

ACT OF THE REPUBLIC OF INDONESIA
NUMBER 6 OF 2009
CONCERNING
STIPULATION OF GOVERNMENT REGULATION IN LIEU OF ACT
NUMBER 2 OF 2008 CONCERNING
SECOND AMENDMENT
TO THE ACT NUMBER 23 OF 1999 CONCERNING BANK INDONESIA
INTO ACT
WITH THE BLESSING OF GOD ALMIGHTY
PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that in respond to the global economic crisis which influences stability of the financial system including banking, it is necessary to take efforts to maintain public trust on banks so as to not bring about any short-term funding difficulty for Bank due to imbalances between inflows and outflows of funds;
 - b. that based on The Act Number 23 of 1999 concerning Bank Indonesia as amended by Act Number 3 of 2004, Bank Indonesia may provide credit or financing based on Sharia Principles for Bank to overcome short-term funding difficulty of Bank;
 - c. that regulation concerning criteria of collateral guaranteed by Bank to obtain credit or financing based on Sharia Principles from Bank Indonesia is not in line with the current economic condition so that the President has

stipulated Government Regulation in Lieu of Act Number 2 of 2008 concerning Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia;

- d. that amendment to provisions regulating credit and financing based on Sharia Principles from Bank Indonesia to banks to overcome short-term funding difficulties for Bank by stipulating Government Regulation in Lieu of Act Number 2 of 2008 concerning Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia is an appropriate measure to maintain public trust on banks;
- e. that pursuant to the considerations set forth in letter a, letter b, letter c, and letter d, it is deemed necessary to stipulate Government Regulation in Lieu of Act Number 2 of 2008 concerning Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia into Act.

- In view of :
- 1. Article 5 paragraph (1) and Article 22 paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia;
 - 2. 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 concerning Amendment to Act Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Number 182 of 1998, Supplement to State Gazette of the Republic of Indonesia Number 3790);
 - 3. 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 amended by Act Number 3 of 2004 concerning Amendment to Act of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 7 of 2004, Supplement to the State Gazette of the Republic of Indonesia Number 4357);

With the Joint Approval of:

THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECREED:

To enact : ACT CONCERNING STIPULATION OF GOVERNMENT REGULATION IN LIEU OF ACT NUMBER 2 OF 2008 CONCERNING SECOND AMENDMENT TO ACT NUMBER 23 OF 1999 CONCERNING BANK INDONESIA INTO ACT

Article 1

Government Regulation in Lieu of Act Number 2 of 2008 concerning Amendment to Act Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 142 of 2008, Supplement to the State Gazette of the Republic Indonesia Number 4901) shall be stipulated into Act and enclosed it as an inseparable part of this Act.

Article 2

This Act shall come into force on the date of its enactment.

For the public to be informed, it is ordered that this Act be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
dated January 13, 2009

THE PRESIDENT
OF THE REPUBLIC OF INDONESIA,

(signed)

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
on the dated January 13, 2009

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

(signed)

ANDI MATTALATTA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 7 OF
2009

Certified as authentic copy of original

STATE SECRETARY
OF THE REPUBLIC OF INDONESIA
Head of Economic and Industrial Laws
and Regulations Bureau

(signed)

SETIO SAPTO NUGROHO

ELUCIDATION
TO
ACT OF THE REPUBLIC OF INDONESIA
NUMBER 6 OF 2009
CONCERNING
STIPULATION OF GOVERNMENT REGULATION IN LIEU OF ACT
NUMBER 2 OF 2008 CONCERNING SECOND AMENDMENT
TO ACT NUMBER 23 OF 1999 CONCERNING BANK INDONESIA
INTO ACT

I. GENERAL REVIEW

The current global financial crisis affects several countries including Indonesia due to interdependency of global financial system. As a respond to the global financial crisis, the Government of Indonesia has taken various anticipative and responsive measures in curbing impacts of the global financial crisis for a sustainable national financial system.

The function of the Lender of the Last Resort (LoLR) has been implemented by Bank Indonesia through provision of credit facility for banks experiencing short-term funding difficulty which is guaranteed by high quality and liquid collateral. However, regulation on the criteria of collateral has not been in line with the current economic condition.

One of the efforts in maintaining the public trust on banks in order not to bring about short-term funding difficulties for bank due to imbalances of inflows and outflows of funds is to change the criteria of collateral to be guaranteed by Bank to obtain credit or financing based on Sharia Principles from Bank Indonesia. The Government considered the need of change of criteria a state of emergency so that the President stipulated Government

Regulation in Lieu of Act Number 2 of 2008 concerning Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia.

The stipulation of Government Regulation in Lieu of Act Number 2 of 2008 concerning Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia by the President in compliance with Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia to meet very urgent need and any critical circumstances in emergency is an appropriate measure to maintain the public trust on banks in facing the global financial crisis. Therefore, Government Regulation in Lieu of Act Number 2 of 2008 concerning Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia requires approval of the House of Representatives to be stipulated as Act referring to Article 22 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Self-explanatory.

Appendix to

Act of the Republic of Indonesia

Number : 6 of 2009

Dated : January 13, 2009

GOVERNMENT REGULATION
IN LIEU OF ACT OF THE REPUBLIC OF INDONESIA
NUMBER 2 OF 2008
CONCERNING
SECOND AMENDMENT TO ACT NUMBER 23 OF 1999
CONCERNING BANK INDONESIA

WITH THE BLESSING OF GOD ALMIGHTY

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that in respond to the global economic crisis influencing the stability of financial system including banking, it is necessary to take efforts to maintain public trust on banks;
 - b. that in order to maintain the public trust on banks it is deemed necessary to amend provisions of Act Number 23 of 1999 concerning Bank Indonesia as amended by Act Number 3 of 2004 which regulates credit or financing based on Sharia Principles from Bank Indonesia to banks to overcome their short-term funding difficulties;
 - c. that pursuant to the considerations set forth in letter a and letter b, it is deemed necessary to stipulate Government Regulation in Lieu of Act concerning Second Amendment

to Act Number 23 of 1999 concerning Bank Indonesia into Act.

In view of : 4. Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia;

5. 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 concerning Amendment to Act Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Number 182 of 1998, Supplement to State Gazette of the Republic of Indonesia Number 3790);

6. 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 amended by Act Number 3 of 2004 concerning Amendment to Act of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 7 of 2004, Supplement to the State Gazette of the Republic of Indonesia Number 4357);

HAS DECREED:

To enact : GOVERNMENT REGULATION IN LIEU OF ACT CONCERNING SECOND AMENDMENT TO ACT NUMBER 23 OF 1999 CONCERNING BANK INDONESIA.

Article I

Provisions of Article 11 paragraph (2) and paragraph (5) 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 amended by Act Number 3 of 2004 concerning Amendment to Act of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 7 of 2004, Supplement to the State Gazette of the Republic of Indonesia Number 4357) shall be amended to read as follows.

Article 11

- (1) Bank Indonesia may extend credit or financing based on Sharia Principles to a Bank for a term not exceeding 90 (ninety) days in order to resolve short term funding difficulties of the Bank concerned.
- (2) Extension of credit or financing based on Sharia Principles as referred to in paragraph (1) shall be guaranteed by the beneficiary Bank by means of high quality with a minimum value of the amount of the credit or financing received.
- (3) Implementation of the provisions referred to in paragraph (1) and paragraph (2) shall be stipulated in a Bank Indonesia Regulation.
- (4) In the event that a Bank experiences financial difficulties with systemic impact that may result in crisis endangering the financial system, Bank Indonesia may provide an emergency financing facility funded by the Government.
- (5) The procedures and decision making process regarding

financial difficulties of a Bank with systemic impact, provision of the emergency financing facility, and source of funding from the State Budget shall be stipulated in a separate law.

Article II

This Government Regulation in Lieu of Act shall come into force as of the date of its enactment.

For the public to be informed, it is ordered that this Government Regulation in Lieu of Act be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
dated October 13, 2008

THE PRESIDENT
OF THE REPUBLIC OF INDONESIA,

(signed)

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
dated October 13, 2008

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

(signed)

ANDI MATTALATTA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 142 OF
2009

Certified as authentic copy of original

STATE SECRETARY
OF THE REPUBLIC OF INDONESIA
Head of Economic and Industrial Laws
and Regulations Bureau

(signed)
SETIO SAPTO NUGROHO

ELUCIDATION
TO
GOVERNMENT REGULATION
IN LIEU OF ACT OF THE REPUBLIC OF INDONESIA
NUMBER 2 OF 2008
CONCERNING
SECOND AMENDMENT TO ACT NUMBER 23 OF 1999
CONCERNING BANK INDONESIA

I. GENERAL REVIEW

The recent financial crisis in the United States constituting the largest since 1929 has forced the Government of the United States to provide bail out or liquidity assistance to troubled financial industries amounting to US\$700 billion. This financial crisis was triggered by subprime mortgage defaults.

This crisis brings impact on several countries including Indonesia because global financial system is interdependent. The Government of Indonesia has taken various anticipative and responsive measures in curbing impacts of the global financial crisis for a sustainable national financial system.

Based on the above mentioned consideration, to meet very urgent need and critical circumstances in emergency it is deemed necessary to stipulate Government Regulation in Lieu of Act concerning Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia referring to Article 22 paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

II. ARTICLE BY ARTICLE

Article I

Article 11

Paragraph (1)

Provision of loans or financing based on Sharia Principles to banks as referred to in this paragraph is intended solely for resolving difficulties of banks arising from mismatch caused by shortfall in inflows of funds compared to outflows of funds.

“Days” in this paragraph is defined as calendar days.

“Term not exceeding 90 (ninety) days” in this paragraph is intended as the maximum permissible term including any extensions thereof.

If loans or financing based on Sharia Principles cannot be repaid at maturity, bank Indonesia shall be fully entitled to dispose of collateral under its control in accordance with the provisions of applicable laws and regulations.

Banks entitled to liquidity support are banks that meet the requirements established by Bank Indonesia, for example, it is abundantly clear according to information obtained by Bank Indonesia that the bank is experiencing short-term liquidity difficulties and has adequate collateral, and if necessary, the condition of certain banks may be subject to further examination.

Paragraph (2)

“High quality and marketable collateral” covers securities and/or claims issued by the Government or other legal entities and having a high rating based on rating by a competent rating agency, and which may be easily sold on the market at any time for cash.

“Financing based on Sharia Principles” is, for example, the profit share or risk borne jointly on a proportional basis.

Paragraph (3)

The scope of key provisions to be stipulated in a Bank Indonesia Regulation includes but is not limited to:

- a. requirements and procedure for extension of loans or financing based on Sharia Principles, including therein requirements for borrowing banks. In order to ascertain compliance with bank rating, Bank Indonesia shall conduct examination of banks that are prospective borrowers of loans or financing;
- b. terms, interest rate, or profit sharing ratio, and other costs;
- c. type of collateral in the form of securities and/or claims with high rating;
- d. procedure for binding of collateral.

Paragraph (4)

Self-explanatory.

Paragraph (5)

Self-explanatory.

Article II

Self-explanatory.