

GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA  
NUMBER 39 YEAR 2008

CONCERNING  
SECOND AMENDMENT TO GOVERNMENT REGULATION NUMBER  
73 YEAR 1992 CONCERNING INSURANCE BUSINESS CONDUCT

BY THE GRACE OF GOD ALMIGHTY,  
PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering:

- a. that in order to keep up with and anticipate the progress in the national insurance industry, an adjustment is deemed fit on the insurance business conduct;
- b. that considering the foregoing, it is deemed necessary to enact a Government Regulation concerning a Second Amendment to the Government Regulation Number 73 year 1992 concerning Insurance Business Conduct

In view of:

1. Article 5 paragraph 2 of the 1945 Constitution;
2. Law Number 2 year 1992 concerning insurance business (State Gazette of 1992 No. 13, Supplement No. 3467)
3. Government Regulation No. 73 year 1992 concerning insurance business conduct (State Gazette year 1992 No. 120, Supplement No. 3506), as amended by Government Regulation No. 63 year 1999 concerning amendment to Government Regulation No. 73 year 1992 concerning insurance business conduct (State Gazette year 1999 No. 118, Supplement No. 3861).

Has decided:

To enact : GOVERNMENT REGULATION CONCERNING SECOND  
AMENDMENT TO GOVERNMENT REGULATION No. 73  
YEAR 1992 CONCERNING INSURANCE BUSINESS  
CONDUCT

#### Article 1

Several provisions in Government Regulation No. 73 of 1992 concerning insurance business conduct (State Gazette of 1992 No. 120, Supplement No. 3506), as amended by Government Regulation No. 63 of 1999 concerning amendment to Government Regulation No. 73 of 1992 concerning insurance business conduct (State Gazette of 1999 No. 118, Supplement No. 3861) are amended as follows:

1. The provision in Article 1 is amended to read as follows:

#### Article I

In this Government Regulation, the terms hereunder shall have the following meanings:

- (1) Insurance and insurance related company is an Insurance Company, Reinsurance Company and Insurance Business Supporting Company.
- (2) An Insurance Company is a General Insurance Company and Life Insurance Company.
- (3) Reinsurance company is a company which provides reinsurance services in dealing with any risk faced by an insurance company.
- (4) Insurance Supporting Company is an Insurance Broker Company, a Reinsurance Broker Company, an Insurance Agent, a Loss Adjuster Company and an Actuarial Consultant Company.
- (5) A Sharia Unit is a working unit at the head office of an

Insurance or Reinsurance Company having the function of main office of the branch office and/or marketing office operating under the Sharia principles.

- (6) Own retention is a portion of the sum insured which shall not be ceded to reinsurance company, the portion of which must be retained on insurance company's own risk.
  - (7) The Management is the board of directors for limited liability company or state owned limited liability company, or other term which equals to that for cooperative and mutual company.
  - (8) Minister is the Minister of Finance of the Republic of Indonesia.
2. Between Article 2 and Article 3, two (2) articles are inserted, namely Article 2A and Article 2B to read as follows:

#### Article 2A

- (1) An Insurance Company may only conduct its business in General and Life Insurance.
- (2) The Insurance Company referred to in paragraph 1 hereof may conduct all its business activities based on the Sharia Principles
- (3) The Insurance Company referred to in paragraph 1 hereof may conduct part of its business activities based on the Sharia Principles by setting up Sharia Units.

#### Article 2B

1. A Reinsurance Company may only conduct its business in reinsuring the risks faced by a General Insurance and/or Life Insurance Company.
2. The Reinsurance Company referred to in paragraph 1 hereof may conduct all its business activities based on the Sharia Principles
3. The Reinsurance Company referred to in paragraph 1 hereof may conduct part of its business activities based on the Sharia Principles by setting up Sharia Units.

3. The provision in Article 3 is amended to read as follows: Article 3

Article 3

- (1) In conducting its business, an Insurance Company shall comply with the following provisions:
- a. Its articles of association shall state that the purpose and objective of the establishment is to run one kind of insurance;
  - b. Its capital shall meet the prevailing regulations;
  - c. Its organizational structure shall at least contain these functions:
    1. for Insurance and Reinsurance Companies: risk management, financial management and services functions;
    2. for Insurance and Reinsurance Brokers: financial management and services functions;
    3. for Insurance Agent, Loss Adjuster and Actuarial Consultant Companies: technical functions according to the type of services they provide.
  - d. To hire enough experts relevant to the type of business to manage activities
  - e. An Insurance Company shall have an Independent Commissioner:
    1. whose main function is to bring forward the interest of the policyholders
    2. who is not an affiliate of the shareholders, board of directors or commissioners, and
    3. who is an independent commissioner of not more than two Insurance Companies
  - f. An Insurance and Reinsurance Company running all or part of its business based on Sharia Principles shall have a Sharia Control Board; and

- g. To run the Insurance Company business on the basis of good corporate governance
- (2) Further provisions relating to the organizational structure, experts, independent commissioner, the Sharia Control Board and good corporate governance referred to in paragraph 1 hereof shall be stipulated in a Ministerial Regulation.
4. The provision in Article 6 is amended to read as follows

Article 6

- (1) The minimum paid up capital for an Insurance, Reinsurance, Insurance Broker and Reinsurance Broker Company shall be as follows:
- a. Rp 100,000,000,000 (one hundred billion rupiah) for an Insurance Company
  - b. Rp 200,000,000,000 (two hundred billion rupiah) for a Reinsurance Company
  - c. Rp 1,000,000, 000 (one billion rupiah) for an Insurance Broker and Reinsurance Broker Company
- (2) The minimum paid up capital for an Insurance and Reinsurance Company running their activities on all of its business based on Sharia Principles shall be as follows:
- a. Rp 50,000,000,000 (fifty billion rupiah) for an Insurance Company
  - b. Rp 100,000,000,000 (one hundred billion rupiah) for a Reinsurance Company
- (3) The paid up capital referred to in paragraph 1 and 2 hereof as well as any addition thereto shall be in cash.
- (4) At the time of the company's establishment, foreign ownership by way of direct participation in an Insurance Company shall not exceed 80% (eighty per cent).

5. Between Article 6 and Article 7, seven (7) articles are inserted, namely Article 6A, Article 6B, Article 6C, Article 6D, Article 6E, Article 6F and Article 6G to read as follows:

Article 6A

- (1) An Insurance Company shall have equity of at least equal to the minimum paid up capital referred to in Article 6 paragraph 1 and paragraph 2.
- (2) The equity referred to in paragraph 1 hereof is the sum of paid up capital, capital surplus, retained earnings, general reserve, specific reserve, increase or decrease of value of securities and difference of revaluation of fixed assets.

Article 6B

- (1) An Insurance Company shall have equity referred to in Article 6A paragraph 1 with the following phases:
  - a. At least Rp 40,000,000,000 (forty billion rupiah) on or before December 31, 2008
  - b. At least Rp 70,000,000,000 (seventy billion rupiah) on or before December 31, 2009
  - c. At least Rp 100,000,000,000 (one hundred billion rupiah) on or before December 31, 2010
- (2) A Reinsurance Company shall have equity referred to in Article 6A paragraph 1 with the following phases:
  - a. At least Rp 100,000,000,000 (one hundred billion rupiah) on or before December 31, 2008
  - b. At least Rp 150,000,000,000 (one hundred and fifty billion rupiah) on or before December 31, 2009
  - c. At least Rp 200,000,000,000 (two hundred billion rupiah) on or before December 31, 2010

Article 6C

- (1) An Insurance Company running all of its business based on Sharia Principles shall have equity of at least Rp 50,000,000,000 (W billion rupiah) on or before December 31, 2008.
- (2) An Insurance Broker and Reinsurance Broker Company shall have equity of at least Rp 1,000,000,000 (one billion rupiah) on or before December 31, 2008.

#### Article 6D

The minimum working capital for Sharia Units of an Insurance and Reinsurance Company shall be as follows:

- a. Rp 25,000,000,000 (twenty-five billion rupiah) for Sharia Units of an Insurance Company;
- b. Rp 50,000,000,000 (fifty billion rupiah) for Sharia Units of a Reinsurance Company;

#### Article 6E

- (1) An Insurance Company having Sharia Units referred to in Article 6D letter a shall make adjustment to the working capital of its Sharia Units in the following phases:
  - a. At least Rp 5,000,000,000 (five billion rupiah) on or before December 31, 2008;
  - b. At least Rp 12,500,000,000 (twelve billion five hundred million rupiah) on or before December 31, 2009;
  - c. At least Rp 25,000,000,000 (twenty-five billion rupiah) on or before December 31, 2010.
- (2) A Reinsurance Company having Sharia Units referred to in Article 6D paragraph b shall make adjustment to the working capital of its Sharia Units in the following phases:
  - a. At least Rp 12,500,000,000 (twelve billion five hundred million rupiah) on or before December 31, 2008;
  - b. At least Rp 25,000,000,000 (twenty-five billion rupiah) on or before December 31, 2009
  - c. At least Rp 50,000,000,000 (fifty billion rupiah) on or before

December 31, 2010

Article 6F

- (1) An Insurance and Reinsurance Company having Sharia Units shall have its equity in the amount referred to in Article 6 paragraph 1 letter a and b plus working capital referred to in Article 6D letter a and b.
- (2) An Insurance and Reinsurance Company having Sharia Units may open Sharia branches and/or marketing offices.
- (3) Further provisions relating to the institution, conditions and procedures for setting up of Sharia branches and/or marketing offices shall be stipulated in a Ministerial Regulation.

Article 6G

- (1) An Insurance, Reinsurance, Insurance Broker and Reinsurance Broker Company that have not complied with the provision on equity referred to in Article 6B, 6C and 6E shall submit its work plan to fulfill the provision on the phases of equity not later than September 30 of the current year.
- (2) Such work plan of an Insurance, Reinsurance, Insurance Broker and Reinsurance Broker Company referred to in paragraph 1 hereof shall be completed not later than March 31 of the following year
- (3) The Minister shall evaluate the work plan referred to in paragraph 2 hereof.
- (4) The Minister will revoke the business license of an Insurance, Reinsurance, Insurance Broker and Reinsurance Broker Company that fails to submit its work plan referred to in paragraph 1 hereof, paying attention on the phasing of sanctions to be imposed.
- (5) In the event the Minister concludes that an Insurance, Reinsurance, Insurance Broker and Reinsurance Broker Company fails to fulfill its work plan referred to in paragraph 2



and 3 hereof, the Minister will revoke the business license of an Insurance, Reinsurance, Insurance Broker and Reinsurance Broker Company concerned, paying attention on the phasing of sanctions to be imposed.

6. The provision in Article 7 is amended to read as follows:

Article 7

- (1) An Insurance and Reinsurance Company shall have a guarantee fund of at least 20% (twenty percent) of Its minimum paid up capital required as referred to in Article 6 paragraph 1 and 2, or 20% (twenty per cent) of its minimum equity required as referred to in article 6A paragraph 1.
- (2) The guarantee fund referred to in paragraph 1 hereof shall constitute an ultimate guarantee in line with protecting the interest of the policyholders.
- (3) Such guarantee fund referred to in paragraph 1 hereof may only be placed as:
  - a. time deposit with automatic renewal option in a public bank in Indonesia, which is not an affiliate of the Insurance or Reinsurance Company; and/or
  - b. bond or other securities issued by the Government.
- (4) The amount of guarantee fund referred to in paragraph 1 and 2 hereof shall conform to the development of business and shall be determined by the Minister.
- (5) The guarantee fund referred to in paragraph 2 and 3 hereof may be disbursed or sold only with the approval of the Minister or a duly authorized official, upon request by:
  - a. liquidator, in the event of company liquidation
  - b. the company concerned, in the event its business license is revoked, provided that its obligations have been settled
  - c. the company concerned, in the event its guarantee fund has exceeded the amount required as referred to in paragraph 1

and 3 hereof, or

- d. the company concerned, in the event it is planning to transfer or replace the guarantee fund, after an amount is placed of at least the same as the guarantee fund thus transferred or replaced
  - (6) Further provisions relating to the guarantee fund amount and procedure of placement shall be stipulated in a Ministerial Regulation.
7. The provision in Article 10 is amended to read as follows:

#### Article 10

- (1) An Insurance Company shall run its insurance business continuously since its business license is obtained.
  - (2) An Insurance Company shall be deemed to discontinue its business if within 6 (six) months it fails to meet the criteria required.
  - (3) The Minister shall revoke the business license of an Insurance Company if it fails to run its business activities referred to in paragraph 2 hereof.
  - (4) Such revocation of the business license referred to in paragraph 3 hereof is made with attention to the phasing of sanctions to be imposed.
  - (5) Further provisions relating to the criteria of discontinued business referred to in paragraph 2 hereof shall be stipulated in a Ministerial Regulation.
8. The provision in Article 10A is amended to read as follows

#### Article 10A

An Insurance and Reinsurance Company may be permitted to change ownership as to exceed the limit referred to in Article 6 paragraph 4, subject to the provision that the paid up capital of the

Indonesian partner shall be retained.

9. Between Article 10A and Article 11, one (1) article is inserted, namely Article 10B, to read as follows:

Article 10B

- (1) Every plan to change ownership of an Insurance Company shall be approved by the Minister.
- (2) In the event such change of ownership referred to in paragraph 1 hereof results in direct participation of foreign ownership in the Insurance Company, the foreign partner shall be an Insurance Company that already runs same type of business, or a holding company one of whose affiliates runs the same type of insurance business.
- (3) The provision relating to an Insurance Company having the same type of business and of a holding company having an affiliate running the same type of insurance business as referred to in paragraph 2 hereof shall be met for as long as the foreign partner retains its ownership in the Insurance Company.
- (4) Change of ownership of an Insurance Company through transactions at the Stock Exchange is exempted from the provision referred to In paragraph 1 hereof as long as it shall not cause change of control of the said Insurance Company.
- (5) Further provisions relating to the procedure of change of ownership of an Insurance Company will be stipulated in a Ministerial Regulation.

10. Between Article 11 and Article 12, one (1) article is inserted, namely Article 11A, to read as follows

Article 11A

- (1) In the event an Insurance or Reinsurance Company has

financial problems, the Minister may order the Insurance or Reinsurance Company concerned to transfer its insurance portfolio.

- (2) Further provisions relating to the criteria of financial problems the procedure for portfolio transfer referred to in paragraph 1 hereof will be stipulated in a Ministerial Regulation.

11. Between Article 13 and Article 14, one (1) article is inserted, namely Article 13A, to read as follows

#### Article 13A

- (1) An Insurance Company shall not be permitted to extend loans to or place its assets on its shareholders or affiliates.
- (2) The provision referred to in paragraph 1 hereof shall not be applicable in the event such loan or placement fulfills the provision stipulated in Article 11.
- (3) An Insurance Company shall not be permitted to effect any form of transfer of its paid up capital to its shareholders or other parties.

12. The provision in Article 38 is amended to read as follows:

#### Article 38

- (1) In addition to the sanction stipulated in Article 37:
  - a. An Insurance or Reinsurance Company that fails to submit its annual financial statements, independent auditor's report or annual operating report, results within the designated time frame shall be subject to administrative fine of Rp 1,000,000 (one million rupiah) for each day of such delayed submission of each report.
  - b. An Insurance Supporting Company that fails to submit its annual financial statements, independent auditor's report or

annual operating results within the designated time frame shall be subject to administrative fine of Rp 500,000 (five hundred thousand rupiah) for each day of such delayed submission of each report.

- (2) The administrative fine referred to in paragraph 1 hereof shall be at a maximum amount of:
  - a. Rp 360,000,000 (three hundred and sixty million rupiah) for each report which is delayed in submission by the Insurance or Reinsurance Company
  - b. Rp 180,000 (one hundred and eighty million rupiah) for each report which is delayed in submission by the Insurance Supporting Company
- (3) Further provisions relating to the procedure for imposition, collection and payment of the administrative fine referred to in paragraph 1 hereof will be stipulated in a Ministerial Regulation

13. The provision in Article 40 is deleted

## Article II

- (1) By the time this Government Regulation comes into force, permit for opening branches of the existing Insurance and Reinsurance Company having Sharia principles shall serve as permit to set up Sharia Units.
- (2) By the time this Government Regulation comes into force, the following shall apply to an Insurance and Reinsurance Company that already has business license:
  - a. for computation of guarantee fund referred to in Article 7 paragraph 1, up to December 31, 2008 capital shall be the minimum paid up capital required in the Government Regulation concerning Insurance Business Conduct that serves as basis for the establishment of the said Insurance and Reinsurance Company;

- b. for computation of guarantee fund referred to in Article 7 paragraph 1, after the deadline stated in paragraph 1, capital shall be the minimum equity in accordance with the phasing to meet the requirement stipulated in Article 6B and Article 6E;
- (3) This Government Regulation shall come into force on the date it is stipulated.

For public cognizance, this Government Regulation shall be announced in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta, On May 19, 2008  
PRESIDENT OF THE REPUBLIC OF  
INDONESIA

Signed by

DR. H. SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta, On May 19, 2008  
MINISTER OF LAWS AND HUMAN  
RIGHTS OF THE REPUBLIC OF  
INDONESIA

Signed by

Andi Mattalatta

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 79  
YEAR 2008

ELUCIDATION ON GOVERNMENT REGULATION NO. 39 OF 2008  
CONCERNING  
SECOND AMENDMENT TO GOVERNMENT REGULATION No. 73 YEAR  
1992 CONCERNING  
INSURANCE BUSINESS CONDUCT

I. GENERAL

A sound, reliable and competitive insurance industry is highly needed in the national economy. To achieve such an insurance industry, it is deemed appropriate to improve the capital structure and governance of the industry players. This Government Regulation is intended to serve as legal basis for such improvement. In addition, this Government Regulation is expected to provide a stronger legal basis to carry out an insurance industry based on Sharia Principles. This is also expected to motivate the growth and development the insurance industry based on Sharia Principles that is increasingly needed by the public.

Improved provisions on capital structure are stipulated by setting up the amount of paid up capital, significantly high enough for establishment of a new Insurance company, besides the obligation for Insurance Companies that already have their business license before this Government Regulation comes into force to adjust their equity. This is intended to make the insurance players to have a stronger capital and financial condition while rendering protection and/or services to the public and be able to cope with sound competition in the national, regional and global level. Besides capital structure, strengthening of the governance is also needed. In running its business, an Insurance Company is obligated to implement good corporate governance.

This Government Regulation also sets forth implementation of conducting insurance and reinsurance business base on Sharia principles, such as those relating to capital, organizational structure

and control.

## II. ARTICLE BY ARTICLE

### Article I

#### Number 1

Article 1: Sufficiently clear

#### Number 2

Article 2A: Sufficiently clear

Article 2B: Sufficiently clear

#### Number 3

Article 3:

Paragraph 1

Letter a:

The articles of association shall state firmly that a company is established to run a specific type of business, such as Life Insurance, General Insurance, Reinsurance, Insurance Broker, Reinsurance Broker, Insurance Loss Adjuster, Actuarial Consultant or Insurance Agent Company.

An Insurance or Reinsurance Company running whole or part of its business on Sharia Principles shall also state firmly that runs the insurance or reinsurance business on Sharia Principles.

Letter b: Sufficiently clear

Letter c:

The service functions referred to in this provision also cover handling of complaints or claims by the public, especially customers

Letter d:

The number of experts employed is determined by several factors such as the number of branches, type of product marketed and/or turnover of business.



Letter e: Sufficiently clear

Letter f Sufficiently clear

Letter g:

The principle of good corporate governance includes those of transparency, accountability, responsibility, independence, fairness and equality.

Paragraph 2: Sufficiently clear

Number 4

Article 6: Sufficiently clear

Number 5

Article 6A

Paragraph 1:

This provision is intended to create equality in capital structure for Insurance Companies, both new and those already in operation at the time This Government Regulation comes into force.

Paragraph 2: Sufficiently clear

Article 6B: Sufficiently clear

Article 6C: Sufficiently clear

Article 6D: Sufficiently dear

Article 6E: Sufficiently dear

Article 6F: Sufficiently clear

Paragraph 1:

This provision is intended to create equality in capital structure for Insurance or Reinsurance Companies having Sharia Units or not.

Paragraph 2:

The Sharia branch and/or marketing office shall conduct marketing activities of insurance products on Sharia Principles as well as customer service related to such products on Sharia Principles.

Paragraph 3:

The provision stipulated in the Ministerial Regulation covers:

1. institutional relationship between Sharia Units and the branch or marketing office, both conventional and those on Sharia Principles;
2. requirements to meet when opening a Sharia branch and/or marketing office
3. procedures of marketing insurance products on Sharia Principles through the conventional branch or marketing office; and
4. procedures to delegate authority from management of the Sharia Units to management of Sharia branch office

Article 6G

Paragraph 1:

Whether or not the provisions on capital requirement have been met can be seen from the periodic reports submitted to the Minister. In case of doubt, the company shall submit a report by an independent auditor specially prepared to prove it.

Paragraph 2:

Such is the deadline set for an Insurance Company to submit clear and rational work plan based on the evaluation results of Minister.

Paragraph 3:

The evaluation is made to ensure that the work plan to be used as guideline to meet the minimum equity is clear and rational.

Paragraph 4:

Companies that have not met the minimum equity requirement and fail to submit its work plan shall be deemed to be unwilling to commit themselves to meeting the

said requirement.

Paragraph 5:

Companies that fail to carry out their work plan shall be deemed to lack the commitment and/or sufficient ability to run sound, reliable and competitive operations.

Number 6

Article 7

Paragraph 1: Sufficiently clear

Paragraph 2: Sufficiently clear

Paragraph 3: Sufficiently clear

Paragraph 4: Sufficiently clear

Paragraph 5:

Guarantee fund that can be disbursed is time deposit, whereas guarantee fund that can be sold is bond other securities issued by the government.

Paragraph 6: Sufficiently clear

Number 7

Article 10: Sufficiently clear

Number 8

Article 10A:

Basically, the capital that is paid up by the Indonesian partner in an Insurance or Reinsurance Company in which a foreign partner takes part may not decrease. However, the percentage of shareholding of the Indonesian partner may decrease in case the company needs additional capital, which makes the Indonesian partner unable to retain its percentage of shareholding. This provision that allows foreign shareholding to exceed 80% (eighty per cent) only applies to an Insurance or Reinsurance Company where the foreign partner has already placed direct participation of

80% (eighty per cent).

Number 9

Article 10B

Paragraph 1: Sufficiently clear

Paragraph 2: Sufficiently clear

Paragraph 3: Sufficiently clear

Paragraph 4: Sufficiently clear

Paragraph 5:

The provision stipulated in the Ministerial Regulation covers:

1. procedures and requirements to obtain approval of shareholding change;
2. criteria for same type of insurance;
3. criteria for holding company; and
4. criteria for control and controlling shareholder

Number 10

Article 11A Sufficiently clear

Number 11

Article 13A: Sufficiently clear

Number 12

Article 38: Sufficiently clear

Number 13: Sufficiently clear

Article II: Sufficiently clear