BANK INDONESIA REGULATION

NUMBER 16/20/PBI/2014

CONCERNING

THE IMPLEMENTATION OF PRUDENTIAL PRINCIPLES IN MANAGING EXTERNAL DEBT OF THE NONBANK CORPORATION

BY THE BLESSING OF GOD ALMIGHTY

THE GOVERNOR OF BANK INDONESIA,

Considering:
a. that external debt is one of the source for domestic economic financing;
b. that external debt , particularly committed by the nonbank corporate sector, requires good management by nonbank corporations in order to provide an optimal contribution to the national economy without triggering macroeconomic instability;
c. that in order to achieve the aforementioned objective, external debt management shall be conducted paying due regard to prudential principles in order to mitigate any potential risks , including currency risk, liquidity risk and overleverage risk;
d. that the application of prudential principles is in accordance with the efforts to promote domestic financial market deepening;
e. that based on the considerations as referred to letter a, b, c and d, it is necessary to promulgate Bank Indonesia Regulation concerning the

implementation of prudential principles in managing external debt of the non-bank corporation;

Pursuant to: Law Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 66 of 1999, Supplement to State Gazette of the Republic of Indonesia Number 3843), as amended lastlyby Law Number 6 of 2009 concerning the Enactment of Government Regulation in Lieu of a Law Number 2 of 2008 on the Second Amendment to Law Number 23 of 1999 on Bank Indonesia as a Law (State Gazette of the Republic of Indonesia Number 7 of 2009, Supplement to State Gazette of the Republic of Indonesia Number 4962);

DECIDED:

To Enact: BANK INDONESIA REGULATION CONCERNING THE IMPLEMENTATION OF PRUDENTIAL PRINCIPLES IN MANAGING EXTERNAL DEBT OF THE NON-BANK CORPORATION

CHAPTER I

GENERAL PROVISIONS

Article 1

The terminologies used -in this Bank Indonesia Regulation shall have the following meanings:

1. External Debt means a Resident debt to Non-Residents in a foreign currency and/or the rupiah, including financing based on sharia principles.
2. Resident has the meaning as set forth in the Law concerning foreign exchange flows and the exchange rate system.
3. Non-Bank Corporation means any business entities excluding banks, and other entities.
4. Foreign Currency means currency denominated other than Rupiah.
5. Foreign currency assets means current assets denominated in foreign currency consisting of cash, demand deposits, savings, term deposits, marketable securities as well as receivables originating from forward, swap and/or option transactions.
6. Foreign currency liabilities means current liabilities denominated in foreign currency that must be settled, including liabilities originating from forward, swap and/or option transactions.
7. Hedging means a method or technique to reduce risk that emerges or will emerge due to price fluctuations on financial markets.
8. The Hedging Ratio means a ratio between the total value hedged with the negative balance between foreign currency assets and foreign currency liabilities.
9. The Liquidity Ratio means a ratio between total Foreign Currency Assets and Foreign Currency Liabilities.
10. A Rating Agency means an institution that issues Credit Ratings.
11. A Credit Rating means an assessment conducted by a rating agency to illustrate financial conditions of the corporation or credit worthiness.

CHAPTER II

PRUDENTIAL PRINCIPLES

Article 2

(1) Non-Bank Corporation holds External Debt in Foreign Currency are required to implement prudential principles.

(2) Prudential principles as referred to in paragraph (1) include the fulfilment of:

a. Hedging ratio;

b. Liquidity Ratio; and

c. Credit Rating.

Article 3

(1) Non-Bank Corporation holds External Debt in Foreign Currency is required to fulfil a specified minimum Hedging Ratio by Hedging the Foreign Currency against the Rupiah.

(2) The minimum Hedging Ratio as referred to in paragraph (1) is set at 25% (twenty-five per cent) of:

a. the negative balance between Foreign Currency Assets and Foreign Currency Liabilities with a maturity period up to 3 (three) months ahead from the end of the quarter period; and

b. the negative balance between Foreign Currency Assets and Foreign Currency Liabilities with a maturity period more than 3 (three) up to 6 (six) months ahead from the end of the quarter period.

Article 4

(1) Non-Bank Corporation holds External Debt in Foreign Currency is required to fulfil a specified minimum Liquidity Ratio by providing adequate Foreign Currency Assets to meet Foreign Currency Liabilities that shall mature in 3 (three) months ahead from the end of the quarter period.

(2) The minimum Liquidity Ratio as referred to in paragraph (1) is set at the minimum of 70% (seventy per cent).

Article 5

(1) NonBank Corporation holds External Debt in Foreign Currency is required to fulfil a Credit Rating of no less than equivalent to BB issued by a Rating Agency recognised by the relevant authority.

(2) A Credit Rating, as referred to in paragraph (1), is a valid rating of the corporation and/or securities with the relevant type and maturity period of the External Debt in Foreign Currency.

CHAPTER III

EXEMPTIONS

Article 6

The obligation to implement the prudential principles as stipulated in Article 2, Article 3, Article 4 and Article 5 is exempted for External Debt in Foreign Currency in the form of Trade Credit.

Article 7

The obligation to fulfil the minimum Credit Rating, as stipulated in Article 5, shall be exempted for:

a. External Debt in Foreign Currency in the form of refinancing; and

b. External Debt in Foreign Currency from international creditors (bilateral/multilateral) connected with infrastructure projects financing.

CHAPTER IV

COMPLIANCE MONITORING AND REPORTS AND SUPPORTING DOCUMENTATION SUBMISSION

Article 8

(1) Non-Bank Corporation is required to submit reports to Bank Indonesia in relation to the implementation of prudential principles as stipulated in Article 2, Article 3, Article 4 and Article 5.

(2) Non-Bank Corporation is required to submit supporting documentation to Bank Indonesia in relation to:

   a. the implementation of prudential principles as referred to in paragraph (1); and

   b. the exemptions as referred to in Article 6 and Article 7.

Article 9

The report and supporting documentation submission procedure as referred to in Article 8 shall include the imposition of sanctions pursuant to prevailing Bank Indonesia Regulation regulates reporting of foreign exchange flow activity and reporting the implementation of prudential principles in managing External Debt of the Non-Bank Corporation.

Article 10

(1) Bank Indonesia monitors the compliance of Non-Bank Corporation by examining the reports and/or supporting documentation submitted as stipulated in Article 8.

(2) When required, in examining the reports and/or supporting documentation as referred to in paragraph (1), Bank Indonesia shall use various methods which include:

a. request clarification, evidence, notes and/or supporting documentation, with or without the involvement of related institutions;

b. conduct direct supervision to the corporations involved; and/or

c. appoint other parties to conduct the examination on behalf of Bank Indonesia.

CHAPTER V

SANCTIONS

Article 11

(1) Non-Bank Corporation violates the prudential principles as stipulated in Article 2, Article 3, Article 4 and/or Article 5 shall be subject to administrative sanctions in the form of written warning.

(2) Bank Indonesia shall submit information concerning the imposition of administrative sanctions as referred to in paragraph (1) to relevant parties, including:

a. the relevant international creditors;

b. The Ministry of State Enterprises, for state-owned enterprises corporations;

c. The Ministry of Finance, c.q. Directorate-General for Taxation;

d. The Financial Services Authority (OJK); and
e. The Indonesia Stock Exchange, for public corporation listed on the Indonesia Stock Exchange.

CHAPTER VI

CONCLUDING PROVISIONS

Article 12

Upon the enforcement of this Bank Indonesia Regulation:

a. the provision concerning the minimum Hedging Ratio as referred to in Article 3 shall be set at a minimum of 20% (twenty per cent) of:
   1. the negative balance between Foreign Currency Assets and Foreign Currency Liabilities with a maturity period of up to 3 (three) months ahead from the end of the quarter period; and
   2. the negative balance between Foreign Currency Assets and Foreign Currency Liabilities with a maturity period of between 3 (three) and 6 (six) months ahead from the end of the quarter period,

   until 31st December 2015.
b. The provision concerning the minimum Liquidity Ratio as referred to in Article 4 shall be set at a minimum of 50% (fifty per cent) until 31st December 2015.

Article 13

The provision concerning the Credit Rating as referred to in Article 5 paragraph (1) is applied for External Debt signed or issued after 1st January 2016.

Article 14

The provision concerning sanctions as referred to in Article 11 shall become effective since the report of the third quarter of 2015.

Article 15

This Bank Indonesia Regulation shall come into force on 1st January 2015.

For this Regulation to become publicly known, it is hereby ordered that this Regulation be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

on 28th October 2014

GOVERNOR OF BANK INDONESIA

AGUS D.W. MARTOWARDOJO

Promulgated in Jakarta

on 29th October 2014

MINISTER OF LAW AND HUMAN RIGHTS

OF THE REPUBLIC OF INDONESIA

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 339 OF 2014

ECONOMIC AND MONETARY POLICY DEPARTMENT (DKEM)

ELUCIDATION

OF

BANK INDONESIA REGULATION

NUMBER 16/20/PBI/2014

CONCERNING

THE IMPLEMENTATION OF PRUDENTIAL PRINCIPLES IN MANAGING NON-BANK CORPORATE EXTERNAL DEBT

I. GENERAL

External Debt is one of the source for financing development frequently utilised in developing countries. External Debt is used to cover the saving-investment gap, thereby benefiting the economy.

The amount of private External Debt has spiralled over the past several years, even exceeding the current level of public external debt. An increase in private External Debt without appropriate risk management has the potential to trigger adverse effects in the national economy, similar to had occurred in the 1997/1998 crisis.

Private External Debt risk escalates due to risk factors stemming from the global economy in the form of tighter global liquidity along with economic downswings in emerging market countries and persistently low international commodity prices.

Such circumstances have reduced the capacity to repay (increased the risk of default) of private nonbank corporations. In addition, the majority of private nonbank corporation's External Debt are unhedged. Such conditions expose private borrowers of external debt in Indonesia to currency risk, liquidity risk and overleverage risk. Consequently, the corporate sector is required to adhere to prudential principles in order to mitigate the aforementioned risks.

Furthermore, corporate prudential principles, implemented through hedging instruments, are in accordance with financial market deepening policy in Indonesia.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory

Article 2

Self-explanatory

Article 3

Paragraph (1)

Hedging transactions are conducted in the form of Foreign Currency derivative transactions against the Rupiah in the form of forward, swap and/or option transactions.

Paragraph (2)

Foreign Currency Assets include receivables originating from forward, swap and/or option transactions with a maturity period of up to 3 (three) months ahead and/or 3 (three) to 6 (six) months ahead from the end of the quarter period.

"Forward transactions" means the purchase or sale of Foreign Currency against the rupiah of which the funds are delivered more than 2 (two) working days after the transaction date.

"Swap transactions" means the purchase or sale of Foreign Currency against the rupiah through spot transactions for delivery on a fixed future date undertaken simultaneously with the same counterparty at a certain price agreed on the date the contract is entered into.

Option transactions means a contract between the option seller (seller or writer) and the option buyer, where the option seller guarantee the right (not the obligation) of the option buyer to buy or sell particular asset at a specified price on a specified date.

The end of the quarter period is the last date of each quarter, namely 31st March, 30th June, 30th September and 31st December.

Example 1:

On 31st March 2016, PT ABC holds current assets in Foreign Currency totalling US$40,000.00 (forty thousand US dollars), consisting of demand deposits totalling US$10,000.00 (ten thousand US dollars) and term deposits totalling US$30,000.00 (thirty thousand US dollars).

In addition, PT ABC also has Foreign Currency Liabilities that will be due in 3 (three) months totalling US$100,000.00 (one hundred thousand US dollars) and no Foreign Currency Liabilities that will mature more than 3 (three) months to 6 (six) months ahead.

The calculation of the minimum Hedging Ratio is as follows:

1. Calculating the minimum Hedging Ratio for a period between 3 (three) and 6 (six) months ahead.

   In this case, PT ABC has no obligation to hedge because there is no negative balance between Foreign Currency Assets and Foreign Currency Liabilities.

2. Calculating the minimum Hedging Ratio for a period of 3 (three) months ahead.

PT ABC has a negative balance between Foreign Currency Assets and Foreign Currency Liabilities amounted to US$40,000.00 – US$100,000.00 = -US$60,000.00. Therefore, to fulfil the minimum Hedging Ratio, PT ABC is required to hedge 25% x US$60,000.00 = US$15,000.00.

In this case, PT ABC is required to hedge a minimum of US$15,000.00 (fifteen thousand US dollars) with a transaction date of between 1st January 2016 and 31st March 2016 and a settlement date of between 1st April 2016 and 30th June 2016 in order to fulfil the minimum Hedging Ratio for to the 3 (three) months ahead.

Example 2:

On 31st March 2016, PT XYZ holds current assets in a foreign currency totalling US$40,000.00 (forty thousand US dollars), consisting of demand deposits totalling US$10,000.00 (ten thousand US dollars) and term deposits totalling US$30,000.00 (thirty thousand US dollars), as well as receivables from USD forward purchase transactions totalling US$15,000.00 (fifteen thousand US dollars) with a transaction date of 15th December 2015 that will mature on 15th May 2016. In addition, PT XYZ also has Foreign Currency Liabilities that will mature more than 3 (three) months to 6 (six) months ahead totalling US$100,000.00 (one hundred thousand US dollars) and Foreign Currency Liabilities that will mature in 3 (three) months ahead totalling US$100,000.00 (one hundred thousand US dollars).

The calculation of the minimum Hedging Ratio is as follows:

1. Calculating the minimum Hedging Ratio for a period between 3 (three) to 6 (six) months ahead.

   PT XYZ has a negative balance between Foreign Currency Assets and Foreign Currency Liabilities of US$40,000.00 – US$100,000.00 = -US$60,000.00. Therefore, to fulfil the minimum Hedging Ratio, PT XYZ is required to hedge 25% x US$60,000.00 = US$15,000.00.

   In this case, PT XYZ is required to hedge a minimum of US$15,000.00 (fifteen thousand US dollars) with a transaction date of between 1st January 2016 and 31st March 2016 and a settlement date of between 1st April 2016 and 30th June 2016 in order to fulfil the minimum Hedging Ratio for a period between 3 (three) months to 6 (six) months ahead.

2. Calculating the minimum Hedging Ratio for a period of 3 (three) months ahead.

   PT XYZ has a negative balance between Foreign Currency Assets and Foreign Currency Liabilities of US$40,000.00 + USD15,000.00 - US$100,000.00 = -US$45,000.00. Therefore, to fulfil the minimum Hedging Ratio, PT XYZ is required to hedge 25% x US$45,000.00 = US$ 11,250.00.

   In this case, PT XYZ is required to hedge a minimum of US$11,250.00 (eleven thousand two hundred and fifty US dollars) with a transaction date of between 1st January 2016 and 31st March 2016 and a settlement date of between 1st April 2016 and 30th June 2016 in order to fulfil the minimum Hedging Ratio for a period of 3 (three) months ahead.

Article 4

Paragraph (1)

Foreign Currency Assets include receivables originating from forward, swap and/or option transactions that will mature in the period of up to 3 (three) months ahead from the end of the quarter period.

The end of the quarter is the last date of each quarter, namely 31st March, 30th June, 30th September and 31st December.

Example:

On 31st March 2016, PT ABC holds current assets in a foreign currency totalling US$30,000.00 (thirty thousand US dollars), consisting of demand deposits totalling US$10,000.00 (ten thousand US dollars) and term deposits totalling US$20,000.00 (twenty thousand US dollars), as well as receivables from USD forward purchase transactions totalling US$10,000.00 (ten thousand US dollars) with a transaction date of 1st February 2016 and a settlement date of 1st May 2016. In addition, PT ABC has Foreign Currency Liabilities that will mature in the period of up to 3 (three) months ahead totalling of US$100,000.00 (one hundred thousand US dollars).

Based on such conditions, the Liquidity Ratio of PT ABC is: ((US$30,000.00+US$10,000.00)/US$100,000.00)x100%=40%.

Therefore, PT ABC does not fulfil the minimum Liquidity Ratio of 70%.

Paragraph (2)

Self-explanatory

Article 5

Paragraph (1)

Recognised Rating Agencies are pursuant to laws and regulations that govern recognised rating agencies and credit ratings by the relevant authority.

Example:

A credit rating equivalent to BB issued by Standard and Poor's (S&P) is equivalent to Ba issued by Moody's Investor Service or idBB issued by Pefindo.

A credit rating of BB includes BB-, BB and BB+ (S&P) or Ba1, Ba2 and Ba3 (Moody's) or idBB-, idBB and idBB+ (Pefindo).

Paragraph (2)

The validity of the credit rating for the relevant issuer rating and/or issue rating is no more than one year after the issuance of the credit rating and/or the evaluation.

In the event that a corporation undertakes External Debt through the issuance of long-term bonds, the submission of the credit rating shall be the long-term credit rating.

Article 6

Trade credit means debt in the form of credit provided by an international supplier in lieu of goods and/or services received.

Article 7

Letter a

External Debt in a foreign currency as refinancing means Foerign Loan used to refinance previous debt with better terms and conditions without adding outstandingExternal Debt.

Letter b

Examples of international bilateral/multilateral creditors include the International Finance Corporation (IFC), Japan Bank for International Cooperation (JBIC), Japan International Cooperation Agency (JICA), Asian Development Bank (ADB) and Islamic Development Bank (IDB).

The exemptions for infrastructure project financing support efforts to augment national infrastructure.

Applicable infrastructure projects include the following:

1. Transportation infrastructure, including airport services, port services as well as railway infrastructure;
2. Road infrastructure, including toll roads and toll bridges.
3. Irrigation infrastructure, including irrigation channels;
4. Sanitary water infrastructure, including pumping stations, the transmission network, distribution network and water management installations;
5. Sanitation infrastructure, including wastewater management, reservoir networks and primary networks as well as waste facilities consisting of transportation and disposal;
6. Telecommunications and information technology infrastructure, consisting of telecommunications networks and e-government infrastructure;

7. Electricity infrastructure, consisting of power stations, including development of geothermal power as well as the distribution and transmission of electricity; and
8. Oil and natural gas infrastructure, including the transmission and/or distribution of oil and natural gas.

Article 8

Paragraph (1)

Self-explanatory

Paragraph (2)

Supporting documentation includes a quarter financial report (in-house) and an annual financial report (audited).

Article 9

Self-explanatory

Article 10

Paragraph (1)

Self-explanatory

Paragraph (2)

Letter A

Related institutions are institutions/ministries/authorities with the authority to regulate Non-Bank Corporations, for example the Ministry of State-Owned Enterprises for state-owned corporations.

Letter B

Self-explanatory

Letter C

Self-explanatory

Article 11

Self-explanatory

Article 12

For the period from 1st January 2015 until 31st December 2015, the Hedging Ratio and Liquidity Ratio shall be set respectively at 20% (twenty per cent) and 50% (fifty per cent) in order to provide an opportunity for Non-Bank Corporations to adjust their risk management, including the availability of the hedging instruments.

Article 13

Self-explanatory

Article 14

Self-explanatory

Article 15

Self-explanatory

SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 5620.