

ASEAN Banking Integration and Its Impacts on the Banking Industry in Indonesia

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Abstract-This study aimed to know how the development of economic liberalization has had an impact on tight competition in the banking industry sector. Therefore, to face the challenges of competition in the region, the ASEAN Banking Integration Framework (ABIF) was established. ABIF was established on the initiative of regional cooperation in the banking sector for the ASEAN region as stipulated in the ASEAN Framework Agreement on Services (AFAS). The AFAS agreement is useful to accelerate ASEAN Banking Integration. The type of research method used is legal normative by conducting a library research. In its implementation, ABIF is conducted bilaterally with other ASEAN member countries by negotiating market access and operational coverage of banks in other ASEAN countries based on the policies of the Qualified ASEAN Banks (QAB). As a form of Indonesia's commitment to support the ASEAN Banking Integration, on January 18, 2016, Indonesia has ratified the Protocol to Implement the Sixth Package of Commitments on Financial Services under the ASEAN Framework Agreement on Services with the enactment of Law Number 4 of 2018. Post the ratification of the Sixth Protocol AFAS turned out to have an impact on the banking industry in Indonesia, that every Indonesian bank wishing to expand into other ASEAN countries was required to comply with the QAB policies. The benefits of banks that have met the QAB will get an increase in affordable banking products and quality in the country. In order to obtain legal certainty for Indonesian banks with QAB standards, the reciprocal principle will be applied, which allows Indonesian banks to operate in other ASEAN countries as well as local banks in their destination countries.

Keywords : *ASEAN Banking Integration, Qualified ASEAN Banking, Banking Law*

I. INTRODUCTION

In order to realize the objective of the Republic of Indonesia, namely to advance public welfare as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia, the Government of the Republic of Indonesia made various efforts as much as possible to encourage national economic growth and improve the welfare of the community. In this case the Government of the Republic of Indonesia views that the financial services sector plays an important role in realizing these objectives.

The Indonesian government and related state institutions need to make efforts to develop the domestic financial services sector, particularly in the banking industry sector. Through international financial services

trade cooperation is one form of international cooperation, both in bilateral, regional and multilateral forums that are forged by the Government of Indonesia to develop the banking services sector in Indonesia. Through this collaboration, Indonesia and all partner countries entered into an agreement to facilitate trade in international banking services and maximize efforts to ensure justice.

Globalization causes people in one country with other countries to be connected (borderless). In its relevance to financial integration, the application of cross-border banking is an interesting issue of international economic law to be analyzed, discussed and examined in the framework of the ASEAN Economic Community. [1] Based on the aims and principles of ASEAN in the Bangkok Declaration, one of the things ASEAN wants to achieve is "accelerating economic growth, social progress and cultural development ...". The impact of the AEC is the free flow of goods, services, investment, attached workforce and capital, one of which is integrated banking services in ASEAN. The concept of Qualified ASEAN Banking (QAB) is an effort to realize financial services liberalization and banking integration. Banking integration focuses on opening the domestic market to banks from other member states. [2]

The QAB provisions are regulated in the ASEAN Banking Integration Framework (ABIF) which ABIF was formed to accelerate banking liberalization in ASEAN. Indonesia and Malaysia became ASEAN members who took the lead and took the initiative in forming ABIF. ABIF is part of a broader framework, namely the ASEAN Framework Agreement on Services (AFAS) / Financial Services Liberalization (FSL).

Indonesia through the banking regulator, the Financial Services Authority (OJK) responded very well to the establishment of ABIF which is the seriousness of Indonesia in implementing ABIF with the ratification of Law Number 4 of 2018 concerning Ratification of the Protocol to Implement the Sixth Package of Commitments of Financial on Services (Law Number 4 year 2018). The reason Indonesia agreed to implement ASEAN Banking Integration was because of the need for the Indonesian banking industry to expand overseas.

The implication arising post the ratification of the provisions of the ASEAN Banking Integration for the banking industry is that each Indonesian bank must

increase and adjust its standards as specified in the QAB, which until now the banking industry in Indonesia is still trying to be able to meet these provisions in order to be able to compete with other banks in ASEAN. This paper will analyze and explain how the implications of the implementation of ASEAN Banking Integration to the banking industry in Indonesia. To answer the problem in this paper, the theoretical approach used is the Theory of Economic Analysis of Law which can be regarded as a multidisciplinary subject that can provide an understanding of law and economics.

II. RESEARCH METHOD

The object of normative legal research refers to legal norms, legal concepts, legal principles and legal doctrines.[3] This research method is normative juridical research that focus on studying the rule or norms as well as the rules in positive law relating to the issued will be discussed.

III. FINDINGS AND DISCUSSION

1. *History of ASEAN Cooperation in the Field of Finance*

ASEAN member countries have committed to improve macroeconomic stability and financial stability in the region which is reflected in several activities under the auspices of the ASEAN Finance Work Program, which since 1999 the program has been made in the fields of insurance, financial services liberalization, corporate governance and capital market development. In addition, to accelerate cooperation in the economic field and integration in the region, it was formulated in the ASEAN Free Trade Area (AFTA) Agreement covering trade, investment, industry, services, finance, agriculture, forestry, energy, transportation and communication, intellectual property rights, small and medium businesses, and tourism. In a meeting held on 14-15 December 1995 in Bangkok, Thailand, ASEAN leaders agreed to reaffirm the commitment of ASEAN member countries to implement AFTA in full no later than 2003.

In connection with the cooperation in the financial sector, the Ministers of Finance in ASEAN agreed and signed the Ministerial Understanding on ASEAN Cooperation in Finance in Thailand in 1997, which later became the framework for increasing cooperation in the financial sector which included finance and banking, money and capital markets, issues customs, insurance, taxation and human resources development issues in the financial sector. In addition, the ASEAN Agreement on Customs was also signed on the occasion aimed at helping accelerate the realization of AFTA because it includes rules that can facilitate intra-ASEAN trade and investment flows.

The acceleration of the AFTA realization of these ASEAN countries is because of the reason "A corporation doing business in such a big and free market should be

able to cut down costs and increase profits in a way that is not possible in areas that are less free and smaller in size. "With the implementation of AFTA, the market obtained will be even greater to the international sphere. Moreover, if then the form of free trade is developed into an economic society. Thus, the form of free trade is the forerunner to the formation of the ASEAN economic community, where free trade is the simplest form of economic integration. The agenda of the ASEAN Financial Integration includes four main initiatives, which are as follows: [4]

a. *Financial Services Integration and Banking Integration*

Reducing various restrictions (restrictions) on banks, insurance companies and investment belonging to ASEAN member countries in providing financial services in other countries in the region will be implemented in stages. ASEAN member countries will meet and discuss the process of financial liberalization by considering the economic readiness of each country. ASEAN will also determine banks belonging to ASEAN member countries that are considered to have fulfilled certain qualifications (Qualified ASEAN Banks-QABs) to be able to operate throughout the ASEAN region and receive the same treatment as domestic banks.

b. *Capital Account Liberalization*

ASEAN seeks to liberalize capital flows in the region by gradually reducing restrictions on various foreign exchange transactions, such as current accounts, foreign direct investments and portfolio investments.

c. *Capital Market Development*

ASEAN emphasizes regional capital market development through capacity building and long-term infrastructure development to achieve capital market integration in the region. This will be realized through the harmonization of various domestic rules and regulations and market infrastructure.

d. *Harmonized Payments and Settlement Systems*

ASEAN financial integration includes the harmonization of the Payments and Settlement System in the region as one of the financial system infrastructure. ASEAN member countries continue to strive to develop short, medium and long term plans in the context of ASEAN-PSS harmonization.

In January 2007, it was agreed to accelerate the achievement of the ASEAN Economic Community (AEC) from 2020 to 2015 and in the same year a guideline was also signed for ASEAN member countries to reach the ASEAN Economic Community (AEC) 2015, namely the AEC Blueprint. The AEC Blueprint was then

ratified at the 13th ASEAN Summit Meeting. AEC Blueprint aims to make the ASEAN region more stable, prosperous and highly competitive, allowing free traffic of goods, services, investment and capital flows. In addition, equality of economic development and poverty reduction and socio-economic inequality will also be pursued in 2015.

2. *Impacts of ASEAN Banking Integration to Indonesian Banks*

Until now, Indonesia has ratified as much five protocols for implementing the financial services commitment package below AFAS, namely:

- a. The first protocol was ratified by Presidential Decree Number 53 of 1998. In this protocol implicitly delivered Indonesia's financial service commitments at the World Trade Organization (WTO) to ASEAN Member Countries.
- b. The second protocol is ratified by Presidential Decree Number 81 of 2002. In this protocol, in addition to containing commitments the first protocol, Indonesia increases ownership limits foreign in the banking sector which can be obtained through the market capital from 49% to 51% and improvement of commitments in the sector non-sacrifice by removing distinguishing boundaries different minimum capital requirements for foreign parties.
- c. The third protocol is ratified by Presidential Regulation Number 51 2008. In this protocol, in addition to containing commitments the second protocol, Indonesia adds a limit on the amount branch or sub-branch office of a foreign bank of one into two branches.
- d. The fourth protocol is ratified through Presidential Regulation Number 6 of 2009. In this protocol, in addition to containing the commitment of the third protocol, Indonesia opens access to cross trade the limit for factoring.
- e. The fifth protocol is ratified through Presidential Regulation Number 47 Year 2013. In this protocol, Indonesia included all commitments in the financial services sector delivered at the WTO which includes the banking subsector, insurance, securities, financing, and other non-banking, adjusted for additional commitment to the protocol beforehand and add changes to people's residence permits foreigners according to Law Number 6 of 2011 concerning Immigration.

In addition, to facilitate the process of manifesting the Community ASEAN economics while still considering differences the stages of development among ASEAN countries, then countries ASEAN signed the Protocol to Amend the ASEAN Framework Agreement on Services

which is ratified through a Presidential Regulation Number 4 of 2004, in which Article IV bis is added.

The QAB program was welcomed by the ASEAN Banking Community as a useful step in the direction of progressive financial integration, and it is full in line with ASEAN's long-standing approach of flexible preferential regional integration, the so-called ASEAN minus X formula.[5] ABIF is a regional banking cooperation initiative ASEAN is under AFAS and was created to accelerate integration banking sector in the ASEAN region. Cooperation in ABIF prioritize and be based on important principles for Indonesia, among others, carried out in stages and based on the readiness of each country, the principle of lead balanced turning and gap reduction.

In its implementation, according to the ASEAN 2 + X principles, negotiations ABIF is carried out bilaterally between ASEAN countries in a way negotiate market access and operational scope from Qualified ASEAN Banks (QAB) that will be received and sent by a ASEAN countries. The banks designated as QAB constitute and fulfill the prudential requirements of the country in which the bank is referred to operate. The results of the cooperation agreement ABIF is then included in the Specific Commitment Schedule AFAS Financial Services Sector Joint in each country and as required in Article IV bis, the agreements are has been achieved must be informed to other member countries.

The bilateral mechanism referred to is the main element for support Indonesia's negotiation process in ensuring that QAB candidates meet domestic prudential requirements, already in accordance with the principle of reciprocity with regard to existence foreign banks in the domestic market, there is operational flexibility in facilitating the operationalization of QAB Indonesia, as well as permanent protect the interests of the domestic banking sector. Existing banks operating as banks from the original member of states of the AEC when endowed with a QAB status would be treated as a local bank of any member country they will enter with unrestricted market access and with no discriminatory treatments by local central banks.[6]

The sixth protocol, the commitments conveyed by Indonesia in This protocol covers all of Indonesia's commitments in the fifth protocol along with additional commitments in the form of additions Makassar City as one of the banking branch office options ASEAN countries with restrictions on the number of branches that are two branches are still open, along with commitments related to work same with ABIF with Malaysia. The commitments related to cooperation ABIF referred to are Indonesia and Malaysia agreed to allow three QABs operates in each country. Malaysia at the moment already has two QABs operating in new Indonesia allowed to add a third QAB in Indonesia after three QAB Indonesia is fully operational in Malaysia. QAB Indonesia will be treated the same as a domestic bank Malaysia in its

operations. The same thing is done Indonesia for QAB Malaysia, and vice versa for Malaysian QAB in Indonesia; and QAB Indonesia is getting leeway to fulfill minimum capital requirements for banks in Malaysia gradually.

Furthermore, based on Law Number 7 of 2014 regarding Trade, international trade agreements need submitted to the Parliament to decide whether or not to need approval of the House of Representatives of the Republic of Indonesia. In a work meeting between Government and the DPR on January 18, 2016, the DPR decide on the endorsement of the Protocol to Implement the Sixth Package of Commitments on Financial Services under the ASEAN Framework Agreement on Services (Protocol for Implementing Packages The Sixth Commitment to Financial Services in the Agreement ASEAN Framework in Services) is carried out through the Law. For this reason, it is necessary to draft a law for endorsing the Protocol to Implement the Sixth Package of Commitments on Financial Services under the AFAS which is the cornerston law to provide certainty regarding the provision of services finance in ASEAN which is part of Indonesia's commitment Other ASEAN Member States to the said Protocol.

The criteria if Indonesia banks want to become QAB are well managed, has sufficient capital (well capitalized), gets a recommendation from the authorities/OJK, passes BASEL Regulations, a bank that is considered important in the country, and has applied Good Corporate Governance. Under ABIF, QAB wil act as a “special banks” with preferential treatment over non-QAB or non-ASEAN foreign banks.[7]

In addition, in order to face and fulfill QAB, each Indonesian banks should harmonize several policies as follows:[8]

1. Bank accounting standards and disclosure requirements and extend to cover;
2. Minimum capital requirements;
3. Risk management;
4. Prompt corrective action and resolution menthods for failed-banks;
5. Restrictions on large exposure; and
6. Anti-money laundering adn consumer regulations.

IV. CONCLUSION

The conclusions in this study showed that the impact of the ASEAN Banking Integration as stipulated in ABIF for the Indonesian banking industry is the opportunity and potential for banks in Indonesia to expand into the ASEAN market. With the adoption of reciprocal principle and mechanisms agreed upon by all ASEAN members, it can reduce gaps in market access and operational flexibility in the ASEAN Banking Integration process.

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