on Environmental Protection and Management (UU PPLH), AMDAL is a study of the significant impacts of a planned business and/or activity on the environment required for the decision-making process regarding business operation and/or activities. With regards to mandatory of AMDAL, Article 3 Paragraph 3 of the Regulation of the Minister of Environment and Forestry No. P.38/MENLHK/SETJEN/KUM.1/7/2019 on Types of Business Plans and/or Activities Requiring Environmental Impact Analysis (Permen LHK AMDAL) regulates 2 types of businesses that are obliged to have AMDAL, namely: 1) every business and/or activity that has a significant impact on the environment and 2) planned business and/or activities to be carried out in conservation forest areas; and/or at the borders of a protected area. Details of business activities that are

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subject to AMDAL and types of business plans and/or activities at the border of a Protected Areas are set out in Appendix I and III of the Regulation of the Minister of Environment and Forestry No. 38/2019. However, types of businesses that have a scale/size smaller than those listed in Appendix I and not listed in Appendix I but have a significant impact on the environment can be determined to be a type of business and/or activity that is required to have an AMDAL. Accordingly, a mandatory AMDAL consideration uses a measure of “significant impact” that is determined based on the criteria listed in Appendix I, namely: First, the potential significant impact for each type of business based on: the size of the population that will be affected by the business plan and/or activity; the extent of the area of distribution of the impact; intensity and duration of impact; the number of other environmental components that will be affected; the cumulative nature of the impact; whether the impacts are reversible or irreversible; and other criteria in accordance with the development of science and technology; and/or international references applied by several countries as a basis for policy on AMDAL. Second, the uncertainty of available technology capable to overcome the negative impacts that will arise. Based on these criteria, mandatory AMDAL will be different for each company.

In Sustainability Reports of several National Banks, most of the banks use results of the Company Performance Rating Program in Environmental Management (PROPER) issued by the Ministry of Environment and Forestry (Bank Indonesia, 2005) that is used and applied to companies(Fahmawati & Purnaweni, 2018). There are 2 PROPER criteria, namely the compliance assessment criteria and the assessment criteria more than those required in environmental management regulations (beyond compliance). A company is deemed to have met this criterion if all of its activities have been covered in environmental management documents, either AMDA, Environmental Quality Management and Monitoring (UKL/UPL) documents or other relevant management documents. Furthermore, an assessment is carried out on the company's compliance in reporting on environmental management required in the AMDAL and UKL/UPL. The ‘Beyond Compliance’ criterion is more dynamic because it is adjusted to technological developments, the best practices of environmental management practices and global environmental issues. The aspects assessed for the ‘Beyond Compliance’ criteria are: the application of an environmental management system including how the company has a system that can influence its suppliers and consumers to carry out environmental management well; efforts to use energy efficiently; efforts to reduce emission; implementation of reduce, reuse and recycle of toxic and hazardous waste as well as solid waste; efforts of water conservation, and protection of biodiversity (Kehutanan, 2019).

Based on a report published by the Ministry of Environment and Forestry, the determination of PROPER for the 2018-2019 period for 2,045 companies is as follows: 26 companies were rated GOLD (1.27%); 174 companies were rated GREEN (8.51%); 1507 companies were rated BLUE (73.69%), 303 companies were rated RED (14.82%), 2 companies were rated BLACK (0.10%); 13 companies were subject to law enforcement and 20 companies were not operating. Based on the aforementioned data, 73.69% of companies are deemed to have met the required environmental management efforts in accordance with the provisions of applicable laws. Less than 10% of companies are included in the ‘Beyond Compliance’ category, namely carrying out environmental management more than what is required in the regulations

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through an environmental management system and utilizing resources efficiently as well as carrying out good social responsibility (GOLD & GREEN) and have consistently demonstrated environmental excellence in the production process and services, as well as conducting business ethically and responsibly to society (Kehutanan, 2019).

With regards to the implementation of Sustainable Finance from the debtor's perspective, POJK on Asset Quality Assessment regulates AMDAL obligation as an effort for debtors to preserve the environment. In practice, the obligation to pay attention to AMDAL and PROPER is interpreted differently by each Bank. The following is AMDAL requirement as a means of making credit policies in several National Banks:

Table 1
CREDIT POLICIES IN SEVERAL NATIONAL BANKS

Bank	AMDAL Requirement
PT Mandiri,Tbk	AMDAL and PROPER are used as requirements of credit approval in accordance with the policies and/or procedures for crediting made by Bank. However, this is exempted for the credit provision in the oil palm sector that should still follow the Indonesian Sustainable Palm Oil (ISPO) as a basis for granting credit to comply with the provisions of Presidential Decree No. 44 of 2020 on obligations on ISPO for oil palm plantation businesses.
PT BNI, Tbk	Bank uses PROPER as a measure to finance debtors in certain sectors. The Bank is committed to not finance oil palm debtors with the RED and BLACK PROPER. For environmental, social and governance integration, the debtor has an AMDAL and PROPER as business legality requirements. Debtors in the furniture business with export scale must have ecolabelling as well as Timber Legality and Verification System (SVLK); debtors in the oil palm plantation sector must have a Plantation Business Permit (IUP), a Cultivation Plantation Business Permit (IUP-B); Plantation Management Business Permit (IUP-P), and Plantation Business Registration Certificate (SPUP). In addition, companies must have ISPO and RSPO (Roundtable on Sustainable Palm Oil) certificates.
PT BRI, Tbk	The Bank carries out a selection and evaluation process that involves mitigating environmental and social risks through complete licenses; industrial sector-based environmental management documents include Environmental Management and Monitoring Effort (UKL-UPL), Environmental Impact Analysis (AMDAL), environmental management permits/certifications including PROPER, RSPO and ISPO for oil palm plantations. In addition, the Bank uses results of social impact studies/analysis; routine monitoring through reporting based on national and global reporting standards
PT BJB, Tbk	Based on the Bank's Policy according to the Decree of the Board of Directors No. 1032/SK/DIR-KKO/2019 on SOP for Corporate Segment Loans, the credit extension process has a business legality requirement for the debtor to have an AMDAL permit. In addition, for the businesses and/or activities that have no significant impact on the environment, the process of credit provision also set the requirement of Environmental Management and Monitoring Efforts (UKL-UPL) carried out by prospective debtors. However, Bank states in the implementation of credit extension there are matters that have not been regulated in the SOP of the Company but are not in conflict with laws and OJK regulations, it can be considered on a highly selective case-by-case.
PT BCA, Tbk	Risk management policy is the application of the exclusionary principle that includes AMDAL, Environmental Quality Management and Monitoring (UKL/UPL) and PROPER requirements. In certain situations, a debtor who has not met the Environmental, Social, Governance requirements will be asked for follow-up information and be monitored periodically.

AMDAL and PROPER as a means of deciding on credit approval are dynamic in nature so that from the perspective of environmental regulations, there is neither AMDAL nor PROPER, but commitment and compliance of business actors to participate in preserving the environment.

The challenges faced by the National Banks in applying the principles of sustainable finance include: 1) a large number of employees, the large organizational structure and the

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widespread branch office networks require adequate and equitable competence enhancement related to sustainable finance; 2) limitations of an integrated automation system to monitor and report on developments in the implementation of sustainable finance; 3) an intense business competition among banks in finding new customers, as well as 4) limited information and clear guidelines for each industry (Bank Negara Indonesia, 2019).

Furthermore, knowledge and competence enhancement of all parties, including commitment between government and non-government institutions; encouragement and motivation to implement environmentally-friendly business activities; and external economic, social and environmental situations that have the potential to affect the sustainability of the bank, including government regulations are other challenges that faced by national banking (Bank Central Asia, 2019). In practice, Banks mostly use the PROPER criteria in determining credit policies for companies in certain sectors, particularly those that have a direct impact on the environment. This is understandable because AMDAL is one of the documents that is assessed in determining the PROPER rating. Almost all sustainability reports mention AMDAL as a legality requirement for credit recipient companies, but not as a means of deciding credit approval. Only Bank Mandiri explicitly mentions AMDAL as a means of decision making. In addition, the banks will classify it as ‘sustainable financing’ if the requirements are met, the others, however, will be classified as non-sustainable financing. It is challenging for the banking industry to formulate policies to make the adjustments to the fast-growing AMDAL following the dynamic development of the environment and the impact of technology. The followings are the development of mandatory AMDAL policies in the Environmental Protection and Management (UU PPLH), Government Regulation on Online Single Submission (OSS) and Law on Job Creation that apply to banks according to the Indonesian legal system.

First, the criteria for business actors who are required to carry out an AMDAL. The UU PPLH and GR OSS provide the same criteria for those who are required to compile an AMDAL. Based on the provisions of Article 22 of the UU PPLH, AMDAL is an obligation for business actors that have a significant impact on the environment with the following criteria, *inter alia*: the number of people who will be affected by the business plan and/or activity; the area of distribution of the impact; intensity and duration of impact; the number of other environmental components that will be affected; the cumulative nature of the impact; the reversal or irreversibility of the impact; and/or other criteria in accordance with the development of science and technology. Unlike the Law on Job Creation, this Law applies a risk-based approach to business licensing. The application of a risk-based approach in business licensing is divided based on the level of hazard and potential hazard. The application of risk-based business licensing certainly has legal consequences for AMDAL obligations. Only for high-risk business actors, AMDAL is required as the basis for environmental approval in business licensing. Second, AMDAL prerequisites in business activities. Based on Article 36 of the PPLH Law, AMDAL is a prerequisite for a business license indirectly through an environmental permit in accordance with the mandatory AMDAL criteria. This provision clearly stipulates that business actors cannot carry out business activities without preparing an AMDAL in advance to obtain an environmental permit. Unlike the case with PP OSS and the Law on Job Creation, PP OSS makes AMDAL only as fulfillment of commitments from business actors. Besides that, business actors can carry out business activities of land acquisition, change of land area, construction of buildings and operations, procurement of equipment or facilities, procurement of human resources, and production implementation sufficient based on the commitment to the business license. Meanwhile, In the Job Creation Law stated on Article 10 describes the Risk Based Approach to high risk. Business licensing for high-risk business activities in the form of NIB and Permits with details of NIB valid as business license at the preparation stage, and NIB and Permits are required at the operational and commercial stages. By only using the NIB in the preparation stage it is described as an activity carried out to prepare for operational activities.

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Based on the 3 rules above, there have been several significant shifts in AMDAL obligations in business licensing in Indonesia. The shifts start with the OSS system that changes the function of AMDAL. Previously, it is as environmental damage prevention in the form of environmental permit that is the prerequisite to obtain a business license. The shift is that it is a business actors' commitment that is prerequisite to obtain based on the license and business commitments. In addition, by a means of the Government Regulation on OSS (PP OSS), business actors can carry out several activities related to the environment before completing AMDAL requirements. Similar to PP OSS, in the law on Job Creation, through a Risk-Based Approach (RBA), the types of business activities required to obtain AMDAL are only the high risks companies. Strictly speaking, the Draft of the Government Regulation on the Implementation of the Job Creation Law explains that business actors can carry out several activities in the preparation stage without requiring a permit (environmental approval), it is sufficient only with a Business Identification Number (NIB). One of the activities that a business actor can carry out during the preparation stage includes building construction.

In the Draft of the Government Regulation on Licensing Implementation dated 24 November 2020, it is stipulated that industrial and service businesses have different stages. Industrial business stages include: the preparation, operational, and commercial stages. Meanwhile, the service business includes the preparation and operational & commercial stages. According to Draft of the Government Regulation, the preparation stage is described as an activity carried out to prepare for operational implementation at least in activities of company legality or a business licensing process at OSS; land acquisition; building construction/renting; procurement of machinery/equipment; and/or procurement of manpower.

Meanwhile, the operational stage in industrial business is explained as the stage when the business actor conducts trial production/commissioning to manufacturing a product. As for the commercial stage in industrial business, it is interpreted as the stage where the sale of industrial products is made. In addition, at the operational and commercial stages for service business begins with operational activities by selling services. The shift in policy from License Based Approach (LBA) through the use of AMDAL to RBA has left another legal issue, namely detailed regulation of risk measures.

Social and Environmental Risk Aspects Governance (ASRI): Towards Responsible Banking

Specifically, there are 2 objectives of sustainable finance policies, namely how the financial services sector (LJK) integrates environmental and social risk (ASRI) aspects in its business processes and achieving a "green" portfolio in its business. This means that the Achievement of sustainable finance does not only on fulfilling the rules but also how the Bank consciously views that integrating ASRI will make its business performance better and more sustainable. Currently, sustainable finance regulations only emphasize the bank's obligation to prepare a Sustainable Financial Action Plan (RAKB) and submit a sustainability report annually. In addition, regulations on risk management for banks (commercial banks, rural banks and Sharia banks) have not included social and environmental risks as one type of risk. The sustainable finance policy has not discussed substantive matters so that it cannot measure the impact of financing on environmental, social and governance risks. The implementation of financing risk management in accordance with the principles of sustainable finance is crucial to mitigate negative business impacts such as environmental damage, pollution and waste, land conflicts, threats to health and security, violations of human rights and labor rights and environmental impacts of local communities (Rosmala, 2018). Therefore, every Bank needs a specific credit and investment policy for the business sector with high environmental and social risks (Cousins, 2015). Not only social and environmental risks but also avoiding financial risks

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of default due to unsustainable business practices. Therefore, a long-term sustainable finance roadmap strategy (2020-2024) has included the integration of risk management as one of the long-term goals (Keuangan, 2016). In the banking sector, there are motivations that stimulate banks to implement ASRI in their management system, namely: encouragement from regulations; benefit from an enhanced reputation; requests from shareholders and other stakeholders; risk management quality improvement; and creating added value for the bank (Keuangan et al., 2017). One of the principles applied in the implementation of sustainable finance is the principle of managing social and environmental risks, namely the integration of aspects of social responsibility as well as environmental protection and management into risk management. The goal is to avoid, prevent, and minimize negative impacts arising from risk exposures related to social and environmental aspects. In practice, banks included in the first movers (Mandiri, BNI, BRI, BJB) has its own interpretation in governance of social and environmental risks aspect through the integration of aspects of social responsibility and protection of environmental management.

The work plan of the Financial Services Authority to support the integration of risk management is to improve the risk management policies/regulations of the Financial Services Institution by incorporating environmental and social risk aspects. The work plan should have become the guideline applied by the financial authority to regulate the implementation of the principles of social and environmental risk management through banking policy guidelines to include aspects of social responsibility and environmental protection and management in risk management. Furthermore, Bank must interpret collectively as an effort to realize the goal of avoiding, preventing, and minimizing negative impacts arising from risk exposures related to social and environmental aspects.

CONCLUSION

The implementation of sustainable finance principles in the banking sector is carried out gradually. In addition, it must be outlined in the RAKB and published in a Sustainability Report. This obligation is carried out gradually and all banking industry must have implemented it as of 1 January 2024. In Sustainability Reports of several banks, the national banking industry uses corporate social responsibilities as a means to fulfill the obligations regulated by the applicable law. This means that CSR is still seen as a merely legal obligation, instead of moral and corporate ethics as legal subjects. Even though POJK on Sustainable Finance regulates administrative sanctions for violations of the obligation to apply sustainable finance principles, the Financial Service Authority (OJK) has chosen to use a reward approach. This is deemed more effective in encouraging banks to comply with and apply the principles of sustainable finance because it will enhance their reputation and public trust in the Bank.

Current banking regulations still require mandatory AMDAL and PROPER for companies with high environmental risks. The shift in approach from license-based approach using AMDAL and PROPER to Risk-based Approach in social and environmental risk management is an effort to create ease of doing business. This, however, leaves other legal problems, namely how to translate risk in the form of proper implementation of rules and guidelines. In the financial services sector, the Financial Services Authority (OJK) needs to follow up on implementing regulations that will soon be issued by the Government.

The challenge for banks in applying sustainable finance principles, besides the internal management to improve human resource capacity and the use of information technology, is on how banks integrate social and environmental aspects appropriately in their business processes, including funding, investment, and their products/services. In addition, the Bank must manage social and environmental risks as part of risk management. Considering that Indonesia uses a regulatory approach in implementing sustainable finance, regulations from both the Government

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and the Financial Services Authority will serve as guidance for banks in making adjustments to the guidelines for implementing credit/financing policies and business processes.

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Citation Information: Abubakar, L., Handayani, T., & Sukmadilaga, C. (2021). Regulation and implementation of sustainable finance: A challenge to indonesian banks. *Journal of Management Information and Decision Sciences, 24*(S1), 1-12.

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