

Type: REGULATION (PER)

By: CHAIRPERSON OF THE BOARD OF COMMISSIONERS OF
FINANCIAL SERVICES AUTHORITY

Number: 44/POJK.03/2017

Date: 12 JULY 2017 (JAKARTA)

Title: LIMITATION ON THE PROVISION OF LOAN OR FINANCING BY
COMMERCIAL BANKS FOR LAND ACQUISITION AND/OR LAND
PROCESSING

BY THE GRACE OF THE ALMIGHTY GOD

THE BOARD OF COMMISSIONERS OF FINANCIAL SERVICES AUTHORITY,

Considering:

- a. whereas in order to maintain the sustainability and stability of economic growth, it is necessary to keep stable macroeconomic conditions as well as sound banking operations based on prudential principles;
- b. whereas the excessive growth rate of banking loan or financing in the property sector is one of the factors that can affect the stability of monetary and banking soundness;
- c. whereas provision of loan or financing for land acquisition and land processing is an element that would encourage excessive growth of loan or financing in the property sector;
- d. whereas in connection with the transfer of functions, duties, and authorities to regulate and supervise financial services in the banking sector from Bank Indonesia to Financial Services Authority, it is necessary to set out again regulation on limitation on the provision of loan or financing by commercial banks for land acquisition and/or land processing;
- e. whereas based on the considerations as referred to in letter a up to letter d, it is necessary to stipulate a Regulation of Financial Services Authority regarding Limitation on the Provision of Loan or Financing by Commercial Banks for Land Acquisition and/or Land Processing;

Considering:

1. Law Number [7 Year 1992](#) regarding Banking (State Gazette of the Republic of Indonesia Year 1992 Number 31, Supplement to the State Gazette of the Republic of Indonesia Number 3472) as has been amended by Law Number [10 Year 1998](#) regarding Amendment to Law Number 7 Year 1992 regarding Banking (State Gazette of the Republic of Indonesia Year 1998 Number 182, Supplement to the State Gazette of the Republic of Indonesia Number 3790);

2. Law Number [21 Year 2008](#) regarding Sharia Banking (State Gazette of the Republic of Indonesia Year 2008 Number 94, Supplement to the State Gazette of the Republic of Indonesia Number 4867);
3. Law Number [21 Year 2011](#) regarding Financial Services Authority (State Gazette of the Republic of Indonesia Year 2011 Number 111, Supplement to the State Gazette of the Republic of Indonesia Number 5253);

HAS DECIDED:

To stipulate: REGULATION OF FINANCIAL SERVICES AUTHORITY REGARDING LIMITATION ON THE PROVISION OF LOAN OR FINANCING BY COMMERCIAL BANKS FOR LAND ACQUISITION AND/OR LAND PROCESSING.

CHAPTER I GENERAL PROVISION

Article 1

In this Regulation of Financial Services Authority, referred to as:

1. Bank shall be Commercial Bank as referred to in Law Number 7 Year 1992 regarding Banking as has been amended by Law Number 10 Year 1998 regarding Amendment to Law Number 7 Year 1992 regarding Banking, including branch office of a bank domiciled in overseas as well as Sharia Commercial Bank and Sharia Business Unit as referred to in Law Number 21 Year 2008 regarding Sharia Banking.
2. Loan shall be provision of money or claims equivalent thereto, based on approval or loan agreement between Commercial Bank and other party which requires the borrower to repay the debt after a certain period of time with interest, including:
 - a. overdraft, namely a negative balance on a customer's demand deposit that is not payable at the end of the day;
 - b. takeover of claims in the framework of factoring activities; and
 - c. takeover or purchase of loan from other party.
3. Financing shall be provision of funds or claims equivalent thereto in the form of:
 - a. profit sharing transactions in the form of *mudharabah* and *musyarakah*;
 - b. lease transactions in the form of *ijarah* or lease and purchase in the form of *ijarah muntahiya bittamlik*;
 - c. sale and purchase transactions in the form of *murabahah*, *salam*, and *istishna'* receivables;
 - d. lending and borrowing transactions in the form of *qardh* receivables; and

- e. service lease transactions in the form of *ijarah* for multiservice transaction,

based on the approval or agreement between Sharia Commercial Bank and/or Sharia Business Unit and other party that requires the party so financed and/or granted with funds facility to return the funds after a certain period of time in exchange for *ujrah*, without any compensation, or on the basis of profit sharing as referred to in Law Number 21 Year 2008 regarding Sharia Banking.

4. Securities shall be promissory notes, bill of exchange, bonds, credit securities or any derivative thereof, or other interests, or an obligation of the issuer, in any of the forms as commonly traded in the capital market and money market, including commercial paper as referred to in the provisions of laws and regulations regarding requirements of the issuance and trading of commercial paper through commercial banks in Indonesia.
5. Sharia Securities shall be proof of investment based on sharia principles that is commonly traded in the money market and/or capital market, among others *sukuk*, sharia mutual funds, and other securities based on sharia principles.
6. Property shall be asset in the form of land and building as well as facilities and infrastructure that constitutes an inseparable part of the relevant land and/or building.
7. Developer shall be a company that conducts land acquisition and land processing activities as well as procurement of building and/or facilities and infrastructure with the purpose for sale or lease, and not including developer of toll road.
8. Land Acquisition shall be every activity to acquire right to land use by way of providing compensation or payment to the party initially entitled to such land.
9. Land Processing shall be every activity to make the land ready for use or ready to build.
10. Simple House shall be non-storey house with maximum floor area of 70 m² (seventy square meters), built on a plot of land with an area of 54 m² (fifty four square meters) up to 200 m² (two hundred square meters) with maximum construction cost per m² (square meter) for the construction of type C service house and flat with maximum floor area of 36 m² (thirty six square meters), and ready-to-build plot with maximum area of 72 m² (seventy two square meters), including home store with total floor area of up to 70 m² (seventy square meters), and kiosk or stall in traditional market for small businesses, with maximum floor area of 36 m² (thirty six square meters) respectively.

CHAPTER II

LIMITATION ON THE PROVISION OF LOAN OR FINANCING FOR LAND ACQUISITION AND/OR LAND PROCESSING

Article 2

- (1) Bank shall be prohibited to:

- a. provide Loan or Financing to Developer, whether directly as well as indirectly; and/or
- b. purchase or guarantee Securities or Sharia Securities provided by the Developer,

for Land Acquisition and/or Land Processing.

(2) Prohibition as referred to in paragraph (1) shall not be applicable for:

- a. transfer of Loan or Financing from one Developer to another Developer for restructuring purpose insofar as it does not increase the balance of Loan or Financing;
- b. rollover of Loan or Financing for restructuring purpose, without increasing the balance of Loan or Financing; and
- c. provision of Loan or Financing and/or purchase or guarantee of Securities or Sharia Securities which have been provided by the Developer for Land Acquisition and/or Land Processing for the development of Simple House, with the following requirements:
 - 1) for non-storey Simple House, at least 90% (ninety percent) of land area that is financed is used for the development of non-storey Simple House along with the public facilities and social facilities required for the occupants of the relevant Simple House;
 - 2) for simple apartment, at least 90% (ninety percent) of land area and 75% (seventy five percent) of the total floor area is used for the development of simple apartment along with the public facilities and social facilities required for the occupants of the relevant simple apartment;
 - 3) for home store, at least 90% (ninety percent) of the land area is used for the development of home store and public facilities as well as social facilities for residential and business purposes of the owner of home store; and
 - 4) for kiosk or stall in traditional market, at least 90% (ninety percent) of the land area is used for the development of kiosk or stall as well as public facilities or social facilities for business purpose of the owner of kiosk or stall.

Article 3

Provision of Loan or Financing to Developer other than for Land Acquisition and/or Land Processing as referred to in Article 2 paragraph (1) letter a, shall be set out as follows:

- a. price or value of land cannot be used to meet the customer's need for self-financing as required by the Bank in granting approval on the Loan or Financing;
- b. provision of Loan or Financing facilities for the construction of Property can only be made on the basis of proof of ownership of land on behalf of the Developer or other documents which grant the Developer the right to use the land for the construction of the Property financed; and

- c. disbursement of Loan or Financing for Property can only be done on the basis of Building Construction Permit (IMB), or at least evidence of application for IMB issued by the authorized institution as well as letter of agreement on implementation of development work for the project financed by Developer with contractor.

Article 4

Provisions as referred to in Article 2 paragraph (1) and Article 3 shall not apply for the provision of Loan or Financing to Developer for the purpose of development of Simple House.

CHAPTER III REPORTING

Article 5

Bank shall report any provision of Loan or Financing to Developer by online through the Financial Information Service System (SLIK) of Financial Services Authority with reference to the provisions of Financial Services Authority governing the reporting of and request for debtor information through the financial information service system.

CHAPTER IV SANCTION

Article 6

- (1) Bank that does not comply with the provision as referred to in Article 2 paragraph (1) shall be subject to administrative sanction in the form of fine of 10% (ten percent) of the total Loan or Financing which has been approved for financing Land Acquisition and/or Land Processing or of the nominal value of Securities or Sharia Securities which have been purchased and/or guaranteed.
- (2) Bank that does not comply with the provision as referred to in Article 3 letter a shall be subject to administrative sanction in the form of fine of 10% (ten percent) of the land value that is calculated for self-financing.
- (3) Bank that does not comply with the provision as referred to in Article 3 letter b and Article 3 letter c shall be subject to administrative sanction in the form of fine of 10% (ten percent) of the total Loan or Financing which has been approved to finance Land Acquisition and/or Land Processing.
- (4) Administrative sanction as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be imposed on the respective violation and after the occurrence of disbursement of Loan or Financing facility or after the purchase and/or guarantee of Securities or Sharia Securities.

CHAPTER V CLOSING PROVISIONS

Article 7

At the time this Regulation of Financial Services Authority comes into effect:

- a. Decision of the Board of Directors of Bank Indonesia Number [30/46/KEP/DIR](#) regarding Limitation on the Provision of Loan by Commercial Banks for Financing Land Acquisition and or Processing;
- b. Circular Letter of Bank Indonesia Number 30/2/UK regarding Limitation on the Provision of Loan by Commercial Banks for Financing Land Acquisition and or Processing; and
- c. Circular Letter of Bank Indonesia Number [31/2/UK](#) regarding Reporting on the Provision of Loan by Commercial Banks for Financing Land Acquisition and or Processing,

shall be revoked and declared null and void.

Article 8

This Regulation of Financial Services Authority shall come into effect as from the date of its promulgation.

For public cognizance, hereby ordering that the promulgation of this Regulation of Financial Services Authority is published by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
on 12 July 2017

CHAIRPERSON OF THE BOARD OF COMMISSIONERS
FINANCIAL SERVICES AUTHORITY,

signed
MULIAMAN D. HADAD

Promulgated in Jakarta
on 12 July 2017

MINISTER OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA,

signed
YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2017 NUMBER 150

Issued as a true copy
Legal Director 1
Legal Department

signed
Yuliana

ELUCIDATION OF

REGULATION OF FINANCIAL SERVICES AUTHORITY
NUMBER 44/POJK.03/2017
REGARDING
LIMITATION ON THE PROVISION OF LOAN OR FINANCING BY COMMERCIAL
BANKS FOR LAND ACQUISITION AND/OR LAND PROCESSING

I. GENERAL

In order to maintain the sustainability and stability of national economy, it is necessary to keep up sound banking activities based on prudential principles. The application of prudential principles by Bank are for both fund raising and fund distribution activities.

One of the developing banking fund distributions is Loan or Financing in the Property sector. Considering that the Property sector has been showing a relatively high growth, it is also necessary to improve the application of prudential principles in the distribution of Loan or Financing in the Property sector.

There is a concern that the excessive growth rate of provision of banking Loan or Financing in the Property sector would affect the soundness of banks, which in turn can affect the overall economic condition.

Whereas one of the elements that encourages excessive growth in Loan or Financing in the Property sector is the provision of Loan or Financing for Land Acquisition and/or Land Processing.

Therefore, it is necessary to govern Limitation on the Provision of Loan or Financing for Land Acquisition and/or Land Processing in a Regulation of Financial Services Authority.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Paragraph (1)

Referred to as "direct provision of Loan or Financing" is the provision of Loan or Financing directly by the Bank to the Developer.

Referred to as "indirect provision of Loan or Financing" is the provision of Loan or Financing by the Bank to another party that can be used effectively by the Developer for Land Acquisition and/or Land Processing.

Paragraph (2)

Self-explanatory.

Article 3

Letter a

Provision of Loan or Financing by the Bank must be based on the project value outside the costs for Land Acquisition and/or Land Processing.

Letter b

Documents of land ownership are:

- 1) proof of land ownership, namely certificate of land title in the name of the Developer that is issued by the authorized institution, namely in the form of certificate of ownership, certificate of right of cultivation, certificate of right of building, and certificate of right of use; or
- 2) other documents, namely deed of sale and purchase of land as drawn up and legalized by the Land Deed Official (PPAT) or Land Use Appointment Permit (SIPPT) that is issued by the authorized institution or Notary Power of Attorney regarding land use permit from land owner whose name is included in the document as referred to in figure 1).

Letter c

Self-explanatory.

Article 4

Self-explanatory.

Article 5

Self-explanatory.

Article 6

Self-explanatory.

Article 7

Self-explanatory.

Article 8

Self-explanatory.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 6093

NOTE

Source: LOOSE LEAF OF REGULATION OF THE CHAIRPERSON OF THE
BOARD OF COMMISSIONERS OF FINANCIAL SERVICES
AUTHORITY YEAR 2017