

President of the Republic of Indonesia

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 19 OF 2008

ON

THE SOVEREIGN SYARIAH SECURITIES

BY THE BLESSING OF THE ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Having considered :
- a. that the national development strategy and policy for the purpose of establishing justice, wealth, and prosperity for the people and to recover the economic sector, needs to be accompanied by optimal management of the state finances by improving efficiency in the management of state-owned assets and financial resources of State Budget;
 - b. that for the purpose of managing the state's finances for optimizing the State Budget's ability, to move the national economy continuously, it is deemed necessary to develop various financial instrument that has the capability to mobilize the public fund in respect with the economy, social and cultural values cultivated by the people;
 - c. that utilization of syariah-based financial instrument, which is a potential source of financing for the national development, has not been optimal;

- d. that it is deemed necessary to develop the syariah-based economic and financial sectors through the development of syariah financial instrument as a component of the national economic system to improve the social welfare for the Indonesian people;
- e. that syariah-based financial instruments have different characteristics from conventional financial instruments, and therefore require a special management and regulation, relating to the instrument as well as the necessary legal framework;
- f. that based on the considerations as referred to in item letter a, b, c, d and e herein, it is deemed necessary to enact the Law on the Sovereign Syariah Securities;

In view of: Article 5 paragraph (1), Article 20 paragraphs (1) and (2), Article 20A paragraph (1), Article 23, and Article 23C of The Indonesian Constitution of 1945;

Under Mutual Agreement

between

THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

and

PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDE:

To enact : THE LAW ON THE SOVEREIGN SYARIAH SECURITIES

SECTION I

GENERAL PROVISION

Article 1

In this Law:

1. The Sovereign Syariah Securities, hereinafter referred to as SBSN, or Sovereign Sukuk, are the sovereign securities issued based on syariah principles, as evidence of the participation in SBSN assets, issued both in Indonesian Rupiah and foreign currencies.
2. The SBSN Issuing Company is a legal entity that is incorporated based on this Law for the purpose of issuing the SBSN.
3. SBSN Asset is the object being financed by SBSN and/or State Owned Assets with economic value, such as land and/or building and others (non-land and/or non-building), that are utilised as the basis for the issuance of the SBSN or as underlying assets.
4. State Owned Assets are any assets that are purchased or obtained under the State Budget, or other legitimate sources.
5. *Akad* (contract) is a written agreement in compliance with syariah principles and the applicable laws and regulations.
6. *Ijarah* is an *Akad* in which a party acting for himself or represented by his agent to lease his right on a certain asset to the other party based on the rental price and rental period that are mutually agreed by the parties.
7. *Mudarabah* is an *Akad* for cooperation between two parties or more whereby one party shall provide capital and other party shall provide effort and expertise, any profits incurred from the cooperation shall be distributed based on a pre-agreed *nisbah* (ratio), meanwhile any arising losses shall be borne fully by the party that provides capital,

unless such losses are incurred due to negligence of the party that provides effort and expertise.

8. *Musyarakah* is an *Akad* for cooperation between two parties or more to combine capital, both in monies and other forms, for the purpose of seeking profit that will be distributed based on a pre-agreed *nisbah*, meanwhile any arising losses shall be borne mutually by the parties in proportion to the ratio of the capital participation of each party in the cooperation.
9. *Istishna'* is an *Akad* for the sale and purchase of assets which form the financing object of the parties, in which the specification, method and schedule of delivery, and the assetvalue shall be determined based on the mutual agreement between the parties.
10. Return is any payment such as lease, profit sharing or margin, or any other kind of payment as specified in the *Akad* for the SBSN issuance, that is given to the holder of SBSN up to the maturity of the SBSN period.
11. The Government is the Central Government of the Republic of Indonesia.
12. Minister is the Minister of Finance of the Republic of Indonesia.
13. Primary Market is the initial offering and sale of SBSN in both domestic and overseas markets.
14. Secondary Market is any trading activity on SBSN that have been sold in the Primary Market, both domestic and overseas.
15. Nominal Value is the SBSN value as specified in the SBSN certificate.
16. The Beneficial Right is the right to own and to obtain the full right to the usage of an asset without requiring registration for such ownership and right.

17. Wali Amanat (Trustee) is the party that represents the interest of the SBSN holder in accordance with the agreement.
18. Maximum Net Value of Sovereign Securities is the addition to the total number of Sovereign Securities in circulation in a fiscal year, that is the difference between the total number of Sovereign Securities to be issued and the total number of Sovereign Securities in maturity and/or to be repurchased by the Government.
19. The Sovereign Debt Securities is securities in the form of indebtedness certificate in rupiah and other foreign currencies that the interest and the principal payments are guaranteed by the Government of the Republic of Indonesia in accordance with their tenor.
20. The Sovereign Securities includes the Sovereign Debt Securities and the Sovereign Syariah Securities (SBSN).
21. Any Individual is any individual or any Corporation.
22. Corporation is a group of people and/or assets that is organized either as a legal entity or non legal entity.

SECTION II
FORM AND TYPE OF
THE SOVEREIGN SYARIAH SECURITIES

Article 2

- (1) SBSN is issued in scrip or scripless form.
- (2) SBSN as specified in paragraph (1) may be tradable or not tradable in the Secondary Market.

Article 3

SBSN may take the form of:

- a. SBSN *Ijarah*, that is issued based on *Akad Ijarah*;
- b. SBSN *Mudarabah*, that is issued based on *Akad Mudarabah*;
- c. SBSN *Musyarakah*, that is issued based on *Akad Musyarakah*;
- d. SBSN *Istishna'*, that is issued based on *Akad Istishna'*;
- e. SBSN that is issued based on other *Akads* as long as they are not in conflict with the syariah principles; and
- f. SBSN that is issued based on combination of two or more *Akads* as specified in letter a through letter e herein.

SECTION III THE PURPOSE OF THE ISSUANCE OF THE SOVEREIGN SYARIAH SECURITIES

Article 4

SBSN is issued for the purpose of financing the State Budget, including to finance construction of projects.

SECTION IV THE AUTHORITY AND IMPLEMENTATION OF THE ISSUANCE OF THE SOVEREIGN SYARIAH SECURITIES

Article 5

- (1) The authority to issue SBSN for the purpose as specified in Article 4 hereinabove is held by the Government.
- (2) The authority as specified in paragraph (1) herein is carried out by the Minister.

Article 6

- (1) The issuance of SBSN may be conducted directly by the Government or by the SBSN Issuing Company.
- (2) The SBSN that is issued either directly by the Government or by the SBSN Issuing Company as specified in paragraph (1) herein includes all forms of SBSN as specified in Article 3 hereinabove.
- (3) The issuance of SBSN conducted through the SBSN Issuing Company shall be determined by the Minister.

Article 7

- (1) For the purpose of the issuance of SBSN as specified in Article 4 hereinabove, the Minister shall first coordinate with Bank Indonesia.
- (2) Particularly for the issuance of SBSN for the purpose of financing a project, the Minister shall coordinate with the relevant ministries in charge of the national development plan.

Article 8

- (1) The issuance of SBSN is subject to prior approval of the House of Representatives during the ratification of the State Budget that is calculated as a component of the

Maximum Net Value of the Sovereign Securities that will be issued by the Government in a certain fiscal year.

- (2) The Minister holds authority to determine the composition of the Sovereign Securities in rupiah or in foreign currencies, and to determine the composition of the Sovereign Securities either in the form of Sovereign Debt Securities or SBSN, as well as to determine other matters which are deemed necessary to guarantee the issuance of the Sovereign Securities in a prudent manner.
- (3) Under certain condition, the SBSN may be issued in excess of the Maximum Net Value as approved by the House of Representatives as specified in paragraph (1) herein, that is further to be reported in the Amendment to the State Budget or/and submitted in the Report on the Realization of Budget for the relevant fiscal year.

Article 9

- (1) The approval of the House of the Representatives as specified in Article 8 paragraph (1) hereinabove includes the payment for all obligations of the Return and Nominal Value that is arising from the issuance of SBSN and the State Owned Asset that is utilised as the SBSN Asset.
- (2) The Government has the obligation to pay the Return and the Nominal Value for each SBSN, issued both directly by the Government itself and by the SBSN Issuing Company, in compliance with the provisions as specified in the *Akad* of SBSN issuance.
- (3) The funds for the payment of Return and Nominal Value as specified in paragraph (2) herein shall be allocated from the State Budget every fiscal year up to the expiry of the period of such obligation.
- (4) If the payment for liabilities of the Return and Nominal Value exceeds the funds estimation as specified in paragraph (3) herein, the Government shall make the payment

and report the realization of the payment to the House of Representatives in the meeting on the Amendment to the State Budget.

- (5) The obligations as specified in paragraphs (2), (3) and (4) shall be made transparently and accountable.

SECTION V
THE USE OF STATE OWNED ASSETS FOR THE PURPOSE OF
ISSUANCE OF THE SOVEREIGN SYARIAH SECURITIES

Article 10

- (1) The State Owned Assets may be used as the basis for the issuance of SBSN, and further the said State Owned Assets shall be referred to as SBSN Assets.
- (2) The SBSN Assets as specified in paragraph (1) herein include:
 - a. land and/or building; and
 - b. other than land and/or building.
- (3) The type, value, and specification of State Owned Assets to be used for SBSN Assets as specified in paragraph (2) shall be determined by the Minister.

Article 11

- (1) The use of State Owned Assets as SBSN Assets as specified in Article 10 paragraph (2) hereinabove shall be made by the Minister by selling or leasing the Beneficial Right on the State Owned Assets or by any other methods in compliance with the *Akad* of the SBSN issuance.
- (2) The SBSN Assets as specified in paragraph (1) herein may be leased back to the Minister based on an *Akad*.

- (3) If the State Owned Assets that will be used for SBSN Assets, as specified in Article 10 paragraph (1), are being utilized by a Government institution, the Minister shall notify the said Government institution.
- (4) The lease period for the SBSN Asset by the Government to the SBSN Issuing Company as specified in paragraph (1) herein is maximum for 60 (sixty) years.

Article 12

- (1) The Minister has the obligation to repurchase the SBSN Asset, cancel any lease *Akad*, and terminate other *Akad* of SBSN issuance when the SBSN become due.
- (2) For the purpose of repurchasing SBSN Asset, cancellation of lease *Akad*, and termination of other *Akad* of SBSN issuance as specified in paragraph (1) herein, the Minister shall pay the SBSN nominal value or any other payments in compliance with the *Akad* of the SBSN issuance to the SBSN holder.

SECTION VI THE SOVEREIGN SYARIAH SECURITIES ISSUING COMPANY AND TRUSTEE

Article 13

- (1) For the purpose of SBSN issuance, the Government may establish an SBSN Issuing Company, as specified in Article 6 paragraph (1) hereinabove.
- (2) The SBSN Issuing Company as specified in paragraph (1) herein, is a legal entity which is incorporated based on this Law.
- (3) The SBSN Issuing Company as specified in paragraph (1) herein, is a legal entity domiciled within the territory of the Republic of Indonesia.

- (4) The SBSN Issuing Company is responsible to the Minister.
- (5) Further implementing regulation on the incorporation, organ, capital, function and the responsibility of the SBSN Issuing Company shall be regulated in a Government Regulation.

Article 14

- (1) The Minister shall directly appoint other party as Trustee, if the SBSN is issued directly by the Government.
- (2) The SBSN Issuing Company shall act as Trustee for the SBSN holder, if the SBSN is issued by an SBSN Issuing Company.
- (3) The SBSN Issuing Company may appoint any other party upon the approval of the Minister, for the purpose of performing the function of Trustee, as specified in paragraph (2).

Article 15

The duties of the Trustee, as specified in Article 14 hereinabove, include:

- a. to enter into agreement with other parties for the interest of the SBSN holder;
- b. to oversee the SBSN Assets for the interest of SBSN holder; and
- c. to represent other interests of the SBSN holder, in relation to the agreement entered into for the purpose of SBSN issuance.

Article 16

The SBSN Issuing Company and the other party that is appointed as Trustee have obligation to separate the SBSN Assets from the company's assets for the interest of SBSN holder.

Article 17

In implementing its function as a Trustee, the SBSN Issuing Company shall preserve the interest of SBSN holder.

SECTION VII
THE MANAGEMENT OF SOVEREIGN SYARIAH SECURITIES

Article 18

- (1) The management of SBSN, either issued by the Government directly or by the SBSN Issuing Company shall be carried out by the Minister.
- (2) The management of SBSN as specified in paragraph (1) herein, includes as follows:
 - a. the determination of strategy and policy on the management of SBSN, including risk management policy;
 - b. the planning and determination of the SBSN portfolio structure;
 - c. the issuance of SBSN;
 - d. the sale of SBSN through auction and/or non-auction;
 - e. the buyback of SBSN before maturity date;
 - f. the redemption of SBSN; and
 - g. other activities for the purpose of development of the Primary Market and Secondary Market of SBSN.
- (3) The management of SBSN as specified in paragraph (2) herein is part of the comprehensive management of the Sovereign Securities.

Article 19

- (1) For the purpose of management of SBSN as specified in Article 18 herein, the Minister shall open an account which is part of the State General Treasury Account.

- (2) The procedure for opening and managing the account as specified in paragraph (1) herein, shall be decided by the Minister.

Article 20

The SBSN shall include details of the terms and conditions as follows:

- a. issuer;
- b. Nominal Value;
- c. issuing date;
- d. maturity date;
- e. date of Return payment;
- f. amount or *nisbah* (ratio) of the Return;
- g. frequency of Return payment;
- h. formula of the Return payment;
- i. currency or denomination;
- j. type of the State Owned Assets which are used as SBSN Asset;
- k. the governing law;
- l. terms and conditions for the right to buyback SBSN before maturity date; and
- m. terms and conditions for the transfer of ownership.

Article 21

- (1) If the SBSN is issued in Indonesia, the Minister shall appoint Bank Indonesia as the administrator to carry out the administration matters, such as the ownership registration, clearing, and SBSN settlement, for both SBSN issued directly by the Government and by the SBSN Issuing Company.
- (2) The Minister may request Bank Indonesia to appoint another party as the administrator to carry out the administration matters, as specified in paragraph (1) herein.

- (3) If the SBSN is issued overseas, the Minister shall appoint Bank Indonesia or another party as the administrator to carry out the administration matters, as specified in paragraph (1) herein.
- (4) For the purpose of administering the activities as specified in paragraph (1) herein, Bank Indonesia or the appointed party shall submit an accountability report to the Government.

Article 22

- (1) The Minister shall appoint Bank Indonesia or other party as the paying agent, either for SBSN that is issued directly by the Government itself or issued by the SBSN Issuing Company.
- (2) The Minister may appoint any other party as the paying agent as specified in paragraph (1) herein, subject to prior coordination with Bank Indonesia.
- (3) The roles of the paying agent, as specified in paragraphs (1) and (2) herein, among others, encompass:
 - a. receive the Return and/or the SBSN Nominal Value from the Government; and
 - b. pay the Return and/or the SBSN Nominal Value, as specified in letter a herein, to the SBSN holder.

Article 23

The Minister may appoint Bank Indonesia as the auction agent for the SBSN, for both SBSN that is issued directly by the Government and by the SBSN Issuing Company.

Article 24

The Minister shall determine the regulation relating to the issuance and sale of SBSN in a Minister Regulation.

Article 25

For the purpose of SBSN Issuance, the Minister shall request the *fatwa* or pronouncement concerning compliance of the SBSN with syariah principles from the institution who has authority to determine *fatwa* in the area of syariah.

Article 26

The regulation and supervision of trading activities of SBSN shall be made by the authorized body in charge of the regulation and supervision of the capital market.

SECTION VIII ACCOUNTABILITY AND TRANSPARENCY

Article 27

- (1) The Minister shall administer and prepare the accountability report on the management of SBSN.
- (2) The report, as specified in paragraph (1) herein, shall be submitted as a component of the report on the implementation of the State Budget for the relevant fiscal year.

Article 28

The Minister shall periodically publish information relating to:

- a. the policy on the SBSN management and the plan on SBSN issuance, including the estimation of the size and the schedule of issuance; and
- b. the number of SBSN in the circulation and the composition, including the type of currencies, maturity structure, and the amount of Return.

Article 29

For the purpose of the implementation of its duties and functions, the authorised body in charge for management and supervision of the capital market, as specified in Article 26 hereinabove shall have the right to obtain data and information on the SBSN directly from Bank Indonesia or from any other parties who are appointed as SBSN administrator.

SECTION IX CRIMINAL SANCTION

Article 30

- (1) Any Individual who imitates, falsifies, or forges SBSN for the purpose of trading imitated, false, or forged SBSN is subject to imprisonment of at least 5 (five) years and maximum 10 (ten) years and financial fine of at least IDR 10,000,000,000.00 (Ten Billion Indonesian Rupiah) and maximum IDR 20,000,000,000.00 (Twenty Billion Indonesian Rupiah).
- (2) Any unauthorized Individual who intentionally issues SBSN based on this Law, is subject to imprisonment of at least 10 (ten) years and maximum 20 (twenty) years and financial fine of at least IDR 20,000,000,000.00 (Twenty Billion Indonesian Rupiah) and maximum IDR 40,000,000,000.00 (Forty Billion Indonesian Rupiah).

Article 31

- (1) If the criminal violation, as specified in Article 30 hereinabove, is committed by a Corporation, then the criminal prosecution shall be directed to:
 - a. the Corporation; and/or
 - b. the person who performs the action or gives instruction, either individually or collectively to make such action or to act as the leader or fail to prevent such action.
- (2) If the prosecution is addressed to a Corporation, the principal punishment shall only be the financial fine which amount is as specified in Article 30 paragraphs (1) or (2) plus

1/3 (one third) of such financial fine.

- (3) In addition to the sanction as specified in paragraph (2) herein, the Corporation may be subject to additional criminal sanction in the form of business permit revocation.

SECTION X
CLOSING PROVISIONS

Article 32

This Law shall take into effect as of the date of enactment.

For the purpose of public knowledge, to order to promulgate this Law in the Official Gazette of the Republic of Indonesia.

Enacted in Jakarta

On May 7, 2008

PRESIDENT OF THE REPUBLIC OF INDONESIA

(signed)

DR. H. SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta

On May 7, 2008

MINISTER OF LAW AND HUMAN RIGHTS

OF THE REPUBLIC OF INDONESIA

(signed)

ANDI MATTALATTA

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA OF 2008 NUMBER 70

President of the Republic of Indonesia

**ELUCIDATION
FOR
LAW OF THE REPUBLIC OF INDONESIA
NUMBER 19 OF 2008
ON
THE SOVEREIGN SYARIAH SECURITIES**

I. GENERAL

The achievement of the national development program to establish justice, wealth, and prosperity for the people based on Pancasila and the Indonesian Constitution of 1945 shall be carried out, among others, through optimal state financial management. Therefore, it is deemed required to optimize the state owned assets management and expand source of financing for the State Budget, in order to increase the State Budget productivity in driving a sustainable economic development.

It is deemed necessary to immediately develop various alternatives for the State Budget financing instruments, especially through syariah-based financing instrument to mobilize public fund in a wide scale. The financial instrument must be in compliance with the syariah principles, provides legal assurance, transparent, and accountable. The purpose of development of syariah-based financial instrument includes: (1) to strengthen and to improve role of the syariah-based financial system domestically; (2) to expand the basis of State Budget financing; (3) to create benchmark for the syariah-based financial instrument, in both the domestic and international capital markets; (4) to extend and to diversify the investor base; (5) to develop alternative investment instruments, for both domestic and foreign investors who are interested in syariah-based financial instrument; and (6) to encourage the growth of syariah-based financial market in Indonesia.

The concept of Islamic finance is based on principles of morality and justice. Therefore, in accordance with its operational basis, which is the Islamic principle as based on the Al Qur'an and *Hadist* (narration on the Prophet's sayings and deeds) as well as *Ijma*, the syariah-based financial instrument shall be in harmony and in compliance with the syariah principles, namely, the transaction among the parties must be fair, *halal* (permissible), *thayyib*, and *maslahat* (beneficial). In addition, transactions in Islamic finance shall be in compliance with the syariah law, free from some prohibitions such as: (1) *Riba* that is the interest component or return from the use of money to get money (money for money); (2) *Maysir*, that is, speculation, gambling, and fortune; and (3) *Gharar*, that is, unpredictability related to delivery, quality, quantity, etc. The other character of syariah-based instrument is that the issuance requires an underlying transaction, that is, the procedures and mechanism is special and different from other conventional financial transactions. Therefore, since the syariah-based financial instrument is different from conventional financial instrument, it is deemed necessary to establish a special regulation for the issuance of the syariah-based financial instrument, both for the instrument itself and the infrastructure.

A sample of syariah-based financial instrument that is widely issued by private Corporations and sovereigns are syariah-based securities, or internationally known as *Sukuk*. This syariah-based financial instrument is different from conventional securities. The main difference among others are, the syariah-based securities use the concept of Return not interest as in conventional financial instrument, and requires a certain number of assets as basis for the transaction that is made using *Akad* that is based on syariah principles.

The method or structure of financing which is based on syariah principles shall be made in accordance with the *Akad* for the transaction. The types of *Akad* for issuing syariah-based securities include *Ijarah*, *Mudarabah*, *Musyarakah*, *Istishna'*, and other *Akads* that are not in conflict with the syariah principles, and a combination of two or more *Akads*.

In line with the wider uses of syariah principles, in domestic and international financial market, as reflected by the increasing number of countries which issue syariah-based

financial instruments and by the increasing number of investors who invest in syariah-based financial instruments, it is deemed necessary for the Indonesian Government to take the opportunity by issuing SBSN, both in the domestic and international markets, as the alternative source of financing. It is in line with the limited ability of the State Budget to drive a continuing national economic development and the fact that so far the use of other financial instrument is not optimal. It is expected that the additional Sovereign Securities instrument which consist of Sovereign Debt Securities and SBSN, will increase the capability of the Government in managing the State Budget, particularly its financing aspect. In addition, SBSN will be able to fulfil the demand for investment portfolio of syariah-based financial institutions such as syariah banking, syariah mutual fund, and syariah insurance. By the increase of the number of financial instruments based on syariah principles, it is expected to encourage the growth of the national syariah-based financial institutions. Additionally, for the purpose of providing legal basis for the issuance of syariah-based financial instrument and to support the growth of syariah-based financial market, particularly in the domestic market, it is deemed necessary to enact the Law on The Sovereign Syariah Securities which regulates in particular the issuance and management of SBSN.

The SBSN is securities in Indonesian Rupiah and in foreign currencies which are based on syariah principles and issued by the Republic of Indonesia, either issued directly by the Government itself or by an SBSN Issuing Company, as an evidence for the participation in the SBSN Asset, that the Return and Nominal Value must be paid or the payments are guaranteed by the Indonesian Government, in accordance with the agreement as specified in the SBSN certificate.

In general, this Law on the Sovereign Syariah Securities regulates the following:

- a. Transparency of SBSN management, for the purpose of fiscal policy and SBSN market development policy, as detailed further in the objective of issuance and the types of *Akad*;

- b. The Government's authority to issue the SBSN, either by the Government itself through the Minister or by the SBSN Issuing Company;
- c. The Government's authority to utilise the State Owned Assets as the basis for SBSN issuance (underlying assets);
- d. The Government's authority to establish and to determine the responsibilities of the legal entity to carry out the function as SBSN Issuing Company;
- e. The authority of the Trustee, to act for the interest of the SBSN holder;
- f. The Government's authority to pay all liabilities arising from the issuance of SBSN, either those issued by the Government itself and those issued by the SBSN Issuing Company, fully and promptly until the expiry of period of such liabilities; and
- g. The legal basis for further regulation on the procedures and mechanism of the SBSN issuance in the Primary Market and SBSN transaction in Secondary Market so that the investors shall have the certainty to own and trade the SBSN easily and securely.

II. Article by Article

Article 1

Self explanatory.

Article 2

Paragraph (1)

SBSN by scrip (*warkat*) is securities based on syariah principles which the evidence of ownership is shown in a certificate, either on behalf of the holder (*atas nama*) or at sight (*atas unjuk*). Certificate on behalf of the holder (*atas nama*) provides the name of the holder on the certificate, meanwhile certificate at sight (*atas unjuk*) does not provide the name of the holder on the certificate, so that any Individual

who hold the certificate shall be the legal owner of it. Scripless (*tanpa warkat*) SBSN is securities based on syariah principles which legal evidence of ownership is registered electronically (book-entry system). In scripless SBSN, the authenticity and legality of ownership is evidenced by the electronic registration. The electronic registration is made for the administration of the ownership data (registry) and to facilitate efficient, quick, secure, transparent and accountable transaction in the Secondary Market.

Paragraph (2)

The traded SBSN is the SBSN that is traded in the Secondary Market both domestic and overseas. The trading may be through an exchange and/or outside of an exchange or well known as over the counter (OTC). Non-tradable SBSN includes (1) SBSN which is non-tradable in the Secondary Market that is usually issued for special purposes for certain institutional investors, either domestic or foreign investors who are interested to obtain the SBSN in accordance with the specific needs of their investment portfolio; and (2) SBSN that due to the nature of the *Akad* of the issuance are non-tradable.

Article 3

Letter a

Self explanatory.

Letter b

Self explanatory.

Letter c

Self explanatory.

Letter d

Self explanatory.

Letter e

Self explanatory.

Letter f

The combination of SBSN *Akads* may be made such as *Mudarabah* and *Ijarah*, *Musyarakah* and *Ijarah*, and *Istishna'* and *Ijarah*.

Article 4

The definition of “to finance construction of projects” is to finance the construction of projects as allocated in the State Budget, including infrastructure projects in energy, telecommunication, transportation, agriculture, manufacture, and public housing sectors.

Article 5

Self explanatory.

Article 6

Paragraph (1)

The issuance of SBSN both directly by the Government and by SBSN Issuing Company shall be made for the interest of the Indonesian Government. In the implementation, the SBSN may be issued domestically or overseas. SBSN issuance by SBSN Issuing Company may only be made when the SBSN structure requires a Special Purpose Vehicle (SPV).

Paragraph (2)

Self explanatory.

Paragraph (3)

The Minister shall determine all matters relating to the policy of the issuance of SBSN, such as the indicative target amount of issuance, date of issuance, method of issuance, denomination, *Akad* structure, pricing, and other matters as contained in the terms and conditions of SBSN. Therefore, the authority of SBSN Issuing Company shall be limited to only issuing SBSN.

Article 7

Paragraph (1)

The Government shall coordinate with Bank Indonesia at the beginning of the fiscal year to plan the issuance of SBSN, which is integrated into the plan on the issuance of the Sovereign Securities for a fiscal year. The purpose of the coordination is to evaluate the monetary implication of the issuance of Sovereign Securities, so that harmony between fiscal policy, including debt management, and monetary policy can be achieved. Comments from Bank Indonesia may be an inputs for the decision making by the Government so that the timing of the Sovereign Securities issuance can be made accurately under the terms and conditions acceptable for the market and benefiting the Government and the people.

Paragraph (2)

The coordination with the minister in charge of national development planning includes the types, value, and schedule of the project implementation. The project to be financed forms an integral part of the State Budget program.

Article 8

Paragraph (1)

The approval is preceded by prior submission of the plan of issuance and settlement and/or buyback, that shall be delivered together with the delivery of the Monetary Bill and the proposed State Budget, to the House of Representatives, which in this matter is the House of Representatives unit in charge of financial matters, to obtain the approval.

Paragraph (2)

Self explanatory.

Paragraph (3)

The definition of "certain condition", among others, is SBSN issuance for the purpose of covering the shortage of financing for budget, project construction,

and/or portfolio management of the Sovereign Securities at the end of the fiscal year, since the condition and development of the financial markets could not be anticipated resulting in the amount of Maximum Net Value of the Sovereign Securities that is already approved being surpassed.

Article 9

Paragraph (1)

Self explanatory.

Paragraph (2)

Self explanatory.

Paragraph (3)

All liabilities for Return and Nominal Value arising from the SBSN issuance shall be allocated in the State Budget every fiscal year until the expiry of the liabilities. The estimation of fund that is allocated for the payment of such liabilities for a fiscal year shall be reported to the House of Representatives to be accounted for in the State Budget in the relevant fiscal year.

Paragraph (4)

On the maturity date, the payment for the Return and Nominal Value may exceed the estimated budget, because of differences in exchange rate, and/or rate of Return.

Paragraph (5)

Self explanatory.

Article 10

Paragraph (1)

Self explanatory.

Paragraph (2)

Letter a

The definition of “land and/or building” includes any projects that will be or are being constructed.

Letter b

The definition of “other than land and/or building” is any tangible goods or intangible goods which have economic value and/or have cash income stream.

Paragraph (3)

The Minister as the Manager of the State Owned Assets shall decide in detail the types, value, and specification of the State Owned Assets that will be utilised as SBSN Assets. The Minister may issue a statement on the ownership status, use, and control of the State Owned Assets that are registered in the List of State Owned Assets, if there are no Certificate of Right to Use or any other certificate evidencing the right of ownership available on the State Owned Assets that will be utilised as SBSN Assets.

Article 11

Paragraph (1)

The transfer of right on the State Owned Assets shall be special in nature and differs from the transfer of right on the State Owned Assets as specified in Law Number 1 of 2004 on the State Treasury. The characteristics of the referred transfer include as follows: (1) the sale and/or lease shall be only on the Beneficial Right of the State Owned Assets; (ii) there is no transfer of right of ownership (legal title) on the State Owned Assets; and (iii) there is no physical transfer of the State Owned Assets so that it shall not disrupt the operations of Government services.

The sale and lease of the Beneficial Right on the State Owned Assets shall be made under SBSN *Ijarah* structure. The other method in accordance with the *Akad* for the purpose of SBSN issuance includes, among others, the use of the State Owned Assets as part of the participation in a business cooperation under SBSN *Musyarakah* (partnership) structure.

Paragraph (2)

Self explanatory

Paragraph (3)

The utilisation of the State Owned Assets as SBSN Assets shall not prejudice the right of the institution that is using the said State Owned Assets from utilising the State Owned Assets in accordance with its original usage, so that the responsibility to manage the said State Owned Assets shall remain with the institution that is using the said State Owned Assets in compliance with the applicable laws and regulations. The statement shall not serve as a request for approval or consideration.

Paragraph (4)

Based on the SBSN under *Akad Ijarah* – Head Lease and Sub Lease, the period of SBSN Asset lease from the Government to the SBSN Issuing Company shall be longer than the period of SBSN Asset lease from the SBSN Issuing Company to the Government.

Article 12

Paragraph (1)

The other *Akad* for SBSN issuance includes the *Akads* other than the SBSN under *Akad Ijarah* such as SBSN under *Akad Musyarakah, Mudarabah, and Istishna'*.

Paragraph (2)

The other payment obligations in accordance with the *Akad* for the SBSN issuance includes the remaining Nominal Value of SBSN of which settlement is made by amortization and unpaid Return.

Article 13

Paragraph (1)

The Government may establish more than 1 (one) SBSN Issuing Company as required.

Paragraph (2)

Because of the special characteristic of SBSN Issuing Company which is different from a Limited Liability Company, Foundation or other legal entity as commonly known in Indonesia, it is deemed necessary to establish a special legal entity under this Law to accommodate the characteristic and the objective of the said SBSN Issuing Company.

Paragraph (3)

Self explanatory

Paragraph (4)

The responsibility is limited only to the operational of the SBSN Issuing Company and the implementation of SBSN issuance.

Paragraph (5)

Self explanatory.

Article 14

Paragraph (1)

Other party eligible to be appointed as Trustee includes any financial institution that has already obtained the licence from the authorized authority and other institutions that is able to perform the functions of Trustee.

Paragraph (2)

The SBSN Issuing Company as Trustee essentially performs the legal obligation arising from the transfer of ownership of Beneficial Right on an asset from the Government to another party that acts as Trustee for the interest of SBSN holder as the recipient of the benefit.

Paragraph (3)

Other party that is eligible for assisting to perform the Trustee function, includes any financial institution that already obtained the licence from the authorized authority and other institutions that is able to perform the functions of Trustee.

Article 15

Self explanatory.

Article 16

Self explanatory.

Article 17

Self explanatory.

Article 18

Paragraph (1)

Self explanatory.

Paragraph (2)

Letter a

Self explanatory.

Letter b

Self explanatory.

Letter c

Self explanatory.

Letter d

Self explanatory.

Letter e

If it is specified in the *Akad*, the Minister may buyback the SBSN, either those issued directly by the Government or those issued by the SBSN Issuing Company, before maturity date. The partial buyback of the SBSN Nominal Value shall not be followed by the cancellation of *Akad* for the SBSN issuance.

Letter f

The settlement of a portion or the whole of SBSN Nominal Value, either for those issued by the Government itself and by the SBSN Issuing Company before maturity date, shall only be made if it is specified in the *Akad*.

Letter g

Self explanatory.

Paragraph (3)

Self explanatory.

Article 19

Paragraph (1)

The Minister shall open an account for the purpose of collecting the SBSN sale proceeds and providing funds for the payment of Return and SBSN Nominal Value.

Paragraph (2)

The procedures for opening and managing the account as specified in this paragraph shall be in accordance with the state treasury regulations, meanwhile the procedures for opening account in Bank Indonesia shall be made in accordance with Bank Indonesia regulations.

Article 20

Self explanatory.

Article 21

Paragraph (1)

Self explanatory.

Paragraph (2)

The appointment of another party by Bank Indonesia as administrator agent to carry out the administration affairs is subject to prior coordination with the Minister with due observance to laws on capital market.

Paragraph (3)

Self explanatory.

Paragraph (4)

The accountability report to the Government as specified in this paragraph shall be addressed to the Minister.

Article 22

Self explanatory.

Article 23

SBSN auction shall be performed by Bank Indonesia until the Government is considered prepared and capable technically to perform the auction by itself or jointly with Bank Indonesia.

Article 24

The regulation on the issuance and sale of SBSN includes, among others, the procedures for the implementation of the issuance and sale, the criteria of auction participant for either SBSN issued directly by the Government and those issued by SBSN Issuing Company.

Article 25

“The institution with authority to determine *fatwa* in the area of syariah” is the Indonesian Ulama Council (MUI) or any other institution as appointed by the Government.

Article 26

The purpose of the regulation and supervision of trading activities of SBSN is to protect the interest of the investor and market players. It is required to enable the SBSN trading be carried out efficiently and prudently. The regulatory is performed by issuing various rules, among others, covering data transparency and issuance information as well as the

procedures for SBSN trading. The regulation and supervision are efforts to obtain assurance on the compliance of the market players to the applicable regulations.

Article 27

Paragraph (1)

The administration affairs include the administration and the accounting of all transactions related to the SBSN management.

Paragraph (2)

Self explanatory

Article 28

Self explanatory.

Article 29

The request for data and information on SBSN to Bank Indonesia or another party that is appointed as administrator shall be made in writing.

Article 30

Paragraph (1)

The definition of “forged SBSN or fake SBSN” is any securities which is intentionally issued similar with or the same as the legitimate SBSN for the purpose of obtaining benefit for the issuer itself or other parties. The falsification of data in the trading of scripless SBSN is included as falsification as specified in this Article.

Paragraph (2)

Self explanatory.

Article 31

Self explanatory.

Article 32

Self explanatory.

**SUPPLEMENT TO THE OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER
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