

**FINANCIAL SERVICES AUTHORITY
OF THE REPUBLIC OF INDONESIA**

COPY

REGULATION OF THE FINANCIAL SERVICES AUTHORITY

NUMBER: 4/POJK.05/2013

CONCERNING

**FIT AND PROPER TEST OF KEY PERSONS IN INSURANCE
COMPANIES, PENSION FUNDS, FINANCING COMPANIES, AND
GUARANTEE COMPANIES**

**BY THE GRACE OF GOD THE ALMIGHTY
THE BOARD OF COMMISSIONERS
OF THE FINANCIAL SERVICES AUTHORITY,**

Considering : a. That in order to create a non-banking financial industry that is sound and able to provide the best possible service to the public, such industry must be managed by a board of directors, board of commissioners, sharia supervisory board, members' representative board, controlling shareholders, expert staff, and Foreign Staff that has integrity, competence, and good

financial reputation, which quality can be established through a fit and proper test supported by an aligned and integrated set of regulations;

- b. that in view of the consideration as referred to in paragraph a above, a Financial Services Authority Regulation needs to be established to govern the conduct of fit and proper tests of Key Persons in insurance companies, pension funds, financing companies, and Guarantee Companies;

- In view of : 1. Law Number 21 of 2011 on the Financial Services Authority (State Gazette of the Republic of Indonesia of 2011 Number 111; Appendix Number 5253);
2. Law Number 2 of 1992 on Insurance Business (State Gazette of the Republic of Indonesia of 1992 Number 13; Appendix Number 3467);
3. Law Number 11 of 1992 on Pension Fund (State Gazette of the Republic of Indonesia of 1992 Number 37; Appendix Number 3477);
4. Presidential Regulation Number 2 of 2008 on Guarantee Institutions;
5. Presidential Regulation Number 9 of 2009 on Financing Institutions;

HAS DECIDED:

To enact : FINANCIAL SERVICES AUTHORITY REGULATION ON FIT
AND PROPER TEST OF KEY PERSONS OF INSURANCE
RELATED COMPANY, PENSION FUNDS, FINANCING
COMPANY, AND GUARANTEE COMPANY.

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Financial Services Authority Regulation:

1. Insurance Related Company means a business entity engaged in the insurance sector as defined in the law concerning insurance business.
2. Pension Fund means a legal entity managing and operating a program that promised pension benefits as defined in the law concerning pension funds.
3. Financing Company means a business entity established specifically to conduct leasing, factoring, consumer financing, and/or credit card business as defined in the laws on financing companies.
4. Guarantee Company means a legal entity engaged in the

financial sector, operating a primary business of providing Guarantee services as defined in the laws concerning Guarantee Companies.

5. Board of Directors means:

- a. for Insurance Related Company, Financing Company, or Guarantee Company established in the form of a limited liability company, the board of directors as defined in the law concerning limited liability companies;
- b. for Financing Company or Guarantee Company established in the form of a cooperative, the management as defined in the law on cooperatives;
- c. for Pension Fund, the management and/or acting administrators as defined in the law concerning pension funds;
- d. for Insurance Related Company established in the form of mutual company, the board of directors as defined in the company's articles of association;
- e. for Guarantee Company established in the form of a public company, the board of directors as defined in the law concerning state-owned enterprises; and
- f. for Guarantee Company established in the form of a regional government-owned company, the Board of Directors as defined in the law concerning regional

government-owned companies.

6. Board of Commissioners means:
 - a. for Insurance Related Company, Financing Company, or Guarantee Company established in the form of a limited liability company, the board of commissioners as defined in the law concerning limited liability companies;
 - b. for Financing Company or Guarantee Company established in the form of a cooperative, the supervisory board as defined in the law on cooperatives;
 - c. for Pension Fund, the supervisory board as defined in the law concerning pension funds;
 - d. for Insurance Related Company established in the form of mutual company, the board of commissioners as defined in the company's articles of association;
 - e. for Guarantee Company established in the form of a public company, the supervisory board as defined in the law concerning state-owned enterprises; and
 - f. for Guarantee Company established in the form of a regional government-owned company, the supervisory board as defined in the law concerning regional government-owned companies.
7. Sharia Supervisory Board means the board as recommended by the National Sharia Board of the Indonesian Ulema Council

assigned to the Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company or the sharia unit tasked with supervising the company's business operation to ensure that they are in line with sharia principles.

8. Members' Representative Board means the highest institution within a mutual company, which determines the key policies in the mutual company.
9. Controlling Shareholder means any individual person, legal entity, and/or business group which is:
 - a. owning shares or capital in an Insurance Related Company, Financing Company, or Guarantee Company equal to 25% (twenty-five percent) or more of the total number of issued shares with voting rights; or
 - b. owning shares or capital in an Insurance Related Company, Financing Company, or Guarantee Company less than 25% (twenty-five percent) of the total number of issued shares with voting rights, but can be proven as exercising control over the Insurance related company, Financing Company, or Guarantee Company, directly or indirectly.
10. Expert Staff means an individual person having a specific qualifications and/or skills and appointed as an Expert Staff at the Insurance Related Company, Financing Company, or Guarantee Company where such person is employed.

11. Foreign Staff means a foreign national holding a visa having the intention of being employed with an Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company in Indonesia.
12. General Meeting of Shareholders, hereinafter referred to as GMS, means:
 - a. for Insurance Related Company, Financing Company, or Guarantee Company established in the form of a limited liability company, the GMS as defined in the law concerning limited liability companies;
 - b. for Financing Company or Guarantee Company established in the form of a cooperative, the members meeting as defined in the law on cooperatives;
 - c. for Pension Fund, the founders as defined in the law concerning pension funds;
 - d. for Insurance Related Company established in the form of mutual company, the members meeting as defined in the company's articles of association;
 - e. for Guarantee Company established in the form of a public (state) company, the GMS as defined in the law concerning state-owned enterprises; and
 - f. for Guarantee Company established in the form of a regional government-owned company, the GMS as defined

in the law concerning regional government-owned companies.

- g. Financial Services Authority, hereinafter abbreviated to as OJK, is an independent agency operating beyond the interference of any external party, conferred with regulatory, supervisory, and investigative function, task, and authority, as stipulated in the law on financial services authority.

CHAPTER II

PERSONS REQUIRED TO TAKE

FIT AND PROPER TEST

Article 2

- (1) Fit and proper test is conducted by OJK on persons who manages, supervises, and/or has significant influence over an Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company.
- (2) A person as referred to in paragraph (1), hereinafter referred to as a Key Person, includes:
 - a. members of the Board of Directors;

- b. members of the Board of Commissioners;
- c. members of the Sharia Supervisory Board;
- d. members of the Members' Representative Board;
- e. Controlling Shareholders;
- f. Expert Staff; or
- g. Foreign Staff.

Article 3

- (1) A Key Person must pass a fit and proper test prior to undertaking duties and functions.
- (2) The fit and proper test as referred to in paragraph (1) shall be conducted on such Key Person:
 - a. upon the person being nominated as a Key Person;
 - b. upon expiry of the effective period of the fit and proper test certificate of completion;
 - c. at any time such fit and proper test is required to be retaken.

Article 4

- (1) Fit and proper test of the person nominated as a Key Person as referred to in Article 3 paragraph (2) letter a shall include

the followings:

- a. a person to will serve as a member of a Board of Directors, Board of Commissioners, Sharia Supervisory Board or Members' Representative Board;
- b. a person to serve as a Controlling Shareholder;
- c. a person to be employed as an Expert Staff; and
- d. a person to be employed as a Foreign Staff.

(2) Fit and proper test of Key Person as referred to in Article 3 paragraph (2) letter a shall be exempted for:

- a. President director of an Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company who is to be reappointed as a member of the board of directors of the same company;
- b. a member of the board of directors of an Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company who is to be reappointed as a member of the board of directors of the same company;
- c. Chief commissioner of the board of commissioners of an Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company who is to be reappointed as a member of the board of commissioners of the same company;

- d. a member of the board of commissioners of an Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company who is to be reappointed as a member of the board of commissioners of the same company;

Article 5

- (1) If a controlling shareholder is a legal entity, the fit and proper test shall be conducted by assessing such legal entity as represented by the chair of the board of directors or an equivalent officer.
- (2) The person representing the Controlling Shareholder as referred to in paragraph (1) shall submit the necessary administrative requirement as referred to in Article 9 paragraph (2) letter a.

CHAPTER III

ASPECTS ASSESSED

IN A FIT AND PROPER TEST

Article 6

- (1) A fit and proper test is aimed to assess whether a Key Person as referred to in Article 3 paragraph (2) has met the applicable requirements through evaluation of the following aspects:
- a. for member of the Board of Directors, the Board of Commissioners, the Sharia Supervisory Board, Members Representative Board, an Expert Staff, and/or a Foreign Staff:
 - 1. competency;
 - 2. integrity; and
 - 3. financial reputation.
 - b. for the Controlling Shareholder includes:
 - 1. integrity; and
 - 2. financial reputation.
- (2) Assessment of competence as referred to in paragraph (1) letter a item 1 covers the following criteria:
- a. adequate knowledge relevant to the position to be undertaken;
 - b. understanding of the legislations on non-bank financial industry and/or other relevant laws and regulations;
 - c. experience and expertise in non-bank financial industry

and/or other areas relevant to the position; and

- d. ability to exercise strategic management to develop a sound non-bank financial industry business.

(3) Assessment of aspects as referred to in paragraph (1) letter a item 2 and letter b item 1 covers the following criteria:

- a. has never committed a criminal offense in the field of financial service and/or economy;
- b. has never been sentenced for a criminal offense by a court verdict within at least the past 5 (five) years prior to the fit and proper test;
- c. has never violate a commitment made with a financial service regulatory and supervisory institution;
- d. has never committed an act which creates an unreasonable benefit to the shareholders, members of board of directors, members of board of commissioners, members of members representative board, employee or other parties, that may adversely affect or prejudice the rights of a policy holder, consumer, and/or participant;
- e. has never violated the prudential principles in the financial services sector;
- f. is not listed in the List of Failure Person (Daftar Tidak Lulus/DTL) in the banking sector;

- g. has never committed an act that deviates from or is beyond its scope of authority;
- h. has never been declared as incapable of exercising its authority; and
- i. has never violated a regulatory provisions in the non-bank financial industry.

(4) Assessment of financial reputation as referred to in paragraph (1) letter a item 3 covers the following criteria:

- a. has no non performing loan;
- b. has never been declared bankrupt and has never served as a shareholder, member of the Board of Directors, member of a Board of Commissioners, or member of a Members Representative Board that has been declared as guilty of causing a company to be declared bankrupt pursuant to a court verdict within at least the past 5 (five) years prior to the fit and proper test; and
- c. has never been involved in the criminal offense of money laundering.

(5) Assessment of financial reputation as referred to in s paragraph (1) letter b item 2 covers the following criteria:

- a. having financial acumen that can support business growth;

- b. having the commitment to take the necessary measures in the event the company faces capital or liquidity problems;
- c. has no non performing loan;
- d. has never been declared bankrupt and has never served as a shareholder, member of the Board of Directors, member of a Board of Commissioners, or member of a Members Representative Board that has been declared guilty of causing a company to be declared bankrupt pursuant to a court verdict within at least the past 5 (five) years prior to the fit and proper test; and
- e. has never been involved in the criminal offense of money laundering.

CHAPTER IV

FIT AND PROPER TEST OF KEY PERSONS

Part One

Application for Fit and Proper Test

Article 7

- (1) The conduct of a fit and proper test of a Key Person as referred to in Article 3 paragraph (2) letter a must be based on a written application from the Board of Directors to OJK.
- (2) The conduct of a fit and proper test of a Key Person as referred to in Article 3 paragraph (2) letter b must be based on a written application from the Board of Directors to OJK.
- (3) The written application as referred to in paragraph (2) shall be delivered by no later than 3 (three) months prior to the expiry of the effective period of the fit and proper test completion certificate.
- (4) A fit and proper test as referred to in Article 3 paragraph (2) letter c shall be conducted if based on the analysis and/or audit by the OJK a Key Person is suspected or should reasonably be suspected of no longer meeting the conditions as referred to in Article 6.

Article 8

Submission of the application for a fit and proper test as referred to in Article 7 paragraph (1) and paragraph (2) must specify the number of Key Persons and the positions to be occupied.

Article 9

- (1) The written application as referred to in Article 7 paragraph (1) and paragraph (2) must be in the format as provided in Annex I, which constitute an inseparable part of this OJK Regulation.
- (2) In the case of members of a Board of Directors, Board of Commissioners, or Member Representative Board, the application as referred to in paragraph (1) shall be supplemented by the following documents:
 - a. curriculum vitae in the format as provided in Annex II.a, which constitute an inseparable part of this OJK regulation, to which the following documents shall be attached:
 1. copy of valid national identity card (KTP) or passport;
 2. copy of taxpayer registration card (NPWP);
 3. a description of work experience; and
 4. 2 (two) 4x6 cm prints of newest passport photograph.
 - b. a statement letter from member of the Board of Directors, Board of Commissioners or Members Representative Board in the format as provided in Annex III, which

constitute an inseparable part of this OJK Regulation.

(3) In the case of members of a Sharia Supervisory Board, the application as referred to in paragraph (1) shall be supplemented by the following documents:

a. curriculum vitae in the format as provided in Annex II.a, which constitute an inseparable part of this OJK regulation, to which the following documents shall be attached:

1. copy of valid national identity card (KTP) or passport;
2. copy of taxpayer registration card (NPWP);
3. copy of a recommendation from the Sharia Board of the Indonesia National Council of Ulema; and
4. 2 (two) 4x6 cm prints of newest passport photograph.

b. a statement letter from member of the Sharia Supervisory Board in the form as provided in Annex III, which constitute an inseparable part of this OJK Regulation.

(4) In the case of a Controlling Shareholder, the application as referred to in paragraph (1) shall be supplemented by the following documents:

a. for an individual Controlling Shareholder:

1. curriculum vitae in the format as provided in Annex II.a, which constitute an inseparable part of this OJK regulation, to which the following documents shall be attached:
 - a) copy of valid national identity card (KTP) or passport;
 - b) copy of taxpayer registration card (NPWP);
 - c) 2 (two) 4x6 cm prints of newest passport photograph.
 2. a statement letter from member of the Sharia Supervisory Board in the format as provided in Annex III, which constitute an inseparable part of this OJK Regulation.
- b. for a Controlling Shareholder in the form of a legal entity or business group:
1. latest financial statement as audited by an public accountant;
 2. company information form in the format as provided in Annex II.b, which constitute an inseparable part of this OJK Regulation, to which the following documents shall be attached:
 - a) deed of incorporation, including its latest

version of articles of association validated by the competent authority, which shall also apply to a foreign corporate entity in accordance with the regulatory provisions in force in the country of origin; and

b) copy of corporate tax registration number.

3. Statement letter from the Board of Directors of the legal entity or business group constituting such Controlling Shareholder in the format as provide in Annex III, which constitute an inseparable part of this OJK Regulation.

(5) In the case of an Expert Staff, the application as referred to in paragraph (1) shall be supplemented by the following documents:

a. curriculum vitae in the format as provided in Annex II.a, which constitute an inseparable part of this OJK regulation, to which the following documents shall be attached:

1. copy of valid national identity card (KTP) or passport;
2. copy of taxpayer registration card (NPWP);
3. a description of work experience; and

4. 2 (two) 4x6 cm prints of newest passport photograph.
 - b. a statement letter from the Expert Staff in the format as provided in Annex III, which constitute an inseparable part of this OJK Regulation.
- (6) In the case of a Foreign Staff, the application as referred to in paragraph (1) shall be supplemented by the following documents :
- a. curriculum vitae in the format as provided in Annex II.a, which constitute an inseparable part of this OJK regulation, to which the following documents shall be attached:
 1. copy of valid passport;
 2. a description of work experience; and
 3. 2 (two) 4x6 cm prints of newest passport photograph.
 - b. a statement letter from the Foreign Staff in the format as provided in Annex III, which constitute an inseparable part of this OJK Regulation.

Part Two

Assessment Procedures

Article 10

- (1) The fit and proper test of a Key Person as referred to in Article 3 paragraph (2) letters a and b shall be conducted by way of:
 - a. administrative assessment; and
 - b. interview.
- (2) The fit and proper test of a Key Person as referred to in Article 3 paragraph (2) letter c shall be conducted by way of:
 - a. verification of data and information; and
 - b. interview.

Article 11

- (1) The Key Person in question must undergo the interview as referred to in Article 10 paragraph (1) letter b or paragraph (2) letter b through a face-to-face interview at the OJK office or any other location as determined by OJK.
- (2) In the event the Controlling Shareholder is the National or Regional Government, the interview as referred to in Article paragraph (1) letter b shall be conducted if it is deemed necessary by the OJK.

Article 12

Further provisions regarding the conduct of a fit and proper test shall be regulated in an OJK Circular Letter.

Article 13

- (1) The fit and proper test as referred to in Article 10 shall be conducted by a fit and proper test team formed by the OJK.
- (2) The formation of the fit and proper test team as referred to in paragraph (1) shall be further regulated by an OJK Board of Commissioners Regulation.
- (3) A manual for the conduct of a fit and proper test as referred to in paragraph (1) shall be set forth in an OJK Board of Commissioners Regulation.

Article 14

For the purpose of the fit and proper test as referred to in Article 10, OJK may require information and/or letter of recommendation on the Key Person to be provided by other competent authorities.

Article 15

- (1) OJK shall notify in advance to the Key Person regarding the fit and proper test, at least within 10 (ten) days upon receipt of complete documents as referred to in Article 9 paragraph (2), paragraph (3), paragraph (4), paragraph (5), or paragraph (6) by OJK.
- (2) OJK shall notify the schedule for the fit and proper test of the Key Person following affirmation of the result of the analysis and/or audit as referred to in Article 7 paragraph (4).

Article 16

- (1) The interview as referred to in Article 10 paragraph (1) letter b and paragraph (2) letter b shall be conducted in the Indonesian language.
- (2) A Key Person who is not able to converse in the Indonesian language shall provide its translator for the purpose of the interview.

Article 17

- (1) A Key Person who is unable to attend the interview as referred to in Article 11 paragraph (1) shall provide written

notice provided with a reasonable reason by no later than 2 (two) days prior to the scheduled fit and proper test.

- (2) Based on the written notice as referred to in paragraph (1), OJK may provide 1 (one) further opportunity for interview and provide a new schedule for another interview to the Key Person.
- (3) In the event following the written notice as referred to in paragraph (1) OJK does not provide another opportunity for interview to the Key Person or the Key Person fails to attend the newly scheduled interview without notice, then OJK shall cancel the fit and proper test for that Key Person.
- (4) OJK shall deliver a notice of rejection of the request submitted by the Key Person if the reason for failure to attend as referred to in paragraph(3) is not acceptable or if the Key Person fails to provide a notice regarding such inability to attend the interview as referred to in Article 11 paragraph (1).
- (5) If, in the circumstances as referred to in Article 3 paragraph (2) letters b and c, the Key Person is unable to attend the interview without such Key Person providing any notice or, if a notice is given but the reason for the failure to attend is cannot be accepted by OJK, then OJK shall declare that the Key Person has failed to pass the fit and proper test.
- (6) A Key Person whose request has been refused as referred to in

paragraph (4) can only reapply for a fit and proper test the soonest 1 (one) year following the date of notice of refusal from OJK.

Part Three

Result of Fit and Proper Test

Article 18

- (1) OJK determines the result of the fit and proper test as referred to in Article 10 paragraph (2) in either of the following 2 (two) criteria:
 - a. pass; or
 - b. fail (not pass).
- (2) OJK makes a determination of the result of the fit and proper test as referred to in paragraph (1) by no later than 60 (sixty) days upon receipt of complete application documents as referred to in Article 9 paragraph (2), paragraph (3), paragraph (4), paragraph (5), and paragraph (6).
- (3) OJK notifies in writing the result of the fit and proper test as referred to in paragraph (2) to the Board of Directors submitting the application for the fit and proper test.

- (4) The result of the fit and proper test as referred to in paragraph (1) letter a shall be effective for a period of 5 (five) years upon the date of determination by OJK.
- (5) The effective period of the fit and proper test result as referred to in paragraph (4) shall not apply to a Controlling Shareholder.
- (6) The Board of Directors of the Key Person who has received the result of the fit and proper test as referred to in paragraph (1) letter b may reapply no earlier than 1 (one) year after determination of the result of the fit and proper test by OJK.

Article 19

- (1) A member of a Board of Directors, member of a Board of Commissioners, member of a Sharia Supervisory Board, member of a Members Representative Board, Expert Staff, or Foreign Staff as referred to in Article 3 paragraph (2) letter a who have passed the fit and proper test must be appointed to the intended position by no later than 3 (three) months following the date of the determination of the fit and proper test result.
- (2) If, following the elapse of the period as referred to in paragraph (1), the Key Person who has passed the fit and

proper test has not been appointed to the relevant position, the Board of Directors will be required to notify OJK on the reason for which such Key Person have not been appointed.

- (3) Based on the notification as referred to in paragraph (2), OJK may consider to extend the period of the appointment or determine any other action to take.
- (4) In the event OJK grants an extension of the period for appointment or determine another action to be taken as referred to paragraph (3), it shall notify such decision to the Board of Directors.
- (5) A member of a Board of Directors, member of a Board of Commissioners, member of a Sharia Supervisory Board, member of a Members Representative Board, Expert Staff, or Foreign Staff as referred to in Article 3 paragraph (2) letters b and c who have passed the fit and proper test may resume his/her duties and function in the present position.

Article 20

- (1) A member of a Board of Directors, member of a Board of Commissioners, member of a Sharia Supervisory Board, member of a Members Representative Board, Expert Staff, or Foreign Staff as referred to in Article 3 paragraph (2) letter a

who have not passed the fit and proper test shall be prohibited from being appointed to the intended position.

- (2) A member of a Board of Directors, member of a Board of Commissioners, member of a Sharia Supervisory Board, member of a Members Representative Board, Expert Staff, or Foreign Staff as referred to in Article 3 paragraph (2) letters b and c who fail to pass the fit and proper test must be discharged from his/her current position.
- (3) A person proposed to become a Controlling Shareholder in an Insurance related company, Financing Company, or Guarantee Company as referred to in Article 3 paragraph (2) letter a who fail the fit and proper test shall be prohibited from becoming a Controlling Shareholder.
- (4) A Controlling Shareholder in an Insurance related company, Financing Company, or Guarantee Company as referred to in Article 3 paragraph (2) letters a and c who fail the fit and proper test:
 - a. Prohibited from taking actions as a Controlling Shareholder in such Insurance related company, Financing Company, or Guarantee Company;
 - b. must transfer a portion of its shares to another person so as to cause itself not meeting the criteria as Controlling Shareholder by no later than 2 (two) years from the

determination of the fit and proper test result.

CHAPTER V

CONDITIONS OF SUSTAINMENT

Article 21

- (1) A member of a Board of Directors, member of a Board of Commissioners, member of a Sharia Supervisory Board, member of a Members Representative Board, Expert Staff, or Foreign Staff at an Insurance related company, Financing Company, and/or Guarantee Company who have passed a fit and proper test must meet the conditions of sustainment at least 1 (one) time within a period of 1 (one) year.
- (2) Fulfillment of the conditions of sustainment as referred to in paragraph (1) must be undertaken by way of:
 - a. attendance in seminars, workshops, or other similar events;
 - b. participate in courses, trainings, or similar education programs;
 - c. authoring papers, articles, or other published work; or
 - d. serving as a speaker in an event as referred to in letter a,

as a lecturer or instructor in events as referred to in letter

b.

- (3) Materials for the activities described in paragraph (2) must be relevant to the financial industry.
- (4) The activities described in paragraph (1) and paragraph (2) letters a, b and d must be organized by:
 - a. a domestic or foreign financial services supervisory institution;
 - b. a domestic or foreign financial services association;
 - c. a domestic or foreign higher learning institution; or
 - d. a training institution authorized by the competent authority.
- (5) A certificate or other form of evidence demonstrating that the Key Person has met the conditions of sustainment must be delivered to OJK by no later than 1 (one) months upon the elapse of the one year period;
- (6) If following the elapse of the one year period the conditions of sustainment has not been met by the Key Person as stipulated in paragraph (1), then the fulfillment of the conditions of sustainment as referred to in paragraph (2) must be undertaken at least twice times within the following year.
- (7) In the event the Key Person fails to meet the conditions of sustainment as referred to in paragraph (1) and paragraph (6),

he/she shall be required to retake the fit and proper test.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Article 22

- (1) Result of the fit and proper test is confidential and is administrated and utilized by the OJK to regulate and supervise Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company.
- (2) In the event the Key Person discloses the result of the fit and proper test to another party, any legal consequences that arise shall be borne by such Key Person.

Article 23

- (1) A Key Person who has passed the fit and proper test prior to the promulgation of this OJK Regulation and continues to serve a position or be employed in the same Insurance Related Company, Pension Fund, or Financing Company at

the time on which this OJK Regulation takes effect, then the result of such fit and proper test shall be determined to continue to be valid.

(2) A Key Person who is:

- a. a member of the Sharia Supervisory Board, member of a Members Representative Board, Controlling Shareholder, Expert Staff, or Foreign Staff of an Insurance Related Company;
- b. a member of the Board of Directors and member of the Board of Commissioners of a Pension Fund;
- c. a member of the Sharia Supervisory Board, Controlling Shareholder, or Foreign Staff of an Financing Company; and
- d. a member of the Board of Directors, a member of the Board of Commissioners, a member of the Sharia Supervisory Board, or a Controlling Shareholder of a Financing Company;

who is still serving at or employed with an Insurance Related Company, Pension Fund, Financing Company, or Guarantee Company and has never taken a fit and proper test as at the promulgation of this OJK Regulation, shall be deemed as having passed the fit and proper test as of

the date on which this OJK Regulation becomes effective.

- (3) The Board of Directors of an Insurance related company, Pension Fund, Financing Company, or Guarantee Company must submit a request for determination letter of passing of fit proper test from OJK along with the minute of GMS and/or letter of appointment of the Key Person as referred to in paragraph (2) to OJK by no later than 3 (three) months after this OJK Regulation becomes effective.
- (4) OJK must issue determination letter of passing of fit and proper test to the Key Person as referred to in paragraph (2) by no later than 60 (sixty) days upon receipt of the request from the Board of Directors.
- (5) Determination letter of passing of a fit and proper test for a Key Person except for Controlling Shareholders as referred to in paragraph (1) and paragraph (2) is valid for a period of 5 (five) years from when this OJK Regulation becomes effective.

Article 24

Applications for a fit and proper test submitted to the OJK prior to the promulgation of this OJK Regulation and have not been processed, shall be processed based on this OJK Regulation.

CHAPTER VII

SANCTIONS

Article 25

- (1) An Insurance Related Company, Financing Company, or Guarantee Company that fails to meet the conditions set forth in Article 19 paragraph (1) and paragraph (2), Article 20, and/or Article 21 paragraph (5) shall be imposed with the administrative sanction of:
 - a. written warning;
 - b. freezing of business operation; or
 - c. revocation of business license.
- (2) A written warning as referred to in paragraph (1) letter a shall be valid for a period of 60 (sixty) days from its affirmation.
- (3) If before the elapse of the effective period of the written warning as referred to in paragraph (2) the Insurance related company, Financing Company, or Guarantee Company manages to meet the aforesaid conditions, the written warning will automatically expire.

- (4) If after 3 (three) consecutive written warnings the Insurance Related Company, Financing Company, or Guarantee Company continues to fail to meet such conditions, OJK will impose a freezing of business operation.
- (5) Freezing of business operation as referred to in paragraph (1) letter b shall be delivered in writing and is effective for a period of 6 (six) months from the affirmation of the freezing notice.
- (6) During the freezing of business operation as referred to in paragraph (4), the Insurance Related Company, Financing Company, or Guarantee Company:
 - a. is prohibited from issuing new products and/or services;
and
 - b. is required to meet all the of the obligations undertaken.
- (7) If prior to the end of the freezing of business operation as referred to in paragraph (4) the Insurance Related Company, Financing Company, or Guarantee Company meets the aforesaid conditions, then OJK shall revoke the freezing of business operation sanctions.
- (8) If up to the end of the freezing of business operation period as referred to in paragraph (4) the Insurance Related Company, Financing Company, or Guarantee Company continues to fail to meet the aforesaid conditions, then OJK shall revoke the business license of such Insurance Related Company,

Financing Company, or Guarantee Company.

Article 26

- (1) A Pension Fund failing to meet the conditions as set forth in Article 19 paragraph (1) and paragraph (2), Article 20, and/or Article 21 paragraph (5) shall be imposed with the administrative sanction of:
 - a. written warning; or
 - b. written instruction to the Founders to replace its Board of Directors.
- (2) A written warning as referred to in paragraph (1) letter a shall be valid for a period of 60 (sixty) days from its affirmation.
- (3) If before the elapse of the effective period of the written warning as referred to in paragraph (2) the Pension Fund manages to meet the aforesaid conditions, the written warning will automatically expire.
- (4) If after 3 (three) consecutive written warnings the Pension Fund continues to fail to meet such conditions, OJK will issue instructions to the Founders to replace its Board of Directors.

Article 27

Upon this OJK Regulation coming into effect, provisions regarding Fit and Proper Test for Key Persons of Insurance Companies, Pension Funds, Financing Companies, or Guarantee Companies shall comply with this OJK Regulation.

Article 28

This OJK Regulation shall come into force on the date of its promulgated.

For public cognizance, this Regulation of OJK shall be announced in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

on 21 November 2013

HEAD OF THE BOARD OF

COMMISSIONERS OF THE

FINANCIAL SERVICES AUTHORITY,

Signed by

MULIAMAN D. HADAD

Promulgated in Jakarta

On 23 December 2013

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

Signed by

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2013 NUMBER 231

Copy is in accordance with the original;

HEAD OF LEGAL ASSISTANCE DEPARTMENT
DIRECTORATE OF LAW,

Signed by

MUFLI ASMAWIDJAJA