

THE ENACTMENT OF REGULATIONS AT BANK INDONESIA

(Regulation of the Bank Indonesia Governor No. 18/42/PBI/2016 Dated November 28, 2016)

BY THE GRACE OF ALMIGHTY GOD

THE BANK INDONESIA GOVERNOR,

Considering :

- a. that Bank Indonesia as a state institution and public legal entity has the authority to enact regulations within the limit of its authority;
- b. that the enactment of regulations at Bank Indonesia shall be done in accordance with the principles of enacting laws and regulations and general principles of good governance;
- c. that the enactment of regulations at Bank Indonesia needs to be supported by standard procedure and method as a guide to enacting regulations at Bank Indonesia;
- d. that based on the considerations as referred to in letters a, b, and c, it is necessary to stipulate a Bank Indonesia regulation concerning the Enactment of Regulations at Bank Indonesia;

In view of :

1. Law No. 23/1999 concerning Bank Indonesia (Statute Book of the Republic of Indonesia of 1999 No. 66, Supplement to Statute Book of the Republic of Indonesia No. 3843) as already amended several times the latest by Law No. 6/ 2009 concerning the Passage of Government Regulation in lieu of Law No. 2/2008 concerning the Second Round of Amendment to Law No. 23/1999 concerning Bank Indonesia into Law (Statute Book of the Republic of Indonesia of 2009 No. 7, Supplement to Statute Book of the Republic of Indonesia No. 4962);
2. Law No. 12/2011 concerning the Enactment of Laws and Regulations (Statute Book of the Republic of Indonesia of 2011 No. 82, Supplement to Statute Book of the Republic of Indonesia No. 5234);

DECIDES :

To stipulate :

BANK INDONESIA REGULATION CONCERNING THE ENACTMENT OF REGULATIONS AT BANK INDONESIA.

CHAPTER I**GENERAL PROVISIONS****Article 1**

Referred to in this Bank Indonesia Regulation as :

1. Regulation is a legal provision set by Bank Indonesia through a procedure set forth in this Bank Indonesia Regulation and binding the public and/or Bank Indonesia internal party.
2. Bank Indonesia Regulation, hereinafter abbreviated into PBI is a legal provision set by Bank Indonesia and binding any individual or body and stipulated in State Gazette of the Republic of Indonesia.
3. Regulation of the Board of Governors, hereinafter abbreviated into PDG, is a legal provision set by the Board of Governors and containing Bank Indonesia internal regulations.
4. Regulation of Members of the Board of Governors, hereinafter abbreviated into PADG, is a legal provision set by members of the Board of Governors as an implementation regulation of PBI and binding any individual or body.
5. Internal Regulation of Members of the Board of Governors, hereinafter abbreviated into internal PADG, is a legal provision set by members of the Board of Governors and containing internal regulations of Bank Indonesia as an implementation regulation of PBI and/or PDG.
6. Working unit is an entity within the organization of Bank Indonesia set up to carry out functions as part of tasks of Bank Indonesia.
7. Initiating working unit is a working unit which because of its function and task and/or according to the assignment from the Board of Governors initiates the enactment of regulations.

CHAPTER II**OBJECTIVE AND PRINCIPLE****Article 2**

The objective of controlling the enactment of regulations is to :

- a. create good regulations through the standard procedure and method; and
- b. clarify functions, tasks and authority in enacting regulations.

Article 3

The enactment of regulations is based on the principle of :

- a. paying attention to the application of principle of enacting laws and regulations and general principle of good governance;
- b. implementing regulations in accordance with its function, tasks and authority; and
- c. fulfilling public accountability.

CHAPTER III

REGULATIONS AT BANK INDONESIA

Part One

Types

Article 4

The types of regulations include:

- a. PBI;
- b. PDG;
- c. PADG; and
- d. Internal PADG.

Part Two

Content Materials

Article 5

The content materials of PBI cover:

- a. materials mandated by the law to be provided for in PBI; and/or
- b. materials to carry out functions, tasks, and authority of Bank Indonesia.

Article 6

- (1) The content materials of PDG cover :**
 - a. materials ordered by law to be provided in PDG; and/or
 - b. internal materials used to carry out functions, tasks and authority of bank Indonesia.
- (2) The content materials of PDG must not contradict the content materials of PBI.**

Article 7

- (1) The content materials of PADG consist of :**
 - a. materials delegated by PBI;
 - b. technical materials to implement PBI; and/or
 - c. materials related to further explanations on PBI.
- (2) The content materials of PADG shall not contradict the content materials of PBI and PDG.**

Article 8

- (1) The content materials of internal PADG consist of :**
 - a. materials delegated by PDG;
 - b. technical materials to implement PBI and/or PDG for internal purpose at Bank Indonesia; and/or
 - c. materials related to further explanations on PBI and/or PDG for internal purpose at Bank Indonesia.
- (2) The content materials of internal PADG shall not contradict the content materials of PBI, PDG, and PADG.**

Part Three

Phases of Enacting Regulations

Article 9

- (1) The phases of enacting PBI cover:**
 - a. planning;
 - b. formulation;
 - c. discussion;
 - d. endorsement;
 - e. promulgation; and
 - f. dissemination.

(2) The phases of enacting PDG, PADG, and internal PADG cover

- a. planning;
- b. formulation;
- c. discussion;
- d. endorsement; and
- e. announcement and/or dissemination.

Paragraph 1

Planning

Article 10

- (1) Plan for the enactment of regulations is set in the working program of the initiating working unit.**
- (2) The plan for the enactment of regulations as referred to in paragraph (1) shall be conveyed by the initiating working unit to the working unit carrying out the legal function at the start of year.**

Article 11

- (1) Under certain circumstances, the enactment of regulations may be done outside the work program as referred to in Article 10.**
- (2) The certain circumstances as referred to in paragraph (1) cover:**
 - a. condition caused by important and urgent needs or
 - b. extraordinary happening or natural disaster
- (3) The enactment of regulations outside the work program as referred to in paragraph (1) can be done based on :**
 - a. proposal from the working unit; and/or
 - b. directives from members of the Board of Governors or directives from the Board of Directors to the working unit.
- (4) The proposal from the working unit to enact regulations outside the work program as referred to in paragraph (3) letter a shall at least secured approval from members of the Board of Governors overseeing the working unit.**

Paragraph 2

Formulation

Article 12

- (1) To enact regulations, the working unit shall formulate :
 - a. an academic study of the materials of regulations to be included in the draft PBI and draft PDG; or
 - b. main ideas of the materials of regulation to be included in the draft PADG and draft internal PADG.
- (2) The initiating working unit can invite the relevant working unit to formulate academic study or main ideas as referred to in paragraph (1).
- (3) Under certain circumstances, the study of materials of regulation to be included in the draft PBI and draft PDG as referred to in paragraph (1) letter a can be made in the form of main ideas.
- (4) The certain circumstances as referred to in paragraph (3) cover:
 - a. certain condition as referred to in Article 11 paragraph (2);
 - b. PBI or PDG issued is only to make a simple change in PBI or PDG and/or constitutes an impact of the change in other PBI or PDG;
 - c. PBI issued is only to publish something which is routine in nature; and/or
 - d. PBI or PDG issued is only to revoke other PBI or PDG.
- (5) The format of academic study as referred to in paragraph (1) letter a is contained in Attachment I which is an integral part of this Bank Indonesia Regulation.

Article 13

- (1) The initiating working unit shall formulate :
 - a. the main ruling of PBI or the main ruling of PDG according to the academic study as referred to in Article 12 paragraph (1) letter a or main ideas as referred to in Article 12 paragraph (3); or
 - b. the main ruling of PADG or the main ruling of internal PADG shall accord with the main ideas as referred to in Article 12 paragraph (1) letter b.
- (2) The initiating working unit invites the relevant working unit to discuss the main ruling in the draft PBI, draft PDG, draft PADG, and/or draft internal PADG.

Paragraph 3

Discussion

Article 14

- (1) The initiating working unit proposes main ruling of PBI or main ruling of PDG as referred to in Article 13 to the meeting of the Board of Governors for approval.
- (2) The mechanism and requirement of the main ruling of draft PBI or draft PDG at the meeting of the Board of Governors as referred to in paragraph (1) shall refer to Bank Indonesia provisions on organizing the meeting of the Board of Governors.

Article 15

- (1) The initiating working unit shall formulate draft PBI or draft PDG according to the main ruling approved by the meeting of the Board of Governors as referred to in Article 14 paragraph (1).
- (2) The initiating working unit shall submit draft PBI or draft PDG as referred to in paragraph (1) to the working unit carrying out legal function for discussion in a legal review forum.
- (3) The draft PBI or draft PDG submitted as referred to in paragraph (2) shall be accompanied by approval from the meeting of the Board of Governors as referred to in Article 14 paragraph (1).

Article 16

The initiating working unit shall submit the main ruling of PADG or the main ruling of internal PADG as referred to in Article 13 paragraph (1) letter b to the member of the Board of Governors overseeing the initiating working unit for approval.

Article 17

- (1) The initiating working unit shall formulate draft PADG according to the main ruling approved by the member of the Board of Governors overseeing the initiating working unit as referred to in Article 16.
- (2) The initiating working unit shall submit draft PADG as referred to in paragraph (1) to the working unit carrying out legal function for discussion in a legal review forum.
- (3) The draft PADG submitted as referred to in paragraph (2) shall be accompanied by approval from the member of the Board of Governors overseeing the initiating working unit.

Article 18

In the legal review forum, the working unit carrying out legal function shall study the draft PBI or draft PDG submitted by the initiating working unit as referred to in Article 15 paragraph (2) and draft PADG as referred to in Article 17 paragraph (2) by paying attention to the aspects of :

- a. fulfilling the principle of enacting regulations as referred to in Article 3;
- b. harmonizing other related laws and regulations;
- c. compatibility with the approval of :
 1. the meeting of the Board of Governors for draft PDG; or
 2. the member of the Board of Governors overseeing the initiating working unit for draft PADG; and
- d. technique of formulating, model and format of regulation as referred to in this Bank Indonesia Regulation.

Article 19

- (1) The legal review forum as referred to in Article 18 shall be attended by the initiating working unit.
- (2) Besides being attended by the initiating working unit, the legal review forum as referred to in paragraph (1) can also be attended by the relevant working unit. .

Article 20

The working unit carrying out the legal function shall submit draft PBI, draft PDG, and draft PADG as a result of discussion in the legalreview forum to the initiating working unit, along with explanations on the result of discussion.

Article 21

The initiating working unit shall finalize the draft PBI, draft PDG, or draft PADG according to the results of discussion in the legal review forum as referred to in Article 20.

Article 22

- (1) The initiating working unit shall formulate draft internal PADG according to the main ruling approved by the member of the Board of Directors overseeing the initiating working unit as referred to in Article 16.

- (2) The initiating working unit can submit draft internal PADG to the working unit carrying out legal function to obtain inputs and legal aspects.
- (3) The working unit carrying out legal function shall convey the inputs of the legal aspect over draft internal PADG to the initiating working unit, along with necessary explanations.

Paragraph 4

Deciding

Article 23

- (1) The initiating working unit shall submit final draft PBI or final draft PDG to the working unit carrying out legal function to conduct a final research particularly to see if it matches the result of discussion in the legal review forum.
- (2) If the initiating working unit makes a change in or adjustment to draft PBI or draft PDG as a result of discussion in the legal review forum, the initiating working unit shall inform in writing the working unit carrying out legal function of the change or adjustment, along with consideration and/or supporting documents.
- (3) If the change as referred to in paragraph (2) is so fundamental or significant that it needs a further study from legal aspect, the change can be discussed again in the legal review forum.
- (4) The working unit carrying out legal function shall submit the result of final research as referred to in paragraph (1) to the initiating working unit.
- (5) The result of final research submitted by the working unit carrying out legal function as referred to in paragraph (4) shall be accompanied by final draft PBI or final draft PDG.

Article 24

- (1) The initiating working unit shall submit the final draft PBI and final draft PDG to the Governor to pass it into PBI and PDG.
- (2) The initiating working unit shall submit the final draft PADG and final draft internal PADG to the member of the Board of Governors overseeing the working unit to pass it into PADG and internal PADG.
- (3) The passage of draft PBI and draft PDG as referred to in paragraph (1) and draft PADG and draft internal PADG as referred to in paragraph (2) shall be done through:

- a. the signing by the Bank Indonesia Governor on PBI and PDG after being signed by the member of the Board of Governors overseeing the initiating working unit; or
 - b. the signing by the member of the Board of Governors on PADG and internal PADG after being signed by the leader of the initiating working unit.
- (4) The initiating working unit shall submit a report on the passage of PADG and internal PADG as referred to in paragraph (2) to all members of the Board of Governors.

Paragraph 5

Promulgation, Announcement, and

Dissemination

Article 25

- (1) PBI shall be promulgated in the Statute Book of the Republic of Indonesia.
- (2) Bank Indonesia shall disseminate PBI through the Bank Indonesia website, Bank Indonesia internal legal information means, and/or other media.

Article 26

Bank Indonesia shall announce PADG in the State Gazette of the Republic of Indonesia and disseminate PADG through the Bank Indonesia website, Bank Indonesia internal legal information means, and/or other media.

Article 27

Bank Indonesia shall disseminate PDG and internal PADG through Bank Indonesia internal legal information means.

CHAPTER IV

PUBLIC PARTICIPATION

Article 28

- (1) To formulate draft PBI and draft PADG, the initiating working unit shall invite other relevant agencies, institutions or parties to obtain oral and/or written inputs.

- (2) The request for inputs from the other relevant agencies, institutions or parties as referred to in paragraph (1) is made before:
- a. a request for approval of draft PBI from RDG is made; or
 - b. a request for approval of draft PADG from the member of the Board of Governors overseeing the initiating working unit is made.
- (3) The provisions as referred to in paragraph (1) do not apply to draft PBI and draft PADG containing Bank Indonesia's policy which is secret and/or has a negative impact if it is known to the public before it is issued by Bank Indonesia.

CHAPTER V

TECHNIQUE OF FORMULATING, MODEL, AND FORMAT OF REGULATIONS

Article 29

- (1) Draft regulations are formulated according to :
- a. the technique of formulating regulations is contained Attachment II which is an integral part of this Bank Indonesia Regulation; and
 - b. the model and format of regulations are contained Attachment II which is an integral part of this Bank Indonesia Regulation.
- (2) In case of a change in the technique of formulating regulations as referred to in paragraph (1) letter a and/ or the model and format of regulations as referred to in paragraph as referred to in paragraph (1) letter b, the change shall be provided for in PADG.

CHAPTER VI

RULE OF POLICY

Article 30

If needed, to implement PBI, PDG, PADG, or internal PADG, the working unit can create a rule of policy which is very technical in the form of technical guide.

CHAPTER VII

CONCLUSION

Article 31

- (1) All Circulars of Bank Indonesia which deal with external rulings and have been in existent before this Bank Indonesia Regulation is put into force, shall be treated as PADG.
- (2) All Circulars of Bank Indonesia which deal with internal rulings and have been in existent before this Bank Indonesia Regulation is put into force, shall be treated as internal PADG.

Article 32

- (1) All decisions of the Board of Directors of Bank Indonesia which deal with external rulings and have been in existent before this Bank Indonesia Regulation is put into force, shall be treated as PBI.
- (2) All decisions of the Board of Directors of Bank Indonesia which deal with internal rulings and have been in existent before this Bank Indonesia Regulation is put into force, shall be treated as PDG.

Article 33

When this Bank Indonesia Regulation begins to take effect:

- a. Regulation of the Board of Governors No. 1/1/PDG/1999 dated May 18, 1999 concerning Procedure of Formulating Laws and Regulation related to Bank Indonesia ;and
- b. provisions on the types of regulatory documents of Bank Indonesia as referred to in Circular of Bank Indonesia No. 11/38/INTERN dated June 29, 2009 concerning the Control of Documents of Bank Indonesia as already amended several times the latest by Circular of Bank Indonesia No. 17/72/INTERN dated November 27, 2015 concerning the Second Round of Amendment to Circular of Bank Indonesia No. 11/38/INTERN dated June 29, 2009 concerning the Control of Documents of Bank Indonesia, shall be revoked and declared null and void.

Article 34

This Bank Indonesia Regulation shall come into force as from January 2, 2017.

For public cognizance, this Bank Indonesia Regulation shall be promulgated by placing it in the Statute Book of the Republic of Indonesia.

Stipulated in Jakarta

On November 28, 2016

THE BANK INDONESIA GOVERNOR,

sgd.

AGUS D.W. MARTOWARDOJO

Promulgated in Jakarta

On November 30, 2016

THE LAW AND HUMAN RIGHTS MINISTER OF

THE REPUBLIC OF INDONESIA,

sgd.

YASONNA H. LAOLY

STATUTE BOOK OF THE REPUBLIC OF INDONESIA

OF 2016 NO. 257

ELUCIDATION

OF

BANK INDONESIA REGULATION

NO. 18/42/PBI/2016

CONCERNING

THE ENACTMENT OF REGULATIONS IN BANK INDONESIA

I. GENERAL

The position of Bank Indonesia as a public legal entity and independent state institution, in implementing its tasks and authority as stipulated in the law concerning Bank Indonesia, has brought a logical judicial consequence that Bank Indonesia has the authority to issue regulations in Bank Indonesia, which constitute the implementation or mandate of the law concerning Bank Indonesia and other laws and regulations related to the implementation of Bank Indonesia's tasks, directly or indirectly.

To improve provisions on the enactment of laws and regulations, the law governs the principles of enacting laws and regulations and the general principles of good governance. In this connection, provisions on the enactment of regulations, starting from the process and procedure of enacting regulations, the planning phase to the issuance phase, and the materials of the regulations also need to be revised. In addition, to enact good regulations, various requirements related to principles, basic principles, procedures of preparing and discussing regulations, formulation technique and enforcement are needed.

II. ARTICLE BY ARTICLE

Article 1 and Article 2

Sufficiently clear.

Article 3

Letter a

The enactment of regulations needs to optimally and consistently meets the good principles of enacting laws and regulations and reflects the principles of content materials of law and regulation in accordance with the law in force by adjusting to the need to carry out the tasks of Bank Indonesia and pay attention to the principles of good governance.

Letter b

Sufficiently clear.

Letter c

The enactment of regulations is done through good and correct procedure by taking into account legal need and can be conducted so that each regulation can be accounted to Bank Indonesia stakeholders.

Article 4

Sufficiently clear.

Article 5

Referred to as "content materials of PBI" include :

- a. provisions which give obligations, rights and/or facilities to certain parties;
- b. main requirement and/or process of licensing;
- c. supervision and reporting; and
- d. administrative sanctions applying to and binding the public.

Article 6

Paragraph (1)

Referred to as "content materials of PDG" include :

- a. provisions which give obligations, rights and/or facilities to members of the Board of Governors and employees;
- b. the granting of authority to members of the Board of Governors and certain employees at Bank Indonesia; and ;
- c.. administrative sanctions applying to and binding the public.

Paragraph (2)

These provisions are not intended to declare that hierarchically PBI is higher than PDG, but is intended to serve as a guide to applying it in case of a condition for the same thing in which there is difference of regulation between PBI and PDG. In this case, PBI is given priority because it binds internal parties.

Article 7

Paragraph (1)

Example of content materials of PADG is the procedure and mechanism of licensing and procedure of imposing administrative sanctions.

Paragraph (2)

Sufficiently clear.

Article 8

Paragraph (1)

Example of content materials of internal PADG is the procedure and mechanism of licensing and procedure of imposing administrative sanctions, which serves as a guide to executing internal tasks at Bank Indonesia.

Paragraph (2)

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Paragraph (1)

Sufficiently clear.

Paragraph (2)

The filing of a plan for the enactment of regulations at the start of a year covers the enactment of regulations, either those which are already contained in the performance contract of the initiating working unit or those which are not contained in it but have been planned by the initiating working unit.

Article 11

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Letter a

Referred to as "important and urgent" includes:

1. a condition which needs a response in the form of urgent policy in the monetary field, rupiah payment and management system, and/or financial system stability, particularly macro-prudential stability;

2. a condition which, if it is not dealt with immediately, has the potential to disrupt the effective execution of Bank Indonesia's tasks and authority;
3. a condition which has the potential to cause risks to personnel, operational system, and/or assets of Bank Indonesia and may eventually disrupt the execution of Bank Indonesia's tasks; and/or
4. a condition in which law has been promulgated and put into force and later needs the issuance of PBI, PDG, PADG, and/or internal PADG according to Bank Indonesia's consideration.

Letter b

Referred to as "extraordinary happening" is a condition including war, riot, conflict, terrorism and sabotage.

Referred to as "natural disaster" is a disaster caused by an event or a series of events caused by the nature including earthquake, tsunami, volcanic eruption, flood, drought, typhoon, and landslide, which have the potential to cause risks to:

1. monetary system, rupiah payment and management system, and/or financial system stability, particularly macro-prudential stability so that Bank Indonesia needs to issue regulation immediately to anticipate them;
or
2. personnel, operational system, and/or assets of Bank Indonesia, which lead to the stoppage or disruption of operational activities of Bank Indonesia in carrying out its tasks and functions as a central bank.

Paragraph (3) and Paragraph (4)

Sufficiently clear.

Article 12

Paragraph (1)

Letter a

Referred to as "academic study" is a description of concepts and explanations on the substance or main ruling and linkage with provisions with other laws and regulations, which will be put in PBI and PDG based on the results of a research or study which can be accounted for scientifically according to the format of enacting regulations set forth in this Bank Indonesia Regulation.

Letter b

Referred to as "main ideas" are a description of substances or main ruling and linkage with provisions with other laws and regulations, which will be put in PDG and internal PDG based on the results of a research or study which can be accounted for. The model of main ideas can refer to the format of formulating academic study adjusted to the need.

Paragraph (2) up to Paragraph (5)

Sufficiently clear.

Article 13

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Inputs from the relevant working unit are needed among others within the framework of synchronization and harmonization with other provisions and/or within the framework of giving ideas from the aspect of drafting regulations.

Article 14 up to Article 21

Sufficiently clear.

Article 22

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Inputs from legal aspect from the working unit carrying out legal function are not made in a legal review forum.

Paragraph (3)

Sufficiently clear.

Article 23

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Documents supporting a change in or adjustment to the final draft of PBI or final draft PDG resulting from a discussion in a legal review forum include decision of RDG related to the substances of a change in or adjustment to the relevant PBI or PDG.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

to be continued

(S)