

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 9 OF 2016
ON
PREVENTION AND RESOLUTION OF FINANCIAL SYSTEM CRISIS
BY THE BLESSINGS OF ALMIGHTY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that in order to promote the welfare of the people of Indonesia under Pancasila and the 1945 Constitution of the Republic of Indonesia and to support the national economy through the implementation of economic democracy with the principles of togetherness, efficiency with justice, sustainability and environmental consideration, independence and by maintaining the balance of development and national economic unity, a robust financial system stability is a prerequisite;
 - b. that in order to promote a robust financial system stability to confront threats, either from domestic or global, it is necessary to establish the prevention and resolution of financial system crisis;
 - c. that based on the considerations as referred to in point a and point b, it is necessary to enact a Law on Prevention and Resolution of Financial System Crisis;
- Observing : Article 5 section (1) and Article 20 of the 1945 Constitution of the Republic of Indonesia;

With the Joint Approval of:
THE HOUSE OF REPRESENTATIVES
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact : LAW ON PREVENTION AND RESOLUTION OF FINANCIAL
SYSTEM CRISIS.

CHAPTER I
GENERAL PROVISIONS

Article 1

In this Law:

1. Financial System means a system that consists of financial service institutions, financial markets, and financial infrastructures, including payment systems, which interact in facilitating the collection of public funds and the allocation thereof to support national economic activities.
2. Financial System Stability means a condition of Financial System that functions effectively and efficiently and is able to withstand turmoil arising from domestic and global.
3. Financial System Crisis means a condition of Financial System that fails to perform its functions and roles effectively and efficiently, which is indicated by the impairment of various economic and financial indicators.
4. Bank means any bank under the Law on Banking and Law on Sharia Banking.
5. Systemic Bank means any Bank that, due to the size of its assets, capital and liabilities; its network coverage or complexity of banking services transactions; and its interconnectedness with other financial sector, may trigger the failure of other partial or whole Banks or the financial services sector, either operationally or financially, if it is undergoing disruption or failure.
6. Government Securities means government debt securities under the Law on Government Securities and Government Sharia Securities under the Law on Government Sharia Securities.

7. Bridge Bank means any commercial bank which is established by the Deposit Insurance Corporation to be used as a means of resolutions by assuming the partial or full transfer of the assets and/or liabilities of the Bank being handled by the Deposit Insurance Corporation, subsequently to carry out banking business activities, and the ownership of the bank will be transferred to other parties.
8. Banking Restructuring Program means a program established to handle banking problems that threaten the national economy.
9. Bank Indonesia means the Central Bank of the Republic of Indonesia under the 1945 Constitution of the Republic of Indonesia.
10. The Financial Services Authority means the Financial Services Authority under the Law on the Financial Services Authority.
11. The Deposit Insurance Corporation means the Deposit Insurance Corporation under the Law on the Deposit Insurance Corporation.
12. Central Government, hereinafter referred to as the Government, means the President of the Republic of Indonesia who holds the power of government of the Republic of Indonesia, assisted by the Vice President and Government Ministers under the 1945 Constitution of the Republic of Indonesia.
13. Minister of Finance means the minister who is in charge of government financial affairs.

Article 2

Prevention and Resolution of Financial System Crisis are carried out in accordance with the following principles of:

- a. national interest;
- b. usefulness;
- c. justice;
- d. cohesion;
- e. effectiveness;
- f. efficiency; and
- g. legal certainty.

Article 3

- (1) The prevention and resolution of the Financial System Crisis include:
 - a. coordination of monitoring and maintaining of the Financial System Stability;
 - b. resolution of the Financial System Crisis; and
 - c. resolution of problems of the Systemic Banks, during the normal and the Financial System Crisis condition.
- (2) The coordination of monitoring and maintaining of the Financial System Stability as referred to in section (1) point a shall include the following areas:
 - a. fiscal;
 - b. monetary;
 - c. macroprudential and microprudential financial services;
 - d. financial market;
 - e. financial infrastructures, including payment system and deposit insurance system; and
 - f. Bank resolution.
- (3) Resolution of the Financial System Crisis as referred to in section (1) point b includes all sectors as referred to in section (2).
- (4) Resolution of problems of the Systemic Banks as referred to in section (1) point c shall include of problems of liquidity and solvency.

CHAPTER II

FINANCIAL SYSTEM STABILITY COMMITTEE

Part One

Establishment

Article 4

- (1) In pursuance of this Law, the Financial System Stability Committee is established.
- (2) The Financial System Stability Committee as referred to in section (1) performs the prevention and resolution of Financial System Crisis for the economic interests and resilience of the country.

- (3) The Financial System Stability Committee, as referred to in section (1), consists of the following members:
 - a. the Minister of Finance as coordinator and member with voting rights;
 - b. the Governor of Bank Indonesia as a member with voting rights;
 - c. the Chairman of the Board of Commissioners of the Financial Services Authority as member with voting rights; and
 - d. the Chairman of the Board of Commissioners of the Deposit Insurance Corporation as member without voting rights.
- (4) Each member of the Financial System Stability Committee as referred to in section (3), acts for and on behalf of their respective institution in accordance with the provisions of legislation.

Part Two Tasks and Authorities

Article 5

The Financial System Stability Committee has the following tasks:

- a. to perform coordination for monitoring and maintaining of the Financial System Stability;
- b. to perform resolution of the Financial System Crisis; and
- c. to perform resolution of problems of the Systemic Banks, during the normal and the Financial System Crisis condition.

Article 6

The Financial System Stability Committee has the following authorities:

- a. to issue decisions on the governance of the Financial System Stability Committee and the secretariat of the Financial System Stability Committee;

- b. to establish task forces or working groups to assist in the implementation of the tasks of the Financial System Stability Committee;
- c. to determine criteria and indicators for the assessment of the Financial System Stability conditions;
- d. to conduct an assessment of the Financial System Stability conditions based on the advice from each member of the Financial System Stability Committee, along with supporting data and information;
- e. to determine measures to prevent the Financial System Crisis by taking into account the recommendations from each member of the Financial System Stability Committee;
- f. to provide recommendations to the President to change over the status of the Financial System Stability, from normal to Financial System Crisis condition or from the Financial System Crisis to normal condition;
- g. to provide recommendations to the President to establish measures in the resolution of the Financial System Crisis;
- h. to hand over the resolution of solvency problems of Systemic Banks to the Deposit Insurance Corporation;
- i. to determine measures that must be performed by members of the Financial System Stability Committee to support the implementation of the resolution of problems of Systemic Banks by the Deposit Insurance Corporation;
- j. to decide the purchase of Government Securities owned by the Deposit Insurance Corporation by Bank Indonesia for Bank resolution purposes; and
- k. to provide a recommendation to the President to decide the activation and the termination of the Banking Restructuring Program.

Part Three
Secretariat

Article 7

- (1) In performing its tasks as referred to in Article 5 and the authorities as referred to in Article 6, the Financial System Stability Committee is assisted by the secretariat of the Financial System Stability Committee which is chaired by the secretary of the Financial System Stability Committee.
- (2) The budget of the secretariat of the Financial System Stability Committee is sourced from the State Budget.

- (3) The secretariat of the Financial System Stability Committee may convene meetings attended by officials from the Ministry of Finance, Bank Indonesia, the Financial Services Authority and the Deposit Insurance Corporation in preparation for the Financial System Stability Committee meeting.
- (4) The organization and working procedures of the secretariat of the Financial System Stability Committee are determined by the Minister of Finance in accordance with the legislation.

Part Four

Meetings and Decision-Making Process

Article 8

- (1) The Financial System Stability Committee meetings periodically or at any time upon request.
- (2) The periodical meetings as referred to in section (1) are once every 3 (three) months.
- (3) Meetings at any other time as referred to in section (1) are convened upon request by a member of the Financial System Stability Committee.

Article 9

- (1) Meetings of the Financial System Stability Committee must attended by all members of the Financial System Stability Committee.
- (2) Meetings of the Financial System Stability Committee are chaired by the coordinator of the Financial System Stability Committee.
- (3) In the event that any member of the Financial System Stability Committee is physically unable to attend the Financial System Stability Committee meeting, the meeting may be facilitated through electronic communication devices that enable the members of the Financial System Stability Committee to listen and/or see one another and therefore participate in the meeting.

- (4) In the event that the coordinator and/or member of the Financial System Stability Committee is permanently unable to attend the Financial System Stability Committee meetings, the respective coordinator and/or members is represented by alternate officials in accordance with the prevailing of legislation.
- (5) In the event that the Financial System Stability Committee meeting is not attended by all of the Financial System Stability Committee members, physically or through electronic communication devices, as referred to in section (3) or by alternate officials as referred to in section (4), the meeting is rescheduled.
- (6) In the event that the meeting as referred to in section (5) is a meeting convened upon request by members, the rescheduled meeting is convened not later than 24 (twenty four) hours.
- (7) The rescheduled meeting as referred to in section (5) and section (6) is attended by at least 2 (two) members with voting rights and may make decisions.
- (8) The meeting of the Financial System Stability Committee must be fully documented from the beginning until the end of the meeting.

Article 10

- (1) Decisions of the Financial System Stability Committee are made in the meeting of the Financial System Stability Committee.
- (2) The decisions as referred to in section (1) are made by the Minister of Finance, the Governor of Bank Indonesia, and the Chairman of the Board of Commissioners of the Financial Services Authority.
- (3) The Chairman of the Board of Commissioners of the Deposit Insurance Corporation is entitled to express opinions in the meetings of the Financial System Stability Committee, but is not entitled to vote in decision making.

Article 11

- (1) The decisions as referred to in Article 10 section (1) is made through deliberation to reach a consensus.
- (2) In the event that consensus is not reached, the proposed decision shall be deemed rejected and the final opinion of each member of the Financial System Stability Committee is documented.
- (3) The rejected proposals as referred to in section (2) may be resubmitted to the Financial System Stability Committee meeting not later than 24 (twenty four) hours.
- (4) In the event that the meeting of the Financial System Stability Committee as referred to in section (3) fails to reach consensus, the decision is made by majority vote.
- (5) Decisions of the meeting of the Financial System Stability Committee are documented and signed by all members of the Financial System Stability Committee as referred to in Article 4 section (3).
- (6) The Financial System Stability Committee members who are absent from the Financial System Stability Committee meeting, are deemed to have approved the decision and do not have to put signature on any document of the meeting.

Part Five

Exchange of Data and Information

Article 12

- (1) Members of the Financial System Stability Committee conduct exchange data and information that are required to prevent and to resolve Financial System Crisis.
- (2) The exchange of data and information as referred to in section (1) is exempted from the provisions of confidentiality regulated in the prevailing of the legislation.

Part Six

Code of Ethics

Article 13

The Financial System Stability Committee and enforces the code of ethics of the Financial System Stability Committee.

Part Seven
Accountability and Reporting

Article 14

- (1) The Financial System Stability Committee and provides access to information about the decisions of the Financial System Stability Committee to public.
- (2) The Financial System Stability Committee the implementation of its tasks and authorities mandated by this Law.
- (3) The Financial System Stability Committee determines:
 - a. the type of information classified as a confidential information;
 - b. the type of information classified as not confidential information; and
 - c. the procedures for public to access the information, pursuant to the provisions of the legislation.
- (4) In the event that information is classified as a confidential information as referred to in section (3) point a, any person who has knowledge of the information, through his position, profession, or any relationship to the Financial System Stability Committee, is prohibited from using or disclosing the information to other parties, except in the execution of the function, tasks, and authorities, or is required by the prevailing Law.

Article 15

The Financial System Stability Committee to the President on:

- a. the Financial System Stability conditions every 3 (three) months;
- b. the resolution of Financial System Crisis;
- c. the resolution of the problem of Systemic Bank; and/or
- d. the implementation of the Banking Restructuring Program by the Deposit Insurance Corporation.

CHAPTER III
PREVENTION OF THE FINANCIAL SYSTEM CRISIS

Part One
General

Article 16

- (1) Members of the Financial System Stability Committee perform the monitoring and maintaining of the Financial System Stability in accordance with the tasks and authorities of each member to prevent a Financial System Crisis.
- (2) The monitoring and maintaining of Financial System Stability by each member of the Financial System Stability Committee are performed under the Law and in accordance with the crisis management protocol applicable to his/her organization.
- (3) Members of the Financial System Stability Committee convey the results of the monitoring and maintaining Financial System Stability as referred to in section (2) in the Financial System Stability Committee meeting.
- (4) The Financial System Stability Committee meeting as referred to in section (3) policy recommendations that must be carried out by each member of the Financial System Stability Committee in accordance with his respective tasks and authorities.

Part Two
Systemic Banks

Article 17

- (1) In order to prevent Financial System Crisis in the banking sector, the Financial Services Authority in coordination with Bank Indonesia determines Systemic Bank.
- (2) The initial determination of a Systemic Bank as referred to in section (1) is carried out when the Financial System Stability is in normal condition.
- (3) The Financial Services Authority in coordination with Bank Indonesia updates the list of Systemic Banks periodically once in every 6 (six) months.

- (4) The Financial Services Authority conveys to the Financial System Stability Committee the result of determination and the updated list of the Systemic Banks as referred to in section (2) and section (3).

Article 18

- (1) The Systemic Bank as referred to in Article 17 is obligated to:
 - a. comply with specific requirements concerning the capital adequacy ratio and the liquidity coverage ratio; and
 - b. develop a recovery plan to be approved by the Financial Services Authority.
- (2) The recovery plan as referred to in section (1) point b at least contains the obligations of the controlling shareholder and/or other parties to increase the Bank's capital and to convert certain type of debts into Bank's capital.
- (3) The Financial Services Authority has the authority to determine capital surcharge capacity for the Systemic Bank which will be used to absorb losses when the Bank undergoes financial problems.
- (4) The provisions on the capital adequacy ratio, liquidity coverage ratio, and the recovery plan as referred to in section (1) and section (2) as well as capital surcharge capacity of a Systemic Bank as referred to in section (3) are regulated in the Financial Services Authority Regulation.

Article 19

- (1) In the event that a Systemic Bank as referred to in Article 17 undergoes financial problems, the Systemic Bank applies the recovery plan as referred to in Article 18 section (1) point b and section (2) which has been approved by the Financial Services Authority.
- (2) In the event that the recovery plan as referred to in Article 18 section (1) point b and section (2) has not been approved by the Financial Services Authority, the Systemic Bank applies the restructuring measures prescribed by the Financial Services Authority.

- (3) The Financial Services Authority ensures that the recovery plan or restructuring measures are implemented by the Bank by mean of written instructions, assign a statutory manager, and/or through other mechanisms under the Law on Financial Services Authority.
- (4) Provisions concerning the recovery plan and restructuring measures as referred to in section (1), section (2) and section (3) are regulated in the Financial Services Authority Regulation.

Part Three

Resolution of Liquidity Problems of Systemic Banks

Article 20

- (1) Any Systemic Bank that undergoes liquidity problems may submit to Bank Indonesia a request for short term liquidity loan or sharia-based short term liquidity financing.
- (2) In order to provide short-term liquidity loan or sharia-based short term liquidity financing as referred to in section (1):
 - a. the Financial Services Authority the fulfillment of requirements for solvency and soundness level of the Systemic Bank; and
 - b. Bank Indonesia, in conjunction with the Financial Services Authority, the fulfillment of collateral requirements and the estimation of capacity of the Systemic Bank to repay the short term liquidity loan or sharia-based short term liquidity financing.
- (3) The short terms liquidity loan or sharia-based short term liquidity financing must be guaranteed by high quality collaterals in the form of highly rated and liquid securities.
- (4) In the event that the Systemic Bank does not have sufficient securities for collateral as referred to in section (3), it may utilize current credit assets as collateral for the short term liquidity loan or sharia-based short term liquidity financing.
- (5) Based on the result of assessment as referred to in section (2), Bank Indonesia decides the provisions of the short term liquidity loan or sharia-based short term liquidity financing.

- (6) The provision of the short term liquidity loan or sharia-based short term liquidity financing, as referred to in section (5), is based on under this Law and the Law on Bank Indonesia.
- (7) The Financial Services Authority in coordination with Bank Indonesia supervises the Systemic Bank receiving of the short term liquidity loan or sharia-based short term liquidity financing as referred to in section (5) to ensure the use of the loan/financing and the repayments are made in accordance with the agreement.

Part Four

Resolution of Solvency Problems of Systemic Banks

Article 21

- (1) In the event that a Systemic Bank undergoes solvency problems, the Financial Services Authority in accordance with its authority resolves the solvency problems, including by ensuring the implementation of the recovery plan of the Systemic Bank.
- (2) The Financial Services Authority notifies to the Deposit Insurance Corporation to prepare the resolution of solvency problems of the Systemic Bank as referred to in section (1).
- (3) In the event that the condition of the Systemic Bank as referred to in section (1) deteriorates and the Bank is decided as Bank under special surveillance, the Financial Services Authority requests the Deposit Insurance Corporation to intensify the preparation for the resolution of solvency problems of the Systemic Bank.
- (4) In order to intensify the preparation of the resolution of the solvency problems of the Systemic Bank as referred to in section (3), the Financial Services Authority in coordination with the Deposit Insurance Corporation:
 - a. order the management of the Bank to maintain the financial condition of the Systemic Bank to avoid the material decrease of the assets and/or increase of the liabilities;

- b. order the management of the Bank to assist the transfer of assets and liabilities of the Systemic Bank; and/or
 - c. facilitate the Deposit Insurance Corporation in offering the assets and/or liabilities of the Systemic Bank and facilitate the prospective acquiring Banks to conduct due diligence with respect to transfer of assets and/or liabilities of the Systemic Bank.
- (5) In the event that the resolution as referred to in section (1) to section (4) fails to solve the solvency problems of the Systemic Bank, the Financial Services Authority calls for meeting of the Financial System Stability Committee along with recommendations of measures for the resolution of solvency problems of the Systemic Bank.
- (6) The meeting of The Financial System Stability Committee as referred to in section (5) is convened to determine resolution measures for the solvency problems of Systemic Bank.
- (7) The measures for the resolution of the solvency problems faced by the Systemic Bank as referred to in section (6) is conducted by:
- a. deciding to hand over the resolution of the Systemic Bank to the Deposit Insurance Corporation under this Law and the Law on the Deposit Insurance Corporation; and
 - b. determining measures that must be taken by the Minister of Finance, the Governor of Bank Indonesia, and the Chairman of the Board of Commissioners of the Financial Services Authority in accordance with their respective authority to support the resolution of the Systemic Bank by the Deposit Insurance Corporation.
- (8) The provisions on the resolution of the solvency problems of the Systemic Bank as referred to in section (1) and the preparation of resolution of the Systemic Bank as referred to in section (2) are regulated in the Financial Services Authority Regulation.

Article 22

- (1) The resolution of solvency problems of the Systemic Bank by the Deposit Insurance Corporation is conducted by:
 - a. transferring of the assets and/or liabilities partly or fully of the Systemic Bank to the acquiring Bank;
 - b. transferring of the assets and/or liabilities partly or fully of the Systemic Bank to the Bridge Bank; or
 - c. resolving the Bank under the Law on the Deposit Insurance Corporation.
- (2) The provisions concerning the selection of resolution measures for the solvency problems of the Systemic Banks and the procedures of resolution of the solvency problems of the Systemic Banks as referred to in section (1) are regulated in the Deposit Insurance Corporation Regulation.

Article 23

In transferring the assets and/or liabilities partly or fully of the Systemic Bank to the acquiring Bank as referred to in Article 22 section (1) point a, or to the Bridge Bank as referred to in Article 22 section (1) point b, the Deposit Insurance Corporation:

- a. to determine the types and criteria of the assets and liabilities to be transferred;
- b. to transfer the liabilities of the Systemic Bank in accordance with the criteria as referred to in point a to the acquiring Bank or the Bridge Bank followed by the partial or full transfer of the assets of the Systemic Bank without approval from the creditors, debtors, and/or other parties;
- c. to pay the acquiring Bank or the Bridge Bank the shortage between the value of assets and the value of liabilities of the Systemic Bank that has been transferred; and
- d. to perform any other authority under the Law on the Deposit Insurance Corporation.

Article 24

- (1) The partial or full transfer of the assets and/or liabilities, of the Systemic Bank by the Deposit Insurance Corporation to the acquiring Bank and/or the Bridge Bank, shall take effect by law as of the signing of the deed of transfer.

- (2) The transfer by law as referred to in section (1) includes the licenses to perform certain activities of the Systemic Bank to the Bridge Bank.
- (3) The transfer of licenses as referred to in section (2) must be followed by the adjustment process in accordance with the provisions of the legislation.
- (4) Following the partial or full transfer of assets and/or liabilities of the Systemic Bank to the acquiring Bank and/or the Bridge Bank, the Deposit Insurance Corporation requests the Financial Services Authority to revoke the operating license of the Systemic Bank.
- (5) The Deposit Insurance Corporation liquidates the Systemic Bank that its operating license revoked by the Financial Services Authority as referred to in section (4) under the Law on the Deposit Insurance Corporation.

Article 25

- (1) The Deposit Insurance Corporation establishes a Bridge Bank as referred to in Article 22 section (1) point b to receive the partial or full transfer of assets and/or liabilities of the Systemic Bank and to carry out banking activities.
- (2) In the establishment of the Bridge Bank by the Deposit Insurance Corporation as referred to in section (1), the provision of Law on the Limited Liability Company which required at least 2 (two) shareholders to establish a company is exempted.
- (3) The Financial Services Authority grants a license to the Bridge Bank as referred to in section (1) in 2 (two) stages:
 - a. principle approval to prepare the establishment of the Bank; and
 - b. operating license to conduct banking business after the preparations as referred to in point a are completed.
- (4) The principle approval as referred to in section (3) point a is granted after the fulfillment of the following requirements:
 - a. the articles of association that clearly specifies banking as the activity of the company;
 - b. paid-up capital under the Law on Limited Liability Company; and

- c. organizational structure and human resources, risk management guidelines, good corporate governance, operating procedure, business plan, balance sheet and income statement projections, as well as monthly cash flow report.
- (5) Operating license, as referred to in section (3) point b, is granted after the fulfillment of the following requirements:
- a. minimum capital for a commercial Bank;
 - b. composition of the board of directors and the board of commissioners; and
 - c. business plan to transfer, to fulfill, and to manage human resources as well as other resources.
- (6) Fit and proper test for members of the board of directors and the boards of commissioners of the Bridge Bank are conducted by the Financial Services Authority based on specific provision for a Bridge Bank.
- (7) In carrying out its business activities, the Bridge Bank must:
- a. submit periodical reports and other documents required for a commercial bank to the Financial Services Authority; and
 - b. comply with requirements related to the banking prudential principles and the bank soundness indicators for commercial banks.

Article 26

- (1) The Deposit Insurance Corporation must immediately sell the Bridge Bank or transfer all of the assets and liabilities of the Bridge Bank to other Banks or other parties.
- (2) The sale of the Bridge Bank to other parties, or the transfer of assets and/or liabilities of the Bridge Bank to other Banks, is conducted based on fair value, openly, and transparently.

Article 27

- (1) The resolution of solvency problems of a Systemic Bank as referred to in Article 22 is funded from the assets of the Deposit Insurance Corporation.
- (2) In order to resolve solvency problems of a Systemic Bank, as referred to in section (1), the Deposit Insurance Corporation:

- a. sells Government Securities to the market, to Bank Indonesia, and/or to other parties; and/or
 - b. obtains loans from other parties.
- (3) The sale of Government Securities by the Deposit Insurance Corporation to Bank Indonesia as referred to in section (2) point a is decided by the Financial System Stability Committee.
- (4) Based on the decision of the Financial System Stability Committee as referred to in section (3), Bank Indonesia purchases the Government Securities.

Article 28

- (1) The shortage of the proceeds of the sale of the Bridge Bank plus the liquidation of the resolved Systemic Bank from the expenses spent by the Deposit Insurance Corporation in resolving the Systemic Bank, is the cost of resolving the Systemic Bank problems and does not constitute financial loss of the State.
- (2) The surplus between the proceeds of the sale of the Bridge Bank plus the liquidation of the resolved Systemic Bank and the expenses spent by the Deposit Insurance Corporation in resolving the Systemic Bank, is addition to the assets of the Deposit Insurance Corporation.

Article 29

The Deposit Insurance Corporation progress reports on the resolution of the Systemic Bank to the Financial System Stability Committee once in every 6 (six) months or if required.

Part Five

Resolution of Problems of non-Systemic Banks

Article 30

The provisions on short-term liquidity loans or sharia-based short-term liquidity financing as referred to in Article 20 apply mutatis mutandis to non-Systemic Banks.

Article 31

- (1) The resolution of solvency problems of a Systemic Bank as referred to in Article 22 section (1) point a and point b may be implemented to non-Systemic Banks that is handed over by the Financial Services Authority to the Deposit Insurance Corporation under the Law on the Deposit Insurance Corporation.
- (2) The provisions on the resolution of solvency problems of non-Systemic Banks as referred to in section (1) are regulated in the Deposit Insurance Corporation Regulation.

CHAPTER IV

RESOLUTION OF THE FINANCIAL SYSTEM CRISIS

Part One

General

Article 32

- (1) A member of the Financial System Stability Committee may call for meeting of the Financial System Stability Committee, if his/her crisis management protocol indicates problems in the area under his/her responsibility which may affect the Financial System Stability.
- (2) The call for meeting of the Financial System Stability Committee as referred to in section (1) is supported by the result of assessment under the crisis management protocol that indicates the problem of the respected member's responsibility area.
- (3) In the Financial System Stability Committee meeting, members convey information on the result of assessment of the crisis management protocol that could affect the Financial System Stability in the area as referred to in Article 3 section (2).
- (4) The assessment of the Financial System Stability is based on the data, information, assessment framework, and considerations of each Financial System Stability Committee member, including their professional judgment.

- (5) The meeting of the Financial System Stability Committee determines the status of Financial System Stability in:
 - a. normal conditions; or
 - b. Financial System Crisis conditions.
- (6) In the event that the meeting of the Financial System Stability Committee determines that the Financial System Stability in the normal conditions as referred to in section (5) point a, the problems in the Financial System are resolved by members of the Committee in accordance with their respective tasks and authorities.
- (7) In the event that the meeting of the Financial System Stability Committee determines that the Financial System Stability in Financial System Crisis conditions as referred to in section (5) point b, the Financial System Stability Committee convey recommendations to the President to change over the status of the Financial System Stability from normal to the Financial System Crisis.
- (8) The recommendations to the President as referred to in section (7) are supplemented by measures to resolve the Financial System Crisis in the area as referred to in Article 3 section (2).
- (9) The President accepts or rejects the recommendations of the Financial System Stability Committee on the status of Financial System Stability not later than 24 (twenty-four) hours.

Article 33

In the event that the President rejects the recommendation on status of the Financial System Stability as referred to in Article 32 section (9), the problems in the financial system are resolved by members in accordance with their respective tasks and authorities.

Article 34

In the event that the President accepts the recommendation on status of the Financial System Stability as referred to in Article 32 section (9), the President may concur some or all recommended measures as referred to in Article 32 section (8) to resolve the Financial System Crisis.

Article 35

In addition to the resolution measures as referred to in Article 34, the Financial System Stability Committee may recommend to the President to change the limit of deposits insured by the Deposit Insurance Corporation.

Article 36

- (1) In the event that the Financial System Stability Committee concludes that the condition of Financial System Stability has returned to normal, the Financial System Stability Committee submits a recommendation to the President to change over the status.
- (2) The President accepts or rejects the recommendation of the Financial System Stability Committee on the change of status of Financial System Stability not later than 24 (twenty-four) hours.

Part Two

Resolution of Banking Problems

Article 37

- (1) The provisions on the resolution of liquidity and solvency problems of Systemic Banks as referred to in Article 20 to Article 29 are applied to the resolution of Systemic Banks problems in the Financial System Crisis conditions.
- (2) The provisions on the resolution of liquidity and solvency problems of non-Systemic Banks as referred to in Article 30 and Article 31, as well as the provisions on the sale of Government Securities owned by the Deposit Insurance Corporation to Bank Indonesia as referred to in Article 27 section (2) point a, section (3), and section (4) are applied to the resolution of non-Systemic Banks problems in the Financial System Crisis conditions.

Part Three

Banking Restructuring in The Financial System Crisis

Article 38

- (1) In the Financial System Crisis and the occurrence of the banking sector problems which threaten the national economy, the Financial System Stability Committee recommends to the President for the activation of the Banking Restructuring Program.
- (2) The recommendation on the activation of the Banking Restructuring Program as referred to in section (1) is a part of recommendations submitted by the Financial System Stability Committee as referred to in Article 32 section (8).
- (3) The Banking Restructuring Program, as referred to in section (1), is performed by the Deposit Insurance Corporation.

Article 39

- (1) The Banking Restructuring Program is funded by:
 - a. Banks shareholders or other parties in the form of capital surcharge and/or conversion of certain type of debts into capital;
 - b. the proceeds of the assets and liabilities management of the resolved Bank;
 - c. contributions of the banking industry; and/or
 - d. loans from other parties obtained by the Deposit Insurance Corporation.
- (2) The contributions of the banking industry as referred to in section (1) point c are part of the insurance premiums under the Law on the Deposit Insurance Corporation.
- (3) The contributions of the banking industry as part of the insurance premiums as referred to in section (2) are determined prior to the activation of Banking Restructuring Program.
- (4) The provisions on the amount of the premium for funding of the Banking Restructuring Program, as referred to in section (2), are regulated by the Government Regulation.

Article 40

- (1) The Deposit Insurance Corporation is responsible for the management and administration of the assets and liabilities obtained or derived from the Banking Restructuring Program.
- (2) The Deposit Insurance Corporation separates the record of assets and liabilities obtained or derived from the Banking Restructuring Program from the assets and liabilities obtained or derived from the implementation of the functions and tasks of the Deposit Insurance Corporation under the Law on the Deposit Insurance Corporation.
- (3) The provisions on management, administration, as well as recording of the assets and liabilities as referred to in section (1) and section (2) are regulated in the Deposit Insurance Corporation Regulation.

Article 41

- (1) In conducting the Banking Restructuring Program as referred to in Article 38, the Deposit Insurance Corporation is authorized:
 - a. to take over and exercise all of the rights and authorities of an organ which is equivalent to shareholders and general meeting of shareholders of the Bank;
 - b. to take over and exercise all rights and authorities of the board of directors and the board of commissioners of the Bank or other equivalent organs;
 - c. to suspend payment of certain liabilities of the Bank;
 - d. to sell, auction, or transfer the assets of the Bank whether within or outside the country, directly or through public offerings;
 - e. to sell, auction, or transfer the receivables of the Bank and/or hand over its management to other parties, without the consent of debtors;
 - f. to transfer the management of the assets partly or fully, hand over operation and/or management of the Bank to other parties;
 - g. to perform a temporary capital injection directly or through the conversion of the Deposit Insurance Corporation's receivables to the Bank into the shares of the Bank;

- h. to convert the Bank liabilities to certain creditors into capital;
 - i. to collect secure receivables of the Bank by issuing a distress warrant;
 - j. to vacate the land and/or buildings owned by the Bank that is held by other parties, either by the Deposit Insurance Corporation or with the assistance of law enforcement authorities;
 - k. to carry out due diligence to obtain all required information from and about the Bank as well as from any party involved or allegedly involved parties or aware of activities detrimental to the Bank;
 - l. to calculate and determine losses of the Bank and charge such losses to the Bank's capital, and if the losses occurred due to the fault or negligence of the members of board of directors, board of commissioners, or organ equivalent, and/or shareholders, if any, will be imposed to the party concerned;
 - m. to oblige the Bank's shareholders to increase additional capital as determined by the Deposit Insurance Corporation;
 - n. to freeze the assets, whether within or outside the country, belong to any of the Bank's management, shareholders, and/or its affiliations involved in the activities detrimental to the Bank to incur Bank losses;
 - o. to transfer assets and/or liabilities of the resolved Bank to the acquiring Bank or the Bridge Bank partly or fully;
 - p. to sell the Bank to a prospective buyer whom is willing to take over all liabilities;
 - q. to guarantee certain loans of the Bank;
 - r. to provide loans to the Bank; and
 - s. to perform other tasks prescribed by the Financial System Stability Committee.
- (2) In addition to the authorities as referred to in section (1), to perform the Banking Restructuring Program, the Deposit Insurance Corporation may exercise all of the authorities related to Bank resolution under the Law on the Deposit Insurance Corporation.

Article 42

The provisions on the partial or full transfer of the assets and/or liabilities of the Bank to the acquiring Bank or the Bridge Bank as referred to in Article 23 to Article 26 applies mutatis mutandis to the implementation of the authorities of the Deposit Insurance Corporation as referred to in Article 41 section (1) point o.

Article 43

The Ministry of Finance, Bank Indonesia and the Financial Services Authority supports the Deposit Insurance Corporation in the implementation of the Banking Restructuring Program.

Article 44

The Deposit Insurance Corporation reports the implementation of the Banking Restructuring Program to the President through the Financial System Stability Committee once a month or as required.

Article 45

- (1) In the event that the Financial System Stability Committee determines the banking sector problems that threaten the national economy has been overcome, the Financial System Stability Committee recommends to the President to terminate the Banking Restructuring Program.
- (2) The President accepts or rejects the recommendation of the Financial System Stability Committee on the termination of the Banking Restructuring Program.

Article 46

- (1) In the event that the President decides to terminate the Banking Restructuring Program, the remaining assets and liabilities from the Banking Restructuring Program are still the assets and liabilities of the Deposit Insurance Corporation.
- (2) The assets and liabilities as referred to in section (1) are recorded separately from the assets and liabilities of the Deposit Insurance Corporation obtained from the implementation of its functions and tasks under the Law on the Deposit Insurance Corporation.

- (3) In the event that any surplus from the Banking Restructuring Program augments the assets of the Deposit Insurance Corporation originating from the contributions of the banking industry as referred to in Article 39 section (1) point c.
- (4) In the event that the shortage between the remaining assets and liabilities from the Banking Restructuring Program is not accounted to the capital of the Deposit Insurance Corporation and is covered by the contributions of the banking industry as referred to in Article 39 section (1) point c.
- (5) To settle the remaining assets and liabilities as referred to in section (1), the Deposit Insurance Corporation has the authority to write off and claim write-off.
- (6) To write off and claim write-off the remaining assets as referred to in section (5) are exempted from the provisions on the disposal of state assets according to the legislation on the state treasury.
- (7) The provisions on the procedure of the write-off and the claim write-off as referred to in section (6) are regulated by the Government Regulation.

CHAPTER V CRIMINAL PROVISIONS

Article 47

Each person who violates the provision of confidentiality of information as referred to in Article 14 Section (4), shall be imprisoned to a maximum of 6 (six) years and/or fined to a maximum of Rp15.000.000.000,00 (fifteen billion rupiah).

CHAPTER VI MISCELLANEOUS PROVISIONS

Article 48

- (1) Unless in a case of abuse of power, members of the Financial System Stability Committee, the secretary of the Financial System Stability Committee, members of the secretariat of the Financial System Stability Committee, as well as officials of the Ministry of Finance, Bank Indonesia, the Financial Services Authority, and the Deposit Insurance Corporation

shall not be sued or prosecuted in accordance with civil and criminal law in the implementation of the functions, tasks, and authorities under this Law.

- (2) In the event that members of the Financial System Stability Committee, the secretary of the Financial System Stability Committee, members of the secretariat of the Financial System Stability Committee as well as officials of the Ministry of Finance, Bank Indonesia, the Financial Services Authority, and the Deposit Insurance Corporation face prosecution in the implementation of the tasks and authorities of the Financial System Stability Committee, the person involved shall receive legal assistance from his respective institutions.

Article 49

The decisions determined by the Financial System Stability Committee and/or the implementation of the aforementioned decisions by each respective member of the Financial System Stability Committee under this Law shall be valid and legally binding.

CHAPTER VII

TRANSITIONAL PROVISIONS

Article 50

When this Law comes into force, the decision of the Coordination Forum of the Financial System Stability established under the Law Number 21 of 2011 on the Financial Services Authority (State Gazette of the Republic of Indonesia of 2011 Number 111, Supplement to the State Gazette of the Republic of Indonesia Number 5253) is declared to remain effective to the extent not contrary to the provisions or not specifically regulated in this Law.

Article 51

The tasks and authorities of the secretariat of the Financial System Stability Committee, including management of documents, are carried out by the secretariat of the Coordination Forum of the Financial System Stability until the establishment

of the secretariat of the Financial System Stability Committee under the provisions of this Law.

Article 52

The determination of Systemic Banks, as referred to in Article 17 section (2), shall be made not later than 3 (three) months as of the promulgation of this Law.

CHAPTER VIII CLOSING PROVISIONS

Article 53

(1) At the time when this Law comes into force:

- a. Article 37A of Law Number 10 of 1998 on Amendment to Law Number 7 of 1992 on Banking (State Gazette of the Republic of Indonesia of 1998 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 3790);
- b. Article 11 section (4) and section (5) as well as Article 55 section (5) of Law Number 23 of 1999 on Bank Indonesia (State Gazette of the Republic of Indonesia of 1999 Number 66, Supplement to the State Gazette of the Republic of Indonesia Number 3843), as amended several times, lastly by the Law Number 6 of 2009 on the Enactment of Government Regulation in Lieu of Law Number 2 of 2008 on Second Amendment to Law Number 23 of 1999 on Bank Indonesia to be Law (State Gazette of the Republic of Indonesia of 2009 Number 7, Supplement to the State Gazette of the Republic of Indonesia Number 4962); and
- c. Article 1 point 25, Article 44, Article 45, Article 46, and Article 69 section (3) of Law Number 21 of 2011 on the Financial Services Authority (State Gazette of the Republic of Indonesia of 2011 Number 111, Supplement to the State Gazette of the Republic of Indonesia Number 5253),

are repealed and declared ineffective.

- (2) At the time when this Law comes into force, the Coordinating Committee under Law Number 24 of 2004 on the Deposit Insurance Corporation (State Gazette of the Republic of Indonesia of 2004 Number 96, Supplement to the State Gazette of the Republic of Indonesia Number 4420) as amended by Law Number 7 of 2009 on the Enactment of Government Regulation in Lieu of Law Number 3 of 2008 on Amendment Law Number 24 of 2004 on the Deposit Insurance Corporation to be Law (State Gazette of the Republic of Indonesia of 2009 Number 8, Supplement to the State Gazette of the Republic of Indonesia Number 4963) shall become the Financial System Stability Committee.
- (3) The functions, tasks, and authorities of the Coordinating Committee as referred to in section (2) are be carried out by the Financial System Stability Committee in accordance with the functions, tasks, and authorities of the Financial System Stability Committee under this Law.

Article 54

The implementing regulation of this Law must be enacted not later than 1 (one) year commencing from the promulgation of this Law.

Article 55

This law comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on 15 April 2016

THE PRESIDENT OF
THE REPUBLIC OF INDONESIA,

Signed

JOKO WIDODO

Promulgated in Jakarta
on 15 April 2016

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

Signed

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2016 NUMBER 70

Jakarta, 12 September 2016

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,



WIDODO EKATJAHJANA

ELUCIDATION
OF
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 9 OF 2016
ON
PREVENTION AND RESOLUTION OF FINANCIAL SYSTEM CRISIS

I. GENERAL

In order to promote the welfare of the people of Indonesia under Pancasila and the 1945 Constitution of the Republic of Indonesia and to support the national economy through the implementation of economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental consideration, independence, and by maintaining the balance of development and unity of the national economic, robust financial system stability is prerequisite.

Learning from the financial crisis in 1997-1998, the Government undertook a number of initiatives to build a more robust financial system and resilient to financial system crisis. Such efforts included institutional building reform, among others, the re-organization of Ministry of Finance, the amendment of the Law Number 23 of 1999 on Bank Indonesia, the establishment of the Deposit Insurance Corporation under the Law Number 24 of 2004 on the Deposit Insurance Corporation, and the establishment of the Financial Services Authority under the Law Number 21 of 2011 on the Financial Services Authority.

The coordination mechanism to develop and to maintain the financial system stability in an effective and integrated manner has become increasingly important following the global financial crisis in 2008. Indonesia continues the preparation and implementation of strategic policies in various financial sectors, including the preparation of the Law

on Prevention and Resolution of Financial System Crisis as the legal basis for coordination among authorities to maintain and to develop financial system stability. This Law complements the existing legislation on the prevention and resolution of the financial system crisis, particularly for problems that cannot be resolved by the authorities individually in accordance with its respective authorities.

The Law regulates the roles of the Financial System Stability Committee which includes (i) the coordination of monitoring and maintaining of the financial system stability, (ii) the resolution of the financial system crisis, and (iii) the resolution of problems of the Systemic Banks, during the normal and the financial system crisis condition. The Financial System Stability Committee consists of the Minister of Finance, the Governor of Bank Indonesia, the Chairman of the Board of Commissioners of the Financial Services Authority, and the Chairman of the Board of Commissioners of the Deposit Insurance Corporation.

This Law emphasizes the prevention and resolution of systemic banks problems as an important part of the financial system. Nonetheless, the monitoring, maintaining, and resolution of problems in the financial system also encompass fiscal and monetary sectors, financial service institutions, financial markets and financial infrastructures, including payment system. Those are based on two major considerations. First, problems in a Systemic Bank may lead to a failure in the payment system which cause ineffective function of the financial system and impact on the economic directly. Second, most public funds are managed by the banks, in particular by systemic banks, which need to be safeguarded from possible bank failures. The prevention and resolution of problems in financial markets and other financial service institutions are performed by institutions in accordance with their authorities under the laws on banking, insurance, capital market, government securities, the Deposit Insurance Corporation, the Financial Services Authority, and Bank Indonesia.

In this Law, the resolution of problems of a bank shall prioritize the use of the bank's resources and a business approach without resorting to the state budget. If the measures undertaken are unable to resolve the problems, the resolution of the bank problems are carried out with the support of Bank Indonesia in resolving the liquidity problems and the Deposit Insurance Corporation in resolving the solvency problems.

In the event that banking sector problems threaten national economy during the Financial System Crisis condition, the President by the recommendations of the Financial System Stability Committee may activate the Banking Restructuring Program which is performed by the Deposit Insurance Corporation. Under this program, the Deposit Insurance Corporation resolves the bank problems, for both Systemic Bank and non-Systemic Banks.

Based on the consideration mentioned above, this Law on Prevention and Resolution of the Financial System Crises is established.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Point a

The term “principle of national interest” means that the prevention and resolution of the Financial System Crisis prioritize the interest of the nation, the state and the people above other interests.

Point b

The term “principle of usefulness” means that the whole policies on the prevention and resolution of the Financial System Crisis are directed for the interest of the nation, the State and the people, particularly in the pursuit of public prosperity.

Point c

The term “principle of justice” means that the prevention and resolution of the Financial System Crisis uphold the balance of rights and responsibilities of the parties involved.

Point d

The term “principle of cohesion” means that the implementation of prevention and resolution of the Financial System Crisis represents a cohesive unity, mutually supportive, with harmony among different interests, as well as in coordinated based on cooperation and mutual support.

Point e

The term “principle of effectiveness” means that the prevention and resolution of the Financial System Crisis are appropriated in preventing and resolving the Financial System Crisis, including the problems of Systemic Banks.

Point f

The term “principle of efficiency” means that the implementation of prevention and resolution of the Financial System Crisis utilizes resources appropriately and efficiently to ensure the efficacy of prevention and resolution of the problems of the Financial System Stability.

Point g

The term “principle of legal certainty” means that the prevention and resolution of the Financial System Crisis are intended to provide a legal basis for decision makers in determining the measures for the prevention and resolution of the Financial System Crisis.

Article 3

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Macroprudential covers the regulation and supervision of financial service institutions from macro perspectives and focuses on systemic risks in order to safeguard the Financial System Stability.

Microprudential covers the regulation and supervision of financial service institutions from micro perspectives and focuses on the soundness and performance of individual financial service institutions.

Point d

Financial markets include money market, capital market, and Government Securities market.

Point e

Sufficiently clear.

Point f

The term “Bank resolution” means that the resolution of solvency problems of a Bank, either Systemic or non-Systemic Bank.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 4

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The term “voting right” means that the right to vote in the decision making.

Section (4)

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

This determination considers the framework of assessment of the Financial System Stability condition used by each member of the Financial System Stability Committee.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Sufficiently clear.

Point i

Sufficiently clear.

Point j

Sufficiently clear.

Point k

Sufficiently clear.

Article 7

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “permanently unable to attend” means death as well as having mental or physical disability that prevents the person from performing his tasks.

Alternate officials include an acting official or other terms in accordance with the provisions of the legislation.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Section (7)

Sufficiently clear.

Section (8)

The meetings are documented in writing and/or electronic format.

Article 10

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The presence of Chairman of the Board of Commissioners of the Deposit Insurance Corporation is required since the information and opinions from the Deposit Insurance Corporation necessary for the decision making in the meeting of the Financial System Stability Committee.

Article 11

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

If the meeting is convened using electronic communications devices, the alternate official signed temporarily the decision for the members of the Financial System Stability Committee who is absence physically in the meeting.

Section (6)

Sufficiently clear.

Article 12

Section (1)

Exchange of data and information is carried out through the secretariat of the Financial System Stability Committee.

Section (2)

The legislation includes the Laws on Banking, Capital Market, Taxation, and Government Securities.

Article 13

Sufficiently clear.

Article 14

Sufficiently clear.

Article 15

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The resolution of problems of a Systemic Bank is the resolution of problems as determined by the Financial System Stability Committee.

Point d

This report is the report of the Deposit Insurance Corporation, which has been evaluated and given a note by the Financial System Stability Committee.

Article 16

Section (1)

Sufficiently clear.

Section (2)

The term “crisis management protocol” means that guidelines and procedures to implement crisis prevention and resolution measures.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 17

Sufficiently clear.

Article 18

Section (1)

Point a

Capital adequacy, amongst others, includes the capital conservation buffer and capital surcharge for Systemic Banks.

Liquidity coverage, amongst others, includes the liquidity coverage ratio and net stable funding ratio.

Point b

The term "recovery plan" means is a plan to address financial problems that may occur in the Bank.

Section (2)

Sufficiently clear.

Section (3)

Capital surcharge capacity for the Systemic Banks includes certain types of debt instruments that can be converted into capital.

Section (4)

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Section (1)

Under the Law on Bank Indonesia, any Bank which undergoes liquidity problems may submit a request for short term liquidity loan to Bank Indonesia as a lender of the last resort provided that the Bank has satisfied the provisions on solvency and has sufficient collateral.

Short term liquidity financing for a Sharia Bank is provided in the form of sharia-based short term liquidity financing.

Section (2)

This provisions consider the authority of Bank Indonesia and the Financial Services Authority. The assessment of the solvency and soundness level of the Bank encompass the authority of the Financial Services Authority as the Bank supervisory agency so that the assessment is conducted by the Financial Services Authority in accordance with the provisions of the Financial Services Authority Regulation.

The assessment of collateral and the estimation of capacity of the Systemic Bank to repay the sharia-based short term liquidity financing which is conducted in accordance with the Bank Indonesia Regulations, is the interest of Bank Indonesia as a lender. In order for the assessment, Bank Indonesia requires cooperation with the Financial Services Authority as a supervisor who knows the latest conditions of the Bank's asset and liabilities as well as the financial conditions of the Systemic Banks entirely.

In the implementation, Bank Indonesia and the Financial Services Authority may conduct examination for assessing the fulfillment of collateral requirements and the estimation of the capacity of the Systemic Bank to repay the short term liquidity loan or sharia-based short term liquidity financing.

Section (3)

High-quality and liquid securities comprised of securities issued by Bank Indonesia, Government Securities, or securities issued by other legal entities that have high rankings based on the assessment made by credible rating agencies.

Section (4)

Current credit assets that may be used as collateral is the credit assets which its documents have been prepared and its value has been updated by the Bank, in accordance with the Bank Indonesia Regulation.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Section (7)

This provision is intended to enable Bank Indonesia to participate in a joint supervision with the Financial Services Authority in order to monitor and to ensure the appropriate use of the short term liquidity loan or sharia-based short term liquidity financing. In addition, the supervision is intended to assist the Bank to manage its financial conditions, thus can repay the short term liquidity loan or sharia-based short term liquidity financing when it is due.

Article 21

Section (1)

The term "solvency problem" means that the financial problem of Systemic Banks which causes the Bank no longer comply with the minimum capital requirement for Systemic Banks determined by the Financial Services Authority.

The resolution of the solvency problems includes the conversion of the liabilities of Systemic Banks into capital (bail-in).

Section (2)

The preparation for the resolution of the solvency problems of the Systemic Bank is carried out by the Deposit Insurance Corporation so that when the Financial System Stability Committee hands over the Systemic Banks to the Deposit Insurance Corporation, the Deposit Insurance Corporation is ready to transfer assets and/or liabilities of the Systemic Bank partly or fully.

The preparations made by the Deposit Insurance Corporation among others, to conduct due diligence and valuation of the assets and/or liabilities of the Systemic Bank after having coordination with the Financial Services Authority.

Section (3)

The Deposit Insurance Corporation intensifies the preparation for the resolution of Systemic Banks under special surveillance, among others by soliciting other Banks of their willingness to take over the assets and/or liabilities of a Systemic Bank partly or fully after having coordination with the Financial Services Authority.

Section (4)

Point a

The management of the Bank must obey the order of the Financial Services Authority under the provisions of the Law on Banking and the Law on the Financial Services Authority, to maintain the financial condition that no material changes occur when the resolution of the Systemic Bank is initiated.

Point b

The management of the Bank must obey the order of the Financial Services Authority under the provisions of the Law on Banking and the Law on the Financial Services Authority, to ease the process of transferring the assets and liabilities of the Systemic Bank.

Point c

The purpose of the facilitation to ensure that the transfer of the assets and/or liabilities of the Systemic Bank can be performed immediately after the Financial System Stability Committee hands over the Systemic Bank to the Deposit Insurance Corporation.

Section (5)

The solvency problems cannot be resolved if the condition of the Bank deteriorates or if the period of special supervision is over.

Section (6)

Sufficiently clear.

Section (7)

Point a

The Systemic Bank which is handed over to the Deposit Insurance Corporation is a Bank that is having financial problems and threaten the continuation of its business as well as unable to be rescued by the Financial Services Authority based on its authorities, under the Law on the Deposit Insurance Corporation.

Point b

Sufficiently clear.

Section (8)

The Financial Services Authority Regulation among others regulates the time of notification when Systemic Banks have the solvency problem.

Article 22

Section (1)

Point a

The purpose of this resolution method is to maintain the continuity of the functions and services of the Bank which has potential systemic impact. Therefore, this functions and services are transferred to acquiring Banks, accompanied by the transfer of a number of assets, especially high-quality assets.

Point b

The transfer of assets and/or liabilities of the Systemic Bank partly or fully is carried out to a new Bank established and owned by the Deposit Insurance Corporation. The new Bank is known as the Bridge Bank.

Point c

This resolution method is performed by capital injection by the Deposit Insurance Corporation, with or without the participation of the existing shareholders.

Section (2)

The Deposit Insurance Corporation Regulation contains the criteria to select the resolution method to resolve solvency problems of Systemic Bank by taking into considerations among others the economic conditions, complexity of the Bank's problems, timeframe, potential investors, and efficacy of the resolution.

Article 23

Point a

The types and criteria of the assets to be transferred among others as follows:

1. current assets or assets under special mention, neither under dispute nor confiscation, and/or being collateralized;

2. fixed assets and inventory used for Bank operating activities;
and
3. intangible assets used for Bank operating activities.

The types and criteria of the liabilities to be transferred among others as follows:

1. deposits, including interbank deposits; and
2. loans from other Banks in the form of interbank money market, except loans secured by Bank's asset.

Point b

The continuity of function and services of the Systemic Banks, primarily those with potential systemic impact, should be maintained through a prudent transfer to other Banks within the shortest possible time. Therefore, the Deposit Insurance Corporation must have authority to transfer the liabilities of the Bank, including deposits and interbank loans, without consent from other parties which have an interest on those liabilities.

Other parties include company organs such as the board of commissioners and general shareholders meeting.

The amount of liabilities of the Systemic Banks transferred is equivalent to the sum of deposits and loans from other Banks recorded on the balance sheet at the time of the transfer.

Point c

The payment to the acquiring Banks to cover the shortage between the value of assets and the value of liabilities of the Systemic Bank, is intended as a compensation for his willingness to receive the transfer of assets and liabilities.

The payment to the Bridge Bank is intended to comply with the Bank's soundness as required by the Financial Services Authority.

Point d

Other authorities of the Deposit Insurance Corporation, such as to liquidate the Bank, is required to implement resolution through the transfer of the assets and/or liabilities of the Systemic Bank partly or fully to the acquiring Bank or the Bridge Bank.

Article 24

Sufficiently clear.

Article 25

Section (1)

A Bridge Bank, in principle, is used to receive the assets and liabilities of a Systemic Bank. However, in certain conditions, a Bridge Bank may be used by the Deposit Insurance Corporation to receive the transfer of assets and liabilities from more than one Systemic Banks.

Section (2)

The term "person" means that natural persons, either Indonesian or foreign citizens, or legal entities, either Indonesian legal entities or foreign legal entities.

According to this provision, the Deposit Insurance Corporation as a legal entity is the founder and sole shareholder of the Bridge Bank. This exemption grants the Deposit Insurance Corporation to have full power in operating the Bridge Bank.

Section (3)

Sufficiently clear.

Section (4)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The Deposit Insurance Corporation may issue the letter of statement, on the use of the data and/or documents of the Systemic Bank whose assets and/or liabilities will be transferred partly or fully, as the fulfillment of the requirement.

Section (5)

Sufficiently clear.

Section (6)

Fit and proper test for members of the board of commissioners and directors of the Bridge Bank is conducted with due consideration of the needs of the Bridge Bank to operate

immediately. Members of the board of commissioners and directors of the Bridge Bank are deemed to fulfill the fit and proper test requirements if those involved are not registered on the list of bad debt or the list of disqualified of fit and proper test. At the time of sale of the Bridge Bank by the Deposit Insurance Corporation, the members of the board of commissioners and directors of the Bank must have fulfilled the fit and proper test requirements in general.

Section (7)

Sufficiently clear.

Article 26

Section (1)

The Deposit Insurance Corporation may sell the Bridge Bank after this Bank has attained the required soundness level of the Bank and there are potential investors who are committed to maintain the soundness level of the Bridge Bank.

The Deposit Insurance Corporation may also sell all of the assets and liabilities of the Bridge Bank and subsequently liquidate the Bridge Bank.

Section (2)

The term “open” means that the bidding process may be followed by any prospective investor who fulfills the requirements.

The term “transparent” means that process of the selling and transferring may be accessed by the public.

Article 27

Section (1)

This provision does not limit the shareholders of the Systemic Bank and/or other parties from providing funds to resolve the solvency problems of the Systemic Bank, in addition the funds provided by the Deposit Insurance Corporation.

Section (2)

Point a

The sales of Government Securities owned by the Deposit Insurance Corporation to Bank Indonesia as one of the methods in maintaining the stability of the Government Securities market.

Point b

Loans may be in the form of debt securities issued by the Deposit Insurance Corporation and purchased by other parties.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Sufficiently clear.

Article 30

The term “*mutatis mutandis*” means that provision concerning the short terms liquidity loans or sharia-based short term liquidity financing to the Systemic Bank, with minor adjustments or revisions, are also applied to non-Systemic Banks.

Example:

The change of phrase “Systemic Bank” in Article 20 to “non-Systemic Bank”.

Article 31

Section (1)

Sufficiently clear.

Section (2)

The Deposit Insurance Corporation Regulation among others regulates, the criteria of selecting the method of resolution of the non-Systemic Banks which at least consider the least cost test.

Article 32

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “professional judgment” means that a pragmatic process through factors such as experience, justification for actions, response to external motivation, and learning from mistakes.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Section (7)

Sufficiently clear.

Section (8)

Sufficiently clear.

Section (9)

Sufficiently clear.

Article 33

In the event that the recommendations of the Financial System Stability Committee are rejected by the President, the status of Financial System Stability shall remain under normal conditions.

Article 34

Sufficiently clear.

Article 35

The changes of the limit of deposits insured shall be under the Law on the Deposit Insurance Corporation.

Article 36

Section (1)

Sufficiently clear.

Section (2)

In the event that the recommendations of the Financial System Stability Committee are rejected by the President, the status of Financial System Stability shall remain under Financial System Crisis conditions.

Article 37

Section (1)

Sufficiently clear.

Section (2)

The sales of Government Securities owned by the Deposit Insurance Corporation to Bank Indonesia under Financial System Stability Crisis conditions can also be applied for funding of the resolution of solvency problems of non-Systemic Bank.

Article 38

Section (1)

The banking sector problems which threaten the national economy are indicated by the failure of several banks, either Systemic Banks or non-Systemic Banks.

The recommendations of the Financial System Stability Committee to the President contains, among others, the criteria of Banks to be included in the Banking Restructuring Program.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 39

Section (1)

Point a

Other parties are among others new investors and holders of the bonds that may be converted into capital.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Loans from other parties sourced from individuals, state-owned enterprises, private businesses, and/or other legal entities.

Section (2)

The portion of the insurance premium used to fund the Banking Restructuring Program is calculated and managed separately

from the insurance premium to perform the tasks of the Deposit Insurance Corporation under the Law on the Deposit Insurance Corporation. The amount of the portion of this premium is added to the amount of the premium that was imposed before this Law comes into force.

Section (3)

The contributions of the banking industry, as part of the insurance premium, is determined, before the activation of the Banking Restructuring Program so that the Program can be operated immediately after the decision of the President and in order to avoid additional burden for banking industry during the Financial System Crisis.

Section (4)

The determination of the part of the insurance premium for the Banking Restructuring Program in the Government Regulation shall follow the procedure under the Law on the Deposit Insurance Corporation.

Article 40

Section (1)

Sufficiently clear.

Section (2)

Separate recording of assets and liabilities is part of the accountability of the Deposit Insurance Corporation in implementing the tasks under this Law which are different from the tasks under the Law on the Deposit Insurance Corporation.

Section (3)

Provisions regulated in the Deposit Insurance Corporation Regulation concern among others with guidelines on financial reporting and accounting, goods and services procurement, receivables collection, liability settlement, cost standards, fund placement, and asset write-off.

Article 41

Section (1)

Point a

Under the Law on the Deposit Insurance Corporation, the Deposit Insurance Corporation has the authority to take

over and exercise the rights and authorities of shareholders, including the rights and authorities of the general meeting of shareholders.

This provision affirms that the Deposit Insurance Corporation also has the authority to take over and exercise all rights and authorities of an organ which is equivalent to shareholders and general meeting of shareholders in the event that the Bank under the Banking Restructuring Program is a legal entity other than a limited liability company in accordance with the legislation.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sale or transfer of the Bank's assets by the Deposit Insurance Corporation is followed by the transfer of the rights of ownership to the buyer. As such, the buyer obtains legal certainty in the transfer of these rights and assets. The sale or transfer may be conducted directly or through public offerings to get the best price.

Point e

The term "other parties" mean that individuals, state-owned enterprises, private enterprises, and/or other legal entities.

Point f

Sufficiently clear.

Point g

This provision affirms that the temporary capital injection made by the Deposit Insurance Corporation may be conducted directly through capital injection and/or through the conversion of the Deposit Insurance Corporation's receivables into capital. Considering the specificity of temporary capital injection made by the Deposit Insurance Corporation, the implementation thereof is exempted from the provisions and procedures of the injection of additional capital applicable to listed Banks on stock exchange.

Point h

In order to improve the capital structure and/or liabilities of the Bank, the Deposit Insurance Corporation is authorized to convert the Bank's liabilities to certain creditors into capital. Considering the specificity of the conversion by the Deposit Insurance Corporation, the implementation thereof is exempted from the provisions and procedures of the injection of additional capital applicable to listed Banks on stock exchange.

Point i

Pursuant to this provision, the Deposit Insurance Corporation may take action to collect receivables by issuing a distress warrant, on the basis of recorded debts, to the debtor of the Bank under the Banking Restructuring Program.

The distress warrant has a statement of "FOR THE SAKE OF JUSTICE UNDER ALMIGHTY GOD" in its letter head and has the same executorial power and legal position as the decision of a court legal force.

In the event that the collection of the receivables is declined by the debtor, the Deposit Insurance Corporation may confiscate the assets of the debtor, and subsequently auction the assets for repayment of such receivables. Properties of the debtor that may not be confiscated include household appliances, books, and other appliances needed to sustain the live of the debtor. Although the Deposit Insurance Corporation is authorized to issue the distress warrant, its execution considers legal certainty and justice.

Point j

To vacate the land and/or buildings, owned by or under possession of the Bank conducted by Deposit Insurance Corporation is based on proof of ownership and/or proof of rights, among others mortgage possessed by the Bank as creditor in accordance with the provisions of the legislation.

Point k

To obtain the information, the Deposit Insurance Corporation may request assistance from law enforcement authorities.

The term “any parties” means that any affiliated parties of the Bank and other parties involved or alleged to be involved, including legal entity owned by the Bank or the affiliated parties.

Point l

Sufficiently clear.

Point m

Sufficiently clear.

Point n

Sufficiently clear.

Point o

Sufficiently clear.

Point p

Sufficiently clear.

Point q

Sufficiently clear.

Point r

Sufficiently clear.

Point s

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 42

The term “*mutatis mutandis*” means that the provisions on transferring assets and/or liabilities of the Systemic Bank partly or fully to the acquiring Bank or the Bridge Bank as referred to in Article 23 to Article 26, with minor adjustments or revisions are also applied to the implementation of the authority of the Deposit Insurance Corporation as referred to in Article 41 section (1) point o.

Article 43

Support to the Deposit Insurance Corporation includes among others the determination of specific regulations for Bank under the Banking Restructuring Program and the allocation of resources, including human resources and information technology.

Article 44

Non-periodical reporting is conducted upon either the request of the President and the Financial System Stability Committee, or upon the consideration of the Deposit Insurance Corporation for submitting information regarding the problems and/or resolution of the Banking Restructuring Program to the President.

Article 45

Sufficiently clear.

Article 46

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Assets that may be written off or charged off are in the form of receivables.

Write-offs are basically the final attempt if the effort to collect the receivables such as through intensive collection, reconditioning, rescheduling, restructuring and the expected proceeds from the sales of the collateral are less than the costs to be incurred and/or collection efforts cannot be undertaken.

Section (6)

Sufficiently clear.

Section (7)

Government Regulation consists of, among others, the criteria for the receivables of write-off and charged-off, the mechanism of approval for the write-off and charged-off, and also the party authorized to approve the write-off and charged-off.

Article 47

Sufficiently clear.

Article 48

Section (1)

Sufficiently clear.

Section (2)

Lawsuits include among others criminal law prosecution, civil lawsuits, and administrative lawsuits.

Article 49

Sufficiently clear.

Article 50

The term “the decision of the Coordination Forum of the Financial System Stability” means that the conclusion of the meeting of the Coordination Forum of the Financial System Stability, which is signed by all members of the Coordination Forum of the Financial System Stability.

Article 51

Sufficiently clear.

Article 52

Sufficiently clear.

Article 53

Sufficiently clear.

Article 54

Sufficiently clear.

Article 55

Sufficiently clear.