

**CLOSING REMARKS BY
MR. NOOR FUAD**

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BY
NOOR FUAD
SECRETARY GENERAL, MINISTRY OF FINANCE
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Distinguished Delegates, Ladies and Gentlemen,

After having a very tiring but fruitful two-day seminar, we finally have to go back but I suggest you should stay one or two days for enjoying Bali, one of the most beautiful islands in Indonesia. During the seminar, plenty and depth discussions have been carried out and some thought and ideas have been recommended to help us in addressing our insolvency system.

I believe that ideas, experiences and suggestion that have been explored during the seminar would help countries in improving this insolvency law system, especially Indonesia.

As you are aware, Indonesia is now facing a challenge to improve our insolvency system as indicated by the enactment of Law number 4 year 1998 which is now being reviewed to be amended.

Ladies and Gentlemen,

As a chairman of organizing committee, allow me to apologize on any inconvenience you may have during your stay in Bali, We have tried to do our best in hosting and welcoming you all to the seminar. We also would like to thank to all participants for your participation in this forum. I would like to thank OECD, ADB, the Government of Japan and Australia for their cooperation in organizing this seminar.

Ladies and Gentlemen,

We will later on follow up this forum with a national conference in a small group and only focusing on Indonesian Insolvency Law reform. The Team consists of Ministry of Finance, Ministry of Justice and Human Rights, Indonesian Bank Restructuring Agency, Jakarta Initiative Task Force, Professional Lawyers, and Commercial Judges and Academician.

I would expect that this first forum will be followed by the similar one in the near future, to explore more on Asian insolvency reform.

Finally, I would like to officially close this distinguished seminar.

Thank you.

**Bali, Indonesia
8th February 2001**

**FAREWELL SPEECH BY
MR. HERWIDAYATMO**

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BY

HERWIDAYATMO

CHAIRMAN OF INDONESIAN CAPITAL MARKET SUPERVISORY AGENCY
(BAPEPAM)

Distinguished Delegates and Guests,

Good evening,

First of all, I would like to thank the Indonesian Ministry of Finance officials and OECD, for inviting me to speak in this Farewell dinner. I also would like to thank the delegates from over 20 countries that have gathered here in Bali to exchange views and experiences on the important matter of insolvency. I understand that delegates include official receivers, policy makers involved in insolvency law reform, leading insolvency practitioners from the accounting and legal professions, bankers, academics and donor agency representatives. To my observation, all participants were so serious that there is no opportunity to visit the many interesting cultural and historic sites around this area. But I hope that you extend your stay during the weekend to go around to enjoy the beauty of Bali.

Ladies and Gentlemen,

Bankruptcy or insolvency law reform is a subject of critical importance, particularly in the wake of the regional financial crisis. Therefore, we realize that this forum is both timely and important. As a matter of fact, this forum is also a part of the Indonesian government long-term program in promoting development of the region, as well as a part of its response to the regional financial crisis.

As we all know, a well-functioning and predictable system for the recovery and restructuring of corporate debt in the private sector is critical for a sustainable economic recovery in crisis-hit countries in Asia.

As mentioned by the Minister of Finance on His opening remarks at this Forum, better judicial system and procedure is necessary to build confidence

among debtors-creditors relationship, accelerate corporate restructuring and create healthier business practices.

Under such a broader understanding, the Indonesian government has developed a Law and Development Program for years where the government has played a leading role in promoting the judicial, legal and regulatory reform in Indonesia, as well as in providing assistance to enhance the regional institutional capacity in the legal arena.

It is in this sense that this forum is a part of the natural evolution of the Indonesian government long-term Law and Development Program.

Ladies and Gentlemen,

The crisis has exposed the weaknesses of the regional legal system; in particular in the area of insolvency related to financial and corporate sector restructuring. Needless to say, the affected economies have to undergo serious restructuring particularly in their financial and corporate sectors before they can return to a sustainable growth. The progress in insolvency law reform is indispensable for the success of the restructuring exercises.

It is also recognized that implementation of good corporate governance practices play a significant role to combat the crisis. As the matter of fact, lack of good corporate governance in the way companies conducted their business activities has contributed to the crisis.

Indonesian capital market, just like other capital market, has facilitated companies to utilize capital market as financing alternatives in capital restructuring and improving their financial position. However, most public companies that get fund from public by issuing shares, notes, bonds, and commercial papers use the proceed to finance their subsidiaries, or even to guarantee their subsidiaries debts. When the need more capital injection, they turned to other sources of fund, either from local or abroad. These borrowing practices have finally led them to the financial difficulties, especially because of the crisis. To some instance this practice due to lack of good corporate governance. This practice forces the companies to end up in the situation of insolvency or restructuring.

Ladies and Gentlemen,

This time I would like to focus just on restructuring, since this issue closely

related to capital market activities.

Restructuring of public companies can be conducted in several ways; it may involve debts rescheduling or debt to equity swap. Beside through public offerings, issuers restructured their capital by inserting new fund without issuing pre-emptive rights. If companies chose the debt to equity swap alternative, this could result in share holding dilution because existing shareholders have no chance to use their rights (preemptive-rights).

In order to facilitate the companies to restructure their finance, Bapepam as the capital market authority has issued rule regarding Capital Addition Without Preemptive Right. This rule makes the exemption for companies that are in financial difficulties to arrange debt to equity swaps and to raise capital by selling new equity of convertible bond; two corporate actions that are often use to prevent bankruptcy, without giving preemptive right to its shareholders.

Ladies and Gentlemen,

By promoting insolvency law reform, we believe that we will help to improve the legal and regulatory environment for economic recovery of the region, and help to regain investors' confidence.

I personally congratulate you all for the successful completion of this Forum and I have a high hope that this Forum will accelerate insolvency reforms in Asia. I believe that we will benefit from your contribution toward this Forum, especially that the success of insolvency law reform will directly contribute to the development of the capital market.

Finally,

Nothing more important than wishing you a safely return to your country and hope that you can enjoy the rest of the evening.

Thank you.

**Bali, Indonesia
8th February 2001**

