

# RESEARCH HANDBOOK ON International Financial Crime

Edited by **Barry Rider** 



RESEARCH HANDBOOKS IN FINANCIAL LAW

# RESEARCH HANDBOOKS IN FINANCIAL LAW

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Research Handbook on International Financial Crime Edited by Barry Rider

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Edited by

Barry Rider

Professorial Fellow, Centre for Development Studies, University of Cambridge, UK

RESEARCH HANDBOOKS IN FINANCIAL LAW



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He is a Senior Fellow at Rand Europe and an Associate Fellow at the Royal United Services Institute. He is also an adviser to Europol on the Serious and Organised Crime Threat Assessments and on the Internet-enabled Organised Crime Threat Assessments. He is currently engaged in work on the detection of insider frauds and other threats; public-private sector collaboration against economic and organised crime; and the criminalisation and investigation of organised crime in the EU.

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key function of which is to protect the programmes against waste, fraud and abuse. He has represented the US before the International Telecommunications Union and was a member of a USAID team conducting regional training in Namibia. He has worked as a consultant for the International Centre for Asset Recovery of the Basel Institute on Governance, helping to design its mission and curriculum and launching an anticorruption project in India. Recently, as a member of the Stream House network of experts, Kenneth has assisted in reviewing training materials designed for implementation of the whistleblowing mechanism for the International Conference on the Great Lakes Region (ICGLR) in Eastern DR Congo.

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Trinity Hall, University of Cambridge. Mark is a Liveryman of the Worshipful Company of Scriveners.

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He co-authored Fraud: A Practitioner's Handbook (Bloomsbury, 2014) and contributed to Fraud: Law, Practice and Procedure (Lexis Nexis, 2014). He is a regular speaker at domestic and international conferences on fraud topics including the 2014 Sentencing Guidelines.

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# 14. Good corporate governance and corporate social Good corporate government and social responsibility in Indonesian banking institutions: a pathway to preventing financial crime

A. Suhartati Lukito

#### INTRODUCTION1

The significant growth of Indonesian financial institutions, both in banking and monitoring from the significant growth of Indonesian financial institutions, both in banking and monitoring from the significant growth of Indonesian financial institutions, both in banking and monitoring from the significant growth of Indonesian financial institutions, both in banking and the significant growth of Indonesian financial institutions, both in banking and the significant growth of Indonesian financial institutions, both in banking and the significant growth of Indonesian financial institutions, both in banking and the significant growth of Indonesian financial institutions, both in banking and the significant growth of Indonesian financial institutions, but it is the significant growth of Indonesian financial institutions, but it is the significant growth of Indonesian financial institutions and monitoring from the significant growth The significant growth of indonesian management and monitoring from the non-banking establishments, requires effective supervision and monitoring from the non-banking establishments, requires controlling body, in order to prevent financial Indonesian government, as an external controlling body, in order to prevent financial Indonesian government, as an external control of in Indonesia, it appears this body crime. However, given the amount of corporate crime in Indonesia, it appears this body body crime. However, given the amount of corporation of the Asian Pacific's most vibrant democracies, body has shortfalls. Indonesia is one of the Asian Pacific's most vibrant democracies, which has shortfalls. Indonesia is one of the Fisher has a confident middle-income country, lt has maintained political stability and emerged as a confident middle-income country, lt has maintained political stability and charged US\$ 868.3 billion and GDP growth of had a population of 249.9 million people, GDP US\$ 868.3 billion and GDP growth of had a population of 249.9 million people, 5.8 per cent in 2013. Based on the Indonesia Financial Services Authority report of 5.8 per cent in 2013. Based on the Indonesia Financial banks in Indonesia handless of the Indonesia 5.8 per cent in 2013. Based on the Aller and 1,635 rural banks in Indonesia handled total May 2014, 120 commercial banks and 1,635 rural banks in Indonesia handled total May 2014, 120 commercial balloc and IDR 79,159 billion respectively.<sup>2</sup> With such a assets of IDR 5,008,095 billion and IDR 79,159 billion respectively.<sup>2</sup> With such a wealth of public funds involved, it is clear why supervision and monitoring plays an important part in creating good financial institutions.

As a result of illegal activities and financial crimes within corporations, internal As a result of fried activities and the controls should be encouraged through Good Corporate Governance. Good Corporate controls should be developed to be a control of the Governance and Corporate Social Responsibility should be developed to build business

The Coordinating Minister for Economic Affective Affective Coordinating Minister for Economic Affective Coordinatin ethics inside corporations. The Coordinating Minister for Economic Affairs of the Republic of Indonesia in 2006 stated that Good Corporate Governance is an important pillar of a market economy as it relates to the investors' confidence both in the companies and in the overall business environment. Implementation of Good Corporate Governance encourages fair competition and a good business climate, leading to sustainable economic growth and stability.3

The 1997-1998 Asian Financial Crisis was a turning point in realizing the necessity for, and creating, corporate governance reforms in many parts of Asia, including Indonesia. Countries affected by the financial crisis introduced multi-pronged initiatives to strengthen their corporate governance regulatory and institutional frameworks. While this was key in ensuring the success of these early efforts, which were mainly focused on strengthening the existing regulatory infrastructure, institutions and enforcement, it

This chapter is based on a presentation that was delivered at the 32nd International Symposium on Economic Crime, Jesus College, University of Cambridge, UK.

http://www.ojk.go.id/en/indonesia-banking-statistics-may-2014 (accessed 15 August 2014). <sup>3</sup> National Committee on Governance (2006), Indonesia's Code of Good Corporate Governance, www.ecgi.org/codes/documents/indonesia\_cg\_2006\_en.pdf, pp. i (accessed 13 August 2014).

resulted in the continued expectation that the government and its institutions should be resulted in responsible for ensuring Good Corporate Governance. Indonesia has focused primarily a culture of corporate governance through primarily a culture of corporate governance through, among others things, promoton nuturns of good repute, encouraging institutional the role of gatekeepers and agents of good repute, encouraging institutional shareholders to take a leadership and promoting independent and active financial journalism. The financial crisis role and awareness for the need to practise Good Corporate Governance. Since triggerous Good Corporate Governance has been continuously conducted by the regulator, then, companies and the public. In the past ten years, the reforms have also emphasized that companies establishments, such as banking and non-banking institutions, state-owned enterprises and public companies, have a key role in economic development.

The Indonesian government has become more aware of the necessity for Good Corporate Governance to be successfully implemented and the requirement for public support and the existence of good public governance. Consequently, in November support the government established the National Committee on Governance (NCG) by Decree of the Coordinating Minister for Economic Affairs Number: KEP/49/M.EKON/ 11/2004, consisting of a Public Sub-Committee and Corporate Sub-Committee. The Decree on the establishment of the NCG replaces the Decree of the Coordinating Minister for Economy, Finance and Industry Number: 10/M.EKUIN/08/1999 and the Decree of the Coordinating Minister for Economy, Finance and Industry Number: KEP/31/M.EKUIN/08/2000 regarding the establishment of the National Code for Corporate Governance.

The principles of Good Corporate Governance conducted by corporations in Indonesia emerged alongside Corporate Social Responsibility. But there were several issues with Good Corporate Governance. For example, it only applied to occasional activities instead of long-term sustainable action. Corporate Social Responsibility in several corporations in Indonesia was still based on charity and philanthropy. In fact the reality was that corporations failed to understand what Corporate Social Responsibility was attempting to achieve, instead viewing it only as a legal obligation.

Despite adopting the correct philosophy in Corporate Social Responsibility, companies generally view Corporate Social Responsibility not as mandatory, but only as a legal obligation as stipulated in Indonesian Law No.40/2007 concerning Limited Liability Companies. Moreover, the purpose is to encourage companies to perform corporate social and environmental responsibilities; company law mandates companies whose businesses are related to natural resources to initiate programmes related to Corporate Social Responsibility and report the programmes in the annual report. Efforts to improve Corporate Social Responsibility practice also involve the public, including Non-Governmental Organizations (NGOs) and the media. The difficulty is that Corporate Social Responsibility is regarded as a waste of money and as shifting the government's obligation on to others. This chapter explores and analyses the regulations on Good Corporate Governance and Corporate Social Responsibility in Indonesia and the important role both have in preventing financial crime.

# GOOD CORPORATE GOVERNANCE AND CORPORATE SOCIAL RESPONSIBILITY IN INDONESIAN REGULATIONS

Law and regulation, as well as cultural considerations, play a big role in governing the corporation. In Indonesia, there are several regulations that implement Good Corporate Governance: (1) Indonesian Law No.7/1992 and Indonesian Law No.10/1998 concerning Governance: (1) Indonesian Law No.19/2003 concerning State-Owned Enterprise ing Banking; (2) Indonesian Law No.19/2003 concerning Investment; (4) Indonesian Law No.25/2007 concerning Investment; (4) Indonesian Regulation No.8/14/PBI/2006 and Several Decision PBI/2006 and Bank Indonesia Regulation No.8/14/PBI/2006 and Several Decision Letters by the Minister of State-Owned Enterprise.

Letters by the Minister of State-Owned Emergence Law No.7/1992 stipulates banks in In particular, Article 2 Indonesian Banking Law No.7/1992 stipulates banks in Indonesia shall conduct their business according to the principle of economic democracy, applying the prudential principle. Moreover, Article 4 Indonesian Banking Law No.7/1992 states that banks in Indonesia shall have the objective of supporting national development for the purpose of improving equitable distribution, economic growth, and dynamic sustainable growth and national stability, aimed at improving the people's welfare. These regulations should be the basic principles of banking institutions within their business activities.

their business activities.

The Indonesian government enacted Indonesian Law No.40/2007 concerning Limited Liability Companies. This law has explicitly enacted the corporation's obligation under Chapter V Article 74 sub section (1) which states that companies doing business in the field of and/or in relation to natural resources must put into practice Environmental and Social Responsibility.

According to Article 1 point 3 Indonesian Law No.40/2007, Environmental and Social Responsibility could be defined as a company's commitment to taking part in sustainable economic development in order to improve quality of life and the environment, which will be beneficial for the company itself, the local community and society in general. But the path was not easy. Two approaches have driven the implementation of Good Corporate Governance in Indonesia. One is an ethics-based approach and the other is a regulatory-based approach. The regulatory-based approach is driven by the government to force companies to comply with defined regulations. The ethics-based approach, on the other hand, is predominantly driven by the conscious decision that doing business is not just about the pursuit of short-term profits, but more about sustainability and healthy long-term relationships with stakeholders.

It is easy to understand why international investors are increasingly keen on companies meeting Good Corporate Governance requirements. Companies adhering to corporate governance codes are viewed as less risky. They also conform to the demand by an increasingly vociferous public for greater social responsibility on the part of corporations. Still more needs to be done to achieve a proper balance. Greater interaction and dialogue between government, business and public is needed to encourage companies to implement Good Corporate Governance principles further.

<sup>&</sup>lt;sup>4</sup> Nordberg, Donald (2011), Corporate Governance-Principles and Issues, SAGE Publications, London, p. 25.

Also, as clearly mentioned in Article 2 of Indonesian Law No.40/2007, companies Also, as the purpose and objective and business activities which do not conflict with must have a provisions of legislative regulations, public order and/or morality. In the context of the provision, therefore, business activities conducted by any legal entity should this regulations, public order and morality. Business should not only be based consider the consideration that the consideration the consideration that the consideration the consideration the consideration that the consideration the consideration the consideration that the consideration the consideration that the consideratio and Corporate Social Responsibility.

principles of Good Corporate Governance as stipulated in Indonesian Law No.40/ 2007 are transparency, accountability, responsibility, independence and fairness. Specifically with banking institutions, the principles of Good Corporate Governance are Specification and Specific Principles of Good Corporate Governance are regulated under Bank Indonesia Regulation No.8/14/PBI/2006, as this regulation also meets the Principles of the OECD Recommendations.

Furthermore, the NCG has been established. Good Corporate Governance, according to the NCG policy, is about proper corporate management of companies, with its five main pillars being transparency, accountability, responsibility, independence and fairness. The NCG's goal is to propagate the acceptance and application of Good Corporate Governance principles nationwide and establish Indonesia's reputation as a country where high standards of corporate governance are firmly embedded throughout the economy in public and corporate administrations. Corporate governance affects all levels of society. Codes and principles have political, legal, economic and social repercussions. The NCG conducts research into a wide variety of aspects of governance and monitors application and dissemination through its control systems.

The Code of Good Corporate Governance states that Good Corporate Governance is a living instrument offering standards as well as guidance for companies to implement

Good Corporate Governance with the purpose of:

Achieving sustainable growth of the company through a management system 1. based on the principles of transparency, accountability, responsibility, independence and fairness.

Empowering the function and independence of each company organ, namely, the 2. Board of Commissioners, the Board of Directors and the General Meeting of Shareholders.

Encouraging shareholders, members of the Board of Commissioners and mem-3. bers of the Board of Directors to take decisions and actions based on high moral values and that are compliant with the law and regulations.

Stimulating company awareness of social responsibilities, in particular, the 4. environmental and societal interests of the communities in which a company operates.

Optimizing the value of a company for its shareholders by also taking into 5. consideration the interests of other stakeholders.

Enhancing the competitiveness of a company, both nationally and internationally, in order to enhance market confidence which may promote investment flow and a sustainable national economic growth.5

National Committee on Governance, op.cit., p. 9.

Publicly listed companies, state-owned enterprises, province- and region-owned companies that raise and manage public funds, companies of which produce to produce with extensive in produce. Publicly listed companies, state-owned enterprises, panies, companies of which products of which products of implementing the companies of which products of implementing the companies of the co panies, companies that raise and manage public, and companies with extensive influence on the services are widely used by the public, and companies with extensive influence on the control of the contro services are widely used by the public, and compared in implementing the Good Corporate environment are expected to become pioneers in implementing the Good Corporate use the Corporate environment are expected to become proficers are also expected to use the Good Corporate Governance Code as a reference for developing related regulations Good Governance Code. Regulators/poncy makes for developing related regulations and corporate governance system should provide eff. and Corporate Governance Code as a reference applicable sanctions. A sound corporate governance system should provide effective and creditors, so that they can assure themselves of according to the control of the control applicable sanctions. A sound corporate government applicable sanctions. A sound corporate government assure themselves of gettive protection for shareholders and creditors, so that they can assure themselves of gettive protection for shareholders and creditors, so that they can assure themselves of gettive an environment are investment. It should therefore also help to create an environment are investment. protection for shareholders and creations, so and a proper return on investment. It should therefore also help to create an environment environment and sustainable growth of the corporate sector.

Good Corporate Governance is necessary to enhance the creation of an efficient and sustainable good.

Good Corporate Governance is necessary to enhance the creation of an efficient and sustainable good corporate Governance is necessary to enhance the creation of an efficient and sustainable good corporate Governance is necessary to enhance the creation of an efficient and sustainable good corporate Governance is necessary to enhance the creation of an efficient and sustainable good corporate Governance is necessary to enhance the creation of an efficient and sustainable good corporate Governance is necessary to enhance the creation of an efficient and sustainable good corporate Governance is necessary to enhance the creation of an efficient and sustainable good corporate good Good Corporate Governance is necessary to consistent with the laws. Hence, the implementation of Good transparent market that is consistent with the laws. Hence, the implementation of Good to be supported by three inter-related pillars, named transparent market that is consistent with the inter-related pillars, namely the Corporate Governance needs to be supported by three inter-related pillars, namely the Corporate Governance needs to be supported as regulators/policy makers, the regulatory, supervisory and enforcement authorities as regulators/policy makers, the business community as market participants and the public as users of products and the public as users of products and business community as market participants. The basic principles that must be implemented by

- The regulatory, supervisory and enforcement authorities develop laws and regulatory, supervisory and enforcement authorities develop laws and regulatory. The regulatory, supervisory and control and transparent and maintain it, and support it with a control and maintain it. lations that will promote the consistent law business climate, implement and maintain it, and support it with a consistent law
- enforcement.

  The business sectors as market participants implement Good Corporate Govern.
- The public as users of the products and services of the business sectors and as the party impacted by the existence of a company demonstrates its concern and

Several considerations on conducting Good Corporate Governance in banking institutions were explicitly drawn in Bank Indonesia Regulation No.8/14/PBI/2006: (1) an improvement in the quality of Good Corporate Governance implementation is among the efforts to strengthen the internal condition of national banks pursuant to the Indonesian Banking Architecture (IBA); (2) the Board of Commissioners and Board of Directors play a very important role in the implementation of Good Corporate Governance; (3) checks and balances from independent parties with the concerned Controlling Shareholders will enhance the implementation of Good Corporate Governance of the bank; (4) the dynamic factor in the implementation of Good Corporate Governance should have a proportional response in order to optimally perform a Good Corporate Governance of the bank.

Furthermore, Bank Indonesia Regulation No.8/14/PBI/2006 states that every bank should have Good Corporate Governance within their corporate management through the application of transparency, accountability, responsibility, independence and fairness principles. Based on that regulation, it was explicitly enacted that Good Corporate Governance is an important element in banking institutions. All banking activities should reflect the Good Corporate Governance principles.

PRINCIPLES OF GOOD CORPORATE GOVERNANCE As mentioned earlier, the principles of Good Corporate Governance generally include as mentioned earlier, (2) accountability, (3) responsibility, (4) independent of the principles are presented as a proposed of the principles of Good Corporate Governance generally include a proposed of the principles of Good Corporate Governance generally include a proposed of the principles of Good Corporate Governance generally include a proposed of the principles of Good Corporate Governance generally include a proposed of the principles of Good Corporate Governance generally include a principle of the principles of Good Corporate Governance generally include a principle of the principles of Good Corporate Governance generally include a principle of the principles of the principle of the princi As mentioned earner, the principles of Good Corporate Governance generally include as mentioned earner, (2) accountability, (3) responsibility, (4) independence and (5) transparency, (2) accountability, (3) responsibility, (4) independence and (5) transparency, (2) accountability, (3) responsibility, (4) independence and (5) transparency, (2) accountability, (3) responsibility, (4) independence and (5) transparency, (2) accountability, (3) responsibility, (4) independence and (5) As transparency, (2) responsibility, (4) independence and (5) (1) These principles are necessary to attain a company's sustainability and, as a fairness. Will increase public trust. Every financial institution, both bording will increase public trust. These philosphis in attain a company's sustainability and, as a fairness, will increase public trust. Every financial institution, both banking and non-result, must ensure that the principles of Good Corporate Government of the principles of the principles of result, will increase that the principles of Good Corporate Governance are imple-banking, all business activities.

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The transparency principle adopted by a company does not lessen its obligation of compliance level. The transparents on confidentiality in accordance with laws and regulations, fulfilling provisions on confidentiality and personal rights as a signal confidential conf fulfilling providentiality and personal rights, as stipulated in Law No.5/1999 on occupation on Unfair Business Competition. This provides on Unfair Business Competition. occupational Composition on Unfair Business Competition. This regulation should be adhered to and prohibition on the corporation's business activities promotion. The corporation's business activities.

The second principle is accountability. This principle requires the banking institution The second performance, transparency and fairness. Thus, a company must to be accountable for its performance, transparency and fairness. Thus, a company must to be accounted in a proper and measured manner, so that it not only considers the interests be managed in a proper and measured manner, so that it not only considers the interests be managed in the state of the shareholders and other stakeholders; especially of the company, but also that of the shareholders and other stakeholders; especially of the company, and other stakeholders; especially given that banking institutions manage public funds. Accountability is a prerequisite in given mat sustainable performance. A banking institution must clearly define the job achieving sustainable performance of each sound institution must clearly define the job achieving and responsibilities of each company organ and all employees that are in description and disconnection, mission, values and strategy of a company. Therefore, banking institutions must ensure the existence of an effective internal control system within a company. Furthermore, the banking institution must have performance indicators for all members of the Board of Directors and the Board of Commissioners as well as the employees that are consistent with the company's objectives, and have a reward and punishment system. In executing its duty and responsibility, each organ of a company and all employees must uphold the business ethics and agree upon a code of conduct.

The third principle is responsibility. The banking institutions shall abide by laws and regulations and fulfil their responsibility to the communities and environment for the purpose of maintaining long-term sustainability of the business and to be recognized as a good corporate citizen. The organs of a company must be prudent in decision making and in their actions, and ensure compliance with laws and regulations, the company's articles of association and by-laws. Thus the banking institutions must fulfil their social responsibility by having, inter alia, an awareness of the environmental and societal interests of the communities in which the banks operate, through appropriate planning

and implementation to address the issues.

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The improvement of quality in Good Corporate Governance implementation is The improvement of quality in Good Corp. The improvement of quality in Good Corp. Is necessary due to the increasing complexity of risks and challenges faced by the necessary due to the increasing and externally. Internally, the Board of Comp. necessary due to the increasing compression. Internally, the Board of Commission banking industry, both internally and externally. Internally, the Board of Commission banking industry, both internally and externally able to act as role models and most banking industry, both internally and extended to be able to act as role models and motivators are expected to be able to act as role models and motivators and Board of Directors are expected to be able to act as role models and motivators ers and Board of Directors are expected to principles of Good Corporate Governance so that banks will implement optimally the principles of Good Corporate Governance of Commissioners and Board of Directors commissioners so that banks will implement optimized.

The structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Board of Directors consists of the structure of the Board of Commissioners and Boar The structure of the Boald of Controlling Shareholders, it is expected that the enhancement parties as well as parties, it is expected that the enhancement with the existence of both mentioned parties, it is expected that the enhancement of With the existence of both montant of the checks and balances will eventually lead to implementing and optimizing Good checks and balances will eventually lead to implementing the invalidation of the checks and balances will eventually lead to implementing the invalidation of the checks and balances will eventually lead to implementing the invalidation of the checks and balances will eventually lead to implementing and optimizing Good Corporate Governance in every banking institution. In supporting the implementation of banks' Good Corporate Governance, the bank shareholders will be able to appoint representatives to become members of the Board of Commissioners or Board of Directors to ensure the supervisory function of banks and bank business groups performing non-banking activities.

Awareness of the OECD Principles of Corporate Governance is now high in the region. In fact, all Asian economies are using the OECD Principles of Corporate Governance and outputs of the Asian Roundtable as referenced in the development of their regulations, corporate governance codes, listing rules, scorecards, as well as academic works. Most importantly, Asian jurisdictions are committed to improving corporate governance across the region. This commitment to excellence in corporate governance matters not only to Asia. The growing economic influence of the region and the important role played by China, India and Indonesia in the G-20 Summit, the Financial Stability Board and the OECD Corporate Governance Committee give

corporate governance developments in Asia global relevance.6 This will give strong corporate Both to implement Good Corporate Governance and Corporate Social encouragement in banking institutions. encourses and good Responsibility in banking institutions.

### FOSTERING GOOD CORPORATE GOVERNANCE AND CORPORATE SOCIAL RESPONSIBILITY IN PREVENTING FINANCIAL CRIME

Indonesia has formulated a long-term development plan, to take place from 2005 to Indonesia in the current medium term plans, each with different develop-2023. It is the current medium-term development plans, each with different development priorities. The current medium-term development plan covering 2009–2014 is the ment plan covering 2009–2014 is the second phase and focuses on: (1) promoting quality of human resources; (2) developsecond resources; (2) development of science and technology; and (3) strengthening economic competitiveness. Good Corporate Governance and Corporate Social Responsibility will encourage good business ethics and economic competitiveness. Through Good Corporate Governance business will be a shifting paradigm from mainly profit oriented to corporate concern or good corporate conduct. Therefore Good Corporate Governance and Corporate Social Responsibility should be maintained and conducted in sustainability actions. Good Corporate Governance and Corporate Social Responsibility will develop business ethics and bring economic development to the local community. Corporate Social Responsibility is a business commitment to society and the nation. This pathway should be built within the corporations with the following basic considerations: (1) Corporate Social Responsibility as an effort of harmonizing corporations with the environment; (2) improved business performance and improved economic performance as a mediumterm and long-term achievement; (3) countries and companies with Good Corporate Governance will have better access to international capital than those without Good Corporate Governance and recognizing the increasing importance of corporate governance, government and business associations in many countries, both industrialized and developing, have started to develop or improve national systems of corporate governance; (4) the development of corporate governance is an important part of the economic reforms that are essential in overcoming the economic crisis.

The financial crisis of 2008 had a devastating impact on the economy of many countries. Numerous financial crimes that followed in the areas of corruption, money laundering, banking and financial fraud, tax evasion and the financing of terrorism added to the negative impact of economic instability. Financial crime did not only create disorder in various institutions but also became a national and global threat. Therefore reducing financial crime is a key priority for regulators, authorities and governments globally, particularly in Indonesia. Organized crime groups, terrorists and fraudsters are using increasingly sophisticated international networks and financial systems to move or store funds and assets or commit fraud. Financial institutions are particularly vulnerable due to the nature of their businesses and the volume of

<sup>&</sup>lt;sup>6</sup> OECD (2011), Reform Priorities in Asia Taking Corporate Governance to a Higher Level, http://www.oecd.org/daf/ca/49801431.pdf, p. 9 (accessed 4 May 2014).

transactions and client relationships they manage. Furthermore, the fact that were carried out by international perpetrators emphasized the importance in combating crime. Good Corporate Governance of the control of t transactions and client relationships they manage. The fact that crimes were carried out by international perpetrators emphasized the important that crimes were carried out by international crime. Good Corporate Governance of the importance of at least relationships they are crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the important that the crimes were carried out by international perpetrators emphasized the crimes were carried out by international perpetrators emphasized the crimes were carried out by international perpetrators emphasized the crimes were carried out by international perpetrators emphasized the crimes were carried out by international perpetrators emphasized the crimes were carried out by international perpetrators emphasized the crimes were carried out by international perpetrators emphasized the crimes were carried out by international perpetrators e crimes were carried out of international co-operation in combating crime. Good Corporate Governance of at least reducing their values The perhans of their values The perhans of their values The corporations and their values The corporations are compared to the corporation of their values The corporations are corporations are compared to the corporation of the corporation of the corporation of their values of their

proporate Social Responsions has been to make profits, and perhaps for the primary aim of corporations have not carefully examined their values. This mindset financial crime.

The primary aim of corporations has been to make profits, and perhaps for the primary aim of corporations have not carefully examined their values. This mindset for the primary aim of corporate Governance to improve the perhaps for the The primary aim of corporations have not carefully examined and some compositions have not carefully examined and some compositions and encourage strong commitment, in the best must be confident to improve the could be economic to the could be economic. changed through business ethics and Good commitment, in the best economic best economi changed through businessides and encourage strong community, in the best prove to integrity of corporations and encourage strong institutions, it could be economic interests of the nation. Furthermore, in banking institutions, it could be economic best prove to the nation. Furthermore, in banking institutions, it could be economic economic and crime prevention strategy, especially taking into considerate and the most diverse, and the most diverse, and the most diverse are the most diverse. integrity of corporation. Furthermore, in painting and the most diverse, and the most diverse, and the most diverse and div non-penal policy and crime prevention strategy, coposition and the most diverse, and the most important in the globalization era. Louise Corporate Topontant that commercial banks are the largest, the most division, and the most important financial intermediary in the economy. Good Corporate Governance and composition of the composition of financial intermediary in the economy. Good Corporate Social Responsibility is also very important in the globalization era. Louise Shelley, and criminals have been amount of the commercial commercial and criminals have been amount of the commercial comme Social Responsibility is also very important in the growth of the opportunities for criminals, and criminals have been among the main the opportunities for criminals, and criminals have been among the main the opportunities for criminals, and criminals have been among the main the opportunities for criminals, and criminals have been among the main the control of t quoted by Dawn L. Rothe and David C. And Quoted by Dawn L. Rothe and David Corporate Governance and Company the major within corporate Covernance and Company the major within covernance and c increased the opportunities for criminals, and comporate Governance and Comporate activities to have an important role within corporate activities to have a new role within corporate activities to have a new role within the have a new ro beneficiaries of globalization. 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Moreover, Good Corporate Continuous in the prevention of Responsibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities have a great impact in the prevention of financial ibility within corporate activities and the prevention of th ibility within corporate activities have a great representation of financial crime, such as corruption and state capture. In this form of corruption, the private private apparatus for ite crime, such as corruption and state cuptures.

sector 'captures' the state legislative, executive and judicial apparatus for its own

Benn and Dunphy, and others, as quoted by Donald Nordberg, mention that there is Benn and Dunphy, and omers, as quotes another range of issues that has increasingly come to be seen as forming a new agenda another range of bow corporations relate to their broader society. Whath another range of issues that has increasingly in corporate governance: how corporations relate to their broader society. Whether we in corporate and proposed the society with the corporate and the society with the corporate and in corporate governance: now corporate sustainability, ethics or just corporate we call it Corporate Social Responsibility, sustainability, ethics or just corporate responsibility of this stream of thinking involves a consideration call it Corporate Social Responsibility, such that the 'social', this stream of thinking involves a consideration of how ibility without the 'social', this stream they employ relate to their employees. boards and the top management teams they employ relate to their employees, suppliers, and those who might seek to compate boards and the top management teams and those who might seek to compete against customers, and even their competitors and those who might seek to compete against customers, and even usen competition that the corporation relates to the community them. 11 It seeks also to take into account how the corporation relates to the community in which it operates, the people who live near the factories and office buildings the corporation operates, local governments, and even national governments and supranational organizations. In addition, it seeks to examine how and even whether corporations have a responsibility to NGOs, even those that are not particularly part of a local community in which the global corporation happens to work. It seeks to identify the role of the corporation and its board in preserving the environment in which we all

Arief, Barda Nawawi (2010), Bunga Rampai Kebijakan Hukum Pidana - Perkembangan Penyusunan Konsep KUHP Baru, Kencana, Jakarta, p. 21.

Kidwell, David S. and Richard L. Peterson (1990), Financial Institutions, Markets, and Money, fourth edition, The Dryden Press, p. 42.

<sup>&</sup>lt;sup>9</sup> Rothe, Dawn L. and David O. Friedrichs (2015), Crimes of Globalization, New Directions in Critical Criminology, Routledge, London, pp. 28-29.

Brooks, Graham et. al. (2013), Preventing Corruption Investigation, Enforcement and Governance, Palgrave Macmillan, Basingstoke, UK, p. 123. Nordberg, Donald, op. cit., p. 6.

live, a larger and more prominent part of the agenda as the consensus of scientific opinion has built around the impact of global warming and the role corporations play in

it. 12 Those are the functions of Corporate Social Responsibility. But the strengths of Corporate Social Responsibility will not work properly because there remain some weaknesses in its implementation: (1) the lack of organizational culture to support Corporate Social Responsibility; (2) Corporate Social Responsibility only being seen as a company's charity; (3) Corporate Social Responsibility used only to conceal the a complete description of financial institutions; (4) Corporate Social Responsibility not purely conducted by corporate conscience or an ethics-based approach but rather as just a legal obligation; (5) corporations applying Corporate Social Responsibility only for the short term and not in a long-term and sustainability programme. These weaknesses could reduce the public and investor trust in business activities, particularly in banking institutions as an agent of trust. Indonesian and international investors are eager to invest in Indonesia, and approvals in investments show a significant growth in number. Government institutions which have an interest in handling investment activities probably would like to reform and improve public services.

Currently, the point of focus of efforts in the enforcement of good governance is on the corporate sector. Viewing this holistically, the corporate sector does not stand alone because it is certainly linked to the public sector, starting with the government as regulator and as shareholder in state enterprises, as well as other elements such as legislators, prosecutors and investigators along with court proceedings and so forth. It is futile attempting to enforce Good Corporate Governance solely in the corporate sector without applying the same rules to the public sector, including taxes, regional

government, customs and excise, permit regulators and so forth.

The key to implementation of Good Corporate Governance and Corporate Social Responsibility in banking institutions is based on:

the strong commitment and support from all the parties such as the regulator/ 1. supervisory bodies, the corporation and society in encouraging Good Corporate Governance and Corporate Social Responsibility in all business activities;

the strong commitment of the company's organs such as the Board of Directors, 2. Board of Commissioners, General Meeting of Shareholders and all the employees in conducting Good Corporate Governance in a consistent, systematic manner in sustainability programmes;

the compliance of corporations with all the existing government regulations as 3.

well as fostering business ethics among others:

the implementation of Good Corporate Governance as a basic philosophy of

corporate culture;

a good reward system for corporations implementing Good Corporate Govern-5. ance and Corporate Social Responsibility. In contrast, an effective punishment system should be applied for those who act inappropriately.

Ibid.

The government plays an important supporting role by issuing and enforcing adequation on, for instance, company registration, disclosure of financial company adequates of commissioners and directors. The company decrease of the company decrease o The government plays an important supporting role of some and enforcing adequation on, for instance, company registration, disclosure of financial company adequates on the responsibilities of commissioners and directors. The company data company data are company data and company data are company data. The government plays an interest regulation on, for instance, company registration, discussioners and directors. The company and rules on the responsibilities of commissioners and directors. The pany day has the prime responsibility for implementing a system of Good Company chould recognize the importance that Good Company. and rules on the responsibilities of commissioners and rules on the responsibility for implementing a system of Good Company the company should recognize the importance that Good Company of its shareholders, its financiers and its employeest however, has the prime responsibility for implementing a system of Good Corporate however, has the prime responsibility for implementing a system of Good Corporate is in the interests of its shareholders, its financiers and its companies should anticipate stronger employees and enforced and corporate enforced and corpor Governance. The company should recognize the shareholders, its financiers and its employer the company itself. Companies should anticipate stronger enforcement the introduction of new regulations and incompany itself. Governance. The company Governance is in the interests of its shareholders, he company itself. Companies should anticipate stronger employees and therefore, the company itself. Companies should anticipate stronger employees and enforcement of increasing and increasing of the company itself. therefore, the company itself. Companies should an regulations and regulations, the introduction of new regulations and increasingly of demonstrated efforts to improve Good.

rong public scrutiny over their actions.

The Indonesian government has demonstrated efforts to improve Good Corporate Social Responsibility in every aspect of the busin.

The NCG is recommend: The Indonesian government has demonstrated chief the indonesian government has demonstrated chief the indonesian government has demonstrated chief the indonesia of the business of the business of the business in Indonesia is in initiate. Governance as well as Corporate Social Responsions. The NCG is recommending, business sector, particularly within banking institutions. The NCG is recommending, business incorporate governance in Indonesia. It has indicated in indicated and it has drawn up a Most indicated indicated in indicated in indicated indica sector, particularly within banking insututions.

and monitoring improvements in corporate governance in Indonesia. It has initiating this which reforms are necessary, and it has drawn up a Model Code in implementing this Model Code. and monitoring improvements in corporate gotten key areas in which reforms are necessary, and it has drawn up a Model Code of the companies can use in implementing this. In addition of ten key areas in which reforms are necessary,

Corporate Governance that companies can use in implementing this. In addition, and professional association, and in Indonesia Corporate Governance that companies can business and professional addition of initiative from private sectors through several business and professional associations and Corporate Service Ser

By implementing Good Corporate Governance and Corporate Social Responsibility By implementing Good Corporate Corporate Spanish Responsibility principles, as stipulated in several Indonesian regulations, the NCG seeks to protect the principles, as stipulated in several and business institutions. The reality, however is a second several responsibility of financial and business institutions. principles, as stipulated in several muonessa. The reality, however, is that integrity and stability of financial and business institutions. The reality, however, is that integrity and stability of financial and positive in Indonesia is limited and requires fostering, the important role of banking institutions. Banking could have to the participation of financial insulations. Banking institutions. Banking could have been commensurate with the important role of banking institutions. Banking could have been commensurate with the importance, which has played a leading been chosen as a sector of equal or greater importance, which has played a leading part in chosen as a sector of equal of greater than recent developments, and even the inclusion of both would leave out a number of other recent developments, and even the inclusion of both would leave out a number of other recent developments. The sector of the recent developments are as 13 Felix Lessambo states that a bank cannot recent developments. recent developments, and even the inclusion of other interesting and important areas. 13 Felix Lessambo states that a bank cannot properly interesting and important areas. 14 Counterparty, liquidity and credit risks without an adequate monitor its operational, counterparty, liquidity and credit risks without an adequate and monitor its operational, counterparty, liquidity and credit risks without an adequate and monitor its operational, counterparty, liquidity and credit risks without an adequate and efficient corporate governance mechanism. 14 Moreover, Lessambo clearly stated that efficient corporate governance incommendations is of great importance to the inter-

Lack of Good Corporate Governance and Corporate Social Responsibility will drive Lack of Good Corporate Government officials and in that corporations into performing magnification corruption is a strategy that 'buys' people like government officials and is more useful than capital in some circumstances because it provides influence and leverage that

The principles of Good Corporate Governance and Corporate Social Responsibility should be implemented in every aspect of the organization, from the directors and commissioners to the employees of financial institutions. Initiatives to promote a culture of Good Corporate Governance, where boards and shareholders expand their

<sup>&</sup>lt;sup>13</sup> Clarke, Michael (1990), Business Crime, Its Nature and Control, St. Martin's Press, New York, p. 149.

Lessambo, Felix (2013), The International Banking System, Capital Adequacy, Core Businesses and Risk Management, Palgrave Macmillan, Basingstoke, UK, p. 222

Dean, Geoff et. al.(2010), Organized Crime: Policing Illegal Business Entrepreneurialism, Oxford University Press, New York, p. 9.

focus beyond business outcomes and ensure that businesses are conducted in a manner focus promotes sustainability, are important elements in preventing financial crime in institutions. Corporate governance involved which productions. Corporate governance involves decision making, accountability banking monitoring.<sup>17</sup> Building Good Corporate Governance and Corporate Social and morphisms also the key to avoiding any criminal activities which could cause Responsibility and criminalization. Furthermore, it should also be corporate Good Corporate Governance and Corporate Social Responsibility is a considered to preventing financial crime. Encouraging Good Corporate Governance and pathway to Social Responsibility in every appearance of Corporate Governance and pathway Social Responsibility in every aspect of the business sector, particularly in comporate Social Responsibility in every aspect of the business sector, particularly in Corporations, is also a way to achieve the strengthening of economic competitiveness.

# CONCLUSION

Good Corporate Governance and Corporate Social Responsibility should be developed to build business ethics inside corporations. Good Corporate Governance is an important pillar of market economy as it relates to the investors' confidence both in the companies and in the overall business environment. Implementation of Good Corporate Governance encourages fair competition and a good business climate leading to sustainable economic growth and stability.

According to Indonesian regulations, companies must have a purpose and objective; business activities should not conflict with the provisions of legislative regulations, public order and/or morality. In this context, business activities conducted by any legal entity should consider the regulations, public order and morality. The purpose of doing

business should not be for profit alone, but should also have ethics in mind.

Principles of Good Corporate Governance should be adhered to when the company's activities are involved. These include transparency, accountability, responsibility, independence and fairness. Concerning the principles of Good Corporate Governance as mentioned before, Corporate Social Responsibility should be reflected in corporate activities as should implementing the five principles. So Corporate Social Responsibility should be conducted in every financial institution.

These principles are necessary to maintain a company's sustainability and will, in turn, increase public trust. Every financial institution, both banking and non-banking, must ensure that the principles of Good Corporate Governance are applied to all business activities. Considering that Good Corporate Governance and Corporate Social Responsibility principles seek to protect the integrity and stability of financial and business institutions, as well as prevent financial crime, the involvement of financial institutions in Indonesia (which is quite low) should be fostered. Encouraging Good Corporate Governance and Corporate Social Responsibility in every aspect of the business sector, particularly in banking institutions, will strengthen economic competitiveness.

<sup>&</sup>lt;sup>17</sup> Pallissery, Fincy (2012), 'True and Fair Financial Reporting: A Tool for Better Corporate Governance', Journal of Financial Crime, Volume 19 Number 4, p. 336.

# RESEARCH HANDBOOK ON International Financial Crime

The Research Handbook on International Financial Crime brings together a strong group of contributors under the editorship of Professor Barry Rider. Reflecting the success of the long-standing Cambridge International Symposium on Economic Crime, the Handbook covers a wide range of subjects over some sixty chapters. It will make a valuable contribution to the practical as well as the theoretical aspects of this important subject.'

Sir William Blair, Justice of the Queen's Bench Division, Commercial Court and President of the Board of Appeal of the European Supervisory Authorities

Monumental and magisterial are fitting descriptions for this book. The editor and contributors provide extensive knowledge and authoritative insight into the ever-burgeoning field of financial and economic crimes. With in-depth coverage on a national and international scale of topics such as fraud, financial and market governance, corruption, money laundering, and civil and criminal processes, this book delivers a compendious guide for scholars, policymakers and practitioners everywhere, as well as an unrelenting warning about embedded societal risks of insecurity and instability." Clive Walker, School of Law. University of Leeds, UK A significant proportion of serious crime is economically motivated. Almost all financial crimes will be either motivated by greed, or the desire to cover up misconduct. This *Handbook* addresses financial crimes such as fraud, corruption and money laundering, and highlights both the risks presented by these crimes, as well as their impact on the economy.

The contributions cover the practical issues on the topic on a transnational level, both in terms of the crimes and the steps taken to control them. They place an emphasis on the prevention, disruption and control of financial crime. They discuss, in eight parts, the nature and characteristics of economic and financial crime, the enterprise of crime, business crime, the financial sector at risk, fraud, corruption, the proceeds of financial and economic crime, and enforcement and control.

Academics interested in criminology, law, as well as business and legal studies students will find this book to be an invaluable resource. Practitioners, including lawyers, compliance and risk managers, law enforcement officers, and policymakers will also find the points raised to be of use.

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