OTORITAS JASA KEUANGAN

BANK BUNDLING AND TYING CLAUSES : INDONESIA EXPERIENCE

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by

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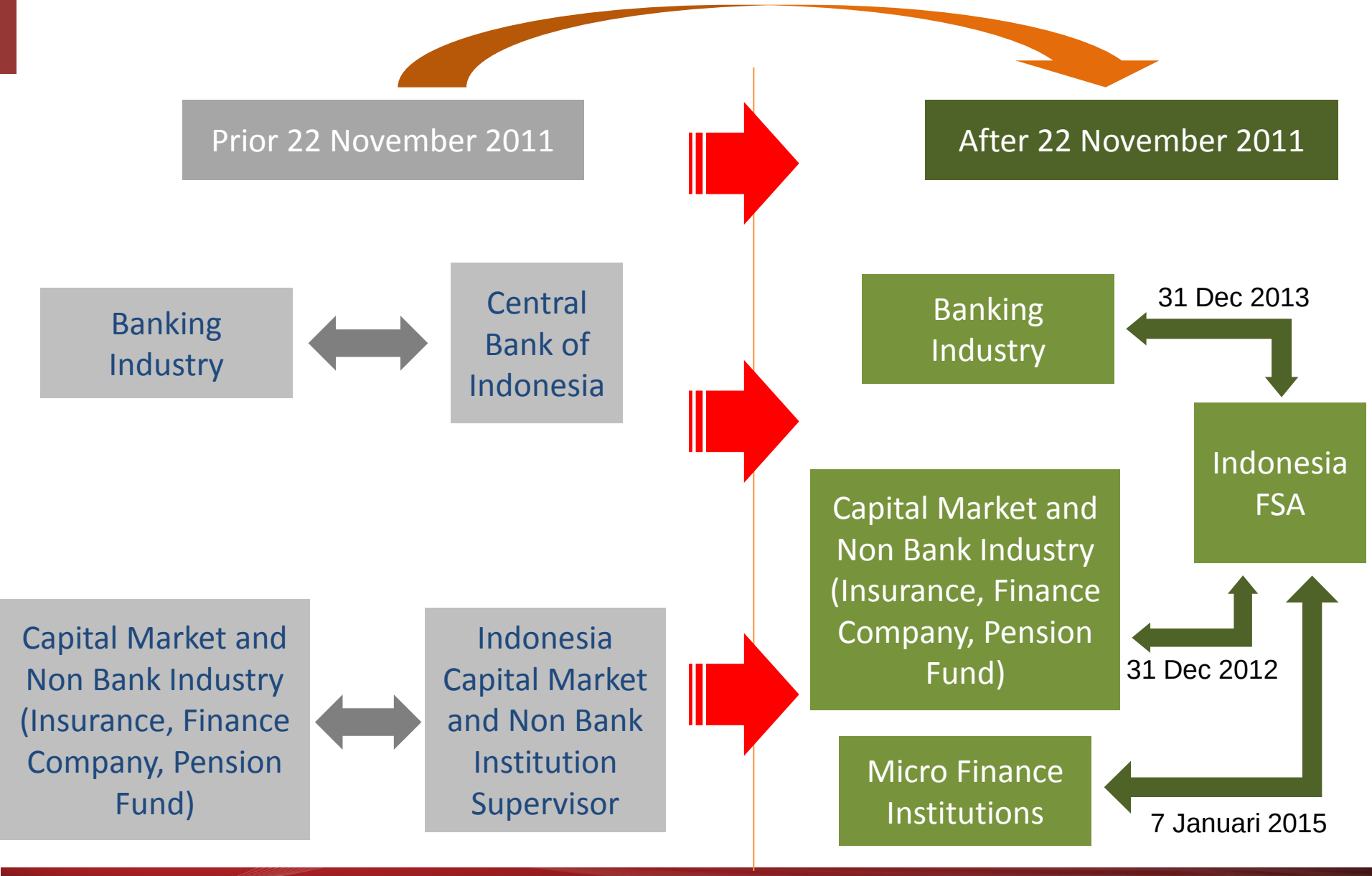
Agenda

- Introduction to Indonesia FSA and Financial Sector
- Banking Assets and Other Financial Sector Assets to GDP
- Indonesia FSA Strategic Programs on Financial Market
- Issues in Bundling and Tying
- Regulations on Bundling and Tying International Perspectives
- Indonesia Experience

Introduction – Indonesia FSA at a Glance



Introduction - Indonesia Financial Sector

1 Banking

Total Assets US$475,7 bio

- 120 Banks, 17.504 Offices
- 1.641 Rural Banks, 4.568 Offices
- 11 Syaria Banks, 1.882 Offices
- 24 Syaria Units, 550 Offices
- 160 Rural Syaria Banks, 398 Offices

2 Capital Market

Market Value US$437,7 bio

- 486 listed co's
- 74 Investment Managers
- 21 mutual fund selling agents
- 2.403 Investment Managers Rep
- 17.841 mutual fund selling agent reps
- 7 Investment Advisors
- 3 Self Regulatory Organizations (SROs)

3 Non Bank Institutions

Total Assets US$11,06 bio

- 48 Life Insurers
- 82 General Insurers
- 4 Reinsurers
- 2 social and manpower insurers
- 3 State employee Insurers
- 268 Pension Funds
- 202 Finance Companies

Source: IFSA, Central Bank of Indonesia (2013)

Banking Assets and Other Financial Sector Assets to GDP

No	Description	Indonesia 2011	Indonesia 2012	US* (2011)	EU** (2012)	Portugal** (2012)
1	Banking Assets to GDP (%)	51.94	57.73	96.98	358	333.6
2	Market Cap to GDP (%)	47.63	50.08	-	-	-
3	Non Bank Assets to GDP	13.42	14.43	-	-	-

**Tradingeconomics & ycharts (2013)*
***Financial System Review (2013), Bank of Canada*

Banking industries plays an important role in Indonesia's economy, thus, its sustainability is crucial to support economic growth

Indonesia FSA Strategic Programs on Financial Market

Regulation and market infrastructure to support product innovation

Financial Market Deepening

- Regulation reviews
- Conglomeration regulation

Harmonization of Regulation

- Prudential supervision (including conglomeration supervision)
- Market conduct supervision

Strengthening Supervisory Role

Issues in Bundling & Tying

Financial Sector Development

- Trend in conglomeration increases cross selling opportunity, including bundling and tying products.
- The importance of regulation to address the growing number of bundling and tying products.

Product origination

- Clarity of the contract between financial institutions.
- Bundling is for the benefit of customers, as well as financial institutions. Meanwhile tying in products would result in additional cost to the customers.

Product delivery

- Bundling and tying as a marketing strategy to expand delivery channels to customers.

Selling Phase

- Complete and comprehensive explanation should be provided to customers on the products' benefits and risks.
- Ensuring agents' selling practices to promote customer protection on the basis of freedom of choices.

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Regulations on Bundling and Tying – International Perspectives

World Bank	EU	Canada	US	India
• Good Practices for Financial Customer Protection prohibits bundling/tying contract that restricts consumers' choices	• EU : Unfair Commercial Practices Directives provides guidelines for member countries to incorporate into each legal system. • Portugal : general consumer legislation prohibits tying and pure bundling.	• Bank Acts prohibits banks from practicing coercive tied selling.	• Bank Holding Company Act and Federal Antitrust Laws (Sherman and Clayton Acts) prohibits a bank from conditioning the availability of one product on condition that customer also obtain another product.	• Competition Act prohibits tying in sales practices (any agreement requiring a purchaser, as a condition to such purchase, to purchase other goods.

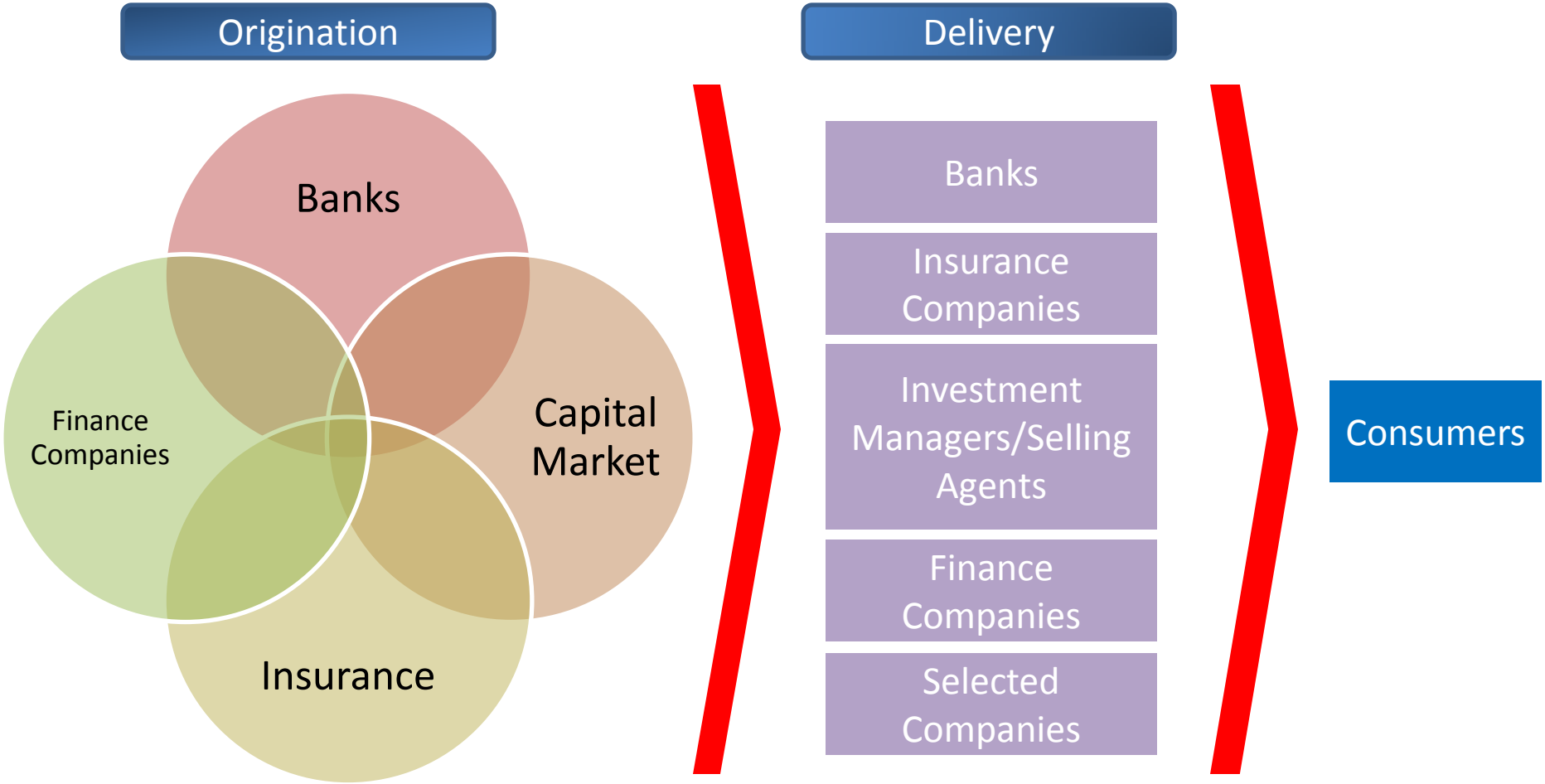
Indonesia Experience

Financial Products In Banks

1. Plain Vanilla Products (Savings, Loans)
2. Interest Rate Related Products (interest rate cap, floor, swap, etc)
3. Foreign Exchange Related Products (Currency options, forward, swap, etc)
4. Index/Commodity Related Structured Products (equity linked deposit, Forward Bond Agreement, etc)
5. Hybrid Products (covertible bond, convertible subordinated bond)
6. Credit Derivatives (cedit default swap, credit link note, etc)
7. Assets Backed Securities
8. Others (bancassurance, mutual fund selling agents, payment services, etc)

Source: Central Bank of Indonesia (2007)

Product Origination and Delivery Channels



A research by Bank Indonesia in 2012 suggests that there are 1,165 products provided by 8 major banks and their affiliates, which are potential for cross selling.

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Bundling and Tying In Indonesia

Financial Sector Development

- Total consolidated assets of 16 banks and its affiliates represents 56% of total assets in financial market.
- IFSA issued regulation No. 1/POJK.07/2013 on Financial Customers Protection to ensure financial consumer protection (including aspect of bundling and tying products).

Product origination

- Dispute between investment company and banks in dealing with customers complaints as a result of unclear agreement on resposibilities of each parties, currently in progress in Supreme Court.

Product Delivery

- With 24,902 office networks, Banks has attracted other financial institutions to cooperate and bundle their product with banks' products in order to enhance sales/product delivery to the customers.

Selling Phase

- Dispute between customer and bank due to lack of proper explanation on bundling product prior to sales, i.e. allocation of savings and investment, calculation of returns, risks, etc.
- Selling agent provides one insurance product from one insurance company as prerequisite to get a bank's/multifinance product (typically loan).

Regulatory Frameworks

Consumer Protection Act No. 8/1999

Central Bank of Indonesia (BI)

- BI Regulation on Product Transparancy No. 7/2/PBI/2005.
- BI Regulation on Bancassurance No. 12/35/DPNP.
- BI Regulation on Priority Banking Services No. 13/28/DPNP.

Indonesia Capital Market and Non Bank Supervisory Agency (Bapepam LK)

- Bapepam LK Regulation on Code of Conduct of Investment Manager, Selling Agents No. KEP-11/BL/2006.

Indonesia FSA Actions

Organization Structure

- Unified supervisory model with twin-peak approach
- Education and financial customer protection compartment
- Functions: information and education, FCC, policy, dispute resolution and civil proceeding.

Regulatory Framework

- IFSA Regulation on Financial Customers Protection.
- IFSA Regulation on Mutual Fund and Selling Agents Practices (draft).
- IFSA Regulation on Insurance product and selling practices (draft).

Market Conduct Supervision

- Market Intelligent.
- Financial Institutions Operational procedures.
- Availability of Complaint handling unit /function in each Financial Institutions Office.
- Sanctions.
- Regular Reporting to IFSA.

As regulator in financial market, IFSA is concerned about improving customers and public confidence in financial market to promote sustainable growth of the industry.

Indonesia FSA Regulation on Financial Customers Protection (POJK No. 01/POJK.07/2013 dated 26 July 2013)

IFSA Regulation on Customers Protection is the first regulation issued by IFSA for financial industry, and provides operational basis for the industry with regards to the aspect of customers protection

Legal Basis

- OJK Law states that OJK has the responsibility and authority to protect customers.

Scope

- Selling practices.
- Transparency of product (rights, responsibilities, benefit, risks, costs).
- Provision of education to customers and public.
- Prohibition to take advantage on customers (i.e. tying in product).
- Arrangement of standard clauses in an agreement.
- Complaint handling and dispute resolution.

IFSA Regulation on Bundling and Tying

Tying

- Tying is prohibited.
- Reason : Consumer is forced to purchase another product(s) as conditions of purchasing first product, and have no choice.

Bundling

- Bundling is allowed.
- Reason : Customers have a choice to purchase separately or to choose other product.

Sanctions

- Non compliance to IFSA Regulation will be sanctioned.

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End of Presentation

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