

BANK INDONESIA REGULATION
NUMBER: 5/ 21 /PBI/2003
CONCERNING
SECOND AMENDMENT TO BANK INDONESIA REGULATION NUMBER
3/10/PBI/2001 CONCERNING APPLICATION OF KNOW YOUR
CUSTOMER PRINCIPLES

THE GOVERNOR OF BANK INDONESIA,

Considering : a. whereas for more effective application of Know Your Customer Principles, it is necessary for the applicable legal provisions to be improved and brought into conformity with the Act concerning Money Laundering and applicable international standards;

b. now therefore it is deemed necessary to enact amendments to Bank Indonesia Regulation Number 3/10/PBI/2001 concerning Know Your Customer Principles as amended by Bank Indonesia Regulation Number 3/23/PBI/2001;

In view of : 1. Act Number 7 of 1992 concerning Banking (State Gazette of the Republic of Indonesia Number 31 of 1992, Supplement to the State Gazette Number 3472), as amended by Act Number 10 of 1998 (State Gazette of the Republic of Indonesia Number 182 of 1998, Supplement to the State Gazette Number 3790);

2. Act Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 66 of 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3843);
3. Act Number 15 of 2002 concerning Money Laundering (State Gazette of the Republic of Indonesia Number 30 of 2002, Supplement to the State Gazette Number 4191) as amended by Act Number 25 of 2003 (State Gazette of the Republic of Indonesia Number 108 of 2003, Supplement to the State Gazette Number 4324);

HAS DECREED:

To enact : THE BANK INDONESIA REGULATION CONCERNING SECOND AMENDMENT TO BANK INDONESIA REGULATION NUMBER 3/10/PBI/2001 CONCERNING APPLICATION OF KNOW YOUR CUSTOMER PRINCIPLES.

Article I

Hereby are amended a number of provisions in Bank Indonesia Regulation Number 3/10/PBI/2001 concerning Application of Know Your Customer Principles as amended by Bank Indonesia Regulation Number 3/23/PBI/2001 as follows:

1. To the provisions of Article 1 are added 3 (three) new provisions as number 5, number 6, and number 7 respectively, so that Article 1 reads in its entirety as follows:

“Article 1

The terminology used in this Bank Indonesia Regulation has the following meanings:

1. Bank is a Commercial Bank as defined in Act Number 7 of 1992 concerning Banking, as amended by Act Number 10 of 1998.
2. Know Your Customer Principles are principles applied by a Bank in establishing Customer identity and monitoring customer transaction activity, including the reporting of suspicious transactions.
3. Customer is a party using Bank services.
4. Small-scale Business is a business meeting the criteria stipulated in Act Number 9 of 1995 concerning Small-scale Businesses.
5. Suspicious Transactions are:
 - a. financial transactions in departure from the profile, characteristics, and customary pattern of transactions conducted by the Customer concerned;
 - b. financial transactions by a Customer reasonably suspected to be conducted with the intention of circumventing the requirement for reporting of the transaction by the Bank under the provisions of Act Number 15 of 2002 concerning Money Laundering as amended by Act Number 25 of 2003; or

c. financial ...

- c. financial transactions or aborted financial transactions using assets suspected to originate from proceeds of crime.
 - 6. Proceeds of Crime are assets obtained from criminal acts as referred to Article 2 of Act Number 15 of 2002 concerning Money Laundering as amended by Act Number 25 of 2003.
 - 7. Financial Transaction Reporting and Analysis Center, hereinafter referred to as PPATK, is an independent agency established for the prevention and eradication of money laundering as referred to in Act Number 15 of 1992 concerning Money Laundering as amended by Act Number 25 of 2003.”
2. The provisions of Article 7 are amended so that they read in their entirety as follows:

“Article 7

- (1) Banks are required to refuse to open an account and/or refuse to conduct transactions with any prospective Customer:
 - a. not complying with the provisions referred to in Article 4, Article 5, and Article 6;
 - b. known to be using false identity and/or providing false information;
 - c. incorporated as a shell bank or with any Bank permitting its accounts to be used by shell banks.
- (1) Banks may refuse to conduct transactions and/or may terminate business dealings with existing Customers in the event that:
 - a. the criteria referred to in paragraph (1) are met;

b. an account ...

b. an account is used in departure from the purpose of opening the account.”

3. The provisions of Article 9 are amended so that they read in their entirety as follows:

“Article 9

(1) Banks are required to have an information system effectively capable of identifying, analyzing, monitoring, and providing reports on the characteristics of transactions conducted by Bank Customers.

(2) Banks are required to conduct monitoring of Bank Customer transactions, including identification of any occurrence of Suspicious Transactions.”

4. The provisions of Article 12 are amended so that they read in their entirety as follows:

“Article 12

Banks are required to appoint special officers responsible for dealings with Customers deemed high risk, including bearers of state office, and/or transactions that may be categorized as Suspicious Transactions.”

5. The provisions of Article 14 are amended so that they read in their entirety as follows:

“Article 14 ...

“Article 14

- (1) Banks are required to submit reports on Suspicious Transactions to PPATK no later than 3 (three) working days after the Bank becomes aware of any element of Suspicious Transaction as referred to in Article 1 number 5.
- (2) Reports on Suspicious Transaction as referred to in paragraph (1) shall be submitted in accordance with the guidance provided in applicable legal provisions.”

6. The provisions of Article 17 are amended so that they read in their entirety as follows:

“Article 17

Banks are required to apply Know Your Customer Principles in respect of any Customer not holding an account at the Bank in the event that transaction value exceeds Rp 100,000,000 (one hundred million rupiahs) or equivalent value.”

7. The provisions of Article 18 are amended and 1 (one) new provision added thereto, so that they read in their entirety as follows:

“Article 18

- (1) Any Bank late in submission of guidelines as referred to in Article 13 letter b and letter c and reports as referred to in Article 14 paragraph (1) shall be liable to administrative sanctions as referred to in Article 52

paragraph (2) ...

paragraph (2) letter a of Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998, comprising a financial penalty of Rp 1,000,000 (one million rupiahs) for each day of delay up to a maximum of Rp 30,000,000 (thirty million rupiahs).

- (1a) Any Bank failing to submit guidelines as referred to in Article 13 letter b and letter c and reports as referred to in Article 14 paragraph (1) shall be liable to administrative sanctions as referred to in Article 52 paragraph (2) letter a and letter b of Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998, comprising a written warning and a financial penalty of Rp 50,000,000 (fifty million rupiahs).
- (2) Any Bank violating the provisions referred to in Article 2, Article 3, Article 4 paragraph (1), paragraph (2), and paragraph (3), Article 6, Article 7 paragraph (1), Article 8, Article 9, Article 10, Article 11, Article 12, Article 13 letter a, letter d, letter e, letter f, and letter g, and Article 16 shall be liable to administrative sanctions as referred to in Article 52 paragraph (2) letter b, letter c, letter e, letter f, and/or letter g of Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998.”

8. After Article 19 are added new provisions as Article 19A, which reads as follows:

“Article 19A

- (1) Banks are required to bring their existing policy and procedures for application of Know Your Customer Principles into conformity with the

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provisions of this Bank Indonesia Regulation no later than 1 (one) month commencing from the promulgation of this Bank Indonesia Regulation.

- (2) Any amendment to the policy and procedures referred to in paragraph (1) shall be submitted to Bank Indonesia in accordance with the provisions referred to in Article 13 letter c.”

Article II

This Bank Indonesia Regulation shall come into force on October 18, 2003.

Enacted in Jakarta

Dated: October 17, 2003

THE GOVERNOR OF BANK INDONESIA

(signed)

BURNAHUDDIN ABDULLAH

ELUCIDATION
TO
BANK INDONESIA REGULATION
NUMBER: 5/ 22 /PBI/2003
CONCERNING
SECOND AMENDMENT TO BANK INDONESIA REGULATION NUMBER
3/10/PBI/2001 CONCERNING APPLICATION OF KNOW YOUR
CUSTOMER PRINCIPLES

ARTICLE BY ARTICLE

Article I

Number 1

Self-explanatory.

Number 2

Article 7

Paragraph (1)

Shell banks are banks that have no physical presence in the country in which they are established and licensed and no affiliation with any financial services group subject to effective consolidated supervision.

Physical presence is defined as the existence of management, managers, and a bank office in the jurisdiction in which the bank is established.

Paragraph (2) ...

Paragraph (2)

Self-explanatory.

Number 3

Article 9

Paragraph (1)

The information system in place must enable the Bank to trace each individual transaction if needed, for both internal purposes and/or the needs of Bank Indonesia, and in regard to legal cases. Tracing of transactions includes but is not limited to tracing of Customer identity, transaction instruments, transaction dates, and amount and denomination of transactions.

The characteristics of a Customer include but are not limited to the characteristics of transactions and nature of transactions conducted by the Customer and the nature of the overall Customer relationship with the Bank.

Paragraph (2)

Self-explanatory.

Number 4

Article 12

Bearer of state office is a bearer of state office as referred to in Act Number 28 of 1999 concerning Clean Bearers of Office Free of Corruption, Collusion, and Nepotism, i.e., state officials carrying out executive, legislative, or judicial functions, other officials whose primary function and duties are related to state office in accordance with the provisions of prevailing laws and regulations, and parties related to bearers of office, including but not limited to:

a. a company ...

- a. a company owned and/or managed by a bearer of state office;
- b. family members of a bearer of state office, comprising brother/sister, child, parent, husband or wife, father-in-law, mother-in-law, son-in-law, and daughter-in-law; and
- c. parties who generally and are publicly known to have close ties to any bearer of state office.

The definition of bearers of state office in this Article also extends to equivalent bearers of state office from foreign countries.

Number 5

Article 14

Paragraph (1)

Self-explanatory.

Paragraph (2)

Applicable legal provisions are defined as the Act concerning Money Laundering and regulations issued by the Financial Transaction Analysis Center.

Number 6

Article 17

Self-explanatory.

Number 7

Article 18

Paragraph (1)

Self-explanatory.

Paragraph (1a)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Number 8

Article 19A

Paragraph (1)

Self-explanatory.

Paragraph (2)

Self-explanatory.

Article II

Self-explanatory.