

BANK INDONESIA REGULATION
NUMBER 13/20/PBI/2011
CONCERNING
RECEIPT OF EXPORT PROCEEDS
AND
WITHDRAWAL OF FOREIGN EXCHANGE FROM EXTERNAL DEBT

BY THE GRACE OF THE ALMIGHTY GOD

THE GOVERNOR OF BANK INDONESIA,

- Considering :
- a. whereas national economic development for creating a just and prosperous society requires funding sources that are adequate and sustainable;
 - b. whereas these funding sources may be derived from export proceeds and foreign exchange from external debt;
 - c. whereas export proceeds and foreign exchange from external debt can provide an optimum contribution on the national level if placed in the Indonesian banking system;
 - d. whereas export proceeds and foreign exchange from external debt are also beneficial in supporting the creation of a sounder financial market and in maintaining the stability of the rupiah;
 - e. now therefore based on the considerations in letter a, letter b, letter c and letter d, it is necessary to enact a Bank Indonesia Regulation concerning Receipt of Export Proceeds and Withdrawal of Foreign Exchange from External Debt through Foreign Exchange Banks;

In view of ...

- In view of :
1. Act Number 10 of 1995 concerning Customs (State Gazette of the Republic of Indonesia Number 75 of 1995, Supplement to the State Gazette of the Republic of Indonesia Number 3612), as amended by Act Number 17 of 2006 (State Gazette of the Republic of Indonesia Number 93 of 2006, Supplement to the State Gazette of the Republic of Indonesia Number 4661);
 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), since amended several times and last amended by Act Number 6 of 2009 concerning Adoption of Government Regulation in Lieu of Act of Parliament Number 2 of 2008 concerning the Second Amendment to Act Number 23 of 1999 concerning Bank Indonesia as Act of Parliament (State Gazette of the Republic of Indonesia Number 7 of 2009, Supplement to the State Gazette of the Republic of Indonesia Number 4962);
 3. Act Number 24 of 1999 concerning Foreign Exchange Flows and the Exchange Rate System (State Gazette of the Republic of Indonesia Number 67 of 1999, Supplement to the State Gazette of the Republic of Indonesia Number 3844);

HAS DECREED:

To enact: BANK INDONESIA REGULATION CONCERNING RECEIPT OF EXPORT PROCEEDS AND WITHDRAWAL OF FOREIGN EXCHANGE FROM EXTERNAL DEBT.

CHAPTER I
GENERAL PROVISIONS

Article 1

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

1. "Bank" means a Commercial Bank as defined in Act Number 7 of 1992 concerning Banking as amended by Act Number 10 of 1998, including a branch office of a foreign bank in Indonesia and a Sharia Commercial Bank as defined to Act Number 21 of 2008 concerning Sharia Banking.
2. "Foreign Exchange Bank" means a Bank acquired a letter of appointment from Bank Indonesia to conduct banking business in foreign currencies, including a branch office of a foreign bank in Indonesia, but not including an overseas branch office of a Bank headquartered in Indonesia.
3. "Resident" means a natural person, legal entity or other entity domiciled or intending to be domiciled in Indonesia for at least 1 (one) year, including diplomatic missions and staff of the Republic of Indonesia stationed overseas as stipulated in the applicable laws and regulations.
4. "Exports" means the activity of conveying merchandise out of the customs territory as stipulated in the customs regulations.
5. "Exporter" means a natural person or enterprise, whether incorporated as a legal entity or not a legal entity, conducting activities in conveying merchandise out of the customs territory.
6. "Declaration of Goods Exported" hereafter referred to as PEB, means a customs document used to declare the export of merchandise, which may comprise inscription on a form or electronic media as stipulated in the customs regulations.
7. "Export Proceeds" means foreign exchange received by an Exporter from the proceeds of Export activities.
8. "PEB Date" means the PEB registration date.
9. "PEB ...

9. "PEB Value" means the free on board (FOB) value of Exports listed in the PEB.
10. "Day" means calendar day.
11. "Working Day" means a Bank Indonesia working day.
12. "External Debt," hereafter referred to as ULN is debt owed by a Resident to a non-Resident in foreign currency.
13. "External Debtor," means a natural person, non-bank legal entity and other entity holding external debt.
14. "Foreign Exchange from External Debt," hereafter referred to as DULN, means foreign exchange acquired by an external debtor from withdrawal of External Debt.

CHAPTER II

REQUIREMENT FOR RECEIPT OF EXPORT PROCEEDS THROUGH FOREIGN EXCHANGE BANKS

Article 2

Exporter must receive all Export Proceeds through Foreign Exchange Banks.

Article 3

- (1) Export Proceeds must be received through a Foreign Exchange Bank as referred to in Article 2 no later than 90 (ninety) Days after PEB Date.
- (2) Receipt of Export Proceeds through a Foreign Exchange Bank as referred to in paragraph (1) using payment under usance L/C, consignment, open account or collection that falls due on or after 90 (ninety) Days after the PEB Date, must take place no later than 14 (fourteen) Days after the due date of the payment concerned.

Article 4

- (1) Exporter has to convey the information listed in the PEB pertaining to the Export Proceeds received to a Foreign Exchange Bank as referred to in Article 2.
- (2) The conveyed information as referred to in paragraph (1) shall include at least the PEB Date, the Customs office code, the PEB registration number and the Taxpayer ID Number (NPWP) of the Exporter.
- (3) The information referred to in paragraph (1) shall be conveyed to the Foreign Exchange Bank no later than 3 (three) Working Days after the Exporter receives the Export Proceeds through the Foreign Exchange Bank.
- (4) The Foreign Exchange Bank shall convey the information referred to in paragraph (3) to Bank Indonesia.

Article 5

- (1) Exporter that will receive Export Proceeds under a method of payment as referred to in Article 3 paragraph (2) has to submit a written explanation enclosing supporting documents to the Foreign Exchange Bank for forwarding to Bank Indonesia.
- (2) The written explanation enclosing supporting documents as referred to in paragraph (1) shall be submitted no later than 14 (fourteen) Days after the PEB Date.
- (3) In the event that the Exporter does not submit a written explanation as referred to in paragraph (1) within the deadline referred to in paragraph (2), the Exporter shall be deemed to have received Export Proceeds as referred to in Article 3 paragraph (1).

Article 6

- (1) The Export Proceeds received as referred to in Article 2 have to be equal to the PEB value.
- (2) Exporter receiving Export Proceeds in an amount less than the PEB Value has to submit a written explanation enclosing supporting documents to the Foreign Exchange Bank for forwarding to Bank Indonesia.
- (3) In the event that shortfall between Export Proceeds and the PEB Value as referred to in paragraph (2) arises from subcontracted processing (makloon), repair services and/or operational leasing or financial leasing, the Export Proceeds received shall be deemed to be equal to the PEB Value and the Exporter has to submit a written explanation enclosing supporting documents.
- (4) In the event that the shortfall between Export Proceeds and the PEB Value attributable to administrative expenses is 10% (ten percent) of the PEB Value or equivalent to no more than Rp 10,000,000.00 (ten million rupiahs), the Export Proceeds received shall be deemed to be equal to the PEB Value and therefore the Exporter is not required to submit a written explanation and supporting documents.
- (5) The written explanation enclosing supporting documents as referred to in paragraph (2) shall be submitted to the Foreign Exchange Bank for forwarding to Bank Indonesia no later than the 5th day of the following month after the Export Proceeds are received by the Exporter through the Foreign Exchange Bank.
- (6) If the Exporter does not submit a written explanation enclosing supporting documents as referred to in paragraph (2) within the time frame referred to in paragraph (5), the Export Proceeds received by the Exporter shall be deemed not to be equal to the PEB Value and the Exporter shall be deemed not to have received the entire Export Proceeds through the Foreign Exchange Bank.

Article 7

- (1) Exporter that does not receive Export Proceeds as referred to in Article 2 or receives Export Proceeds through a Foreign Exchange Bank in an amount less than the PEB Value as referred to in Article 6 by reason of Importer in default, in bankruptcy or in force majeure condition, has to submit a written explanation enclosing supporting documents to the Foreign Exchange Bank for forwarding to Bank Indonesia.
- (2) The written explanation enclosing supporting documents as referred to in paragraph (1) shall be submitted no later than 90 (ninety) Days after the PEB Date.
- (3) The Written explanation enclosing supporting documents as referred to in paragraph (1) for Export Proceeds using payment by usance L/C, consignment, open account and/or collection that falls due on or after 90 (ninety) Days after the PEB Date, shall be submitted no later than 14 (fourteen) Days after the due date of payment.
- (4) If the Exporter does not submit a written explanation enclosing supporting documents as referred to in paragraph (1) within the time frame referred to in paragraph (2) or paragraph (3), the Export Proceeds received by the Exporter shall be deemed not to be equal to the PEB and the Exporter shall be deemed not to have received the entire Export Proceeds through the Foreign Exchange Bank.

CHAPTER III

REQUIREMENT FOR WITHDRAWAL OF FOREIGN EXCHANGE FROM
EXTERNAL DEBT THROUGH FOREIGN EXCHANGE BANKS

Article 8

- (1) All DULN must be withdrawn by External Debtors through Foreign Exchange Banks.
- (2) The requirement for withdrawal of DULN by External Debtors as referred to in paragraph (1) applies to DULN in cash funds, originating from:
 - a. ULN based on a non-revolving loan agreement not used for refinancing;
 - b. the increment of a refinancing facility over the amount of a former ULN; and
 - c. ULN based on debt securities in the form of Bonds, Medium Term Notes (MTN), Floating Rate Notes (FRN), Promissory Notes (PN) and Commercial Paper (CP).
- (3) The withdrawal of DULN as referred to in paragraph (1) must be reported to Bank Indonesia.

Article 9

- (1) The accumulated value of DULN withdrawal has to be equal to the commitment value.
- (2) In the event that accumulated value of DULN withdrawn by an External Debtor through a Foreign Exchange Bank is less than commitment, the External Debtor has to provide a written explanation to Bank Indonesia.

CHAPTER IV
MONITORING OF EXPORT PROCEEDS AND DULN

Article 10

- (1) Bank Indonesia reviews documents for Exporter compliance with the requirement for receipt of Export Proceeds as referred to in Article 2.
- (2) In reviewing the compliance of Exporters as referred to in paragraph (1), Bank Indonesia may request written evidences, records and supporting documents with or without involvement of the related Institutions.

Article 11

- (1) Bank Indonesia conducts a review of External Debtor compliance with the requirement for withdrawal of DULN as referred to in Article 8 paragraph (1).
- (2) In reviewing the compliance of External Debtors as referred to in paragraph (1), Bank Indonesia may request evidences, records and/or supporting documents with or without involvement of the related Institutions.

CHAPTER V
IMPOSITION OF SANCTIONS

Article 12

- (1) Exporter violating the requirements referred to in Article 2 and/or Article 3 shall be liable to administrative sanctions imposed as a financial penalty of 0.5% (five per mille) of the nominal value of Export Proceeds not received through a Foreign Exchange Bank, calculated for a minimum amount of Rp 10,000,000.00 (ten million rupiahs) and a maximum amount of Rp 100,000,000.00 (one hundred million rupiahs).

- (2) Sanctions shall be imposed in the rupiah currency using Bank Indonesia mid rate on the date of imposition of the sanctions.
- (3) If the Exporter does not pay the administrative sanctions as referred to in paragraph (1) and/or fails to comply with the requirement referred to in Article 2, it shall be liable to sanctions concerning suspension of Export services in accordance with the laws and regulations concerning customs and the applicable laws and regulations.

Article 13

External Debtor violating the requirement referred to in Article 8 paragraph (1) shall be liable to administrative sanctions imposed as a financial penalty of Rp 10,000,000.00 (ten million rupiahs) for each withdrawal of DULN.

Article 14

Imposition of sanctions as referred to in Article 12 and Article 13 shall not nullify the requirement for receipt of Export Proceeds and withdrawal of DULN through a Foreign Exchange Bank.

Article 15

- (1) Payment of administrative sanctions imposed as a financial penalty as referred to in Article 12 and Article 13 shall be remitted to the account of the State Treasury at Bank Indonesia.
- (2) Payment as referred to in paragraph (1) shall be made by the Exporter and/or External Debtor after receipt of written notification from Bank Indonesia with a copy to the State Treasury Office.

Article 16

- (1) Waiver of sanctions involving suspension of Export services as referred to in Article 12 paragraph (3) shall be granted after Bank Indonesia receives proof of payment of the administrative sanctions and/or proof of receipt of Export Proceeds through a Foreign Exchange Bank.
- (2) Proof of payment of administrative sanctions and/or proof of receipt of Export Proceeds through a Foreign Exchange Bank as referred to in paragraph (1) shall be submitted by the Exporter to Bank Indonesia.
- (3) Proof of payment of administrative sanctions and/or proof of receipt of Export Proceeds through a Foreign Exchange Bank as referred to in paragraph (2) may be recognised after verification by Bank Indonesia.

CHAPTER VI

SUBMISSION OF INFORMATION AND REPORTS

Article 17

- (1) The procedure for submission of information as referred to in Article 4 and of written explanations and supporting documents as referred to in Article 5, Article 6, Article 7 and Article 10 shall operate in accordance with Bank Indonesia regulatory provisions governing the compulsory reporting of foreign exchange flows.
- (2) The procedure for submission of information as referred to in Article 8 and of written explanations and supporting documents as referred to in Article 9 and Article 11 shall operate in accordance with Bank Indonesia regulatory provisions governing the compulsory reporting of withdrawal of DULN.

CHAPTER VII
TRANSITIONAL PROVISIONS

Article 18

- (1) Export Proceeds receipts that are contracted not to be received through a Foreign Exchange Bank and/or are tied to payment of Exporter obligations signed before this Bank Indonesia Regulation comes into force, shall not be subject to the requirement for receipt through a Foreign Exchange Bank until 12 (twelve) months after this Bank Indonesia Regulation comes into force.
- (2) Export Proceeds receipts as referred to in paragraph (1) have to be reported by the Exporter to Bank Indonesia, enclosing a written explanation and supporting documents, no later than 14 (fourteen) Days after the PEB Date.
- (3) Specifically concerning Export Proceeds originated from PEB issued in 2012, the requirement to receive Export Proceeds through a Foreign Exchange Bank shall become effective 6 (six) months after the PEB Date.
- (4) Receipt of Export Proceeds originated from netting of Exporter claims against Exporter liabilities shall be permitted only until 31 December 2012, with supporting documents required.
- (5) The withdrawal of DULN originated from ULN agreement signed before this Bank Indonesia Regulation comes into force is not required to be withdrawn through a Foreign Exchange Bank, except for DULN withdrawal on an increase in ULN ceiling by virtue of an amendment to agreement signed after this Bank Indonesia Regulation comes into force.

CHAPTER VIII
CONCLUDING PROVISIONS

Article 19

The provisions concerning sanctions as referred to in Article 12 and Article 13 shall come into force on 2 July 2012.

Article 20

This Bank Indonesia Regulation shall come into force on 2 January 2012.

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

Enacted in Jakarta

Dated 30 September 2011

THE GOVERNOR OF BANK INDONESIA,

DARMIN NASUTION

Promulgated in Jakarta

Dated 30 September 2011

THE MINISTER OF LAW AND HUMAN RIGHTS

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OF THE REPUBLIC OF INDONESIA

PATRIALIS AKBAR

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 93 OF 2011

DPM/DSM/DInt