

ACT OF THE REPUBLIC OF INDONESIA
NUMBER 3 OF 2004
CONCERNING
AMENDMENT TO
ACT OF THE REPUBLIC OF INDONESIA
NUMBER 23 OF 1999 CONCERNING BANK INDONESIA

WITH THE BLESSING OF GOD THE ONE AND ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering:
- a. whereas the national development implemented thus far represents an ongoing effort for sustainable development encompassing all aspects of life for achievement of national objectives pursuant to the Pancasila and the 1945 Constitution of the Republic of Indonesia;
 - b. whereas to support the achievement of sustainable national development and in keeping with the increasing complexity of challenges of economic development and progress, the increasingly sophisticated financial system, and the mounting competitiveness and integration of the international economy, monetary policy must focus on maintenance of the stable value of the rupiah;
 - c. now therefore it is deemed necessary to institute the principle of equilibrium between the independence of Bank Indonesia in the discharge of its duties and powers and the supervision and responsibility for the performance of Bank Indonesia, and transparent accountability to the public;
 - d. now therefore pursuant to the considerations in the above letter a, letter b, and letter c, it is deemed necessary to amend and enact improvements to Act of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia;

In view ...

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OF THE REPUBLIC OF INDONESIA

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- In view of:
1. Article 5 paragraph (1), Article 20 paragraph (1), Article 20A paragraph (1), Article 23D, and Article 33 of the 1945 Constitution of the Republic of Indonesia;
 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 Number 3843);

With the Joint approval of
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA
AND THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECREED:

To enact: THE ACT AMENDING ACT OF THE REPUBLIC OF INDONESIA
NUMER 23 OF 1999 CONCERNING BANK INDONESIA

Article I

A number of provisions in Act Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia Number 66, Supplement to the State Gazette Number 3843) are hereby amended as follows:

1. The provisions of Article 4 paragraph (2) are hereby amended so that Article 4 in its entirety reads as follows:

“Article 4

- (1) Bank Indonesia is the Central Bank of the Republic of Indonesia.
- (2) Bank Indonesia exists as an independent public entity in the discharge of its duties and exercise of its powers, free of interference from the Government and/or any other party, except for matters expressly prescribed in this Act.
- (3) Bank Indonesia is a legal entity established pursuant to this Act.”

2. The provisions ...

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2. The provisions of Article 6 paragraph (2) and paragraph (3) are hereby amended so that Article 6 in its entirety reads as follows:

“Article 6

- (1) The capital of Bank Indonesia is stipulated at no less than Rp 2,000,000,000,000 (two trillion rupiahs).
- (2) The capital referred to in paragraph (1) must be increased so that it is no more than 10% (ten percent) of total monetary liabilities, using funds from General Reserves or proceeds from revaluation of assets.
- (3) The procedure for addition of capital from General Reserves or from proceeds from revaluation of assets shall be stipulated in a Board of Governors Regulation.”

3. The provisions of Article 7 are amended and 1 (one) new paragraph added as paragraph (2) so that Article 7 in its entirety reads as follows:

“Article 7

- (1) The goal of Bank Indonesia is to achieve and maintain the stable value of the rupiah.
- (2) To achieve the goal referred to in paragraph (1), Bank Indonesia shall conduct monetary policy on a sustained, consistent, and transparent basis, taking into account the general economic policies of the government.”

4. The provisions of Article 10 paragraph (1) letter a are hereby amended so that Article 10 in its entirety reads as follows:

“Article 10

- (1) In establishing and implementing money policy as referred to in Article 8 letter a, Bank Indonesia has the powers to:
 - a. establish monetary targets, taking into account the inflation target;
 - b. exercise monetary control by use of means that include but are not limited to the following:

1) open... ..

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- 1) open market operations on the rupiah and foreign exchange money markets;
 - 2) setting of discount rates;
 - 3) setting of the statutory reserve requirement;
 - 4) regulation of credit or financing.
- (2) Means of monetary control as referred to in paragraph (1) letter b may also be operated on the basis of Sharia principles.
- (3) Implementation of the provisions referred to in paragraph (1) letter b and paragraph (2) shall be stipulated in a Bank Indonesia Regulation.”
5. To the provisions of Article 11 paragraph (2) are added 2 (two) new paragraphs as paragraph (4) and paragraph (5) so that Article 11 in its entirety reads as follows:

“Article 11

- (1) Bank Indonesia may extend credit or financing based on Sharia Principles to a Bank for a term not exceeding 90 (ninety) days in order to resolve short term funding difficulties at the Bank concerned.
- (2) Extension of credit or financing based on Sharia Principles as referred to in paragraph (1) shall be guaranteed by the beneficiary Bank by means of high quality, marketable collateral with a minimum value of the amount of the credit or financing received.
- (3) Implementation of the provisions referred to in paragraph (1) and paragraph (2) shall be stipulated in a Bank Indonesia Regulation.
- (4) In the event that a Bank experiences financial difficulties with systemic impact that may result in crisis endangering the financial system, Bank Indonesia may provide an emergency financing facility funded by the Government.
- (5) The procedures and decision making process concerning financial difficulties of a Bank with systemic impact, provision of the emergency financing facility, and source of funding from the State Budget shall be stipulated in a separate law to be promulgated no later than the end of 2004.”

6. The elucidation ...

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6. The elucidation of Article 34 paragraph (1) is amended as set forth in the elucidation and the provisions of Article 34 paragraph (2) amended so that Article 34 in its entirety reads as follows:

“Article 34

- (1) The task of Bank supervision shall be performed by an independent supervisory board for the financial services sector to be established by law.
- (2) The supervisory board referred to in paragraph (1) shall be established no later than December 31, 2010.”

7. The elucidation of Article 37 paragraph (1) is amended as set forth in the elucidation.

8. The provisions of Article 38 paragraph (2) are amended and 2 (two) new paragraphs added as paragraph (3) and paragraph (4), so that Article 38 in its entirety reads as follows:

“Article 38

- (1) The Board of Governors shall discharge the duties and powers of Bank Indonesia as stipulated in this Act.
- (2) The division of duties and powers among Members of the Board of Governors in implementation of the provisions referred to in paragraph (1) shall be stipulated in a Board of Governors Regulation.
- (3) The code of conduct and procedure for discharge of the duties and powers of the Board of Governors shall be stipulated in a Board of Governors Regulation.
- (4) The performance of the Board of Governors and Members of the Board of Governors in the discharge of their duties and powers shall be assessed by the House of Representatives.”

9. The provisions of Article 40 letter b are hereby amended so that Article 40 in its entirety reads as follows:

“Article 40 ...

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“Article 40

To be eligible for appointment as member of the Board of Governors, candidates must meet the following requirements:

- a. Indonesian citizen;
- b. exemplary integrity, character, and moral principles;
- c. expertise and experience in economics, finance, banking, or law.”

10. The provisions of Article 41 paragraph (1), paragraph (2), paragraph (3), and paragraph (4) are hereby amended so that Article 41 in its entirety reads as follows:

“Article 41

- (1) The Governor, Senior Deputy Governor, and Deputy Governors shall be proposed and appointed by the President with the approval of the House of Representatives.
- (2) Candidates for Deputy Governor shall be proposed by the President pursuant to a recommendation of the Governor.
- (3) In the event that a candidate Governor, Senior Deputy Governor, or Deputy Governor as referred to in paragraph (1) is not approved by the House of Representatives, the President shall be required to nominate a new candidate;
- (4) In the event that candidates nominated by the President as referred to in paragraph (3) are not approved by the House of Representatives for the second time, the President shall be required to reappoint the Governor, Senior Deputy Governor, or Deputy Governor to the same position, or with approval of the House of Representatives promote the Senior Deputy Governor or a Deputy Governor to a higher position within the structure of the Board of Governors, subject to the provisions referred to in paragraph (5) and paragraph (6).
- (5) Members of the Board of Governors shall be appointed for a term of office of 5 (five) years and may be reappointed to the same position for no more than 1 (one) subsequent term of office.

(6) Members ...

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(6) Members of the Board of Governors whose term of office has expired shall be replaced on a periodic basis each year, to a maximum of 2 (two) persons.”

11. Paragraph (1) letter c of Article 47 is revoked, paragraph (2) is amended, and 1 (one) new paragraph added as paragraph (3) so that Article 47 in its entirety reads as follows:

“Article 47

(1) Members of the Board of Governors, jointly and severally, are prohibited from:

- a. holding a direct or indirect interest in any company whatsoever;
- b. holding a concurrent position at any other institution, unless required to do so by virtue of his or her position;
- c. deleted.

(2) In the event that a Member of the Board of Governors infringes one or more of the prohibitions referred to in paragraph (1) letter a and letter b, that member of the Board of Governors shall be required to resign.

(3) In the event that a Member of the Board of Governors as referred to in paragraph (2) refuses to resign, the President may order the dismissal of that Member of the Board of Governors with approval of the House of Representatives.”

12. The provisions of Article 48 are amended and 2 (two) new paragraphs added as paragraph (2) and paragraph (3), so that Article 48 in its entirety reads as follows:

“Article 48

(1) A member of the Board of Governors may not be dismissed during his or her term of office, unless the person:

- a. resigns;
- b. is convicted of a felony;
- c. is unable to attend in person for a period of 3 (three) consecutive months without reasonable cause;

d. is declared ...

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- d. is declared bankrupt or unable to settle liabilities to creditors; or
- e. is permanently incapacitated.

- (2) A member of the Board of Governors recommended for dismissal as referred to in paragraph (1) letter c and letter d shall be entitled to a hearing.
- (3) Dismissal of a member of the Board of Governors as referred to in paragraph (1) shall be prescribed in a Presidential Decree.”

13. The provisions of Article 52 are amended and 1 (one) new paragraph added as paragraph (2) so that Article 52 in its entirety reads as follows:

“Article 52

- (1) Bank Indonesia shall operate as cashier for the Government.
- (2) In performing the function referred to in paragraph (1), Bank Indonesia shall pay interest on the Government cash balance in accordance with laws and regulations.”

14. The provisions of Article 54 paragraph (2) are hereby amended so that Article 54 in its entirety reads as follows:

“Article 54

- (1) The Government shall be required to ask the opinion of Bank Indonesia and/or invite Bank Indonesia to cabinet meetings discussing matters of the economy, banking, and finance pertaining to the duties of Bank Indonesia or other issues within the scope of the powers of Bank Indonesia.
- (2) Bank Indonesia shall be required to provide opinions and recommendations to the Government on the State Budget and other policies relevant to the duties and powers of Bank Indonesia.”

15. The provisions of Article 55 paragraph (4) and paragraph (5) are hereby amended so that Article 55 in its entirety reads as follows:

“Article 55 ...

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“Article 55

- (1) In the event that the Government intends to issue government securities, the Government shall hold prior consultations with Bank Indonesia.
- (2) Prior to the issuance of government securities as referred to in paragraph (1), the Government shall be required to hold consultations with the House of Representatives.
- (3) Bank Indonesia may provide assistance in the issuance of government securities issued by the Government as referred to in paragraph (1).
- (4) Bank Indonesia is prohibited from buying government securities as referred to in paragraph (1) on the primary market for its own account, except in the case of short-term government securities needed by Bank Indonesia for monetary control operations;
- (5) Bank Indonesia may buy government securities on the primary market as part of the provision of the emergency financing facility as referred to in Article 11 paragraph (4).”

16. The provisions of Article 58 are hereby amended so that Article 58 in its entirety reads as follows:

“Article 58

- (1) Bank Indonesia shall be required to provide a written annual report to the House of Representatives and the Government at the beginning of the fiscal year, presenting:
 - a. performance of its duties and exercise of its powers during the previous year; and
 - b. policy planning, targeting, and measures for performance of the duties and exercise of the powers of Bank Indonesia for the coming year, taking into account developments in the inflation rate and economic and financial conditions.
- (2) Bank Indonesia shall be required to submit a written quarterly report on the performance of duties and exercise of powers to the House of Representatives and the Government.

(3) The annual ...

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- (3) The annual report and quarterly report submitted by Bank Indonesia as referred to in paragraph (1) and paragraph (2) shall be evaluated by the House of Representatives and used as material for the annual performance assessment of the Board of Governors and Bank Indonesia.
- (4) In the event that the House of Representatives requires explanations on matters pertaining to the performance of tasks and exercise of powers, including for the performance assessment of Bank Indonesia, Bank Indonesia shall be required to provide verbal and/or written explanations.
- (5) The annual report and quarterly report referred to in paragraph (1) and paragraph (2) shall be disclosed to the public in the mass media with summary reports published in the State Gazette.
- (6) At the beginning of each fiscal year, Bank Indonesia shall be required to disclose information to the public in the mass media, containing:
 - a. evaluation of the implementation of monetary policy in the previous year;
 - b. monetary policy plan and inflation target for the coming year, taking into account the inflation target and developments in economic and financial conditions.”

17. Between Article 58 and Article 59, a new Article is inserted as Article 58A, which reads as follows:

“Article 58A

- (1) To assist the House of Representatives in performing the function of supervising Bank Indonesia in specific areas, a Supervisory Body shall be established in order to strengthen the accountability, independence, transparency, and credibility of Bank Indonesia.
- (2) The Supervisory Body shall have 5 (five) members, consisting of a Chair serving concurrently as member and 4 (four) members selected by the House of Representatives and appointed by the President for a term of office of 3 (three) years and eligible for selection for 1 (one) subsequent term of office.

(3) Members ...

THE PRESIDENT
OF THE REPUBLIC OF INDONESIA

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- (3) Members of the Supervisory Body shall be selected from persons possessing integrity, exemplary moral principles, capacity/capability/expertise, professionalism, and experience in economics, finance, banking, or law.
- (4) All expenses incurred by the Supervisory Body shall be charged to the operational budget of Bank Indonesia.
- (5) The Supervisory Body shall be domiciled in Jakarta.
- (6) The Supervisory Body shall submit reports on the performance of its tasks to the House of Representatives no less than once every 3 (three) months or at any time requested by the House of Representatives.

18. The provisions of Article 60 paragraph (2) and paragraph (3) are amended and 1 (one) new paragraph added as paragraph (4) so that Article 60 in its entirety reads as follows:

“Article 60

- (1) The fiscal year of Bank Indonesia is the calendar year.
- (2) No later than 30 (thirty) days prior to the beginning of the fiscal year, the Board of Governors shall adopt the annual budget of Bank Indonesia, covering the budget for operations and the budget for monetary policy, the payments system, and bank regulation and supervision.
- (3) The budget for operations as referred to in paragraph (2) and evaluation of budget implementation for the current year shall be submitted for approval to the House of Representatives, in this case to an agency attached to the House of Representatives and responsible for this area.
- (4) The budget for monetary policy, the payment system, and bank regulation and supervision shall be reported under a specific procedure to the House of Representatives.

19. The provisions of Article 62 are hereby amended so that Article 62 in its entirety reads as follows:

“Article 62 ...

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OF THE REPUBLIC OF INDONESIA

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“Article 62

- (1) The surplus from the proceeds of Bank Indonesia operations shall be divided as follows:
 - a. 30% (thirty percent) for Special Reserves;
 - b. the remainder to be reinvested as General Reserves so that the sum of capital and General Reserves is 10% (ten percent) of total monetary liabilities as referred to in Article 6 paragraph (2).
- (2) In the event of risks in discharge of the duties and powers of Bank Indonesia resulting in the capital of Bank Indonesia diminishing to less than Rp 2,000,000,000,000 (two trillion rupiahs), all or part of the Bank Indonesia surplus for the current year as referred to in paragraph (1) shall be allocated to General Reserves to cover these risks.
- (3) In the event that after the measures referred to in paragraph (1) the capital of Bank Indonesia is still less than Rp 2,000,000,000,000 (two trillion rupiahs), the Government shall be required to cover the deficit after approval from the House of Representatives.
- (4) Any remaining surplus after subtraction by the allocation of funds as referred to in paragraph (1) shall be transferred to the Government.”

20. The provisions of Article 77 are hereby amended so that Article 77 in its entirety reads as follows:

“Article 77

Within a period of no more than 5 (five) years after the promulgation of this Act, Bank Indonesia shall be required to relinquish all equity participation in legal entities or other entities not complying with the provisions stipulated in Article 64 paragraph (1).”

17. Between Article 77 and Article 78, a new Article is inserted as Article 77A, which reads as follows:

“Article 77A ...

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OF THE REPUBLIC OF INDONESIA

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“Article 77A

The provisions concerning currency as referred to in Article 2, Article 19, Article 20, Article 21, Article 22, and Article 23 of this Act are declared to remain valid until stipulated further in a separate Act.”

Article II

1. Insofar as the Act referred to in Article 11 paragraph (5) has not been adopted into law, regulation of the matters referred to in Article 11 paragraph (5) shall be set out in a Memorandum of Understanding between the Government and Bank Indonesia.
2. The Memorandum of Understanding referred to in paragraph (1) shall be signed by the Government and Bank Indonesia no later than the end of February 2004.
3. As long as the settlement of Bank Indonesia Liquidity Support is not completed, Special Reserves shall be set at 10% (ten percent).
4. Insofar as there are no laws and regulations stipulating that the Bank Indonesia surplus is subject to income tax, pursuant to this Act the Bank Indonesia surplus shall not be subject to income tax.

Article III

This Act shall become effective on the date of its enactment.

For the public to be informed, it is ordered that this Act be promulgated in the State Gazette of the Republic of Indonesia.

Signed into law in Jakarta
January 15, 2004
THE PRESIDENT OF THE REPUBLIC OF
INDONESIA
(signed)
MEGAWATI SOEKARNOPUTRI

Enacted ...

THE PRESIDENT
OF THE REPUBLIC OF INDONESIA

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Enacted in Jakarta
January 15, 2004
STATE SECRETARY
OF THE REPUBLIC OF INDONESIA
(signed)
BAMBANG KESOWO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 7 OF
2004

Certified as authentic copy of original
Deputy Cabinet Secretary
Laws and Legislation

(signed and sealed with the imprint of
the Cabinet Secretariat of the Republic
of Indonesia)

Lambock V. Nahattands