

BANK INDONESIA REGULATION
NUMBER 14/ 17 /PBI/2012
CONCERNING
BANK BUSINESS ACTIVITY IN THE FORM OF TRUST

WITH THE BLESSINGS OF GOD ALMIGHTY

THE GOVERNOR OF BANK INDONESIA,

- Considering:
- a. whereas the existence of a policy concerning the receipt of export proceeds and withdrawal of offshore debts through the domestic banking system shall enable more sustainable supply of foreign exchange ;
 - b. whereas to optimize the benefit of foreign exchange supply, banking business activities shall be required to support foreign exchange management ;
 - c. whereas foreign exchange management can be performed through bank business activity in the form of trust, which can step up domestic bank competitiveness, financial deepening, and the formation of an active and sound financial market;
 - d. whereas bank business activity in the form of trust can support Bank Indonesia's effort in maintaining rupiah exchange rate stability;
 - e. whereas based on considerations as referred to in letter a, letter b, letter c, and letter d, it is deemed necessary to set provisions concerning Bank Business Activity In The Form of Trust in a Bank Indonesia Regulation;

- In view of:
1. Act Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Number 31 of 1992, Supplement to the State Gazette of the Republic of Indonesia Number 3472) as amended by Act Number 10 of 1998 (State Gazette of the Republic of Indonesia Number 182 of 1998, Supplement to the

- State Gazette of the Republic of Indonesia Number 3790);
2. Act Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 66 of 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3843) as have been amended several times with the latest amendment by Act Number 6 of 2009 concerning Stipulation of Government Regulation In Lieu of Law Number 2 of 2008 concerning Second Amendment of Act Number 23 of 1999 concerning Bank Indonesia to become Law (State Gazette of the Republic of Indonesia Number 7 of 2009, Supplement to the State Gazette of the Republic of Indonesia Number 4962);
 3. Act Number 21 of 2008 concerning Sharia Banking (State Gazette of the Republic of Indonesia Number 94 of 2008, Supplement to the State Gazette of the Republic of Indonesia Number 4867);

HAS DECREED:

To enact: BANK INDONESIA REGULATION CONCERNING BANK
BUSINESS ACTIVITY IN THE FORM OF TRUST

CHAPTER I
GENERAL PROVISIONS

Article 1

The terminologies used in this Bank Indonesia Regulation have these following meanings:

1. Bank is a Commercial Bank that conducts business activities in conventional manner as referred to in Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998 and a Sharia Commercial Bank as referred to in Act Number 21 of 2008 concerning Sharia Banking.
2. Bank Business Activity in the form of Custodianship with Management, further on shall be referred to as Trust, is an activity of custodianship with management of settlor's assets based on a written agreement between Bank as trustee and settlor for the interest of beneficiary.
3. Recipient and Manager of Trust Asset, further on shall be referred to as Trustee, is a Bank that conducts Trust activities in accordance with the provisions of this Bank

Indonesia Regulation.

4. Party that Puts Trust Assets into custody, further on shall be referred to as Settlor, is the party that owns and puts its assets in the custody of and to be managed by Trustee.
5. Party that receives the benefits, further on shall be referred to as Beneficiary, is the party that receive the benefits from the Trust activities.

Article 2

Bank that conducts Trust activities shall be obliged to use as guideline the provisions in this Bank Indonesia Regulation.

Article 3

Bank that conducts Trust activities shall be obliged to comply with provisions and legislations that regulate the implementation of anti-money laundering and combating the financing of terrorism program.

Article 4

Bank that conducts Trust activities shall be obliged to meet the following principles:

- a. Trust activities shall be conducted by a business unit that is separate from Bank's other activity units;
- b. Assets entrusted by Settlor are limited to financial assets;
- c. Assets entrusted by Settlor are recorded and reported separately from Bank's assets;
- d. in the event a Bank that conducts Trust activities is liquidated, all Trust assets shall not be included in the bankruptcy assets and shall be returned to the Settlor or transferred to a successor trustee appointed by the Settlor;
- e. Trust activities shall be set forth in a written agreement between Trustee and Settlor;
- f. Trustee shall safeguard the confidentiality of data and information related to Trust activities as provided in the Trust agreement, except where related to the purpose of reporting to Bank Indonesia;
- g. Bank that conducts Trust activities shall comply with prevailing provisions and legislations.

CHAPTER II

TRUST ACTIVITIES

Article 5

- (1) In Trust activities as referred to in Article 2, Trustee acts as:
 - a. paying agent;
 - b. investment agent in based on conventional principles and/or based on sharia principles; and/or
 - c. borrowing agent and/or financing agent based on sharia principles, for and on behalf of Settlor in accordance with the Trust agreement.
- (2) Trust activities as referred to in paragraph (1) should be conducted based on written instructions from Settlor as contained in the Trust agreement.

Article 6

Trustee activities as paying agent as referred to in Article 5 paragraph (1) letter a, among others include:

- a. opening and closing of account for and on behalf of Settlor;
- b. receiving and depositing funds into Settlor's account;
- c. executing payments from Settlor's account to Beneficiary and/or other parties;
- d. recording, documenting, and administering documents related to Settlor's account.

Article 7

- (1) Trustee's activities as investment agent based on conventional principles and/or based on sharia principles as referred to in Article 5 paragraph (1) letter b are conducted based on clear and detailed instructions from Settlor, which are adjusted to the types of activities or instruments used.
- (2) In the event Settlor gives instructions to Trustee to undertake investment activities other than activities that are regulated in prevailing legislations, those investments should be undertaken by investment manager.
- (3) In the event investments are undertaken by investment manager as referred to in paragraph (2), Trustee acts as:
 - a. paying agent; or
 - b. paying agent and agent that connects investment manager with Settlor.
- (4) Trustee shall not be responsible of losses from investments as long as those investments are in accordance with Settlor's instructions in the Trust agreement.

Article 8

Trustee's activities as borrowing agent and/or financing agent based on sharia principles as

referred to in Article 5 paragraph (1) letter c among others include:

- a. obtaining borrowings based on conventional principles or financing based on sharia principles, which are evidenced by loan agreements or financing agreements based on sharia principles;
- b. undertake hedging or *tahawwuth* based on sharia principles;
- c. reserve funds for repayments of borrowings or financing based on sharia principles, which shall be based on the mechanisms set by Settlor; and/or;
- d. other activities related to borrowing or financing based on sharia principles.

Article 9

In undertaking Trust activities, Trustee is prohibited from:

- a. utilizing Trust assets for its own interest; and/or
- b. undertaking activities outside those already provided for in the Trust agreement, either at its own initiative or based on written instructions from Settlor.

Article 10

In undertaking Trust activities, Trustee receives fees or *ujroh* in accordance with the Trust agreement.

CHAPTER III

RECORDING OF ACTIVITIES

Article 11

- (1) Trustee is obliged to maintain records of Trust activities separately from Bank's records, including details of each Trust activity.
- (2) The records as referred to in paragraph (1) shall at least cover records concerning Trust asset transactions and positions.
- (3) Procedures for the recording of Trust activities shall refer to prevailing Statements of Financial Accounting Standards.

Article 12

- (1) Trustee is obliged to use accounts at domestic banks for all Trust activities.
- (2) Trustee is obliged to undertake the recording of account movements separately for each Settlor and Beneficiary.

Article 13

- (1) Trust activities should be audited by internal auditor and external auditor no less than 1 (one) time in 1 (one) year.
- (2) Bank is obliged to ensure that Trust activities become part of general audit targets on the Bank.

CHAPTER IV PARTIES IN TRUST ACTIVITIES

Article 14

Parties that are involved in Trust activities are:

- a. Bank as Trustee;
- b. Settlor; and
- c. Beneficiary

Article 15

- (1) To be able to conduct Trust activities, Bank should meet the following requirements:
 - a. being Indonesian legal entity;
 - b. being a foreign exchange bank with core capital of not less than Rp Rp5,000,000,000,000.00 (five trillion rupiah);
 - c. having ratio of Obligatory Minimum Capital Provision or Capital Adequacy Ratio (CAR) of not lower than 13% (thirteen percent) for the last 18 (eighteen) months consecutively;
 - d. having Bank Soundness Level as follows:
 1. no lower than Composite 2 Rating in the assessment period of the last 12 (twelve) months consecutively; and
 2. no lower than Composite 3 Rating in the assessment periode of 6 (six) months prior to the period referred to in number 1;
 - e. stating Trust activity plan in the Bank Business Plan; and
 - f. having the capacity to perform Trust activities based on the result of Bank Indonesia's assessment.
- (2) While undertaking Trust activities, Bank is obliged to meet the following requirements:
 - a. core capital of not less than Rp5,000,000,000,000.00 (five trillion rupiah);
 - b. ratio of Obligatory Minimum Capital Provision or CAR of not lower than 13% (thirteen percent); and

- c. Bank Soundness Level of not lower than Composite 2 Rating.

Article 16

- (1) In addition to Bank that is referred to in Article 15, branch offices of foreign bank can undertake Trust activities with the following requirements:
 - a. Meeting the requirements referred to in Article 15 paragraph (1) letter c up to letter f;
 - b. Owning minimum Capital Equivalency Maintained Assets (CEMA) with calculation that is in accordance with prevailing provisions and at no less than Rp5,000,000,000,000.00 (five trillion rupiah); and
 - c. Meeting the requirement of being Indonesian legal entity as referred to in Article 15 paragraph (1) letter a no later than 3 (three) years since the effectiveness of this Bank Indonesia Regulation.
- (2) While undertaking Trust activities, branch offices of foreign bank are obliged to meet the following requirements:
 - a. minimum Capital Equivalency Maintained Assets (CEMA) with calculation that is in accordance with prevailing provisions and at no less than Rp5,000,000,000,000.00 (five trillion rupiah);
 - b. ratio of Obligatory Minimum Capital Provision /CAR of not lower than 13% (thirteen percent); and
 - c. Bank Soundness Level of not lower than Composite 2 Rating.

Article 17

- (1) In the event the requirements as referred to in Article 15 paragraph (2) or Article 16 paragraph (2) are not met, Bank or branch office of foreign bank:
 - a. is prohibited from undertaking new Trust agreements;
 - b. is obliged to meet the requirements as referred to in Article 15 paragraph (2) or Article 16 paragraph (2) no later than 6 (six) months since the violation on the requirements occurs; and
 - c. is obliged to return Trust assets to Settlor or transfer Trust assets to successor Trustee that is appointed by Settlor in accordance with the Trust agreement, if Trustee is unable to meet the requirements as referred to in letter b.
- (2) In the event the requirements as referred to in Article 16 paragraph (1) letter c are not met, the branch office of foreign bank is obliged to discontinue Trust activities and to

return Trust assets to Settlor or transfer Trust assets to successor Trustee that is appointed by Settlor in accordance with the Trust agreement.

Article 18

Assessment conducted by Bank Indonesia as referred to in Article 15 paragraph (1) letter f shall cover at least:

- a. adequacy of Bank risk management, particularly for operation system and procedure that is supported by adequate information technology for all allowable Trust activities;
- b. Bank is not under Bank supervisory actions; and
- c. completeness of required documents at the time when Bank submits application for undertaking Trust activities.

Article 19

- (1) Bank is obliged to have a policy concerning human resources who manage the Trustee business unit.
- (2) In determining the human resource policy for the Trustee Business Unit, Bank shall yet refer to Bank Indonesia's provisions that regulate prudential principles for Bank that transfers parts of work performance to other parties.
- (3) The human resource policy as referred to in paragraph (1) shall contain among others determination of the requirements and qualifications of human resources for Trust activities.
- (4) Composition of number of human resources in the Trustee business unit shall comprise at minimum 50% (fifty percent) Bank's employees and Indonesian citizens.
- (5) Majority of Trustee business unit's managers and officers of one level below manager shall be Bank's employees and Indonesian citizens.
- (6) The qualifications of the Trustee business unit's managers and officers of one-level below managers shall at minimum cover competencies in the financial sector and have integrity.

Article 20

- (1) Settlor is obliged to meet the following criteria:
 - a. being corporate customer; and
 - b. being non-affiliated party of Bank

- (2) Settlor can act as Beneficiary

CHAPTER V TRUST AGREEMENT

Article 21

- (1) The appointment of Bank as Trustee and the appointment of Beneficiary should be conveyed in writing by Settlor to Bank.
- (2) Bank that is appointed as Trustee as referred to in paragraph (1) should make a written statement of its acceptance to act as Trustee.
- (3) The appointments as referred to in paragraph (1) as well as other agreements between Bank and Settlor and Beneficiary should be incorporated into a written Trust agreement.

Article 22

- (1) Trust agreement should be written in Indonesian.
- (2) The trust agreement as referred to in paragraph (1) can be translated into another language based on the needs of the parties.
- (3) In the event the Trust agreement is translated into another language, the said Trust agreement should contain the same information as the Trust agreement written in Indonesian.
- (4) In the event different interpretations arise between the translated Trust agreement as referred to in paragraph (2) and the Trust agreement as referred to in paragraph (1), the Trust agreement that will prevail is the Trust agreement written in Indonesian.

Article 23

A trust agreement should at least cover the following matters:

- a. appointment of Bank as Trustee;
- b. appointment of Beneficiary;
- c. the rights and obligations of all parties, namely Trustee, Settlor, and Beneficiary;
- d. it is the obligation of the Trustee to safeguard the confidentiality of Settlor's and Beneficiary's data and transactions, except in regards to reporting purposes to Bank Indonesia;
- e. Trust assets shall not be included in bankruptcy assets and should be returned to Settlor;
- f. the recording of Trust assets should be undertaken separately from Bank's assets;
- g. the Trustee is exempted from indemnification on losses, except when the losses are due

- to negligence and willful misconduct on the part of the Trustee;
- h. mechanism for discontinuing the Trust agreement;
 - i. the appointment of successor trustee shall be prompted by among others the Banking business license of Bank, which is acting as Trustee, is revoked, either at Bank Indonesia's initiative or at Bank's request (self liquidation) or the Bank's principal approval to undertake Trust activities is revoked;
 - j. settlement of disputes;
 - k. choice of law;
 - l. court of jurisdiction when settlements of disputes are submitted to the court;
 - m. a clausal stating that the activities agreed upon in the Trust agreement are Trust activities as referred to in this Bank Indonesia Regulation;
 - n. a clausal stating that changes to the contents of the Trust agreement can only be undertaken in writing and with the agreement of all parties;
 - o. the purpose is not for money laundering and/or terrorism as referred to in the regulations and legislations that provide for anti-money laundering and combating the financing of terrorism program;
 - p. not being in violation of other prevailing regulations and legislations.

CHAPTER VI

PRINCIPAL APPROVAL AND CONFIRMATION LETTER

Article 24

To be able to undertake Trust activities, Bank should obtain:

- a. principal approval; and
- b. confirmation letter,

from Bank Indonesia.

Part One

Principal Approval

Article 25

Bank can obtain principal approval as referred to in Article 24 letter a after Bank has met the requirements as referred to in Article 15 and/or Article 16.

Article 26

- (1) To obtain the principal approvals referred to in Article 24 letter a, Bank must submit a

written application to Bank Indonesia by attaching the following documents:

- a. general information related to Trust activities, which covers among others plans of time of implementation and market targets;
 - b. cost and benefit analysis for the Bank;
 - c. standard operating procedure, organization, and authority to execute Trust activities;
 - d. plan on policy and procedure related to implementation of anti-money laundering and combating the financing of terrorism program;
 - e. identification, measurement, monitoring, and control of risks inherent in the Trust activities;
 - f. results of analyses on legal aspect and compliance aspect of the Trust activities;
 - g. accounting information system and information technology system.
- (2) Approval or rejection of principal approval as referred to in paragraph (1) is conveyed in writing by Bank Indonesia to the Bank no later than 60 (sixty) working days after the documents as referred to in paragraph (1) are completely received by Bank Indonesia.

Part Two

Confirmation Letter

Article 27

Bank shall receive confirmation letter as referred to in Article 24 letter b after Bank has received the principal approval.

Article 28

- (1) To obtain the confirmation letter as referred to in Article 24 letter b, Bank should submit a written application to Bank Indonesia by attaching the following documents :
 - a. organization structure, division of authorities as well as responsibilities of officers who manage the Trust activities including a list of persons-in-charge and experts in the field of Trust;
 - b. list of employees and division of work as well as composition of local and foreign employees, both at the management as well as operational levels;
 - c. evaluation of the risk level of Trust activities and risk profile of candidate Settlor.
- (2) The confirmation letter as referred to in paragraph (1) is given in writing to Bank Indonesia by Bank no later than 60 (sixty) working days after the documents as referred

to in paragraph (1) are completely received by Bank Indonesia.

Article 29

- (1) The confirmation letter as referred to in Article 28 paragraph (2) shall be given to only one Bank office.
- (2) In the event the Bank is going to conduct Trust activities in other Bank offices, the Bank is obliged to obtain confirmation letters from Bank Indonesia.
- (3) The procedure for submitting requests for confirmation letters for Trust activities at other Bank offices applies the provisions and requirements as referred to in Article 28.

Article 30

- (1) In the event a Bank or a branch office of foreign bank , which conducts Trust activities, undertakes merger or consolidation, the Bank resulting from the merger or consolidation is obliged to meet the requirements as Trustee as referred to in Article 15 or Article 16.
- (2) In the event the Bank or the branch office of foreign bank , resulting from the merger or consolidation, cannot meet the requirements as referred to in Article 15 or Article 16, the Bank as Trustee:
 - a. is prohibited from undertaking new Trust agreements;
 - b. is obliged to meet the requirements as referred to in Article 15 paragraph (2) or Article 16 paragraph (2) no later than 6 (six) months after the merger or consolidation is declared to be effective; and
 - c. is obliged to return Trust assets to Settlor or transfer Trust assets to successor Trustee that is appointed by Settlor in accordance with the Trust agreement, if Trustee is unable to meet the requirements as referred to in letter b.

CHAPTER VII

RISK MANAGEMENT

Article 31

- (1) In conducting Trust activities, Bank is obliged to implement risk management by using as guideline Bank Indonesia regulations that provide for risk management implementation for commercial banks.
- (2) The implementation of risk management as referred to in paragraph (1) shall at least cover:
 - a. active supervision by Board of Commissioners and Board of Directors as well as

Sharia Supervisory Board;

- b. adequacy of policy and procedures;
- c. adequacy of risk identification, measurement, monitoring, and control processes as well as risk management information system; and
- d. internal control system.

Part One

Active Supervision By Board of Commissioners and Board of Directors

as well as Sharia Supervisory Board

Article 32

Active supervision by Board of Commissioners shall at least cover:

- a. approval from Board of Commissioners on Bank Business Plan to conduct Trust activities; and
- b. evaluation of Bank Business Plan implementation related to Trust activities.

Article 33

Active supervision by Sharia Supervisory Board shall at least cover:

- a. ensuring that Trust activities are in accordance with sharia principles; and
- b. ensuring that Bank's procedure for Trust activities is in accordance with sharia principles.

Article 34

Active supervision by Board of Directors shall at least cover:

- a. determination of Bank Business Plan for Trust activities;
- b. determination of Bank's policy and procedure for Trust activities; and
- c. monitoring and evaluation of Trust activities.

Part Two

Adequacy of Policy and Procedure

Article 35

- (1) Bank is obliged to have and implement a comprehensive and effective policy and procedure for Trust activities.
- (2) The policy and procedure as referred to in paragraph (1) shall at least cover:
 - a. policy on assessment of the risk level of Trust activities;

- b. policy on human resources for Trust activities;
- c. operating procedure for Trust activities shall cover among others:
 - 1. appointment of Bank as Trustee;
 - 2. assessment of Settlor's risk profile, which at least covers the financial purpose and profile of Settlor;
 - 3. statement of Bank's acceptance to act as Trustee;
 - 4. development of Trust agreement;
 - 5. execution of Trust activities that refer to the Trust agreement.
- d. procedure for dispute settlements; and
- e. procedure for undertaking risk identification, measurement, monitoring, control, and information system for Trust activities.

Part Three

Risk Identification, Measurement, Monitoring, Control Processes, and Risk Management Information System

Article 36

- (1) Bank is obliged to undertake risk identification, measurement, monitoring, and control processes for Trust activities.
- (2) Implementation of risk identification, measurement, monitoring, and control processes as referred to in paragraph (1) should be supported by management information system that is on time, informative, and accurate.

Part Four

Internal Control System

Article 37

- (1) Bank should have an effective internal control system.
- (2) Implementation of an effective internal control system is proven among others by:
 - a. the existence of limits on authorities and responsibilities of the business unit for Trust activities.
 - b. the conduct of audits by the internal audit business unit.

CHAPTER VIII

INFORMATION TRANSPARENCY

Article 38

- (1) Bank is obliged to implement information transparency in conducting Trust activities by using as guideline Bank Indonesia regulations that provide for product information transparency that have been adjusted to the characteristics of Trust activities.
- (2) In implementing information transparency as referred to in paragraph (1), Bank is obliged to among others disclose information that is complete, accurate, and not misleading.

Article 39

Information as referred to in Article 38 paragraph (2) covers among others the following matters:

- a. types of transactions that can be undertaken by Bank as Trustee;
- b. Bank's responsibilities as regard risks and losses; and/or
- c. fees or *ujroh* on Trust activities.

Article 40

Bank that conducts Trust activities is obliged to submit periodic written reports to Settlor concerning Trustee performance in the management of Trust assets.

CHAPTER IX REPORTING

Article 41

- (1) Bank that conducts Trust activities is obliged to periodically submit reports on Trust activities to Bank Indonesia.
- (2) Bank is responsible for the completeness, accuracy, as well as on-time submission of the reports as referred to in paragraph (1).
- (3) Further provisions concerning the reporting procedure and steps shall be provided for in Bank Indonesia Circular Letter.

Article 42

- (1) Trust activity reports as referred to in Article 41 should be submitted to Bank Indonesia no later than the 15th (fifteenth) of the following month after the end of the reporting month.
- (2) Bank is deemed to be late in report submission when Bank submits the report after the deadline for report submission as referred to in paragraph (1) up to the end of the

following month after the end of the reporting month.

- (3) Bank is deemed not to have submitted the report when Bank has not submitted the report after the deadline for late report submission as referred to in paragraph (2).

Article 43

Bank Indonesia has the authority to undertake audits on Trust activities conducted by Bank.

CHAPTER X

SANCTIONS

Article 44

- (1) Bank that does not meet the provisions as referred to in Article 9, Article 11, Article 12, Article 13, Article 17, Article 19, Article 20 paragraph (1), Article 24, Article 29 paragraph (2), Article 30, Article 42 paragraph (2), Article 42 paragraph (3), shall be imposed with sanctions as referred to in Article 52 of Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998 and Article 58 of Act Number 21 of 2008 concerning Sharia Banking, which shall be among others in the forms of:
 - a. written warning;
 - b. lowering of Bank Soundness Level;
 - c. prohibition from conducting Trust activities; and/or
 - d. revocation of approval for the conduct of Trust activities.
- (2) Bank that does not meet the provisions as referred to in Article 17 paragraph (1) letter b or Article 30 paragraph (2) letter b shall be imposed with the sanction of revocation of principal approval for the conduct of Trust activities.

Article 45

- (1) In addition to the sanctions as referred to in Article 44, Bank that does not meet the provisions as referred to in Article 42 shall be imposed with the sanction of obligation to make payment as follows:
 - a. Bank that is late in report submission as referred to in Article 42 paragraph (2) shall be imposed with the sanction of obligation to make payment in the amount of Rp1,000,000.00 (one million rupiah) for each working day of delay.
 - b. Bank that is deemed not to have submitted the report as referred to in Article 42 paragraph (3) shall be imposed with the sanction of obligation to make payment in

the amount of Rp50,000,000.00 (fifty million rupiah).

- (2) Imposition of the sanction of obligation to make payment as referred to in paragraph (1) shall be undertaken by debiting Bank's current account at Bank Indonesia.

CHAPTER XI

MISCELLANEOUS PROVISIONS

Article 46

Bank, which business license is revoked at Bank's request (self liquidation) or at Bank Indonesia's initiative, Bank or the Liquidation Team should:

- a. return the Trust assets to the Settlor; or
 - b. transfer the Trust assets to the successor trustee,
- in accordance with the Trust agreement.

Article 47

- (1) The application for principal approval and the application for confirmation letter as referred to in Article 26 and Article 28 shall be submitted to Bank Indonesia through:
 - a. The Bank Supervision Department of the concerned Bank or Sharia Banking Department, Radius Prawiro Tower, Jl. M.H. Thamrin Number 2, Jakarta 10350, for a Bank whose head office is within the working area of Bank Indonesia head office; or
 - b. Local Representative Office of Bank Indonesia for a Bank domiciling outside the area as referred to in letter a.
- (2) Copies of the application for principal approval and the application for confirmation letter as referred to in paragraph (1), shall also be submitted to the Department of Banking Research and Regulation, Bank Indonesia, Jl. M.H. Thamrin No. 2, Jakarta 10350.

CHAPTER IX

CONCLUDING PROVISIONS

Article 48

Further provisions of this Bank Indonesia Regulation shall be provided for in Bank Indonesia Circular Letter.

Article 49

This Bank Indonesia Regulation shall come into force on the date of its enactment.

For public information, orders this Bank Indonesia Regulation be published in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta

On 23 November 2012

Governor of Bank Indonesia

DARMIN NASUTION

Enacted in: Jakarta

On 23 November 2011

MINISTER OF LAW AND HUMAN RIGHT
REPUBLIC OF INDONESIA

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 260 OF 2012
DPNP

ELUCIDATION
TO
BANK INDONESIA REGULATION
NUMBER 14 / 17 / PBI / 2012
CONCERNING
BANK BUSINESS ACTIVITY IN THE FORM OF TRUST

I. GENERAL REVIEW

In the framework of supporting national economic development, Bank Indonesia is mandated with the task to achieve and maintain rupiah exchange rate stability. In this regards, Bank Indonesia needs to pay attention on factors that influence rupiah exchange rate stability, namely factors that influence the equilibrium between demand and supply of foreign exchange in the domestic financial market.

The equilibrium between demand and supply of foreign exchange in the domestic market is determined among others by foreign exchange supply originating from economic players, both from the real sector as well as the financial sector. Foreign exchange supply in the domestic financial market upto now partly originates from the financial sector, particularly foreign portfolio investments, which have the risk of sudden capital reversals. Meanwhile, foreign exchange supply coming from export proceeds, which are sustainable funds, has not been optimally utilized.

In line with the policy on foreign exchange supply management and the policy to step up the role and competitiveness of the domestic banking sector, a policy is needed to boost economic players in managing foreign exchange that they own by using domestic banking services and expertise. This policy also aims at boosting financial deepening of the domestic financial market.

Taking into consideration the purpose and benefits of foreign currency management through the domestic banking system, their relation to the effort in maintaining rupiah exchange rate stability and the targets of macroprudential policy, as well as in order to provide legal certainty for Trust activities and to accommodate foreign exchange management activities, Bank Indonesia is issuing Bank Indonesia Regulation concerning Bank Business Activity in the Form of Trust, which is yet based on the prevailing free foreign exchange system as regulated in Act Number 24 of 1999 concerning Foreign Exchange Flow and Exchange Rate System.

In general, the main subject matters contained in this Bank Indonesia Regulation are

among others principles that have to be adopted by Bank in undertaking Trust activities, Bank's obligation to comply with legislations that provide for the implementation of anti-money laundering and combating the financing of terrorism program, minimum clauses that have to be included in the Trust agreement, principal approval and confirmation letter, risk management, information transparency, reporting and sanctions.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Self-explanatory.

Article 3

"Compliance with regulations and legislations" means that Trustee must undertake:

- a. Customer Due Diligence;
- b. Enhanced Due Diligence; and/or
- c. reporting of suspicious financial transactions,

in order to ensure that Trust assets do not originate from crimes and/or do not have money laundering and terrorism funding purposes.

Article 4

Letter a

Self-explanatory.

Letter b

Financial assets mean assets in the forms of funds, claims and/or marketable securities.

Letter c

Self-explanatory.

Letter d

This provision confirms that Trust activities follow bankruptcy remote.

Letter e

Self-explanatory.

Letter f

Self-explanatory.

Letter g

Self-explanatory.

Article 5

Paragraph (1)

Letter a

“Paying agent” means the activities of receiving and transferring money and/or funds, as well as recording cash inflows and outflows for and on behalf of the Settlor.

Letter b

“Agent for fund investments and/or fund investments based on sharia principles” means activities of placing, converting, hedging and administering fund placements for and on behalf of the Settlor.

Letter c

“Borrowing agent and/or financing agent based on sharia principles” means intermediation activities in the framework of obtaining fund sources, among others in the forms of borrowings/financing.

Paragraph (2)

Self-explanatory.

Article 6

Self-explanatory.

Article 7

Paragraph (1)

Clear and detailed instructions contain among others:

- a. type of currency;
- b. type/instrument of placement;
- c. time period;
- d. nominal amount;
- e. counterparty;
- f. counterparty limit;
- g. guarantor; and/or
- h. investment instrument rating

Paragraph (2)

“Prevailing legislations” means among others the Act on Banking and Act on Capital Market.

“Investment manager” means the party, which business activities concern the management of collective investment portfolio for a group of customers, as referred to in the Act on Capital Market.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 8

Sharia Commercial Bank that undertakes Trust activities can only act as financing agent based on sharia principles.

Article 9

Self-explanatory.

Article 10

As regard Sharia Commercial Bank that undertakes Trust activities, the fee or *ujroh* shall be adjusted to the type of deed used.

Article 11

Self-explanatory.

Article 12

Paragraph (1)

The use of accounts at domestic banks is among others for receiving all revenues, paying all Settlor’s obligations, transfer of funds from Settlor’s account to Beneficiary.

Paragraph (2)

Self explanatory.

Article 13

Paragraph (1)

“External auditor” means Public Accounting Firm that is registered at Bank Indonesia.

Paragraph (2)

Self explanatory.

Article 14

Self-explanatory.

Article 15

Self-explanatory.

Article 16

Self-explanatory.

Article 17

Self-explanatory.

Article 18

Letter a

Self-explanatory.

Letter b

“Supervisory actions” means Cease and Desist Order (CDO) caused by frauds.

Letter c

Self-explanatory.

Article 19

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Paragraph (5)

“Bank employees” mean Bank’s permanent employees.

Paragraph (6)

Integrity means among others having good character and moral, which is evidenced by the attitude of complying with prevailing regulations, including not having been sentenced due to being proven to have undertaken original crimes as stated in the Act on Prevention and Eradication of Money Laundering Crimes.

Article 20

Paragraph (1)

Letter a

Self-explanatory.

Letter b

“Affiliated parties” are affiliated parties as referred to in the Act on Banking and Act on Sharia Banking.

Paragraph (2)

Self explanatory.

Article 21

Self-explanatory.

Article 22

Self-explanatory.

Article 23

Self-explanatory.

Article 24

Letter a

Principal approval as referred to in this Article has the objective of assessing Bank’s readiness to undertake Trust activities.

Letter b

Confirmation letter given by Bank Indonesia is administrative in nature, which is based on analyses of data, information, and documents submitted by Bank for the purpose of the assessment of operational readiness to undertake Trust activities.

Article 25

Self-explanatory.

Article 26

Self-explanatory.

Article 27

Self-explanatory.

Article 28

Paragraph (1)

Letter a

Self explanatory.

Letter b

Submission of list of employees shall be supplemented by documents such as:

1. curriculum vitae;
2. photocopy of identity card (KTP);

3. photocopy of proof of citizenship for foreigner; and
4. photocopy of Indonesian work permit for foreigner.

Letter c

Self explanatory.

Paragraph (2)

Self explanatory.

Article 29

Self-explanatory.

Article 30

Self-explanatory.

Article 31

Self-explanatory.

Article 32

Letter a

Approval of Board of Commissioners can be reflected in Bank Business Plan that has been signed by the Commissioners.

Letter b

Evaluation on the implementation of Bank Business Plan in regard of Trust activities is among others incorporated into a minutes of meeting of the Board of Commissioners or audit report on the Bank Business Plan as provided in Bank Indonesia regulation that provided for Bank Business Plan.

Article 33

Self-explanatory.

Article 34

Self-explanatory.

Article 35

Self-explanatory.

Article 36

Self-explanatory.

Article 37

Paragraph (1)

Self explanatory.

Paragraph (2)

Letter a

Determination of limits on authorities and responsibilities of the work unit related to the Trust activities is incorporated in the policy and procedure.

Letter b

Self explanatory.

Article 38

Paragraph (1)

Information transparency has the objective of Settlor and/or Beneficiary obtaining adequate information concerning Trust activities.

Paragraph (2)

Self explanatory.

Article 39

Self-explanatory.

Article 40

The frequency for periodic written reports to be submitted by Bank shall be provided for in the Trust agreement.

Article 41

Periodic report contains among others data and explanations on Trust transactions and position of assets.

Article 42

Paragraph (1)

In the event the 15th (fifteenth) falls on a holiday, the report shall be submitted in the next working day.

Paragraph (2)

Self explanatory.

Paragraph (3)

Self explanatory.

Article 43

The audit is conducted in the framework of executing Bank Indonesia's authority in the field of macroprudential.

Article 44

Self-explanatory.

Article 45

Self-explanatory.

Article 46

Self-explanatory.

Article 47

Self-explanatory.

Article 48

Self-explanatory.

Article 49

Self-explanatory.

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