

BANK INDONESIA
PBI 3/2024: OVERVIEW OF INDONESIA'S NEW SETTLEMENT OF
DISPUTES
IN FINANCIAL SERVICES SECTOR

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On 7 May 2024, Bank of Indonesia (“**BI**”) issued BI Regulation No. 3 of 2024 regarding an Alternative Institution for Dispute Resolution in the Financial Sector (“**PBI 3/2024**”) to supervise the Alternative Institution for Dispute Resolution in the Financial Services Sector (“**LAPS-SK**”). PBI 3/2024 came into effect on 14 May 2024. The enactment of PBI 3/2024 was as referred to in Law No. 4 of 2023 regarding Development and Strengthening of Financial Sectors.

What is LAPS-SK?

LAPS-SK is a specialist dispute resolution forum for the finance sector. Bank and Non-Bank Institutions are required to be members of the LAPS-SK but neither lenders or borrowers are obliged to use LAPS-SK for dispute resolution. Settlement of a dispute via LAPS-SK is strictly confidential.

How does the LAPS-SK affect agreements that already have a dispute resolution clause eg Indonesian courts, arbitration before BANI or a foreign arbitration organization?

LAPS-SK should not affect any financing agreement which has a dispute resolution clause (unless the disputes resolution clause provides for alternative disputes resolution or LAPS-SK) as the choice of dispute resolution forum is a contractual matter for the parties.

What are the expected advantages of LAPS-SK?

The expected advantages (as referred to in the PBI 3/2024) are that the settlement through LAPS-SK should be easily accessed, independent, fair, effective, efficient, and trusted by the parties (consumers and organizers).

Why have BI set this up?

Under PBI 3/2024, it is issued in order:

- (i) to regulate and supervise the existing alternative dispute resolution institutions in the financial sector;
- (ii) as implementation of the provisions of Article 246 paragraph (2) of Law No. 4/2023 concerning development and Strengthening of the Financial Sector; and
- (iii) to meet consumer needs for dispute resolution outside of the court system.

What are LAPS-SK's procedural rules?

Implementing regulations setting out the procedural rules for PBI Reg 3/2024 and LAPS-SK have been published. It details the procedural rules for LAPS-SK resolution for the following formats:

1. mediation;
2. arbitration; and
3. binding opinion.

The implementing regulations also address requirements for mediators and arbitrators, a code of ethics and fees for dispute resolution.



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Can Parties opt for LAPS-SK even if their financing agreement has a specific dispute resolution clause?

Yes, provided both parties agree.

Key Highlights

Membership – Organizers (*i.e.*, bank or non-bank Institution) that carry out activities supervised by BI whose products and/or services are utilized by consumers, shall become a member of LAPS-JK.

Organizers include:

- a. payment system organizers;
- b. money service activity organizers;
- c. parties carrying out activities in the money market and foreign exchange market; and
- d. other parties regulated and supervised by Bank Indonesia, dealing directly with consumers.

Organizers are also subject to the following obligations:

- a. becoming a member of LAPS-SK;
- b. paying member fees pursuant with LAPS-SK regulations;
- c. implementing LAPS-SK agreements and decisions; and
- d. publishing the LAPS-SK through pages or other media officially managed by the Organizer.

Dispute Resolution – The mechanisms for dispute resolution through LAPS-SK are as follows: (1) direct face-to-face resolution before a mediator or arbitrator (offline/in-person meeting), (2) electronic media (online meeting); and/or (3) document inspection.

Further, LAPS-SK is required to have a list of mediators and arbitrators in LAPS-SK having the ability and capacity of resolving disputes concerning; (1) payment system, (2) money service activities, (3) activities in the money market and foreign exchange market, and (4) other fields regulated and supervised by BI. The list is valid for a period of 3 (three) years.

Dispute Requirements – Disputes that are to be handled by LAPS-SK shall meet the following criteria set out under PBI 3/2024:

- a. complaints have been attempted to be settled by the organizers but rejected by the consumer, or the consumer does not receive a response to his/her complaint as regulated in BI regulations regarding BI Consumer Protection;
- b. the dispute at hand is not processed or has been adjudicated by judicial institutions, arbitration, or other alternative dispute resolution institutions; and
- c. the dispute at hand is a civil case.

Sanctions – The Organizer and the LAPS-SK are respectively subject to administrative sanctions for not being compliant with the requirements under PBI 3/2024, *i.e.*:

- For the Organizer, the sanctions are as follows:
 - a. written warning;
 - b. restrictions of products and/or services and/or business activities in part or in whole;
 - c. suspension of products and/or services and/or business activities in whole or in part;
 - d. dismissal of management;
 - e. administrative fines;
 - f. revocation of product and/or service permits; and/or
 - g. revocation of business permits.



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- For LAPS-SK, the sanctions are as follows:
 - a. written warning; and/or
 - b. replacement of Management and/or Supervisor.

Aside from the abovementioned, LAPS-SK may also handle other disputes that have obtained BI's approval.

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