



FINANCIAL SERVICES AUTHORITY
REPUBLIC OF INDONESIA

FINANCIAL SERVICES AUTHORITY REGULATION
NUMBER 9/POJK.04/2015
CONCERNING
GUIDELINE OF REPURCHASE AGREEMENT TRANSACTION
FOR FINANCIAL SERVICES INSTITUTION

BY THE GRACE OF GOD ALMIGHTY

BOARD OF COMMISSIONERS OF FINANCIAL SERVICES AUTHORITY,

Considering : that in order to improve effectiveness of regulation and supervision of repurchase agreement transaction conducted by Financial Services Institution, it is necessary to enact Financial Services Authority Regulation concerning Guideline of Repurchase Agreement Transaction for Financial Services Institution;

In view of : 1. Law Number 8 Year 1995 concerning Capital Market (State Gazette Year 1995 Number 64, Supplement to the State Gazette Number 3608);
2. Law Number 24 Year 2002 concerning Government Bond (State Gazette Year 2002 Number 110, Supplement to the State Gazette Number 4236);
3. Law Number 19 Year 2008 concerning Sharia Government Bond (State Gazette Year 2008 Number 70, Supplement to the State Gazette Number 4852);
4. Law Number 21 Year 2011 concerning Financial Services Authority (State Gazette Year 2011 Number 111, Supplement to the State Gazette Number 5253);

HAS DECIDED:

To enact : FINANCIAL SERVICES AUTHORITY REGULATION
CONCERNING GUIDELINE OF REPURCHASE AGREEMENT
TRANSACTION FOR FINANCIAL SERVICES INSTITUTION.

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Financial Services Authority (FSA) Regulation the following definitions shall apply:

1. Repurchase Agreement Transaction hereinafter referred to as Repo Transaction is a contract of selling or buying Securities with a commitment to sell or buy them back at the appointed time and price.
2. Global Master Repurchase Agreement hereinafter abbreviated to GMRA is a standard agreement of Repo Transaction published by the International Capital Market Association.
3. Financial Services Institution is an institution conducting activities in Banking, Capital Market, Insurance, Pension Fund, Financing Institution, and other Financial Services Institutions as referred to in Law Number 21 Year 2011 concerning Financial Services Authority.
4. Central Securities Depository is a Party conducting central Custody for Custodian Bank, Securities Company, and other Parties, as referred to in Law Number 8 Year 1995 concerning Capital Market.
5. Securities are promissory notes, commercial paper, share, bond, evidences of indebtedness, Participation Units of collective investment scheme, futures contracts related to securities and all derivatives of Securities, as referred to in Law Number 8 Year 1995 concerning Capital Market.

Article 2

- (1) Financial Services Institution conducting a Repo Transaction is obliged to comply with the provisions of this FSA Regulation.
- (2) The provision referred to in clause (1) shall apply to a Repo Transaction of scripless Securities regulated and supervised by FSA as well as registered and settled through Bank of Indonesia and/or Central Securities Depository.

Article 3

- (1) Each Repo Transaction shall result in a change of ownership of Securities.
- (2) The Securities transferred for a substitution or margin maintenance in a Repo Transaction shall result in a change of ownership of Securities.
- (3) In the event of default in the Repo Transaction, the parties are obliged to settle their obligation in accordance with the procedure of event of default settlement as well as the obligations and entitlements engendered by it as referred to in Repo Transaction agreement.

CHAPTER II
AGREEMENT

Article 4

- (1) Each Repo Transaction shall be based on a written agreement.
- (2) The agreement referred to in clause (1) shall contain at least the following provisions:
 - a. transfer of Securities ownership;
 - b. obligation to undertake fair market valuation of the respective collaterals in the transaction (mark-to-market);
 - c. initial margin and/or haircut of Securities in Repo Transaction;
 - d. margin maintenance including substitution of

- margin Securities;
- e. the entitlements and obligations of the parties related to the ownership of Securities in Repo Transaction including its execution time and the respective tax obligation;
- f. event of defaults;
- g. the settlement procedures of event of default as well as the engendered obligation and entitlement;
- h. agreement to be subjected to Indonesian law;
- i. a clear statement of the role of Financial Services Institution in Repo Transaction either acting as an agent or acting as a principal; and
- j. the procedures of confirmation of Repo Transaction and/or material changes in relation to the Repo Transaction.

Article 5

- (1) Each written agreement referred to in Article 4 clause (1) shall implement GMRA Indonesia issued by FSA or other parties approved by FSA.
- (2) GMRA Indonesia as referred to in clause (1) comprises:
 - a. Global Master Repurchase Agreement (GMRA);
 - b. Indonesia Annex;
 - c. Annex I Supplemental Terms & Condition;
 - d. Annex II Confirmation;
 - e. Buy/Sell Back Annex;
 - f. Equity Annex; and
 - g. Agency Annex.
- (3) The parties may agree to make amendments to the clauses in the agreement (GMRA Indonesia) to the extent that the amendments do not contradict this FSA Regulation.
- (4) In the event that Financial Services Institution enters into a Repo Transaction with government institutions conducting fiscal and monetary policy, the Financial Services Institution is not obliged to implement GMRA Indonesia.

- (5) Further provisions regarding GMRA Indonesia referred to clause (2) shall be regulated in the FSA Circular Letter.

CHAPTER III
OBLIGATION

Article 6

- (1) Financial Services Institution undertaking Repo Transaction is obliged to meet the following pre-requirements:
- a. having director and/or employee authorized to conduct Repo Transaction;
 - b. having employee possessing sufficient knowledge and work experience in Repo Transaction as well as understanding regulations related to Repo Transaction;
 - c. ensuring the availability of Securities and/or fund for Repo Transaction settlement;
 - d. ensuring each Repo Transaction is conducted by authorized director and/or employee as referred to in letter a;
 - e. having relevant policy, procedure, and adequate internal control; and
 - f. having risk management in mitigating risks arising from Repo Transaction.
- (2) Financial Services Institution conducting Repo Transaction is obliged to:
- a. undertake proper bookkeeping and record as well as having adequate documentation of Repo Transaction conducted by Financial Services Institution;
 - b. apply the necessary accounting treatment in the financial statements of Financial Services Institution in accordance with the applicable Financial Accounting Standard;
 - c. make a record of identity of the parties in Repo Transaction correctly.

Article 7

In order to mitigate risks arising from Repo Transaction referred to in Article 6 clause (1) letter f, Financial Services Institution is obliged to:

- a. set initial margin and/or amount of haircut of Securities in Repo Transaction in accordance with the counterparty's credit risk and Securities risk;
- b. perform margin maintenance in accordance with Repo Transaction agreement at any time if the value of Securities based on its fair market value shows material decline in the value as previously agreed;
- c. ensure the issuance of written confirmation, either in paper or electronic in relation to Repo Transaction agreement;
- d. monitor the net exposure of all Repo Transactions and perform certain action to fulfil its obligation toward its counterparty in daily basis;
- e. minimize any risks of settlement arising from Repo Transaction by means of settlement system provided by Bank of Indonesia and/or Central Securities Depository; and
- f. possess mechanism allowing for fast identification of conditions that may result in event of default and/or mechanism providing notification of failure on fulfilling its obligation of Repo Transaction to its counterparty.

CHAPTER IV

FINANCIAL SERVICES INSTITUTION ACTING AS AGENT

Article 8

Financial Services Institution that is participant in settlement system of Bank of Indonesia and/or Central Securities Depository is allowed to act as agent of Repo Transaction.

Article 9

In the event that a Financial Services Institution acts as agent of Repo Transaction for its clients, Financial Services Institution shall:

- a. obtain power of attorney from its clients to conduct Repo Transaction on behalf of the clients;
- b. record the identity of the clients conducting Repo Transaction and deliver it to the counterparty;
- c. record identity of the counterparty and deliver it to its clients; and
- d. make a regular report as agreed in the agreement for the clients containing information of Repo Transaction being conducted on behalf of the clients.

CHAPTER V REPORTING

Article 10

- (1) Financial Services Institution conducting Repo Transaction on debt Securities is obliged to report the foregoing Repo Transaction to FSA through The Recipient of Securities Transaction Report.
- (2) Deadlines and procedures of reporting referred to in clause (1) are subject to laws and regulations in Capital Market sector concerning Reporting of Securities Transaction.
- (3) Financial Services Institution conducting Repo Transaction on equity Securities is obliged to report to Central Securities Depository.
- (4) The report referred to in clause (3) is obliged to be submitted no later than next working day after Repo Transaction occurs.

CHAPTER VI
SANCTION PROVISION

Article 11

- (1) Notwithstanding to criminal provisions in capital market, FSA may impose administrative sanctions on any party that violates this FSA regulation, as well as on any party that causes the violations to occur, in the form of:
 - a. written admonition;
 - b. fine that is obligation to pay a certain amount of money;
 - c. restriction of business activities;
 - d. suspension of business activities;
 - e. revocation of business license;
 - f. cancellation of approval; and
 - g. cancellation of registration.
- (2) Administrative sanctions as referred to in clause (1) letter b, letter c, letter d, letter e, letter f or letter g may be imposed with or without administrative sanction imposition in the form of written admonition as referred to in clause (1) letter a.
- (3) Administrative sanction as referred to in clause (1) letter b can be imposed separately or along with the imposition of sanctions as referred to in clause (1) letter c, letter d, letter e, letter f, or letter g.

Article 12

In addition to administrative sanction as referred to in Article 11 clause (1), FSA may take particular actions towards each party who violates provisions in this FSA Regulation.

Article 13

FSA may announce to the public the imposition of administrative sanction as referred to in Article 11 clause (1) and particular actions taken as referred to in Article 12.

CHAPTER VII
TRANSITION PROVISIONS

Article 14

All agreements of Repo Transaction being conducted and being entered into before this FSA Regulation is effective, do not need to be adjusted with this FSA Regulation.

CHAPTER VIII
CLOSING PROVISIONS

Article 15

In the event that Financial Services Institution conducts Repo Transaction based on sharia principles, the foregoing Financial Services Institution is not subject to this FSA Regulation.

Article 16

By the time of this FSA Regulation becomes effective, the Decision of the Chairman of the Capital Market and Financial Institutions Supervisory Agency Number Kep-132/BL/2006 dated 28 November 2006 concerning Accounting Treatment of Repurchase Agreement (Repo) By Means Of Master Repurchase Agreement (MRA), along with Rule Number VIII.G.13 as its attachment are hereby revoked and annulled.

Article 17

This FSA Regulation becomes effective on 1 January 2016.

In order to have everyone aware of this FSA Regulation, it will be promulgated in State Gazette of the Republic of Indonesia.

Enacted in Jakarta

on 25 June 2015

CHAIRMAN OF FINANCIAL
SERVICES AUTHORITY BOARD
OF COMMISSIONER,

signed

MULIAMAN D. HADAD

Enacted in Jakarta

on 26 June 2015

MINISTER OF JUSTICE AND HUMAN RIGHTS OF THE REPUBLIC OF
INDONESIA,

signed

YASONNA H. LAOLY

ELUCIDATION
OF
FINANCIAL SERVICES AUTHORITY REGULATION
NUMBER 9/POJK.04/2015
CONCERNING
GUIDELINE OF REPURCHASE AGREEMENT TRANSACTION
FOR FINANCIAL SERVICES INSTITUTION

I. GENERAL

Repo Transaction is a secured funding facility in Capital Market industry and has grown broadly in many countries adopting the GMRA as Standard Agreement.

Repo Transaction in Indonesia Capital Market has shown an increase in transaction value, frequency, and volume over the years and has played significant role in facilitating market liquidity. Nevertheless, the Repo Transactions conducted by Financial Services Institutions have not applied general standard of transaction for market players, which leads to many variants of transaction and creates legal uncertainty.

Ideally, all types of Indonesia Capital Market transaction should be clearly regulated in order to promote an orderly, fair and efficient Capital Market as mandated under Capital Market Law Number 8 Year 1995 regarding Capital Market. Before the implementation of this FSA Regulation, there have been efforts in standardizing Repo Transactions, such as the implementation of the Master Repurchase Agreement (MRA) by Association of Government Debt Securities Dealers (HIMDASUN) and Mini Master Repurchase Agreement by market players in banking sector. However, there was no comprehensive, standardized, and specific rule regarding Repo Transaction in Indonesian Capital Market.

In view of those aforementioned matters, it is deemed necessary to stipulate the FSA Regulation concerning Guideline Of Repurchase

Agreement Transaction For Financial Services Institution to provide standard guideline which refers to internationally accepted practice and legal certainty for Repo Transactions players. GMRA Indonesia is a repo transaction standard agreement based on GMRA with some adjustment to accomodate the Indonesia market conditions and needs. The GMRA Indonesia also provides a basis for the FSA to conduct law enforcement for the market players.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Clause (1)

The obligation of Financial Services Institutions to obey this FSA Regulation is at the time the Financial Services Institutions conduct Repo Transaction as a principal or as an agent for their clients or other party.

Clause (2)

In the time this FSA Regulation become effective, the types of scripless Securities regulated by the FSA are corporate bonds, corporate sukuk, Government Securities, and stock as well as Securities derivatives.

Article 3

Clause (1)

With the transfer of ownership, Securities traded is not a collateral in the transaction so it is not subject to re-characterization.

The transfer of ownership of securities sold under repo is followed by transfer of the rights attached to such Securities as dividends, coupons, voting rights, and the Preemptive Rights. Beneficiary of such rights adheres the agreement between parties as agreed in the Repo Transactions contract.

Clause (2)

Self-explanatory.

Clause (3)

The meaning of "event of default" including but not limited to:

- a. failure to meet its obligations related to Repo Transactions;
- b. Financial Services Institution in suspension of its business activities;
- c. seller or buyer statements is incorrect or materially untrue at the time it given or reaffirmed, and non-defaulting party sends a notification event of default to defaulting party; and
- d. parties in Repo Transactions in insolvency condition.

One of the parties obligations is to calculated net exposure of Repo Transactions at the time the default occurs, such as repo rate, coupon, margin top up, and price difference as well as fines on default to settle the transaction.

In the event of default, the parties shall perform their obligations promptly.

Article 4

Clause (1)

Self-explanatory.

Clause (2)

Letter a

Self-explanatory.

Letter b

For equities actively traded on Stock Exchange, mark-to-market on the Securities Values shall use the last Stock Exchange closing price.

For equities inactively traded on Stock Exchange and/or unlisted on the Stock Exchange, mark-to-market on the Securities Values shall use reference price set by Bond Pricing Agency.

For debt securities, mark-to-market on the Securities Values shall use reference price set by Bond Pricing Agency.

In the event that Bond Pricing Agency does not provide a fair market value of equity and debt securities, the fair market value shall be determined by agreement of both parties.

Letter c

"Haircut" means a reduction factor of securities market value in accordance with certain percentage of risk of the fair market value of such Securities.

Letter d

Self-explanatory.

Letter e

Entitlements of a party is those related to all revenue of the Securities or any right relating to Securities ownership and any tax obligations.

Letter f

Self-explanatory.

Letter g

The Settlement procedure of events of default including the respective entitlement and obligations, such as settling of obligations (close-out) and offsetting liabilities (set-off), provided:

- a. There is notification from the non-defaulting party to the defaulting party.
- b. The decision to do the settlement as the individual default (trade single default) or entire default (all trade default).

Letter h

Self-explanatory.

Letter i

Self-explanatory.

Letter j

Material changes of Repo Transactions such as changes on margin call or substitution Securities.

Article 5

Clause (1)

In complying with obligation to use GMRA Indonesia, Financial Services Institutions may use the agreement based on the type of traded Securities, types of Repo transactions (Repurchase Agreement or Sell and buy back), and their function of the Financial Services Institution as an agent for the third parties.

Clause (2)

Self-explanatory.

Clause (3)

Self-explanatory.

Clause (4)

Self-explanatory.

Clause (5)

Self-explanatory.

Article 6

Clause (1)

Self-explanatory.

Clause (2)

Letter a

Self-explanatory.

Letter b

Self-explanatory.

Letter c

Identity record for institution clients includes but not limited to the company name, address, directors, and shareholders.

The parties in the Repo Transaction, consist of principal, or their proxy and agent in Repo Transactions.

Article 7

Letter a

"Haircut" means a reduction factor of Securities fair market value in accordance with the risk in a certain percentage of the fair market value of such Securities.

Letter b

"Margin maintenance" includes mark-to-market on the Securities Value followed by the settlement of obligations arising from net exposures between the parties.

Materiality of the underlying Securities value change led to a margin maintenance is agreed to by the parties.

Letter c

Confirmation as referred to in this Article shall include, among others, the identity of the parties, Securities traded, date of purchase and repurchase (pricing rate) as well as other relevant information in first leg and second leg of Repo Transaction.

Letter d

"Net exposure" means the difference between transaction exposure to net margin and other obligations such as payment of manufactured income.

"Obligation" means an obligation between the parties arising from the maintenance margin, the manufactured income and the calculation of net exposure.

Letter e

Self-explanatory.

Letter f

Self-explanatory.

Article 8

Participants as referred to in this provision is the Custodian Bank or Securities Company which administers the client's account.

Article 9

Self-explanatory.

Article 10

Clause (1)

"The Recipient of Securities Transaction Report" means a Party appointed by CMFISA to provide system and/or infrastructure and receive Securities Transaction reporting.

Clause (2)

By the time of the promulgation of this FSA Regulation, the Capital Markets regulation regarding Securities Transaction Reporting is Rule Number X.M.3, Attachment of Decision of Capital Market and Financial Institution Supervisory Agency Chairman No. Kep-123/BL/2009 dated 29 May 2009 concerning Securities Transactions Reporting.

Clause (3)

Reporting obligation of Repo Transactions on Equity shall deemed fulfilled if it is conducted through a settlement mechanism determined by the Central Securities Depository.

Clause (4)

Self-explanatory.

Article 11

Self-explanatory.

Article 12

Self-explanatory.

Article 13

Self-explanatory.

Article 14

Self-explanatory.

Article 15

Self-explanatory.

Article 16

Self-explanatory.

Article 17

Self-explanatory.