



FINANCIAL SERVICES AUTHORITY
REPUBLIC OF INDONESIA

FINANCIAL SERVICES AUTHORITY REGULATION
NUMBER 26/POJK.04/2014

CONCERNING

SECURITIES EXCHANGE TRANSACTION SETTLEMENT GUARANTEE

WITH THE BLESSINGS OF GOD ALMIGHTY

THE BOARD OF COMMISSIONER OF THE FINANCIAL SERVICES AUTHORITY,

- Considering :
- a. that one of the purposes of the establishment of Clearing Guarantee Institution is to provide an orderly, fair, and efficient Securities Exchange Transaction Settlement Guarantee as mandated in Law Number 8 Year 1995 concerning Capital Market;
 - b. that the settlement guarantee of Securities Exchange Transaction is one of the risk management activities in the area of Capital Market that needs the existence of clear regulation which assures legal certainty;
 - c. that the regulation of Securities Exchange Transaction Settlement Guarantee and the regulation of Guarantee Fund need to be adjusted with the development of the guarantee and settlement practices in the Securities Exchange;
 - d. that based on the considerations as referred to in letter a, letter b, and letter c, it is deemed necessary to enact Financial Services Authority Regulation concerning Securities Exchange Transaction Settlement Guarantee;

- In view of :
1. Law Number 8 Year 1995 concerning Capital Market (State Gazette Year 1995 Number 64, Supplement to the

State...

State Gazette Number 3608);

2. 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 SECURITIES EXCHANGE TRANSACTION SETTLEMENT GUARANTEE.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Financial Services Authority (FSA) Regulation, the following terminology applies:

1. Securities Exchange Transaction Settlement Guarantee is the obligation of Clearing Guarantee Institution to immediately and directly take over the responsibility of Clearing Member which fails to fulfill its obligation regarding Securities Exchange Transaction settlement and to settle the transaction in the same time and terms as required for the respective Clearing Member.
2. Guarantee Fund is a pool of fund and/or Securities administered and managed by Clearing Guarantee Institution used to conduct Securities Exchange Transaction Settlement Guarantee by Clearing Guarantee Institution.
3. Guarantee Reserve is an accumulated fund originated from net income provision of Clearing Guarantee Institution in the form of cash and cash equivalents used to conduct the Securities Exchange Transaction Settlement Guarantee by Clearing Guarantee Institution.
4. Clearing is a process to determine the right and obligation resulted from a Securities Exchange Transaction...

Transaction.

5. Netting is a clearing activity which resulted in right and obligation for every Clearing Member to deliver or receive certain amount of Securities and to receive or pay certain amount of fund for each type of Securities transacted.
6. Clearing Member is Securities Exchange Member or other party who meets the requirements for acquiring Securities Exchange Transaction Settlement Guarantee services according to Clearing Guarantee Institution regulations.
7. Collateral is fund, Securities, and/or other financial instruments belong to Clearing Member as guarantee that can be used by Clearing Guarantee Institution to settle Securities Exchange Transaction and/or to settle obligation of Clearing Member to Clearing Guarantee Institution.
8. Guarantee Account is Securities Account of Clearing Member in the Clearing Guarantee Institution to deposit Collateral in the form of Securities and/or fund which can be used by Clearing Guarantee Institution to settle Securities Exchange Transaction and/or to settle obligation of Clearing Member to Clearing Guarantee Institution.
9. Securities Exchange Transaction is a contract between Members of a Securities Exchange in accordance with Exchange rules that relates to the purchase, sale, borrowing, lending, or other contractual arrangement regarding Securities or the price of Securities.
10. Isolated Transaction is Securities Exchange Transaction separated from Transaction Settlement Guarantee based on the provisions set by Securities Exchange and Clearing Guarantee Institution or on the order of the FSA.

11. Designated Stock is Securities defined by Securities Exchange and Clearing Guarantee Institution based on the specific requirements of the unguaranteed transaction settlement.
12. Credit Network is Clearing Members which are, either individually or collectively, required to fulfill the obligation of Clearing Guarantee Institution regarding the Securities Exchange Transaction Settlement Guarantee.
13. Credit Policy and Risk Control Committee is a committee appointed and dismissed by Clearing Guarantee Institution to provide input on credit policy and risk control to support the implementation of the Securities Exchange Transaction Settlement Guarantee.

CHAPTER II

OBLIGATION OF SECURITIES EXCHANGE TRANSACTION SETTLEMENT GUARANTEE

Article 2

Securities Exchange must regulate each type of Securities Exchange Transaction as referred to in FSA Regulations related to Securities Transaction as well as this FSA Regulation.

Article 3

Clearing Guarantee Institution must implement Securities Exchange Transaction Settlement Guarantee in accordance with this FSA Regulation, Securities Exchange Rules, and Clearing Guarantee Institution regulations.

Article 4

Clearing Guarantee Institution must be responsible for any loss suffered by any party as a result of the late settlement of Securities Exchange Transaction by Clearing Guarantee Institution.

Article 5...

Article 5

- (1) Director and/or commissioners of Clearing Guarantee Institution can be held responsible, either individually or collectively, for any loss suffered by Clearing Guarantee Institution or any other party.
- (2) Responsibilities of directors and/or commissioner of Clearing Guarantee Institution as referred to in clause (1) are resulted from negligence or regulation violation by director and/or commissioner of Clearing Guarantee Institution causing Clearing Guarantee Institution unable to fulfill Securities Exchange Transaction Settlement Guarantee obligation.

Article 6

- (1) Clearing Guarantee Institution must ensure that all Securities Exchange Transaction orders of Clearing Member have Collateral that is sufficient and controlled by Clearing Guarantee Institution before being executed.
- (2) The obligation of Clearing Guarantee Institution as referred to in clause (1) shall be fulfilled with the following provisions:
 - a. Securities that is illiquid or temporarily suspended from trading on the Securities Exchange cannot be used as Collateral in the Guarantee Account except for guaranteeing the settlement of the Securities sale itself;
 - b. Clearing Guarantee Institution must require Clearing Member to deposit additional Collateral in the Guarantee Account if the market value of the Collateral falls below the value limit set by the Credit Policy and Risk Control Committee, and Clearing Guarantee Institution has the right to reject Securities Exchange Transaction orders of Clearing Member until the additional Collateral has fulfilled; and
 - c. Clearing...

- c. Clearing Guarantee Institution must reject new Securities Exchange Transaction orders of Clearing Member which has a debit balance on the Collateral until its balance becomes positive or which fails to fulfill Securities Exchange Transaction settlement obligation to Clearing Guarantee Institution until its obligation has been fulfilled.

Article 7

- (1) In order to perform the function of Securities Exchange Transaction Settlement Guarantee, Clearing Guarantee Institution establishes Guarantee Reserve.
- (2) The establishment and the use of Guarantee Reserve by Clearing Guarantee Institution as referred to in clause (1) shall be fulfilled with the following provisions:
 - a. the amount of net income provision of Clearing Guarantee Institution for the current year, allocated to Guarantee Reserve is determined by the General Meeting of Shareholders; and
 - b. the use of Guarantee Reserve does not need approval of the General Meeting of Shareholders.

Article 8

- (1) Securities Exchange must make a contract with Clearing Guarantee Institution regarding Securities Exchange Transaction Settlement Guarantee.
- (2) The contract between the Securities Exchange and Clearing Guarantee Institution as referred to in clause (1) shall at least contain the following provisions:
 - a. Clearing Guarantee Institution has the authority to determine the Clearing Member which can perform Securities Exchange Transaction and which cannot perform Securities Exchange Transaction based on guarantee risk analysis result;
 - b. Securities Exchange must ensure that Clearing Guarantee Institution has facility to analyze the risk level of Clearing Member and has right to approve

or...

- or reject each order before being executed on the Securities Exchange;
- c. Clearing Guarantee Institution has right to know the information related to the Guarantee Account of each Clearing Member and must have facility to obtain such information at any time, and must establish Collateral requirements that must be fulfilled by each Clearing Member;
 - d. Clearing Guarantee Institution must require each Clearing Member to submit its Securities Exchange shares as Collateral;
 - e. Clearing Guarantee Institution may require each Clearing Member to ensure the major shareholder and/or main shareholder of a Clearing Member to submit some or all of its Clearing Members shares as Collateral;
 - f. Clearing Guarantee Institution must require each Clearing Member to bear the responsibility of the Credit Network in accordance with this FSA Regulation;
 - g. Securities Exchange and Clearing Guarantee Institution must establish requirements and procedures for determining Designated Stock based on this FSA Regulation;
 - h. Securities Exchange and Clearing Guarantee Institution must establish requirements and procedures for determining Isolated Transaction based on this FSA Regulation;
 - i. Securities Exchange and Clearing Guarantee Institution must establish parameters of temporary suspension of specific stock trading and/or specific Clearing Members in order to perform the guarantee risk management; and
 - j. Clearing Guarantee Institution must establish parameters of Clearing Member conditions which fails to fulfill the Securities Exchange Transactions settlement obligation and actions taken by Clearing

Guarantee...

Guarantee Institution in handling the failure of Clearing Member.

Article 9

- (1) Clearing Guarantee Institution must make a contract with each Clearing Member regarding Securities Exchange Transaction Settlement Guarantee.
- (2) The contract between the Clearing Guarantee Institution and each Clearing Member as referred to in clause (1) shall at least contain the following provisions:
 - a. Clearing Guarantee Institution is only responsible to conduct Securities Exchange Transaction Settlement Guarantee to Clearing Member;
 - b. Securities Exchange Transaction Settlement Guarantee by Clearing Guarantee Institution is based on the Clearing results on Netting basis performed by each Clearing Member determined by the Clearing Guarantee Institution;
 - c. Clearing Member conditions which fails to fulfill Securities Exchange Transaction settlement obligations and the actions taken by Clearing Guarantee Institution in handling the failure of Clearing Member;
 - d. Clearing Member obligation to pay Guarantee Fund contribution under this FSA Regulation and Clearing Guarantee Institution regulation; and
 - e. Clearing Member obligation to bear responsibility of the Credit Network in accordance with this FSA Regulation and Clearing Guarantee Institution regulation.

CHAPTER III

GUARANTEE FUND

Article 10

- (1) Clearing Member must pay certain amount of money as
a contribution...

a contribution to the Guarantee Fund that cannot be withdrawn in order to ensure the smoothness and security of Securities Exchange Transaction settlement.

- (2) Clearing Member obligation as referred to in clause (1) is carried out with the following provisions:
 - a. Guarantee Fund contributions derived from initial contribution of new Clearing Member and contribution based on transaction value of each Clearing Member;
 - b. determination of the initial contribution amount of the new Clearing Member including its collection procedures is set out in the Clearing Guarantee Institution regulation;
 - c. contribution based on the transaction value as referred to in letter a shall be paid no later than the settlement date of Securities Exchange Transaction through Clearing Guarantee Institution; and
 - d. determination of contribution amount based on the transaction value as referred to in letter a shall be stipulated in FSA Circular Letter.

Article 11

- (1) Guarantee Fund shall only be used by Clearing Guarantee Institution for the purpose of Securities Exchange Transaction Settlement Guarantee.
- (2) The use of Guarantee Fund as referred to in clause (1) shall be carried out with the following provisions:
 - a. if sources of fund in the form of Guarantee Reserve and bank loan have been used but are insufficient to settle the obligation of Clearing Member which fails to fulfill its Securities Exchange Transactions obligation; and
 - b. as collateral to obtain bank loan that is only intended for the Securities Exchange Transaction Settlement Guarantee.

(3) Guarantee...

- (3) Guarantee Fund used to obtain bank loan as referred to in clause (2) letter b must obtain prior approval from the Credit Policy and Risk Control Committee.
- (4) Each use of Guarantee Fund as referred to in clause (2) must be reported by Clearing Guarantee Institution to the FSA no later than 1 (one) working day after the use of Guarantee Fund.

Article 12

The use of Guarantee Fund for the settlement of Securities Exchange Transaction must be repaid by Clearing Member which fails to settle the Securities Exchange Transaction.

Article 13

Guarantee Fund does not belong to particular party and shall not be distributed to any party for any purpose except for those referred to in Article 11 clause (2).

Article 14

- (1) Clearing Guarantee Institution must manage the Guarantee Fund.
- (2) Provided that FSA by its own opinion believes that the Clearing Guarantee Institution is not able to manage the Guarantee Fund and sustain its function or there is no other party that is capable of carrying out the functions and responsibilities of Clearing Guarantee Institution, the Guarantee Fund must be transferred to FSA for the purpose of Securities Exchange Transaction Settlement Guarantee.

Article 15

- (1) Clearing Guarantee Institution may impose service fee for the investment management of Guarantee Fund maximum 10% (ten percent) of net income after tax of the Guarantee Fund.
- (2) FSA may determine lower limits of investment management service fee of the Guarantee Fund by

considering...

considering the financial condition of Clearing Guarantee Institution.

Article 16

- (1) Guarantee Fund shall only be invested in bank deposits and/or Indonesia Government Bond/Sukuk.
- (2) The investment of Guarantee Fund as referred to in clause (1) shall be conducted with the following provisions:
 - a. composition and limit of the investment value shall be in accordance with that determined by Credit Policy and Risk Control Committee; and
 - b. Indonesia Government Bond/Sukuk may be used as the basis or collateral of the securities transaction under repurchase agreement and/or securities lending and borrowing transactions with the Government of the Republic of Indonesia and Bank of Indonesia.

Article 17

In managing the Guarantee Fund, Clearing Guarantee Institution must meet the following requirements:

- a. separating deposit, record, and bookkeeping of Clearing Guarantee Institution asset and Guarantee Fund asset;
- b. providing secure deposit for Guarantee Fund asset;
- c. Guarantee Fund invested in bank deposits must be placed in a bank approved by Credit Policy and Risk Control Committee; and
- d. Guarantee Fund invested in Indonesia Government Bond/Sukuk must be deposited in the Securities Account of Custodian approved by Credit Policy and Risk Control Committee.

Article 18

The investment yield of Guarantee Fund must be added to the Guarantee Fund after being deducted from service fee of investment...

investment management by Clearing Guarantee Institution.

Article 19

- (1) Clearing Guarantee Institution is obliged to submit monthly and annual financial statement of Guarantee Fund to FSA.
- (2) The obligation to submit report as referred to in clause (1) shall be fulfilled with the following provisions:
 - a. the report is prepared and submitted separately from the financial statements of Clearing Guarantee Institution;
 - b. the report is presented based on the applicable Financial Accounting Standards;
 - c. the report is signed by at least 1 (one) director of Clearing Guarantee Institution;
 - d. monthly report is submitted no later than the 15th (fifteenth) day of the following month with a copy to Credit Policy and Risk Control Committee and Board of Commissioners of Clearing Guarantee Institution; and
 - e. annual financial statement is submitted no later than 60 (sixty) days after the date of financial year and audited by accountant registered in FSA.
- (3) Cost related to accounting and auditing services of annual financial statement of Guarantee Fund charged to the Guarantee Fund and the amount of costs must obtain prior approval from Credit Policy And Risk Control Committee.
- (4) If the deadline for report submission as referred to in clause (2) letter d and letter e is due on holiday, the report must be submitted on the first day after the holiday.

CHAPTER IV

SECURITIES EXCHANGE TRANSACTION SETTLEMENT GUARANTEE
PROCEDURE

Article 20

Clearing Member is declared to be failed in fulfilling its obligation related to Securities Exchange Transactions settlement if Clearing Member cannot fulfill some or all of its obligations to settle Securities Exchange Transaction in accordance with time and manner which have been regulated in Clearing Guarantee Institution regulation.

Article 21

- (1) In the event of failure of Clearing Member as referred to in Article 20, Clearing Guarantee Institution is obliged to carry out the function of Securities Exchange Transaction Settlement Guarantee.
- (2) The function of Securities Exchange Transaction Settlement Guarantee as referred to in clause (1) is carried out with the following sources of fund and order:
 - a. Guarantee Reserve;
 - b. Bank loan, if there has been a contract between Clearing Guarantee Institution and the bank;
 - c. Guarantee Fund;
 - d. financial sources from other Credit Network members, when all sources of fund as referred to in letter a, letter b, and letter c have been used but are insufficient, with the following proportions:
 1. 20% (twenty percents) of the total amount of fund needed to pay the obligations of Clearing and Guarantee Institution shall be equally divided among the remaining members of Credit Network;

2. 80%...

2. 80% (eighty percents) of the total amount of fund needed to pay the obligations of Clearing and Guarantee Institution shall be proportionately divided among the remaining members of Credit Network in accordance with the Clearing value of each Credit Network members during the latest 6 (six) months; and
3. the total unpaid amount within 30 (thirty) days by a particular member of Credit Network, shall be redivided among the remaining Credit Network members in accordance with the provisions stated in number 1 and number 2.

Article 22

FSA may take certain legal action towards Credit Network Members which do not fulfill their obligations as referred to in Article 21 clause (2) letter d number 3 by taking into account Clearing Guarantee Institution recommendations.

Article 23

- (1) Each use of sources of fund as referred to in Article 21 clause (2) is obliged to be repaid from the fund sources of Clearing Member which fails to settle Securities Exchange Transaction.
- (2) The repayment as referred to in clause (1) must be done according to the following manners:
 - a. Clearing Guarantee Institution processes requests of fund deposit and/or use of fund sources of Clearing Member which fails to settle Securities Exchange Transaction under the control of Clearing Guarantee Institution no later than 2 (two) Securities Exchange days after the use of fund sources as referred to in Article 21 clause (2);
 - b. Clearing Guarantee Institution processes the selling of Securities in the Guarantee Account of Clearing Member which fails to settle the Securities

Exchange...

Exchange Transaction no later than 10 (ten) Securities Exchange days after the use of fund sources;

c. Clearing Guarantee Institution request for revocation of Securities Exchange membership of Clearing Member which fails to settle Securities Exchange Transaction followed by the sale of Securities Exchange shares and/or sale of Clearing Member shares which fails to settle Securities Exchange Transaction owned by major shareholders no later than 60 (sixty) Securities Exchange days after the use of fund sources; and

d. Clearing Guarantee Institution file bankruptcy petition against Clearing Member which fails to settle Securities Exchange Transaction to FSA no later than 90 (ninety) Securities Exchange days after the use of fund sources followed by liquidation and/or sale of Clearing Member assets.

(3) Repayment of fund sources as referred to in clause (1) must be conducted in accordance with the following priority order:

a. Guarantee Fund;

b. Credit Network;

c. Bank loan; and

d. Guarantee Reserve.

(4) Clearing Guarantee Institution may request fund deposit and/or liquidation of other fund sources owned by Clearing Member which fails to settle Securities Exchange Transaction as referred to in clause (2) letter a and letter b, on the same day with the use of fund sources as mentioned in Article 21 clause (2).

Article 24

In the case of fund sources as referred to in Article 23 clause (2) are insufficient to repay the use of Guarantee Fund to resolve the failure of Clearing Member in Securities Exchange Transaction settlement, the shortage of Guarantee Fund repayment is covered by using the fund sources of other Credit Network members by sharing mechanism as referred to in Article 21 clause (2) d, within a period of one (1) year after the use of the Guarantee Fund.

CHAPTER V

EXEMPTED SECURITIES EXCHANGE TRANSACTION

Article 25

- (1) Securities Exchange and Clearing Guarantee Institution may determine Designated Stock.
- (2) Designated Stock must be announced to the public and reported to FSA by Securities Exchange and Clearing Guarantee Institution no later than 2 (two) Securities Exchange days before the Designated Stock comes into effective.
- (3) Determination of Designated Stock as referred to in clause (1) must be conducted with the following conditions:
 - a. requirements and procedures for determining Designated Stock must be stipulated in the Securities Exchange and Clearing Guarantee Institution regulations;
 - b. in determining the requirements of Designated Stock as referred to in letter a, the Securities Exchange and Clearing Guarantee Institution must consider at least:
 1. Securities ownership composition including public ownership portion and Securities ownership concentration;

2. pattern...

2. pattern, volume, and frequency of Securities transaction; and
 3. Securities price fluctuations.
- c. procedures for determining Designated Stock as referred to in letter a among others include the period of data and information used, review period, as well as announcement procedures for the Designated Stock.
- (4) Clearing Guarantee Institution does not perform Securities Exchange Transactions Settlement Guarantee for Designated Stock.

Article 26

- (1) Securities Exchange and Clearing Guarantee Institution may determine Isolated Transaction.
- (2) Determination of Isolated Transaction as referred to in clause (1) must be approved by or based on the order of FSA.
- (3) Isolated Transaction must be announced to the public and reported to FSA by the Securities Exchange and Clearing Guarantee Institution no later than 2 (two) Securities Exchange days after the determination of Isolated Transaction.
- (4) Determination of Isolated Transaction as referred to in clause (1) must be conducted with the following conditions:
 - a. Isolated Transaction can be defined, among others, in the existence of transaction indication that is unfair, high risk, and/or harmful for the market integrity;
 - b. requirements and procedures for determining Isolated Transaction must be stipulated in Securities Exchange and Clearing Guarantee Institution regulations;
 - c. to determine...

- c. to determine requirements of Isolated Transaction as referred to in letter a, Securities Exchange and Clearing Guarantee Institution must consider at least:
1. Condition of Clearing Member whose transaction can be treated as Isolated Transaction, including but not limited to quantity of transaction value that is unlikely to be settled and transaction pattern of respective Clearing Member; and
 2. Securities condition including but not limited to pattern, volume, and frequency of Securities transaction, as well as Securities price fluctuation.
- d. determination procedure of Isolated Transaction as referred to in letter b among others includes period of data and information used, review period, as well as announcement of Isolated Transaction determination.
- (5) Clearing Guarantee Institution may postpone Securities Exchange Transaction Settlement and/or may not perform Securities Exchange Transaction Settlement Guarantee for Isolated Transaction under the approval or order from FSA.

CHAPTER VI

CREDIT POLICY AND RISK CONTROL COMMITTEE

Article 27

- (1) In order to promote the implementation of Securities Exchange Transaction Settlement Guarantee, Clearing Guarantee Institution must establish Credit Policy And Risk Control Committee.
- (2) The establishment of Credit Policy And Risk Control Committee as referred to in clause (1) is conducted with

following...

following provisions :

- a. membership of Credit Policy And Risk Control Committee must consist of 5 (five) unaffiliated directors of Clearing Member; and
 - b. membership of Credit Policy And Risk Control Committee must determined by Clearing Guarantee Institution based on candidates nominated by Clearing Members.
- (3) Credit Policy And Risk Control Committee has duties and responsibilities among others:
- a. recommends risk management policy of Securities Exchange Transaction Settlement Guarantee to Board of Directors and Board of Commisioners of Clearing Guarantee Institution;
 - b. monitors risk management policy of Securities Exchange Transaction Settlement Guarantee;
 - c. recommends percentage of Clearing Guarantee Institution net profit provision for Guarantee Reserve to Board of Directors, Board of Commisioners and shareholders of Clearing Guarantee Institution; and
 - d. determines use and investment policy of Guarantee Fund.
- (4) Credit Policy And Risk Control Committee must hold meeting at least once in 2 (two) months or at any time when there is certain condition that requires decision and/or recomendation from Credit Policy And Risk Control Committee.
- (5) Minutes or record of each Credit Policy And Risk Control Committee meeting must be prepared and signed by at least 3 (three) members of the Committee and must be kept.

Article 28

Clearing Guarantee Institution must submit to Credit Policy And Risk Control Committee data and information related to the Committee...

the Committee duties and responsibilities as referred to in Article 27 clause (3) based on methods set by the Committee.

Article 29

Requirements and procedures of Credit Policy And Risk Control Committee member election and procedures of decision and/or recommendation making of Credit Policy And Risk Control Committee are defined further in Clearing Guarantee Institution regulations.

CHAPTER VII

SANCTION PROVISION

Article 30

- (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...

- (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 31

In addition to administrative sanction as referred to in Article 30 clause (1), FSA may take particular actions towards each party who violates provisions in this FSA Regulation.

Article 32

FSA may announce to the public the imposition of administrative sanction as referred to in Article 30 clause (1) and particular actions taken as referred to in Article 31.

CHAPTER VIII

TRANSITION PROVISIONS

Article 33

Securities Exchange and Clearing Guarantee Institution are obliged to establish rules and instruments related to Securities Exchange Transaction Settlement Guarantee no later than 31 December 2015.

Article 34

This FSA Regulation shall become effective since the date of its enactment, except for provisions in Article 25 and Article 26 which shall become effective since 1 January 2016.

CHAPTER IX

CLOSING PROVISIONS

Article 35

At the time of this FSA Regulation becomes effective:

- a. The Decision...

- a. The Decision of the Chairman of the Capital Market and Financial Institutions Supervisory Agency Number Kep-46/PM/ 2004 dated 9 December 2004 concerning Securities Exchange Transaction Settlement Guarantee, along with Rule Number III.B.6 as its attachment; and
- b. The Decision of the Chairman of the Capital Market and Financial Institutions Supervisory Agency Number Kep-47/PM/ 2004 dated 9 December 2004 concerning Guarantee Fund, along with Rule Number III.B.7 as its attachment;

are hereby revoked and annulled, with exception of provision number 3 letter a Rule Number III.B.7 Attachment of The Decision of the Chairman of the Capital Market and Financial Institutions Supervisory Agency Number Kep-47/PM/2004 dated 9 December 2004 concerning Guarantee Fund which remains effective until the issuance of the FSA Circular Letter as referred to in Article 10 clause (2) letter d.

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 19 November 2014
CHAIRMAN OF FINANCIAL SERVICES
AUTHORITY BOARD OF COMMISSIONER,
Signed
MULIAMAN D. HADAD

Enacted in Jakarta
on 19 November 2014
MINISTER OF JUSTICE AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,
signed
YASONNA H. LAOLY

ELUCIDATION
OF
FINANCIAL SERVICES AUTHORITY REGULATION
NUMBER 26/POJK.04/204
CONCERNING
SECURITIES EXCHANGE TRANSACTION SETTLEMENT GUARANTEE

I. GENERAL

Some of the provisions stated in Rule Number III.B.6 concerning Exchange Transaction Settlement Guarantee and Rule Number III.B.7 concerning Guarantee Fund are in necessity of amendment in order to make some adjustments based on the recommendations of International Organization of Securities Commissions (IOSCO), as well as to provide legal standing on resolution of default on Exchange Transaction settlement that is identified as unfair transaction and the use of Guarantee Fund to settle the case of that transaction.

IOSCO as an international regulator organization of Capital Market has provided guidelines and policies for its member in order to improve the standard of regulation to make an efficient and fair market. One of the guidelines and policies provided by IOSCO is recommendations related to the establishment of an institution to protect market players from counterparty risk in the securities exchange transaction, which is Central Counterparty (CCP). One of the IOSCO recommendations states that default procedures of CCP must be made as clearly as possible and include specific conditions which are deemed or categorized as failure of transaction settlement in securities exchange and method used to identify the existence of the failure.

Some IOSCO recommendations and common practices which are not adopted in Rule Number III.B.6 concerning Exchange Transaction Settlement Guarantee and Rule Number III.B.7 concerning Guarantee Fund, among others, are provisions about netting, Designated Stock, Isolated Transaction, contract adjustment between Securities Exchange and Clearing Guarantee Institution, contract between Clearing Guarantee Institution and Clearing Member, priority of use and source of fund for the purpose of guarantee, as well as contribution and use of Guarantee Fund. Therefore, it is needed to revise provisions in Rule Number III.B.6 concerning Exchange Transaction Settlement Guarantee and

Rule...

Rule Number III.B.7 concerning Guarantee Fund by enacting this FSA Regulation. Some provisions which are more technical will be regulated in Securities Exchange regulations and Clearing Guarantee Institution regulations as Self-Regulatory Organization (SRO) and agreement among SROs after this FSA Regulation is promulgated.

II. ARTICLE BY ARTICLE

Article 1

Self-Explanatory

Article 2

At the time this FSA regulation is promulgated, Regulation related to Securities Transaction is Rule Number III.A.10 concerning Securities Transaction, Attachment of the Decision of The Chairman of Capital Market and Financial Institutions Supervisory Agency Number Kep-42/PM/1997 dated 26 December 1997.

Article 3

Self-Explanatory

Article 4

Clearing Guarantee Institution is not responsible for any loss which is encountered by other party resulted from late Securities Exchange Transaction settlement if it occurs due to force majeure that is unavoidable.

Article 5

Self-Explanatory

Article 6

Self-Explanatory

Article 7

Self-Explanatory

Article 8

Clause (1)

Self-Explanatory...

Self-Explanatory

Clause (2)

Letter a

Self-Explanatory

Letter b

Self-Explanatory

Letter c

Self-Explanatory

Letter d

Self-Explanatory

Letter e

What is meant by some or all of Clearing Member shares owned by major shareholder and/or main shareholder is shares owned by Clearing Member.

Letter f

Self-Explanatory

Letter g

Self-Explanatory

Letter h

Self-Explanatory

Letter i

Self-Explanatory

Letter j

Self-Explanatory

Article 9

Self-Explanatory

Article 10

Self-Explanatory

Article 11...

Article 11

Self-Explanatory

Article 12

Guarantee Fund must firstly be repaid by Clearing Member which fails to settle Securities Transaction. In the event of the repayment from the Clearing Member is insufficient, the repayment must be borne by all Credit Network Member.

Article 13

Self-Explanatory

Article 14

Self-Explanatory

Article 15

Self-Explanatory

Article 16

Self-Explanatory

Article 17

Letter a

Self-Explanatory

Letter b

Guarantee Fund Assets are bank deposit, cash, Government Bond/Sukuk, and checking account.

Letter c

Self-Explanatory

Letter d

Self-Explanatory

Article 18

Self-Explanatory

Article 19

Self-Explanatory...

Self-Explanatory

Article 20

Self-Explanatory

Article 21

Self-Explanatory

Article 22

Certain legal action may be in the form of bankruptcy petition against Credit Network members. The action may be conducted by taking into account and conforming law and regulations applicable to Securities Company and other Parties which become Credit Network Members.

Article 23

Clause (1)

Self-Explanatory

Clause (2)

Letter a

What is meant by “Securities Exchange day” is the day on which Securities Exchange holds Securities trading.

Letter b

Self-Explanatory

Letter c

Share owned by major shareholder which can be sold by Clearing Guarantee Institution is only the share guaranteed by Clearing Members to Clearing Guarantee Institution.

Letter d

Self-Explanatory

Clause (3)

Self-Explanatory

Clause (4)

Self-Explanatory...

Self-Explanatory

Article 24

Self-Explanatory

Article 25

Clause (1)

Self-Explanatory

Clause (2)

Self-Explanatory

Clause (3)

Letter a

Self-Explanatory

Letter b

Self-Explanatory

Letter c

Notification to the public may be conducted through Securities Exchange website and Clearing Guarantee Institution website.

Clause (4)

Self-Explanatory

Article 26

Clause (1)

Self-Explanatory

Clause (2)

Self-Explanatory

Clause (3)

Self-Explanatory

Clause (4)

Letter a

Unfair transaction includes but is unlimited to criminal offenses in Capital Market as stipulated in Article 95 until Article 99 Law Number 8 Year 1995 concerning Capital Market.

Letter b

Self-Explanatory

Letter c

Self-Explanatory

Letter d

Announcement of Isolated Transaction determination to the public can be conducted through Securities Exchange website and Clearing Guarantee Institution website.

Article (5)

The decision of postponing Securities Exchange Transaction Settlement and/or not performing Securities Exchange Transaction Settlement Guarantee for Isolated Transaction is based on the review outcome conducted by FSA to the requests of Securities Exchange and Clearing Guarantee Institution.

Article 27

Clause (1)

Self-Explanatory

Clause (2)

Self-Explanatory

Clause (3)

Self-Explanatory

Clause (4)

Self-Explanatory

Clause (5)

Documentation of meeting minutes or record may be requested at any time by FSA.

Article 28...

Article 28

Self-Explanatory

Article 29

Self-Explanatory

Article 30

Self-Explanatory

Article 31

Self-Explanatory

Article 32

Self-Explanatory

Article 33

Self-Explanatory

Article 34

Self-Explanatory

Article 35

Self-Explanatory