## ABSTRACT

Undang-undang Number 10 Year 1998 about Amendment of Undang-undang Number 7 Year 1992 about Banking and Undang-undang Number 23 Year 1999 about Indonesia Bank are the legal basic for dual banking system in Indonesia.

The profit and loss sharing principle (*mudharabah* and or *musyarakah*) is one of Sharia Banks operational principles in giving financing to the client. In giving financing by using profit and loss sharing principle, Sharia Banks must use the prudential banking principles: 5 C (Character, Capacity, Capital, Condition of Economy, Collateral), 5 P (Party, Purpose, Payment, Profitability, Protection), and 3 R (Returns, Repayment, Risk Bearing Ability) so that the financing can be paid off by the client.

Unsmoothness credit or financing is a common risk of a bank. This risk also possible occurs in Sharia Banks. In this case, the profit and loss sharing principle of Sharia Banks has both positive and negative sides.

Unsmoothness financing which use profit and loss sharing principle is one case that can cause a lawsuit between a bank and a client. The lawsuit can be over through the litigation in the court and non-litigation or reconciliation outside the court. In litigation, the position of a bank and a client disagree with and not be responsive each other. On the other hand, the process outside the court can cause win-win solution as its result, the secrecy guaranteed, keep a good relationship, and overcome the lawsuit through a comprehensive and togetherness way.



Keywords:
- Sharia Banks
- Profit and loss sharing principle
- Prudential banking
- Litigation and non-litigation