

SECOND AMENDMENT TO PRESIDENTIAL REGULATION NUMBER 19 YEAR 2005 CONCERNING SECONDARY HOUSING FINANCEMENT (Regulation of President of the Republic of Indonesia Number 101 Year 2016, dated December 2, 2016)

WITH THE BLESSING OF THE ONE AND ONLY GOD
PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. Whereas, to upgrade capacity and subsistence of financment for housing acquisition through Secondary Housing Financement, and to support market efficiency in providing financment for primary housing, it is necessary to make improvement to the Regulation on Secondary Housing Financement;
- b. Whereas, based on the consideration referred to in letter a, it is necessary to stipulate Presidential Regulation on Second Amendment to Presidential Regulation Number 19 Year 2005, concerning Secondary Housing Financement.

In view of:

1. Article 4 paragraph (1) of the 1945 Constitution of the Unitary State of the Republic of Indonesia;
2. Law Number 7 Year 1992, on Banking (Statute Book of the Republic of Indonesia Year 1992 Number 32, Supplement to Statute Book of the Republic of Indonesia Number 3473) as amended by Law Number 10 Year 1998, concerning Amendment to Law Number 7 Year 1992, concerning Banking (Statute Book of the Republic of Indonesia Year 1998 Number 182, Supplement to Statute Book Republic of Indonesia Number 3790);
3. Law Number 8 Year 1995, concerning Capital Market (Statute Book of the Republic of Indonesia Year 1995 Number 64, Supplement to Statute Book of the Republic of Indonesia Number 3608);

4. Law Number 19 Year 2003, concerning State-owned Business Entity (Statute Book of the Republic of Indonesia Year 2003 Number 70, Supplement to Statute Book of the Republic of Indonesia Number 4297);
5. Law Number 40 Year 2007, concerning Limited Liability Company (Statute Book of the Republic of Indonesia Year 2007 Number 106, Supplement to Statute Book of the Republic of Indonesia Number 4756);
6. Law Number 1 Year 2011, concerning Housing and Residential Area (Statute Book of the Republic of Indonesia Year 2011 Number 7, Supplement to Statute Book of the Republic of Indonesia Number 5188);
7. Law Number 20 Year 2011, concerning Flats / Storey Houses (Statute Book of the Republic of Indonesia Year 2011 Number 108, Supplement to Statute Book of the Republic of Indonesia Number 5252);
8. Government Regulation Number 12 Year 1998, concerning Limited Liability Company (Statute Book of the Republic of Indonesia Year 1998 Number 15 Supplement to Statute Book of the Republic of Indonesia Number 3731) as amended by Government Regulation Number 45 Year 2001, concerning Amendment to Government Regulation Number 12 Year 1998, concerning Limited Liability Company (Persero) (Statute Book of the Republic of Indonesia Year 2001 Number 68, Supplement to Statute Book of the Republic of Indonesia Number 4101);
9. Government Regulation Number 5 Year 2005, concerning Capital Participation by the State of the Republic of Indonesia for Establishment of Limited Liability Company (Persero) on Housing with Secondary Financement (Statute Book of the Republic of Indonesia Year 2005 Number 20) as amended by Government Regulation Number 75 Year 2011, concerning amendment to Government Regulation Number 5 Year 2005, concerning Capital Participation by the State of the Republic of Indonesia for Establishment of Limited Liability Company (Persero) on Secondary Housing Financement (Statute Book of the Republic of Indonesia Year 2011 Number 163);

10. Presidential Regulation Number 19 Year 2005, concerning Secondary Housing Financement (Statute Book of the Republic of Indonesia Year 2005 Number 21, Supplement to Statute Book of the Republic of Indonesia Number 4479) as amended by Presidential Regulation Number 1 Year 2008, concerning amendment to Presidential Regulation Number 19 Year 2005, concerning Secondary Housing Financement .

DECIDES :

To stipulate:

PRESIDENTIAL REGULATION ON SECOND AMENDMENT TO PRESIDENTIAL REGULATION NUMBER 19 YEAR 2005, CONCERNING SECONDARY HOUSING FINANCEMENT .

Article I

Some provisions in Presidential Regulation Number 19 Year 2005, concerning Secondary Housing Financement (Statute Book of the Republic of Indonesia Year 2005 Number 21, Supplement to Statute Book of the Republic of Indonesia Number 4479) as amended by Presidential Regulation Number 1 Year 2008, are amended as follows:

1. Provision in Article 1 is amended so as to read as follows:

"Article 1

What is meant in this Presidential Regulation by:

1. Financial Asset shall be receivable obtained by creditor originating from grant of Credit for House Ownership to debtor, covering pledge / guarantee and security right adhered thereto;
2. Bank shall be bank as referred to in the Law on Banking.
3. Document on Transaction shall be all documents prepared by Parties on Security transaction.
4. Pledged Asset Stock shall be commercial paper that may be in the form of Debenture or Participated Certificate duly issued by Issuer which payment mainly comes from Collected Receivables.

5. Credit Enhancer shall be party providing facilities to improve quality and value of Financial Asset and/or commercial paper in Security transaction or provision of loan facilities.
6. Credit for House Ownership hereinafter referred to as KPR shall be credit duly issued by Creditor of Origin to buy house ready for accommodation.
7. Creditor of Origin shall be Financial Institution Grantor of Credit in the form of Bank or other Financial Institution possessing Financial Assets.
8. Collected Receivables shall be all Financial Assets purchased by Grantor of Credit from Creditor of Origin.
9. Custodian shall be party providing service as custodian of stock and other assets that pertain to stock and other services, including receiving dividend, interest, and other rights, settle stock transaction, and represent account holder constituting his/her customer.
10. Secondary Housing Financement shall be distribution of fund in medium and/or long term to Creditor of Origin by means of Pledged Security (Sekuritisasi).
11. Secondary Housing Financement Company shall be Financial Institution specifically established to provide Secondary Housing Financement .
12. Investor shall be any person or entity constituting holder of Pledged Asset Stock.
13. Issuer shall be party issuing Pledged Asset Stock in the context of Pledged Security and Debenture.
14. Financement Facilities shall be grant of loan / financement to Creditor of Origin based on the Standard as stipulated by Secondary Housing Financement Company.

15. Pledged Security shall be transformation of non-liquid asset into liquid asset by purchasing Financial Asset from Creditor of Origin and Issuer of Pledged Asset Stock.
16. Loan Facilities shall be grant of loan guaranteed by Financial Asset to Creditor of Origin based on the procedure and requirements stipulated by Secondary Housing Financement Company for distribution in the form of KPR.
17. Special Purpose Vehicle hereinafter referred to as SPV shall be Limited Liability Company appointed by Financial Institution, specifically established to buy Financial Asset and to issue Pledged Asset Stock.
18. Participated Certificate shall be proof of proportionate ownership of Collected Receivables jointly owned by a number of Invesstors issued by Issuer.
19. Debenture shall be proof of debt issued by Issuer granting the right to its holder to obtain payment as Invesstor.
20. Cusdodian shall be party representing Invesstor's interest in Pledged Security and/or Debenture that is registered at Financial Service Authority.
21. Minister shall be Minister exercising administration affair on finance."

2. Provision in Article 2 is amended so as to read as follows:

"Article 2

- (1) Secondary Housing Financement functions to grant finacement facilities to improve capacity and subsistence of finacement to obtain housing.
- (2) Secondary Housing Financement as referred to in paragraph (1) is granted by means of Pledged Security.

- (3) The financment facilities referred to in paragraph (1) is granted bsd on conventional or syariah principle.
- (4) Secondary Housing Financement Company shall motivate market on secondary housing development subsistently, at least by:
- a. granting Loan Facilities; and/or
 - b. capacity improvement."
3. Insert in between Article 2 and Article 3, one (1) Article, namely, Article 2A so as to read as follows:
- "Article 2A
- Central Government and/or Regional Administration may grant incentive to legal entity that is involed in Secondary Housing Financement in line with the provisions in the statutory regulation.
4. The term CHAPTER III is amended so as to read as follows:
- "CHAPTER III
- MECHANISM FOR PLEDGED SECURITY"
5. Provision in paragraph (1) of Article 4 is amended so as to read as follows:
- "Article 4
- (1) Pledged Security shall be exercised by purchasing group of Financial Assets from the Creditor of Origin and Issuer of Pledged Asset Stock.
 - (2) Pledged Asset Stock may be in the form of Debenture or Participated Certificate.
 - (3) Pledged Asset Stock must be rated by Rating Institution.
 - (4) Debenture or Participated Certificate as referred to in paragraph (2) will be issued in the name of the party as appointed (aan toonder) and/or in the name of requestor (aan order)."

6. Insert in between CHAPTER III and CHAPTER BAB IV one (1) Chapter, namely CHAPTER IIIA so as to read as follows:

**"CHAPTER IIIA
MECHANISM FOR LOAN FACILITIES"**

7. Insert in between Article 12A and Article 13 one (1) Article, namely Article 12B so as to read as follows:

"Article 12B

- (1) Secondary Housing Financement Company may also grant Loan Facilities.
- (2) Secondary Housing Financement Company intending to grant Loan Facilities as referred to in paragraph (1), must at least possess the following:
- a. standard document on KPR;
 - b. standard design of KPR;
 - c. guideline for risk analysis; and
 - d. guideline for assessment of real estate.
- (3) Financement by Loan Facilities as referred to in paragraph (1) originates from Issuer of Debenture and/or other source of fund that complies with the provisions in the statutory regulation.
- (4) Term for distribution of of Loan Facilities as referred to in paragraph (1) shall be 15 (fifteen) years."

8. provision in Article 20 is deleted.

9. provision in Article 21 is deleted.

10. Insert in between CHAPTER VI and CHAPTER VII one (1)Chapter, namely CHAPTER VIA so as to read as follows:

**"CHAPTER VIA
TRANSITIONAL PROVISION"**

11. Insert in between Article 21 and Article 22 one (1) Article, namely Article 21A so as to read as follows:

"Article 21A

By the time this Presidential Regulation comes to force, all agreements for grant of Loan Facilities to Bank and/or Financial Institution for distribution as KPR that has been conducted by Secondary Housing Financement Company in line with Article 20 paragraph (1) of Presidential Regulation Number 19 Year 2005, concerning Secondary Housing Financement (Statute Book of the Republic of Indonesia Year 2005 Number 21, Supplement to Statute Book of the Republic of Indonesia Number 4479) as amended by Presidential Regulation Number 1 Year 2008, concerning Amendment to Presidential Regulation Number 19 Year 2005, concerning Secondary Housing Financement, is hereby declared survives until expiry of Agreement for Granting Loan Facilities."

Article II

This Presidential Regulation takes effect on the date it is enacted.

For public recognition, this Presidential Regulation shall be announced by placing it in the Statute Book of the Republic of Indonesia.

Stipulated in Jakarta,

Dated December 2, 2016

PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd.

JOKO WIDODO

Enacted in Jakarta,

Dated December 6, 2016

MINISTER OF LAW AND HUMAN RIGHTS

OF THE REPUBLIC OF INDONESIA,

sgd.

YASONNA H. LAOLY

STATUTE BOOK OF THE REPUBLIC OF INDONESIA
YEAR 2016 NUMBER 266

ELUCIDATION OF

REGULATION OF PRESIDENT OF THE REPUBLIC OF INDONESIA
NUMBER 101 YEAR 2016
CONCERNING
SECOND AMENDMENT TO PRESIDENTIAL REGULATION
NUMBER 19 YEAR 2005
CONCERNING
SECONDARY HOUSING FINANCEMENT

I. GENERAL

Fulfillment of the need for housing for the people of Indonesia still needs attention. Until today Credit for Home Ownership (KPR) provided by KPR Distributor (bank or institution acting as distributor of KPR) is still using source of fund from Third Party (DPK) in short term, such as deposit, saving or clearing account. If this continues on, the bank or institution acting as distributor of KPR shall encounter a gap in financment (maturity mismatch) for KPR in long term, so that it is necessary to endeavor available source of fund for medium and long term to comply with the need for reasonable and accessible housing by all Indonesian families.

In line with the program of the Government, to improve capacity and subsistence in financing housing affordable by the people, it is necessary to provide available fund to improve activity in developing housing by maximizing the role of KPR Distributor to facilitate the people wishing to possess reasonable and affordable housing.

The effort to accomplish house ownership affordable by the people, other than going through the programs that stimulate the market on Primary Housing,, it is also necessary to attempt development of market on Secondary Housing Financement, so that market on Secondary Housing Financement also take strategic role in the housing finacement system.

Strategic role of Secondary Housing Financement Company may be accomplished by making improvement to Regulation on Secondary Housing Financement, by improving the scope and term in the activity of Secondary Housing Financement, so as to enable to improve capacity on distributing finacement of housing that is affordable by the people of Indonesia.

Strengthening the role of Secondary Housing Financement needs support from either the Central Government of Regional Administration to optimize the role of KPR Distributor through effort of developing the system of finacement, particularly to support KPR program. Pertaining to the Government authority to motivate the role of KPR Distributor in financing housing so that the people may obtain the benefit thereof, it is necessary to have regulation on granting incentive and/or facilities to KPR Distributor so that it finally motivates development of market on Secondary Housing Financement .

To secure subsistence in the implementation of activity of Secondary Housing Financement, the provision on Secondary Housing Financement, needs to be improved, such as, the provision on the scope of authority and term for implementation of business activity of Secondary Housing Financement.

By making amendment to several matters in this Regulation, it is anticipated that Secondary Housing Financement Company may run its function as constructor and developer of market on Secondary Housing Financement .

II. ARTICLE BYARTICLE

Article I

Figure 1

Article 1

Self-explanatory.

Figure 2

Article 2

Self-explanatory.

Figure 3

Article 2A

What is meant by "provisions in the statutory regulation" shall be, among other things, concerning housing and residential area, Regional Administration, State Finance, Taxes, and Regional contribution.

Figure 4

Self-explanatory.

Figure 5

Article 4

Paragraph (1)

Purchase of collected Financial Assets from Creditor of Origin is for the purpose of transferring the right of ownership of Creditor of Origin to collected Financial Assets to the purchasing party. Transfer of right to ownership shall be exercised in line with the provisions in Article 584 of the Civil Code (KUHP) that govern method to obtain right to ownership, whereby one of it is transfer (levering) of such property based on event of transfer of right to ownership. In its relation thereof with Pledged Security, the item to be transferred is the right to collect or constituting receivable so that to transfer receivables shall be conducted based on the provisions in Article 613 paragraph (1) of Civil Code (KUHP) by entering into an agreement of transfer known as cessie, while event of its civil event shall be in the form of sale and purchase agreement.

As such the event of civil matter is in the form of sale and purchase agreement. Thereby the legal certainty on transfer of right to ownership on collected Financial Assets from Creditor of Origin to Buyer takes place with the existence of sale and purchase agreement and transfer agreement (cessie). Sale and purchase agreement and transfer agreement (cessie) may be combined or merged into one agreement.

Paragraph (2) through Paragraph (4)

Self-explanatory.

Figure 6

Self-explanatory.

Figure 7

Article 12B

Paragraph (1) and Paragraph (2)

Self-explanatory.

Paragraph (3)

What is meant by "provisions in the statutory regulation" shall be among other things, concerning State finance, capital market, banking, and other financial services.

Paragraph (4)

Self-explanatory.

Figure 8 through Figure 10

Self-explanatory.

Figure 11

Article 21A

Self-explanatory.

Article II

Self-explanatory.

SUPPLEMENT TO STATUTE BOOK
OF THE REPUBLIC OF INDONESIA NUMBER 5962

(MA)