

## ABSTRACT

*Trust is the fundamental principle in banking activities. The relations between bank and customer are civil relations, which are based on trust and formalized by the agreement. Because of that, trust which is contained in the bank becomes the matter of banking secrecy. Banking secrecy is any information related with customer's deposits and the depositor itself. According to Article 40 section (1) Law No. 10 of 1998 on Banking, bank has an obligation to keep the information on depositors and the deposit itself, except in the condition regarding to the Article 41, Article 41A, Article 42, Article 43, Article 44, and Article 44A. Therefore, if there is a case which is not a part of those exceptions, bank secrecy can not be opened. However in 2012, there was a Magda Safrina case, which was her constitutional rights were violated because of applying Article 40 section (1) on Banking Law, that is why the case is settled in Constitutional Court and it has been decided. The decision was in 2012, but until now, 2017, there has been no implementation about that, because of that, in my problem formulation, it is stated that; first, How the legal competence of Shariah Court and Constitutional Court regarding bank secrecy in the matter of community property lawsuit in Magda Safrina case is. Second, How the implementations of bank secrecy after the decision of Constitutional Court No. 64/PUU-X/2012 is. This research is a normative legal research. The sources of data are; primary legal materials, secondary legal materials and tertiary legal materials. The data are from library studies and interviews Financial Service Authority (OJK) and also from Lecturer (Prof. Ni'matul Huda). Then the data approach uses statute approach and case approach. After all of the data have been collected, then analyzed by normative legal method of analysis. The results of research are; first, it is proven that Shariah Court and Constitutional Court have legal competence to adjudicate the case of Magda Safrina. Second, there is no implementation or follow up regarding the decision of Constitutional Court No. 64/PUU-X/2012, because there is no good faith from the parties who have those authorities especially OJK and Bank Indonesia (BI) to coordinate each other as a follow up from Constitutional Court decision. It's proven because OJK and BI still obey the regulation in Law No. 10 of 1998 and in those regulation, community property which is related to bank secrecy can not be opened. Therefore, it needs a renewing design regarding the arrangements of bank secrecy, so the bank secrecy principle can be implemented properly.*

**Key words: Bank secrecy, community property, decision of Constitutional Court**