BANK INDONESIA REGULATION

NUMBER 16/21/PBI/2014

CONCERNING

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

BY THE BLESSING OF GOD ALMIGHTY

THE GOVERNOR OF BANK INDONESIA,

Considering:

a. that external debt is one source of 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 to achieve the aforementioned objective, external debt management shall be conducted paying due regard to prudential principles in order to mitigate the variety of risks that can emerge, including currency risk, liquidity risk and overleverage risk;

d. that the implementation of prudential principles is congruent with the efforts to promote domestic financial market deepening;

e. that prudential principles are applied with regards to business continuity and to support investment activity;

f. that based on the considerations presented in points a, b, c, d and e, it is necessary to promulgate a Bank Indonesia Regulation concerning the implementation of prudential principles in managing external debt of 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), last amended by 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);

HAS DECREED:

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

In this Bank Indonesia Regulation:

1. External Debt is defined as Residents debt to Non-Residents in a foreign currency and/or the Rupiah, including financing based on sharia principles.

2. Residents 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 is defined as a currency not denominated in Rupiah.
5. Foreign Currency Assets are current assets denominated in a Foreign Currency used to calculate the Hedging Ratio and Liquidity Ratio.
6. Foreign Currency Liabilities are current liabilities denominated in a Foreign Currency used to calculate the Hedging Ratio and Liquidity Ratio.
7. Hedging is a method or technique to reduce risk that emerges or will emerge due to price fluctuations on financial markets.
8. The Hedging Ratio is the ratio between total value hedged and the negative balance of Foreign Currency Assets and Foreign Currency Liabilities.
9. The Liquidity Ratio is the ratio between total Foreign Currency Assets and Foreign Currency Liabilities.
10. A Rating Agency is an institution that issues Credit Ratings.
11. A Credit Rating is defined as the assessment conducted by a rating agency to illustrate corporate financial conditions or credit worthiness.

CHAPTER II

PRUDENTIAL PRINCIPLES

Article 2

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

(2) The minimum Hedging Ratio 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 of up to 3 (three) months from the end of the quarter; and

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

(3) Hedging transactions referred to in paragraph (1) shall be undertaken with banks in Indonesia.

(4) Bank Indonesia shall determine the negative balance threshold that must be hedged to fulfil the Hedging Ratio referred to in paragraph (1).

(5) Further provisions detailing Foreign Currency Assets, Foreign Currency Liabilities and the minimum Hedging Ratio referred to in paragraph (2) as well as the negative balance threshold referred to in paragraph (4) are contained within a Bank Indonesia Circular Letter.

Article 4

(1) Non-Bank Corporation holding External Debt in a Foreign Currency are required to fulfil a specified minimum Liquidity Ratio by providing adequate Foreign Currency assets to meet Foreign Currency liabilities that shall mature within 3 (three) months from the end of the quarter.

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

Article 5

(1) Non-Bank Corporation holding External Debt in a Foreign Currency are required to fulfil a Credit Rating of no less than equivalent to BB-, as issued by a Rating Agency recognized by Bank Indonesia.

(2) A Credit Rating, as referred to in paragraph (1), is a valid rating of the corporation (issuer rating) and/or debt security (issue rating) pursuant to the type and maturity period of the loan.

(3) The validity period of the Credit Rating of the issuer rating and/or issue rating referred to in paragraph (2) is no more than 2 (two) years after the rating is issued.

(4) The Credit Rating must be fulfilled when the loan is signed and/or issued.

(5) Non-Bank Corporation holding External Debt in a Foreign Currency from apparent company, or guaranteed by parent company, are permitted to use the Credit Rating of the parent company.

(6) Newly established Non-Bank Corporation is permitted to use the Credit Rating of a parent company for not longer than 3 (three) years after commercial operation.

(7) Further provisions concerning Credit Ratings and Rating Agencies referred to in paragraph (1) are contained within a Bank Indonesia Circular Letter.

CHAPTER III

EXEMPTIONS

Article 6

(1) Non-Bank Corporation that record financial statements in United States Dollars and fulfil specific criteria are exempt from the minimum Hedging Ratio as stipulated in Article 3.

(2) Further provisions concerning the specific criteria referred to in paragraph (1) are contained within a Bank Indonesia Circular Letter.

Article 7

(1) Fulfilment of the minimum Credit Rating, as stipulated in Article 5, is not applicable to:

a. External debt in a Foreign Currency in the form of refinancing; and
b. External debt in a Foreign Currency used to finance infrastructure projects sourced from:
    1) entirely from (bilateral/multilateral) international creditor;
    2) syndicated loans with a 50% (fifty per cent) or greater contribution from a (bilateral/multilateral) international creditor.
c. External debt in a Foreign Currency to finance central and local government infrastructure projects;
d. External debt in a Foreign Currency guaranteed by a (bilateral/multilateral) international creditor;
e. External debt in a Foreign Currency in the form of trade credit; or
f. External debt in a Foreign Currency in the form of other loans.

(2) External debt in a Foreign Currency in the form of refinancing, referred to in paragraph (1) letter a, is only exempt while no additional outstanding loans are approved or the additional outstanding loans are below the threshold.

(3) Bank Indonesia shall determine the threshold of additional outstanding loans in the form of refinancing that is exempt from the minimum Credit Rating referred to in paragraph (1).

(4) Further provisions concerning international institutions (bilateral or multilateral) referred to in paragraph (1) letter b and paragraph (1) letter d, refinancing referred to in paragraph (2), and the threshold for outstanding loans referred to in paragraph (3) are contained within a Bank Indonesia Circular Letter.

CHAPTER IV

COMPLIANCE MONITORING AND REPORTS SUBMISSION AND SUPPORTING DOCUMENTATION

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 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 referred to in paragraph (1); and

b. the exemptions as stipulated in Article 6 and Article 7.

Article 9

The report and supporting documentation submission procedure as stipulated in Article 8, including the imposition of sanctions, pursuant to prevailing Bank Indonesia Regulations that control reporting of foreign exchange flow activity and reporting of the implementation of prudential principles in managing External Debt of Non-Bank Corporation.

Article 10

(1) Bank Indonesia monitors Non-Bank Corporation compliance 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 referred to in paragraph (1), Bank Indonesia shall use various methods as follows:

   a. request clarification, evidence, records 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

OTHER PROVISIONS

Article 11

In the event of issues with strategic impact relating to the application of prudential principles to manage External Debt of Non-Bank Corporation, Bank Indonesia shall institute specific policy with regard to prudential principles contained within this Bank Indonesia Regulation and other prevailing regulations.

CHAPTER VI

SANCTIONS

Article 12

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

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

   a. the international creditors involved;

   b. The Ministry of State Enterprises, applicable to state-owned enterprises;

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

   d. The Financial Services Authority (OJK); and

   e. The Indonesia Stock Exchange, applicable to corporations listed on the Indonesia Stock Exchange.

CHAPTER VII

CONCLUDING PROVISIONS

Article 13

Upon enforcement of this Bank Indonesia Regulation:

a. the provision concerning the minimum Hedging Ratio as stipulated 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 from the end of the quarter; 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 from the end of the quarter,

until 31st December 2015.

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

Article 14

(1) The provision concerning Hedging transactions with banks in Indonesia as stipulated in Article 3 paragraph (3) shall become effective commencing 1st January 2017.

(2) Hedging transactions conducted with banks not in Indonesia with an agreement signed prior to 1st January 2017 are still recognised as Foreign Currency Assets and included in fulfilment of the minimum Hedging Ratio and minimum Liquidity Ratio.

(3) The provision concerning the minimum Credit Rating as stipulated in Article 5 paragraph (1) is applicable to External Debt signed or issued since 1st January 2016.

Article 15

The provision concerning sanctions as stipulated in Article 12 shall become effective commencing the report of the fourth quarter of 2015.

Article 16

Upon enforcement of this Bank Indonesia Regulation, Bank Indonesia Regulation Number 16/20/PBI/2014 concerning The Implementation of Prudential Principles in Managing External Debt of Non-Bank Corporation (State Gazette of the Republic of Indonesia Number 340 of 2014, Supplement to State Gazette of the Republic of Indonesia Number 5620) is revoked and declared invalid.

Article 17

Further provisions of this Bank Indonesia Regulation are contained within a Bank Indonesia Circular Letter.

Article 18

Enforcement of this Bank Indonesia Regulation shall commence 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 29th December 2014

GOVERNOR OF BANK INDONESIA

AGUS D.W. MARTOWAJDOJO

Promulgated in Jakarta

on 30th December 2014

MINISTER OF LAW AND HUMAN RIGHTS

OF THE REPUBLIC OF INDONESIA

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 394 OF 2014

ECONOMIC AND MONETARY POLICY DEPARTMENT (DKEM)

ELUCIDATION

OF

BANK INDONESIA REGULATION

NUMBER 16/21/PBI/2014

CONCERNING

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

I. GENERAL

External debt is one of the source for financing development frequently utilised in developing countries. External debt is used to bridge 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 that which occurred during 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 corporations do not hedge against their external debt. 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.

The application of prudential principles, achieved through the utilisation of hedging instruments, is in accordance with financial market deepening in Indonesia. Furthermore, prudential principles are applied pursuant to general business management practises to ensure business continuity and investment activities are maintained, thereby supporting sustainable national economic growth.

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 and/or 3 (three) to 6 (six) months from the end of the quarter.

Forward transactions are defined as the purchase or sale of foreign currencies against the Rupiah when the funds are delivered more than 2 (two) working days after the date the contract is entered into.

Swap transactions are defined as the purchase or sale of Foreign Currencies 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 are defined as a contract between the seller or writer and the buyer, where the seller guarantee the right (but not the obligation) of the buyer to buy or sell a Foreign Currency against the Rupiah at a specified price on a specified date.

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

Paragraph (3)

Receivables from hedging transactions conducted not with banks in Indonesia are not considered Foreign Currency Assets.

Receivables from hedging transactions conducted not with banks in Indonesia are also not considered as fulfilment of minimum Hedging Ratio and minimum Liquidity Ratio.

Paragraph (4)

Self-explanatory

Paragraph (5)

Self-explanatory

Article 4

Paragraph (1)

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

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

Paragraph (2)

Self-explanatory

Article 5

Paragraph (1)

Self-explanatory

Paragraph (2)

If a Non-Bank Corporation engages in external debt activity through the issuance of long-term debt securities then the applicable Credit Rating is the long-term Credit Rating.

Paragraph (3)

Self-explanatory

Paragraph (4)

External debt denominated in a Foreign Currency featuring facilities that can be withdrawn at any time or with the option to extend, bound by a long-term master agreement, the minimum Credit Rating are required to be fulfilled when the master agreement is signed.

Paragraph (5)

Self-explanatory

Paragraph (6)

Newly established joint venture Non-Bank Corporation are permitted to use the Credit Rating of the largest shareholder.

Paragraph (7)

Self-explanatory

Article 6

Self-explanatory

Article 7

Paragraph (1)

Letter a

Self-explanatory

Letter b

In the event that a Non-Bank Corporation obtains a syndicated loan to finance an infrastructure project, the Non-Bank Corporation is not required to fulfil the minimum Credit Rating while (bilateral or multilateral) international creditor involvement exceeds 50% (fifty per cent) of the loan syndication.

Exemptions for such infrastructure project financing aim to support domestic infrastructure development.

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. Drinking 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.

Letter c

Central and local government infrastructure projects are defined as projects already included in Central Government or Local Government planning documents.

Letter d

Self-explanatory

Letter e

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

Letter f

Other loans are defined as all debt, excluding that based on a loan agreement, debt securities and trade credit, amongst others, in the form of insurance claims and dividends that have been declared but not yet paid.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Article 8

Paragraph (1)

Self-explanatory

Paragraph (2)

Supporting documentation includes quarterly and annual financial statements.

Article 9

Self-explanatory

Article 10

Paragraph (1)

Self-explanatory

Paragraph (2)

Letter a

Related institutions are institutions, ministries or authorities with regulatory jurisdiction over Non-Bank Corporation, for example the Ministry of State-Owned Enterprises in the case of State-Owned Corporations.

Letter b

Self-explanatory

Letter c

Self-explanatory

Article 11

Self-explanatory

Article 12

Self-explanatory

Article 13

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

Article 14

Self-explanatory

Article 15

Self-explanatory

Article 16

Self-explanatory

Article 17

Self-explanatory

Article 18

Self-explanatory

SUPPLEMENT TO STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 5651