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# Bank Agency in Comparison between Indonesia Legal Perspective and Common Law System

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## Abstract

**Keywords:**  
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*Banks enter into mutualism symbiosis with investment managers and insurance companies (primary) as sales agents of mutual funds and bancassurance (non-bank product) due to the requirement for intermediary organisations for principal product marketing and public service development. This operation is classified as a non-core banking activity since it gathers funds from individuals for purposes other than bank loans. Rather than that, it relegated them to the roles of an agent of development and agent of services. However, several distinctions in the idea of bank agency exist between Indonesian and Common Law systems, particularly the agent monitoring element. In the Common Law principal, the principal is responsible for monitoring their agents. However, according to the Indonesian legal notion, it should be carried out by an authorised agency such as the Financial Services Authority.*

## Introduction

Indonesian banks perform their intermediate tasks following Article 3 of Act No. 7 of 1992, as amended by Act No. 10 of 1998 concerning the Amendment of Act No. 7 of 1992 concerning Banking. According to the article, the main job of Indonesian banks is to collect and distribute funds to individuals; these two duties appear to represent the banks' primary activity. They gather monies from individuals through savings and transfer them to individuals through loans, as specified in Article 1 subsection (2) of the Banking Law. According to [Mathias Dewatripont \(1993\)](#), "a bank is a financial intermediary that participates in the payment system and finances entities with a financial deficit (typically the public sector, non-financial firms, and some households) using funds from entities with a financial surplus (typically households)." On the other hand, Heffernan identified two reasons banks refer to themselves as an intermediary body: "First, the presence of information costs impairs a potential lender's capacity to select the most suitable borrower in the absence of intermediation. Second, lenders and borrowers have significantly differing liquidity preferences." 1996 (Heffernan).

As an intermediary body, banks are described as the agent of trust, the agent of development, and the agent of services ([Budisantoso, 2006](#)). Every sector and individual is dependent on the agent of services. As a result, banks have emerged as a financial business that provides loans and payment services. It is an industry whose absence may leave others severely disadvantaged ([Banking, 1989](#)).

Along with the development of the Indonesian economy and the external environment of banking, such as the stock market and security/insurance companies, people's paradigms and critical thinking have shifted away from traditional savings or fixed-income investments and toward investment products that earn a higher rate of return.

Thus, it makes some amount of customers' funds shifts into investment products. In order to accommodate this issue, Indonesian banks have innovated their products and services, not only in core business but also in non-core business, by organising agencies cooperating with some security and insurance companies as a sale agents of mutual funds (e.g., APERD) and insurance (e.g., *bancassurance*). Those two products are established by non-bank financial organisations and are commonly called non-bank products. It is a hybrid product between banking and insurance or the stock market. In Indonesia, the hybrid products are still purely seen as the product of insurance or the stock market, and thus, banks merely pose as the sales agents who may get the fee from their services. Moreover, they may increase their customer base and keep the loyalty while making a profit from selling the hybrid products (Sitompul, 2004).

Two scenarios may develop in Indonesian banking regarding banks' role as sales agents for non-bank products.

1. Inconsistent with the essence of the bank's basic duty as an intermediary, as banks merely act as agents of services, collecting funds from individuals in the form of investment products, but the funds are not used to finance their credit.
2. Consistent with the bank's primary mission as a development agent, assisting the government of Indonesia in achieving the trifecta of Indonesian development and economic dissemination through the use of long-term investment funds gathered. Thus, bank mobility is critical for the Indonesian people's economy, development, and welfare.

It has several beneficial properties. To begin with, investment managers and insurance businesses are confined to major cities, whereas banks have numerous branches throughout the country, attracting local investors and enabling the public to make long-term investments through non-bank products purchased through banks. The management of mutual funds appears to be expanding with time: "the management of mutual funds is expected to reach roughly Rp. 555,86 trillion in July 2021." (Source: Kontan.co.id, November 2021).

Numerous general insurance companies are actively expanding their partner network to increase their production in the property and credit insurance segments, which are predicted to develop faster. In the years ahead, bancassurance's marketing channel will continue to be the major alternative for various life insurance companies seeking to increase premium income. The merchants should continue to build their network of banks.

Second, for internal use, it may help retain existing clients through cross-selling and deter customers from switching banks. Additionally, it expands its customer base and fee-based revenue streams from subscription fees, redemption fees, and other fees from Investment Managers and Insurance Companies. Instead of credit interest, fee-based revenue is a source of banking revenue.

The growth of intermediary agencies in commercial trade results from businesses' desire to expand and accelerate their product marketing more effectively and efficiently. It also improves their performance through the concept of interaction and cooperation in the form of cooperation to enhance their function and productivity. As a result, most businesses recognise that marketing their product traditionally is ineffective if they wish to distribute it globally. According to Ridwan Khairandy, customers have two alternatives for marketing and selling industrial items. To begin, a direct marketing and sales strategy is required. Second, through the use of authorised agents and distributors, conduct indirect marketing and sales. In this instance, the Contract Law or the Business Law recognises an agency or distributorship agreement (Khairandy, 2013). This is typical in an international company when international producers allocate their domestic marketing agents since it is more effective and efficient than establishing branch corporations.

Similarly, a bank's role as a non-bank product sales agent is primarily to act as an intermediary between the primary (i.e., producer) and the third party (i.e., consumer). Due to their limited principal conditions, banks act as a mediator, bridging the demands of both parties regarding non-bank products. They work on behalf of the vice-principal when a transaction is initiated with a third party. David Kelly and others contended that an agent was somebody authorised by a principal to act on their behalf in connection with a legal action or legal relationship with a third party (Khairandy, 2013). An agency contract governs the legal connection between banks and principals in a cooperative agreement, which sets forth the parties' respective rights and obligations. Banks must adhere to their contractual responsibilities and are not permitted to operate in ways that violate the contract. As a result, any risks that the banks may incur due to the transaction are transferred to the principal. Otherwise, the banks may be held liable for any inconsistent actions with the contract. According to Suchitthra Vasu, the principals delegate their authority to their agents to enter into contracts with third parties. They are bound by any agreement entered into by their agents. Agents may not bear any duty or obligation for the third-party deal (Khairandy, 2013)

In Indonesia, the provision of a bank's activity as a non-bank product sales agent is governed by the Banking Law, Bank Indonesia's Regulations, and the Financial Service Authority's Regulations (i.e., OJK). Concerning the Indonesian legal system, which frequently refers to the Civil Law System, the provision of bank agency as an intermediary body is also influenced by the Civil Law System, as stated in the Wetboek van Koophandel Indonesia

(WvK) on a broker, commissioner, and other provisions relating to the agency (i.e., agents) and distributors. Given that the Indonesian idea of a bank agency is unique concerning the Common Law System, it warrants additional examination and comparison.

Indonesia's legal system is purely civil law-based instead of common law-based. In particular, this Indonesian legal system derives from the French and German legal systems, and the procedures are wholly distinct from those used in Australia. For example, the Indonesian Civil Law System does not consider Indonesian jurors. Rather than a three-judge panel making determinations of guilt or innocence. One of those three judges is the Ketua Chair, making him the most senior judge compared to the other two. Typically, judges will issue a single point decision, referred to as Putusan. For all judges, referred to as Hakim, it is essential to dissent from the conclusion of the other two panel judges without doing so alone, and these dissertations are unusual and not always publicised. Generally, civil law judgments are shorter than common law judgments. In general, decisions in Indonesia are less than a page lengthy, though they may occasionally exceed that length by a few pages. In most cases, judgments are long and reach the length expected in a Common Law Appeal Court, and this lengthening is mostly due to the court's challenge of summarising all the judgemental evidence. Legal reasoning is employed to distinguish between current and prior judgements, and this is an uncommon occurrence due to the Civil Law System's lack of a definite system of precedent.

The Civil Law Precedent is described as a system or a principal that allows for comparing past systems and cases involving the same facts and figures. The courts are likewise not bound by the same degree of decisions when it comes to the Civil Law System. This suggests no need for reporting legislation in Indonesia, particularly the report on the judgmental authority. Another distinction between the two systems is that Common Law is "adversarial" in character, whereas Civil Law is "inquisitorial" ([Lindsey, 2000](#)).

In Indonesia, the legal professions are regulated by Law No 2003, commonly known as the "Advocate Law," which consolidates the current eight-bar associations. PERADI, widely known as the Indonesian Advocate Association, is one of those eight-bar associations. According to the association, the following criteria must be met to be appointed as an advocate.

- The applicant must be an Indonesian citizen.
- The applicant must be an Indonesian national.
- The applicant should not have previously held the public officer or civil servant position.
- The applicant's age must be at least 25.

- Should possess a bachelor's degree at the very least
- Must pass the bar exam ([Laiman, 2011](#))

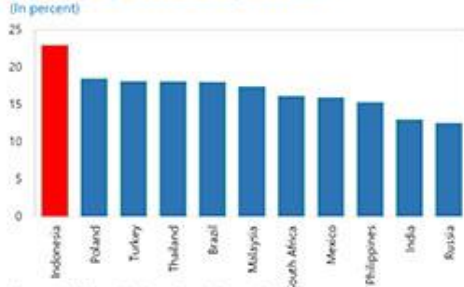
### **Bank Agency's Operational Values in Indonesia**

The bank agencies based in Indonesia have successfully navigated the world's challenging issues. It was discovered that the company's capital outflow was less in 2018 compared to the Taper Tantrum reported in 2013. The Indonesian currency is predicted to regain lost territory by 2019. This estimate stems from the fact that the Indonesian stock market is expected to outperform its competitors, implying a prognosis for sustained progress. This article aims to examine the risk factors that impair bank progress and show the legal policies that aid in evaluating the sufficiency of the crisis erupting in Indonesia's management framework. Certain enhancement strategies are researched and executed to strengthen the framework of bank agencies around the state ([Triggs et al., 2019](#)).

The study was presented to assess the disclosure of the relevant value of banks' operating performance following Indonesian banking legislation. The current research examines five important ratios associated with the operating performance: NPL, LDR, BOPO, NIM, and CAR. Market circumstances and earnings are also factored into the report's valuation methodology. A total of 144 observations were made between 2005 and 2010. The observations' findings were intriguing, given that several of the performance models fell short of expectations, and it also treated NIM as the sole significant criteria for value ([Y, 2012](#))

Indonesia's banking system is well capitalized compared to other emerging market economies...

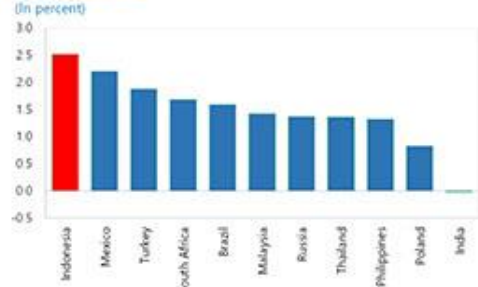
**Regulatory Capital to Risk-Weighted Assets**



Source: IMF, Financial Soundness Indicators database

...and has a high level of profitability.

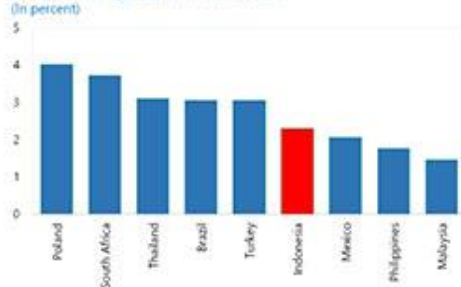
**Return on Assets**



Source: IMF, Financial Soundness Indicators database

Nonperforming loans have declined in 2018 and remain moderate compared to peers.

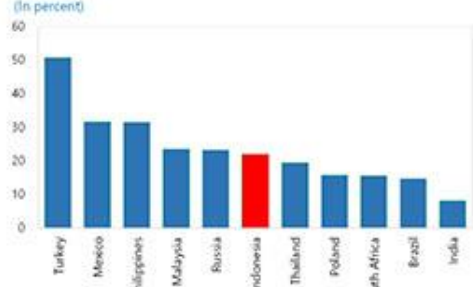
**Nonperforming Loans to Total Loans**



Source: IMF, Financial Soundness Indicators database

System-wide bank liquidity is ample and around the median for emerging market economies.

**Liquid Assets to Total Assets**



Source: IMF, Financial Soundness Indicators database

The above diagram shows some of the facts and figures presenting the statistics of the Indonesian banks

## Intermediary Body in Indonesia Legal Perspective

An intermediary entity is described as the link between the principal/producer/product owner and a third party in commercial transactions. This body is divided into two categories: temporary and permanent. The former is not permanently employed by the company, whereas the company operates the latter on a contractual basis. Thus, the intermediary body is classified as internal or exterior (Purwosutjipto, 1985):

a. The legal phrase "internal intermediary" refers to any business employee, such as a shopkeeper, cashier, manager, director, or salesperson. The principal is superior to the intermediary since the principal (as the employer) issues commands, whilst the intermediary (as the employee) receives orders and thus delegates them.

b. The legal provision governing external intermediaries is based on an agreement and authorisation as specified in Article 1792-1819 BW, which includes broker, commissioner, and expenditure (these three types of intermediaries are defined in the Wetboek van Koophandel Indonesia/WvK). Other terms such as corporation agent, notary, and lawyer are used (Kansil, 2008). The intermediary's role is equivalent to that of the principal. They function in the principal's name and on their behalf and are not permanent.

Regarding the agent/agency, Ridwan Khairandy noted that the term “agency” is frequently used in commerce by manufacturers or other businesses that require agents to assist with product promotion. Numerous terms, including real estate agents, insurance agents, and travel agents, are frequently used (Khairandy, 2013).

In this scenario, the agent is the authorised party who acts on the principal’s explicit delegation of authority. The agent is expressly allowed to work on the principal’s behalf (Khairandy, 2013).

The commercial agent is a term borrowed from WvK. The term ‘agent’ is defined in the Black Law Dictionary as “one who is permitted to act for or on behalf of another, a representative” (Khairandy, 2013). According to H.M.N. Purwosutjipto, a corporate agent acts as an intermediary between certain businessmen and a third party. They maintain a long-term relationship with business owners and act as their representatives in organising and implementing contracts with other parties. However, it is not a relationship between the employer and the subordinate, as it is not a relationship of subordination. Rather than that, they are equal. The corporation’s agents are the representatives, and they have an authorisation relationship (Purwosutjipto, 1985).

The Civil Code Netherlands in Article 7:428 mentions:

An agent must be an independent intermediary. There is no employee-employer relationship between him and his principal. The agent does not act in his name, but in the title, at the risk of his principal. There must be a steady relationship between the principal and agent; incidental mediation is not enough to constitute an agency contract. (Hartkamp, 1995).

According to Y. Sogar Simamora, the agent is not the principal’s employee, and the authority to agree with a third party is the principal’s. The term “agency” refers to a legal relationship in which the agent is authorised to act on behalf of the principal to conduct business with the third parties. The principal is accountable for the agent’s actions as long as they fall within the scope of their authorisation (Simamora, 1996). In connection to the intermediary body specified in WvK, the agent has been analogised as a broker acting on behalf of the principal. S/he is considered a commissioner working on their behalf and accepting responsibility for any legal relationship with a third party.

However, distributors are not permitted to act on behalf of the entity designated as distributors (e.g., supplier or manufacturer). Rather than that, they may act on their behalf (Simatupang, 2003). The distributor is a term that refers to a seller that gets items from a manufacturer (i.e., principal/producer) and resells them through distributors who act on their behalf. The distribution contract is formed when the main (i.e., seller) appoints a buyer as a distributor. After receiving the product from the

principal, the distributor should resale it to the consumer in a certain marketing region. Thus, a distribution contract is an agreement between a principal and a distributor to market and sell the principal's products. The distributor markets and sells the commodity after purchasing it from the main. According to law, the distributor owns the commodity, and they may benefit from the difference between the buy and selling prices.

As a result, there are distinctions between an agency and a distributor. An agent is a person or entity that sells commodities on behalf of a principal. The income is derived via commissions on sales. The item, as well as the money, are distributed directly from the principal to the consumer. Second, the distributor acts as an independent trader, selling the commodity on their behalf. They purchase the commodity from the producer or supplier and then resell it to their consumers for personal gain. Their revenue comes from the profit from the difference between sales and purchases. Because the item is dispersed from the principal to the distributor before reaching the consumers, the principal may not have a direct connection with the customers.

In the Indonesian legal system, neither *Burgerlijk Wetboek Indonesia* (BW) nor *WvK* regulates agencies and distributorships specifically because they are based on the independence of contracting. Article 1338 subsection (1) BW states that any party may enter into any contract, including an agency agreement, as long as it does not violate the law, general order, or morality (Huda, 2016).

Conceptually, therefore, the basic law of this agency commonly refers to BW as the independence of having contract and authorisation, *WvK* about broker and commissioner, a particular legal field such as the law of the stock market that enacts regulation on dealer and stockbroker, and administrative regulation such as the Department of Sales and Industry regulation makes rules on particular administrative issues and monitors the agency issues and agency issues (Fuady, 2002).

### **The Characteristics of Bank Agency in Indonesia Legal Perspective**

A bank is classified as an external mediator when it acts on behalf of the principal in a payment or reception transaction with a third party, as well as when it manages funds in the form of current accounts, savings accounts, and deposit accounts on the principal's behalf as the bank's customer. As an intermediary, the bank fulfils its role as a service provider, a financial institution that supports the demands of banking transactions. An agreement or authorisation establishes the bank's legal relationship with the principal. On the other hand, banks are not bound by an employment agreement. Rather than that, they are bound by an agreement to do specific tasks. It makes them equal, despite acting on behalf of the principal. Investment Managers and Insurance Companies are the designated principals for these non-bank products.

The bank is considered an intermediate in the concept of agency, and it is mentioned in WvK. It is frequently more specific than general. In practice, banks are authorised to act for and on behalf of investment managers and insurance companies in conducting transactions with their customers involving non-bank products. The Investment Manager and Insurance Company are jointly and severally liable for any actions taken by the bank as long as they remain within their authorisation parameters. Otherwise, banks should assume all associated risks if they choose to venture beyond established parameters.

Three parties are involved in the operation of a bank agency.

a. Investment Manager/Insurance Company is acting as principal, authorising a bank to proceed and conduct transactions with their customers involving non-bank goods. The designation of a bank as an agent by a principal is based on a cooperation agreement. The agreement specifies the parties' respective rights and obligations.

b. The bank is permitted by the principal to conduct business with customers as an agent.

c. The customer operates as a third party in dealings with the bank.

In terms of agent types, they are essentially grouped into two categories: general agents and special agents. Banks are categorised as special agents because they perform certain activities as specified in the cooperation agreement, and they are not permitted to take any acts that are inconsistent with the contract; otherwise, they should assume any risks associated with their actions.

About the intermediary body described in WvK, in the case of broker and commissioner, these bank agencies are comparable on the following points:

- a. They serve as a liaison between the principal and the customer.
- b. The principal compensate them according to an agreement.
- c. They are contractually bound to the principal.
- d. They are comparable to brokers because they do not have a fixed relationship with the principal. Additionally, they act on their behalf. The customer is notified of the principal's identity. Additionally, the principal has a claim against the customer, and the customer has the right to sue the principal.
- e. They do, however, have certain distinctions, including the following:
- f. Bank agencies are governed by BW legislation, which is based on the independence of contracting and authorising, the Banking Law, the Bank Indonesia Regulation, and the OJK Regulation.
- g. Acting in the capacity of a corporation, as a bank is a corporation.

In general, a bank is considered a non-bank product sales agent, similar to a broker in that they operate on behalf of the principal but distinct from a commissioner who acts on their behalf.

Law No 7 of the 1992 constitution established the legislative foundation for regulating the banking sector in Indonesia, and this law was updated as Law No 10 in the subsequent 1998 constitution. This law is also referred to as the Banking Law. It was revised in 2020 to become the Job Creation Law.

Additionally, Sharia Financial was regulated by the Indonesian banking system. This Sharia law was examined following Law No. 21 of 2008. According to the legislation, all laws must be observed, including those governing the banking system.

- Central Banks of Indonesia
- The country's Financial Service Authority (FSA).

### **Regulatory Authorities**

Regulatory authorities are defined as those who assist in regulating Indonesia's banking systems. The following are many of the most common types of regulatory agencies.

### **Legal bank regulators**

The Indonesian banks were performing the regulation and supervision of the banking industry in Indonesia. After the implementation of 2011, Law No. 21 related to FSA, also known as FSA Law, these authorities were regulated by the Indonesian banking industry and all the things were transferred to the FSA body. Under the FSA law, FSA was designated as the responsible body to acknowledge the supervision and regulation of the Indonesian banks.

Additionally to this characteristic, the FSA sector of Indonesian banks is responsible for regulating capital market activities and other non-bank financial activities in the country.

Banks should also have a characteristic that allows them to deposit insurance funds and conduct financial transactions following the rules established by PPATK (Financial Transaction Reporting and Analysis Centre) ([Nurmansyah, 2021](#)).

### **The Characteristics of Bank Agency in the Perspective of Common Law System**

In commerce, particularly with nations that adhere to the Common Law System, both individuals and corporations may suffer from failing to meet

their commercial objectives if they make an effort on their own. As a result, it requires an intermediary or business agent to assist them with product marketing and transactional activities. As a result, it reintroduces the concept of agency into business.

In the Common Law System, the agency may create itself according to an agreement or for the sake of the law, following applicable legislation (Suharnoko, 2012). According to Subekti, the sole criterion for the agency in the Common Law System is the ability to act on behalf of others (Subekti., 1996). As a result, the agency is empowered to act on behalf of the principal. In a nutshell, they act as the principal's representative.

As a result of Omar Abel Morales Lurssen's definition of the agent as not the principal's subordinate, Burgerlijk Wetboek eliminates monitoring as a component of that relationship. This principle should be included in the Civil Law System since the connection between the principal and agent is structured and documented in a contract. As a result, the Common Law System recognises the principal's supervision of the agent and establishes a vertical relationship between them in an agency. The agent is not the principal's subordinate in the Civil Law System. However, there is a similar structure in place due to the contract they enter into. As a result, it may have a horizontal relationship inside an organisation (Lurssen, 2008).

The rising concept of agency in the Common Law System is not unrelated to business development in the system's adherent countries. One of the reasons, as Eric Rasmusen put it, is as follows:

Agency plays a critical role in economic transactions. No business owner can do everything himself; he must delegate certain tasks to agents. This is true not only for giant corporations but also for sole proprietorships with workers. Partners operate as each other's agents in partnerships. Furthermore, stockholders in corporations cannot act on their behalf; they delegate authority to a board of directors, who trust authority to the corporation's officers (Rasmusen, 2001).

Looking into the history of Law of Agency between Common Law System and Civil Law System, the former did not mention the term 'agency' to describe an individual's authority to act on behalf of others. The term, however, was recognised in Common Law System. Civil Law System used two different terms; *representation* through a contract mechanism called mandate and *commercial agency*. Common-Law System did not recognise the concept of representation as it saw the authorised party from the lens of agency (Lurssen, 2008).

Black Law Dictionary defines the term 'agency' as "a fiduciary relationship created by express or implied contract or by law, in which one party (the agent) may act on behalf of another party (the principal) and bind that other party through words or deeds" (Garner, 2004). The principal-agent relationship is one of fiduciary duty, in which the principal authorises the

agent to act on their behalf and under their supervision. “The critical feature of a common law agency, in this case, is that it is a fiduciary relationship,” the court stated (Lurssen, 2008).

“Agency deals with circumstances in which one person, the principal, employs another person, the agent, to act on his behalf,” Rasmusen contended. Later in his career, he defined agency as “... the fiduciary relationship that emerges from one person’s consent that the other shall act on his behalf and under his supervision, and the other’s consent to act in that capacity” (Rasmusen, 2001). Additionally, W. Michael Garner contended that “a fiduciary is generally held to a standard of loyalty to its principal; indeed, the fiduciary must operate in its best interest” (Suharnoko, 2012).

The Restatement (Third) of Agency defined ‘agency’ as “the fiduciary relationship that exists when one (a principal) manifests assent to another (an agent) that the agent shall act on the principal’s behalf and under the principal’s control, and the agent manifests assent or otherwise consents to such action” (Lurssen, 2008). W.W. Buckland and Arnold D. McNair, on the other hand, gave the following illustration: Agency is a legal system in which B, authorised by A, may enter into a transaction with C on behalf of A, with the result that all of the transaction’s effects, all of the rights and liabilities created by it, will take effect between A and C, even though B has no involvement with them and is merely acting as a conduit pipe (Lurssen, 2008).

From all of these formulations, three critical characteristics of agency emerge.

- a. agency is an agreement between the principal and agent founded on mutual facts and trust.
- b. Agents act on the principal’s behalf. They act as a go-between between the principal and the third party. Their activities may result in the principals acquiring rights and obligations, so creating a legal partnership.
- c. The agents should be conscientious and subject to the principal’s supervision. It is the critical factor that decides whether or not an agency relationship will continue to exist (Lurssen, 2008).

Similarly, Rasmusen contended that “the elements of the agency are limited... First, the relationship is consensual; an agent accepts, or at the very least consents, to work under the direction or control of the principal.” Second, the relationship is fiduciary; the agent undertakes to operate in the principal’s best interests. He is not a proprietor entitled to enterprise profits and is not required to bear the risks.” (Rasmusen, 2001).

The consensual concept assigned by the principal to the agent is inextricably linked to the element of trust; without trust, there is no agreement. Thus, the idea of consensus and trust are synonymous. Trust is

a critical foundation for any organisation because it might affect following relationships.

[Subekti \(1996\)](#) noted in his idea of agent monitoring by the principal that an essential aspect of agency is for agents to be under the principal's control. The following are certain orders that the principal may issue to their agents.

- a. Outlining the procedures that agents should follow.
- b. Instructing agents to take or abstain from specific acts.
- c. Notifying the third party of any specific authorisation constraints.
- d. Monitoring the agents' operations and requesting progress reports, and inspecting the negotiation in progress ([Lurssen, 2008](#)).

The monitoring element may help define whether or not a connection is deemed an agency relationship. agent serves as an independent contractor who agrees to complete specific tasks assigned to them even when the principal does not supervise them. Thus, the distinction between agent and independent contractor is in the supervision of the principal. As a result, the principal may bear no responsibility for the agents' actions if they work as independent contractors ([Lurssen, 2008](#)).

As a result, the following are the characteristics of the agency under the Common Law System.

- a. A legal and fiduciary connection exists between the principal and the agent who acts on the principal's behalf. This fiduciary connection is quite strong because it results from an agreement (i.e., a consensual relationship) between the principal and the agent. Trust is described as the agent's standard of real loyalty to the principal, and thus they do everything possible to protect the principal's interests.
- b. There is the element of monitoring by the principal to the agent, and thus, the agent should always be under the principal's control. This element is essential as it defines the relationship of agency and whether the agent acts as an agent or as an independent contractor. It is considered a vertical relationship between the principal and the agent. The component of

monitoring is providing guidelines, order, the boundaries of authorisation on the agent, and monitoring the agent's activity.

The characteristics of the legal law system based on the Indonesian perspective are briefly discussed below as set by the [International Association of Law Schools conference](#) in October 2007.

#### 1. Common law inheritance

This is the most distinguishing aspect of the Indonesian legal system, as most of its traits result from the early development of the inner structure. GOODMAN recognised that while various characteristics may be required to construct a legal law system, it is also true that the effects of multiple traits and features are not the emanation of a single centralised authority.

#### 2. Partnership with Europe:

Cooperation with the United Kingdom is a defining characteristic of the Indonesian legal system. The system is executed by employment refocused legal systems, which are accomplished by introducing new level authorities, creative legislation, innovative procedures, and specific court systems. These ramifications must be significant and far-reaching (G, 1995).

#### 3. Interdependence

It is a point of distinction between tourism that clarifies the country's legal system compared to other systems.

### Discussion

The jurisdictional law system in Indonesia is implied to be a synthesis of civil law and legal law systems. It is derived from Dutch colonial rule. The practical implications of a customary legal system have been acknowledged across Indonesia under the name hukum adat, with Islamic sharia law implied as to the religious legal system. With the country being home to the majority of Muslims, it entails a great deal of significance for the residents by relying on a legal system that is more justifiable and oriented toward the values of their specific faith. Though the constitution of customary law in Indonesia is acknowledged as a part of the country's constitution, indigenous people and the state must adhere to the development of traditional rights. The principles of the Republic of Indonesia, inside the unitary state, have been expanded following the development of the community. Following Article 18B paragraph (2) of the constitution.

Though, based on the Basic Agrarian Principals established by Law No. 5 of 1960, customary law is applied in the name of traditional rights (Hak Ulayat) in rural areas. However, only Sharia Law is currently in use in the province of Indonesia. One feature of Indonesia's legal perspective is that it does not recognise the stare decisis principle, which means that the upper courts' decisions do not bind lower courts. However, the lower court may cite or refer to a previous interpretation of an article, regulation, or statute. Nonetheless, there is no such thing as absolute abundance.

Additionally, Indonesian law's current legal perspective works inside the jurisdiction as a quasi-legal authoritative or judicial organisation with effect from the judicial authority delegated to the independent institution. Article 2, paragraph (3) of the constitution, in conjunction with the judicial competence conferred by Law No. 48 of 2009, regulates the quasi-legal or quasi-judicial.

In addition to the banking agencies outlined in the preceding section, it is prudent to acknowledge the quasi-legal authorities established in Indonesia to establish a shared strategy for countering the adhering platform. In Indonesia, the Ombudsman is the established authority (Nighsi et al., 2019). It is governed under 2009 law No. 37. The authority has the authority to supervise the administration of public services and the activities of state officials, including government-owned firms that are also divided into regions and the services provided by state-owned companies and the state-owned legal people's heritage. Additionally, the quasi-legal authority is accountable to private sector companies for administering the public sector's whereabouts. Legally, to fund the entirety or a specified portion of the government's budget. However, the Commission for Supervision of Business Competition is Indonesia's second quasi-legislative authority (KPPU).

It was enacted as Law No. 5 of 1999 in response to unfair commercial competition in Indonesia and banned monopolistic behaviours. When banking agencies engage in deceptive conduct and operate legitimately to monopolise, it is critical to adhere to the following institution to avoid unethical business practices. Additionally, the Indonesian Broadcasting Commission is charged with defining the country's broadcasting regulations (KPI). It enables the country's content to be as smooth and delicate as feasible. According to Law No. 7 of the 2017 legislative session, the election supervisory agency known as the Bawaslu is responsible for supervising Indonesia's general elections. Finally, the Central Information Commission and Regional Information Commission are the relevant institutions in Indonesia. As per 2008 Law No. 14. It is responsible for adjudicating or mediating public information issues. The general information service implementation is intended to affect problem resolution positively.

The intricate position of Indonesia in the market of banking agencies is not much developed as of now; however, from the

indications of the country's largest banks, it could be potentially retrieved that Indonesia alone could ace the industry with its ingrowing tactics and strategical intensive value as well. The government has been reluctantly overlooking the statistical considerations that it generates and hence has the future direction aligned for the chosen manual. With due consideration, Indonesia can move ahead apart from the irrespective value and worth of bankignagencies to provide its civil systems with respect.

In Indonesia's financial agency industry, agencies' monopoly is rather secure because the Indonesian courts operate under a highly inquisitorial, non-adversarial system that provides an unmatched and pivotal position. Indonesia has a favourable position, from appropriate legal amendments to current judgments and having a robust court hearing factual severity. Indonesia implicates a legal system by not utilising the common law system widely used and existent in the former British colonies, Australia, America, and England. It is derived from German and French models, explaining why Australian standard operating procedures differ from those in Germany and France.

In Indonesia, the civil law systems are not obligated to use juries to make and announce decisions but rather to conduct proceedings through the use of three judges. The superior judge is called ketua and has a higher rank than the other two judges, necessitating that the decision is based solely on significant underlying values. In the case of banking institutions, which are tasked with saving and providing for the general public, as well as growing an investor's investment portfolio. In light of the two activities announced by banking agencies in Indonesia, it is clear that the activity is legal. In contrast, under the common law system, the action draws unwarranted attention of citizens to legislations that are not easily discernible and do not fit the paradigm. The following study makes a conclusive statement about the inconsistency within Indonesia's legal system when dealing with banking agents. The relevant institution is available to regulate the legislative properties in question ([Wiryadi et al., 2021](#)). Regarding enduring circumstances that arise during the tenure, a directive approach has been used to address issues extending beyond Indonesian civil law.

### Conclusions

Comparing bank agency characteristics between the Indonesian legal system and the common law system yields numerous conclusions. According to Indonesian law, a bank (i.e., agent) is an external intermediate entity categorised into particular agents based on the responsibilities it performs under the terms of the cooperation agreement. The bank's agency is referenced in the BW, the Banking Law, the Bank Indonesia Regulation, and the OJK Regulation.

Furthermore, the legal relationship between the bank (i.e., agent) and the principal (i.e., Investment Manager/Insurance

Company) is based on the agreement of cooperation and authorisation, and thus, the bank may act for and on behalf of the principal. However, the principal may not monitor any banks' activities, as an authorised body should conduct it. Thus, the position of the bank and the principal is equal. In addition, the parties engaged in the bank's agency consist of the Investment Manager/Insurance Company (i.e., the principal), bank (i.e., agent), and customer.

The agency is viewed through the lens of the Common Law System as an external intermediary body whose principal function is to act on behalf of, which is akin to authorisation. The agency may be organised following an agreement or by statute. The principal-agent relationship is fiduciary because the principal authorises their agent to operate in their name and on their behalf, especially based on trust and supervision. The principal's supervision of the agent establishes the connection as vertical, determining whether the agent functions as an agent or as an independent contractor. The principal, the agent, and the third party are all parties to an agency agreement.

Additionally, there are three key components to the agency. First, the agency is a type of fiduciary relationship that is consensual between the principal and the agent due to their mutual trust. Second, agents act on behalf of the principal, acting as an intermediary between the principal and the third party in connection with specific activities that may expose the principal's rights and duties and the existence of a legal relationship between them. Finally, agents are controlled and monitored by the principal. It is a critical component of an agency since it establishes whether or not the agency connection is held.

### **Future Consequences**

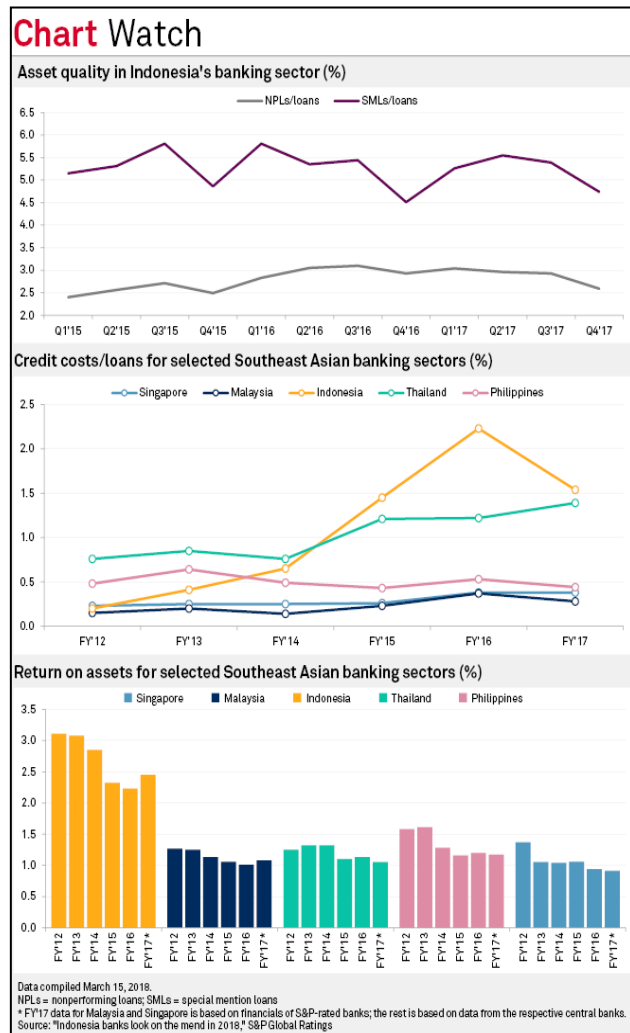
The prospective complications were stitched to bring the united yet thoughtful form of banking agencies as a distinction between the Indonesian legal civil system and the common law system. It might be combined similarly to how resources are distributed in Indonesia, where scarcity is emphasised and resource over-utilisation is prohibited. Individual banking agents are frequently thought to be able to brand the integration of individual agents and positively impact the country's divided image. While third-party bank agencies are good in that they attract more investors to the economy, they also stimulate an investment trend that eventually returns to Indonesia's economic sea, transforming it into an important location for foreign investment.

Nonetheless, when it comes to citizens' discretionary income, encouraging them to invest in financial institutions to reinvest in their economies is legally unethical, which could be remedied within the first stages of policy formulation.

As when these businesses of banking agencies are given the licence to run their operational forums, their profit-making activities to the bottom line must

be evaluated to ensure that apart from generating profit, they are not harming the intentional criterion of the general public.

The Agent Network Accelerator (ANA) performed a survey in Indonesia to determine the market presence of Digital Financial Services (DSFs) agents. It was discovered that the segregative influence of DSF on Indonesia's banking industry poses a threat to the country. This is possibly due to the country's reliance on a third-party vendor (baking agency) to entice and convince individuals to invest, which is not a bank's core objective (Larasati, 2018). Additionally, the ANA study noted that the diplomatic nature of banking agents in the country has resulted in forming a vast network throughout the country. As Indonesia's two banks, Bank Tabungan Pensiun (BTPN) and Bank Rakyat Indonesia (BRI), employ more than 80% of the country's DSF nature, the government is in a position to expand the banking agents to more than 51%.



The attached chart of Indonesia's banking industry presents the direct impact of baking agencies and their contribution in a pictorial form:

It mentions the asset quality in Indonesia's Banking sector in terms of percentage that presents that country has been widely referenced concerning the alterations taking place within the country. Being a major player in the thorough and accumulated economy of the Southeast Asian banking sector has a worthy value in the credit cost of Indonesia.

Lastly, the return on assets of the selected Southeast Asian banking sector includes Indonesia. This defines that the country makes a savvy contribution to the region's economic growth. Thereby, the role of Banking

Agencies within the country could not be ignored; however, in the future, they must be rectified enough to gain a consensual impact on the banking agency sector.

### **Limitations**

The study follows a methodical yet efficient path in justifying and determining the relative result concerning the studied literature and applicable laws, which forced the study to rely entirely on secondary data sources. If the following paper's technique had been geared toward being more practical and utilising primary data sources regarding Indonesia's economic situation, it might have produced more integrated results. Additionally, in the post-pandemic context, the fluctuation value of the generated result is insufficient for consideration at the policy-making level.

The researcher could have gained additional information had he approached Indonesian courts and jurisdictions for official data manuals. A primary data collection from industry stakeholders would be able to offer conclusions that are more relevant and in line with Indonesian regulations.

### **Future Perspectives**

The following study makes a much more expansive case for the resulting dimension to be studied in the future with enhanced qualitative insight. The authors may compare Indonesia's neighbouring countries to have a substantial yet collective impact on the worldwide bank agency centralisation business. It will be effective enough to persuade legal authorities of their viability, and insights that are not easily available will be swapped for fictitious but comparable data sets. Additionally, using statistical modelling methods, the enrichment factor flourishment may be deduced. Even data gathered from primary sources could be validated for relevance to the current business life cycle scenario. That would also be enough to validate the conclusion results and their associated limitations and aspirations.

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