

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 34 OF 2014
ON
HAJJ FUND MANAGEMENT

BY THE BLESSINGS OF ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that the state secures the independence of each citizen to embrace their respective religions and to worship according to their religion and belief as mandated in the 1945 Constitution of the Republic of Indonesia;
 - b. that the number of Indonesian citizens who apply for registration to perform hajj keeps on increasing while the hajj quota is limited. It causes the increase in the number of hajj pilgrims on the waiting list;
 - c. that the increase in the number of hajj pilgrims on the waiting list has resulted in the accumulation of hajj funds;
 - d. that there is potential to increase the return from the accumulated hajj fund to support the higher quality organisation of hajj through effective, efficient, transparent, accountable hajj fund management, and in accordance with the provisions of legislation;
 - e. that to secure effective, efficient, transparent and accountable hajj fund management, it requires strong legal basis;
 - f. that based on considerations as referred to in point a, point b, point c, point d, and point e, it is necessary to enact the Law on Hajj Fund Management;

Observing : Article 5 section (1), Article 20 and Article 29 of the 1945
Constitution of the Republic of Indonesia;

With the Joint Approval of
THE HOUSE OF REPRESENTATIVES
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

HAS DECIDED:

To enact : LAW ON HAJJ FUND MANAGEMENT.

CHAPTER I GENERAL PROVISIONS

Article 1

In this Law:

1. Hajj Fund means all rights and obligations of the Government that have monetary value related to the organisation of hajj and all assets in terms of money or valuable goods resulting from the implementation of those rights and obligations which resulted from the hajj pilgrims' fund and other legal and non-binding sources.
2. Hajj Pilgrims' Fund means the payment towards the cost of hajj, the unutilised sum from the organisation of the hajj budget, People perpetual fund, as well as the profit under the government management in relation to the organisation of the hajj and the implementation of the programs for benefit of the Muslims.
3. *Dana Abadi Umat* (People Perpetual Fund), hereinafter referred to as DAU, means the funds that prior to the effective date of the Law Number 34 of 2014 on Hajj Fund Management was generated from the management of DAU and/or the unutilised sum from the organisation of the hajj budget and other non-binding halal sources in accordance with the provisions of the legislation.
4. *Badan Pengelola Keuangan Haji* (Hajj Fund Management Agency), hereinafter referred to as BPKH, means an institution carrying out the Hajj Fund Management.

5. Shariah Commercial Bank means a bank conducting business activities in accordance with Shariah principles, that in its activities provides services in payment traffic.
6. Shariah Business Unit means a unit of a conventional commercial bank head office that serves as the headquarter of an office or a unit that carries out business activities in accordance with Shariah principles.
7. *Bank Penerima Setoran Biaya Penyelenggaraan Ibadah Haji* (Bank receiving the Cost for the Organisation of the Hajj), hereinafter referred to as BPS BPIH means a Shariah Commercial Bank and/or Shariah Business Unit appointed by BPKH as BPS BPIH.
8. Hajj Account means an account of BPKH with Shariah Commercial Bank and/or Shariah Business Unit for the Hajj Pilgrims Fund.
9. Organisation of the Hajj means a series of activities of the management of hajj that include the guidance, services, and protection of Hajj Pilgrims organized by the Government.
10. Organisation of the Special Hajj means Organisation of the Hajj carried out by organiser of the special hajj with special arrangement, funding, and services.
11. *Penyelenggara Ibadah Haji Khusus* (Organiser of the Special Hajj), hereinafter referred to as PIHK, means a party that organises the special hajj and has the permit from the Minister as PIHK.
12. *Biaya Penyelenggaraan Ibadah Haji* (the Cost for the Organisation of the Hajj), hereinafter referred to as BPIH, means the amount that has to be paid by the citizens who register for hajj.
13. *Biaya Penyelenggaraan Ibadah Haji Khusus* (the Cost for the Organisation of the Special Hajj), hereinafter referred to as Special BPIH means the amount that has to be paid by the citizens who register for special hajj.
14. Hajj Pilgrims means Indonesian citizen who are Muslims and have registered to perform hajj in accordance with the stipulated requirements.

15. *Dewan Perwakilan Rakyat* (The House of Representatives), hereinafter referred to as DPR means the House of Representatives as referred to in the 1945 Constitution of the Republic of Indonesia.
16. The Central Government hereinafter referred to as the Government, means the President of the Republic of Indonesia who holds the authority of the government of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.
17. Minister means the minister administering the government's religious affairs.

Article 2

Hajj Fund Management is based on:

- a. shariah principles;
- b. prudential principle;
- c. benefits;
- d. non-profit;
- e. transparency; and
- f. accountability.

Article 3

The objectives of Hajj Fund Management are to improve:

- a. the quality of the Organisation of the Hajj;
- b. rationality and efficiency in spending of BPIH; and
- c. benefits for the Muslims.

CHAPTER II HAJJ FUND

Article 4

Hajj Fund consists of:

- a. income;
- b. expenses; and
- c. assets.

Article 5

The Hajj Fund income as referred to in Article 4 point a includes:

- a. BPIH and/or Special BPIH payment;
- b. Hajj Fund profits;
- c. unutilised sum from the organisation of the hajj budget;
- d. DAU; and/or
- e. other legal and non-binding sources.

Article 6

- (1) The BPIH and/or Special BPIH payments as referred to in Article 5 point a are originated from the Hajj Pilgrims.
- (2) The BPIH and/or Special BPIH payment as referred to in point (1) are paid to an account in the name of BPKH in its capacity as the legal representative of the Hajj Pilgrims on Hajj Account through BPS BPIH.
- (3) The sum of BPIH and/or Special BPIH consists of BPIH and/or Special BPIH that has been paid and its profit.
- (4) The Hajj Pilgrims are not allowed to withdraw the sum of BPIH and/or Special BPIH.
- (5) The withdrawal of the sum of BPIH and/or Special BPIH as referred to in section (4) may only be conducted when the Hajj Pilgrims withdraw their hajj registration, either due to death or other lawful reasons as stipulated in the provisions of the legislation regulating the Organisation of the Hajj.

Article 7

- (1) The BPIH and/or Special BPIH payments as referred to in Article 5 point a are the amount deposited by the Hajj Pilgrims for the Organisation of the Hajj.
- (2) In the event that the sum of BPIH and/or Special BPIH in the account exceeds the amount set as BPIH and/or Special BPIH in the existing year, BPKH is obligated to pay the difference to the Hajj Pilgrims.

Article 8

- (1) The Hajj Fund profits as referred to in Article 5 point b are generated from the proceeds of Hajj Fund management.
- (2) The Hajj Fund profits as referred to in section (1) are placed on Hajj Account.

Article 9

- (1) The unutilised sum from the Organisation of the Hajj budget as referred to in Article 5 point c is generated from the proceeds of the unutilised operational cost from the Organisation of the Hajj.
- (2) The unutilised sum from the Organisation of the Hajj budget as referred to in section (1) is placed on the Hajj Account.

Article 10

The Hajj Fund expenses as referred to in Article 4 point b include the expenditures for:

- a. the Organisation of the Hajj;
- b. the operational of BPKH;
- c. the placement and/or investment in Hajj Fund;
- d. the refund of payments of BPIH and/or Special BPIH for Hajj Pilgrims withdrawing their registration due to lawful reason;
- e. the payment of Special BPIH sum to PIHK;
- f. the payment of the profits of BPIH and/or Special BPIH sum;
- g. the programs for the benefit of the Muslims; and
- h. the refund of the difference between the balance in the BPIH and/or Special BPIH account and the amount set as BPIH and/or Special BPIH in the existing year.

Article 11

- (1) The expenditure for the Organisation of the Hajj as referred to in Article 10 point a is determined by the Government after obtaining the approval from the DPR.

- (2) The expenses for the Organisation of the Hajj as referred to in section (1) are affected by transferring funds from Hajj Account to the account of hajj organiser unit periodically.
- (3) Further provisions regarding the procedure to transfer the funds from the Hajj Account for the Payment of Hajj Fund expenses as referred to in section (2), including the phases and amount of each phase, are regulated in a Ministerial Regulation.

Article 12

- (1) The BPKH operational expenses as referred to in Article 10 point b include:
 - a. employee expenditure; and
 - b. office operational expenditure.
- (2) The expenses as referred to in section (1) are affected in accordance with rational, effective, efficient, transparent, and accountable principles.
- (3) The expenditure as referred to in section (1) is determined based on percentage of the profits generated from Hajj Fund management.
- (4) The expenditure as referred to in section (1) is proposed by BPKH and endorsed by the Minister after obtaining approval from the DPR.
- (5) The expenditure as referred to in section (1) are affected by transferring funds from the Hajj Account to the BPKH account.
- (6) The unutilised sum of BPKH operational budget is repaid to the Hajj Account.

Article 13

The expenditure for Hajj Fund placement and/or investment as referred to in Article 10 point c are affected after obtaining the approval from the supervisory board.

Article 14

The expenditure for the refund of BPIH and/or Special BPIH payment of the Hajj Pilgrims as referred to in Article 10 point d

for the balance of BPIH and/or Special BPIH sum is paid to each account of the Hajj Pilgrims whose registration is withdrawn.

Article 15

The expenditure for payment of Special BPIH sum to PIHK as referred to in Article 10 point e is paid in accordance with the number of Hajj Pilgrims who have paid the Special BPIH and will perform hajj in the existing year.

Article 16

- (1) The expenditure for payment of the profits of BPIH and/or Special BPIH sum as referred to in Article 10 point f is affected periodically by BPKH to the virtual account of the Hajj Pilgrims.
- (2) The expenditure as referred to in section (1) is determined based on percentage of the profits generated from Hajj Fund management.
- (3) The percentage of the profits of the Hajj Fund management as referred to in section (2) is determined annually by BPKH after obtaining the approval from the DPR.

Article 17

The expenditure for programs for the benefit of the Muslims as referred to in Article 10 point g is funded from the profits of DAU.

Article 18

The assets as referred to in Article 4 point c include money and valuable goods managed by BPKH.

Article 19

Further provisions on income, expenses and assets of Hajj Fund as referred to in Article 4 are regulated in the Government Regulation.

CHAPTER III HAJJ FUND MANAGEMENT AGENCY

Part One

General

Article 20

- (1) Hajj Fund management is carried out by BPKH.
- (2) BPKH as referred to in section (1) is a public legal entity under this Law.
- (3) BPKH as referred to in section (2) is independent and responsible to the President through the Minister.
- (4) The Hajj Fund management by BPKH is carried out on corporative and non-profit basis.

Part Two

Domicile

Article 21

- (1) BPKH as referred to in Article 20 section (1) has domicile and head office in the capital of the Republic of Indonesia.
- (2) The BPKH as referred to in section (1) may have representative offices in the provinces and branch offices in the regencies/municipalities.

Part Three

Duties, Functions, Authorities, Rights and Obligations

Paragraph 1

Duties

Article 22

BPKH has the duty to manage the Hajj Fund that includes revenue, management, expenses, and accountability for the Hajj Fund.

Paragraph 2

Functions

Article 23

In performing the duties as referred to in Article 22, BPKH has the following functions:

- a. the planning of Hajj Fund income, management and expenses;
- b. the implementation of Hajj Fund income, management, and expenses;
- c. the control of and supervision on the Hajj Fund income, management, and expenses; and
- d. the reporting of and accountability for the Hajj Fund income, management, and expenses.

Paragraph 3

Authorities

Article 24

In carrying out the duties as referred to in Article 22, BPKH has the authority to:

- a. place and invest the Hajj Fund in accordance with the principles of shariah, prudential, security, and profit; and
- b. cooperate with other institutions in relation to the Hajj Fund management.

Paragraph 4

Rights

Article 25

To carry out the duties and functions as specified in Article 22 and Article 23, BPKH has the right to obtain operational budget for the implementation of the Hajj Fund management program which sources of fund are from the profit generated from the Hajj Fund.

Paragraph 5
Obligations

Article 26

To carry out the duties and functions as specified in Article 22 and Article 23, BPKH is obligated:

- a. to manage Hajj Fund transparently and accountably for the optimal interest of the Hajj Pilgrims and the benefit for the Muslims;
- b. to provide information through media on its performance, financial conditions and assets and the results of its management periodically every six months;
- c. to provide information to Hajj Pilgrims on the profits of BPIH and/or Special BPIH through virtual accounts of each Hajj Pilgrims;
- d. to prepare the accounting in accordance with the applicable accounting standards;
- e. to report the implementation of Hajj Fund management periodically every six months to the Minister and DPR;
- f. to periodically pay the profits of BPIH and/or Special BPIH to the virtual account of each Hajj Pilgrims; and
- g. to repay the difference of BPIH and/or Special BPIH and the amount set on the existing year's BPIH and/or Special BPIH to the Hajj Pilgrims.

Part Three
Organ

Paragraph 1
Structure

Article 27

BPKH organ consists of the executive board and the supervisory board.

Paragraph 2
Executive Board

Article 28

- (1) The executive board has the Hajj Fund planning, implementation, accountability and reporting functions.
- (2) In carrying out the functions as referred to in section (1), the executive board has the duties:
 - a. to prepare the formulation of policies, strategic plans, and annual work plan and budget of the Hajj Fund management;
 - b. to implement the determined Hajj Fund management program and recommendations on the supervision and monitoring findings from the supervisory board;
 - c. to administer the Hajj Fund management and BPKH's assets in accordance with the provisions of legislation;
 - d. to report on the implementation of the program and the annual budget of the Hajj Fund management periodically to the supervisory board;
 - e. to prepare BPKH accountability report to the President and DPR;
 - f. to stipulate technical provisions on BPKH operational implementation;
 - g. to organize the administration of Hajj Fund management in accordance with the provisions of legislation; and
 - h. to prepare financial statement in accordance with the provisions of legislation.
- (3) In carrying out the duties as referred to in section (2), the executive board has the authority:
 - a. to carry out the authority of BPKH;
 - b. to determine the organizational structure and its main duties and functions, organizational work procedures, and employees system;
 - c. to organize BPKH staffing management, including appointment, transfer, and dismissal of BPKH

- employees and determine the salary of BPKH employees;
- d. to propose to the President through the Minister the honorarium of the supervisory board and the executive board; and
 - e. to stipulate the provisions on and procedures for the goods and services procurement for the implementation of BPKH's duties by considering the principles of transparency, accountability, efficiency, and effectiveness.
- (4) Further provisions on the procedures for the implementation of the functions, duties and authority of the executive board as referred to in section (1), section (2), and section (3) are regulated in Presidential Regulation.

Article 29

- (1) The executive board as referred to in Article 5 consists of at least 5 (five) members from the professionals.
- (2) The executive board members as referred to in section (1) are appointed and dismissed by the President.
- (3) The executive board members are appointed for a term of 5 (five) years and may be proposed to be re-appointed for another 1 (one) term.

Paragraph 3

Supervisory Board

Article 30

- (1) The supervisory board has the supervisory function to the Hajj Fund management.
- (2) In carrying out the function as referred to in section (1), the supervisory board has the following duties:
 - a. carry out assessment of the formulation of policies, strategic plan, annual work plan and budget of the Hajj Fund management;
 - b. carry out supervision on and monitoring to the implementation of Hajj Fund management; and

- c. assess and provide consideration to the accountability report on the implementation of Hajj Fund management and BPKH management before it is issued as a BPKH report.
- (3) In carrying out the duties as referred to in section (2), the supervisory board has the authority:
- a. to approve strategic plan and annual work plan and budget of the Hajj Fund management;
 - b. to approve the placement and/or investment of Hajj Fund;
 - c. to obtain and/or request for a report from the executive board;
 - d. to access data and information on Hajj Fund management;
 - e. to conduct review to data and information on the Hajj Fund management; and
 - f. to provide advice and recommendations to the President through the Minister regarding the performance of the executive board.
- (4) Further provisions on the procedures for carrying out the function, duties and authority of the supervisory board as referred to in section (1), section (2), and section (3) are regulated in Presidential Regulation.

Article 31

- (1) The supervisory board as referred to in Article 5 consists of 7 (seven) members from the professionals.
- (2) The supervisory board as referred to in section (1) consists of 2 (two) persons from the government and 5 (five) persons from the public.
- (3) The supervisory board members from the government as referred to in section (2) consist of:
 - a. 1 (one) person from the ministry administering government's religious affairs; and
 - b. 1 (one) person from the ministry administering government's financial affairs.

- (4) The supervisory board members from the public as referred to in section (2) are selected by selection committee established by the President.
- (5) Further provisions on the selection and nomination of the supervisory board members are regulated in Presidential Regulation.

Article 32

- (1) The supervisory board members as referred to in Article 31 section (1) are appointed and dismissed by the President.
- (2) The President appoints one of the supervisory board members as referred to in section (1) as the chairperson of the supervisory board.
- (3) The supervisory board members are appointed for a term of 5 (five) years and may be proposed to be re-appointed for another 1 (one) term.
- (4) In carrying out their duties and functions, the supervisory board may be assisted by an audit committee.
- (5) The establishment of the audit committee is determined by the supervisory board.

Part Four

BPKH Employees

Article 33

- (1) BPKH employees have the status as the employees of BPKH.
- (2) BPKH employees are Indonesian citizens who, owing to their expertise, are appointed as the employees of BPKH.
- (3) Further provisions on the conditions of and procedures for the appointment of BPKH employees are regulated in the Presidential Regulation.

CHAPTER IV
QUALIFICATIONS, PROCEDURES FOR SELECTION AND
DETERMINATION, AS WELL AS DISMISSAL OF EXECUTIVE
BOARD MEMBERS AND SUPERVISORY BOARD MEMBERS

Part One
Qualifications of Executive Board Members and Supervisory
Board Members

Paragraph 1
General Qualifications

Article 34

- (1) To be appointed as executive board members and supervisory board members, the executive board candidates and supervisory board candidates must fulfill the following qualifications;
 - a. Indonesian citizens;
 - b. Muslims;
 - c. physically and mentally healthy;
 - d. of good integrity and personality;
 - e. have appropriate qualifications and competencies for Hajj Fund management;
 - f. minimum of 40 (forty) years of age and maximum of 60 (sixty) years at the time of candidacy;
 - g. not being a member or management of a political party;
 - h. free from any judicial process whether as the suspect or accused; and
 - i. does not have any criminal records of offences punishable by imprisonment of 5 (five) years or more;
 - j. will not work elsewhere upon appointment to BPKH; and/or
 - k. have sufficient knowledge of shariah economics.
- (2) During their term, neither the executive members nor the supervisory board members are allowed to have position in government, other legal entities, or as state officials.

Paragraph 2
Special Qualification

Article 35

- (1) In addition to the general qualifications as referred to in Article 34 section (1), the executive board candidates and supervisory board candidates must fulfill special qualifications namely competence and experience in the field of financial management for at least 5 (five) years.
- (2) Further provisions on special qualifications are regulated in Presidential Regulation.

Part Two

Procedures for Selection and Determination of Executive Board
Members and Supervisory Board Members

Article 36

- (1) To select and determine the executive board members and the supervisory board members, the President establishes selection committee.
- (2) The membership of the selection committee as referred to in section (1) consists of 3 (three) persons from the Government and 6 (six) persons from the public.
- (3) The membership of the selection committee as referred to in section (2) is stipulated in Presidential Decree.

Article 37

- (1) The selection committee as referred to in Article 36 announces the registration of the executive board candidates and the supervisory board candidates not later than 5 (five) work days after the determination thereof.
- (2) The registration and selection of the executive board candidates and the supervisory board candidates are opened for 30 (thirty) work days continuously.
- (3) The selection committee announces the names of the executive board candidates and the supervisory board

candidates to the public to request for their responses not later than 5 (five) work days after the registration is closed.

- (4) The responses as referred to in section (3) are submitted to the selection committee not later than 15 (fifteen) work days as of the date of announcement.
- (5) The selection committee determines the executive board candidates and the supervisory board candidates that will be submitted to the President namely 2 (two) times the number of positions required not later than 10 (ten) work days as of the date of the closing of the response submission period from the public.

Article 38

- (1) The President selects and appoints the supervisory board members from the Government and the executive board members based on the recommendation made by the selection committee.
- (2) The President submits the names of the supervisory board candidates who are from the public to DPR namely 2 (two) times the number of positions required not later than 10 (ten) work days as of the date of receipt of the list of candidates from the selection committee.
- (3) DPR selects the supervisory board members from the public as referred to in section (2) not later than 20 (twenty) work days as of the date of receipt of recommendation made by the President.
- (4) The Chairperson of DPR submits the names of the selected candidates as referred to in section (3) to the President not later than 5 (five) work days as of the end of the selection.
- (5) The President determines the selected candidates as referred to in section (4) not later than 30 (thirty) work days as of the date of receipt of the letter from the chairperson of DPR.
- (6) The determination of the supervisory board members from the government and the executive board members as

referred to in section (1) is carried out simultaneously with the determination of the supervisory board members as referred to in section (5).

Article 39

Further provisions on the procedures for selection and determination of the executive board members and the supervisory board members as referred to in Article 36, Article 37, and Article 38 are regulated in the Presidential Regulation.

Part Three Dismissal

Article 40

The executive board members or the supervisory board members cease from the position for the following reasons:

- a. death;
- b. completion of term; or
- c. dismissal.

Article 41

- (1) The executive board members or the supervisory board members may be suspended on the grounds of:
 - a. persistent illness for more than 3 (three) months thereby unable to carry out their duties;
 - b. determined as a suspect in criminal procedure; or
 - c. subject to administrative sanction in terms of suspension.
- (2) In the event that the executive board members or the supervisory board members are suspended in accordance with the provision in section (1), the President appoints the official ad interim taking into consideration any recommendation made by the Minister's consideration.
- (3) The executive board members or the supervisory board members as referred to in section (1) are reinstated if they have been declared healthy to carry out their duties, if their status as a criminal suspect is revoked, or the administrative sanction of suspension is revoked.

- (4) Reinstatement as referred to in section (3) is made not later than 30 (thirty) days as of the date of declaration on being healthy, the revocation of the suspect status, or the revocation of administrative sanction in term of suspension.
- (5) The suspension of the executive board members or the supervisory board members as referred to in section (1) and the reinstatement as referred to in section (3) are carried out by the President.

Article 42

The executive board members or the supervisory board members are dismissed from their position on the grounds of:

- a. persistent illness for 6 (six) months thereby unable to carry out their duties;
- b. failure to carry out their duties as the executive board members or the supervisory board members continuously for more than 3 (three) months for reasons other than those referred to in point a;
- c. putting in place policy that cause harm to BPKH and the interests of the Hajj Pilgrims;
- d. prosecuted for committing a criminal act;
- e. no longer eligible as an executive board member or a supervisory board member; and/or
- f. resignation by submitting the resignation letter.

Article 43

In the event that the executive board members or the supervisory board members resign as referred to in Article 40 point a or dismissed as referred to in Article 42, the President appoints the replacement executive board members and/or the supervisory board members to continue serving for the remaining of the term.

Article 44

- (1) When a position in the executive board or the supervisory board becomes vacant in accordance with the provision in

Article 43, the President forms selection committee to select ad interim member.

- (2) The procedures for the selection and determination of ad interim member as referred to in section (1) are implemented in accordance with the provisions of Article 36, Article 37, Article 38, and Article 39.
- (3) In the event that the remaining period of the existing term as referred to in section (1) is less than 18 (eighteen) months, the President appoints ad interim member based on the Minister's recommendation.
- (4) The Minister puts forward the recommendation as referred to in section (3) based on the ranking of the selection results.
- (5) Further provisions on the procedures for selection and determination of ad interim member as referred to in section (1), section (2), section (3), and section (4) are regulated in the Presidential Regulation.

CHAPTER V

PROCEDURES FOR HAJJ FUND MANAGEMENT

Article 45

- (1) BPKH prepares a strategic plan for a 5 (five) years term.
- (2) Based on the strategic plan as referred to in section (1), BPKH prepares annual work plan and budget.
- (3) The annual work plan and budget as referred to in section (2) is accompanied with an overview of the annual work plan and budget.
- (4) The strategic plan as well as the annual work plan and budget as referred to in section (1) and section (3) are determined by the executive board after obtaining the approval from DPR.
- (5) The annual work plan and budget as referred to in section (4) becomes a reference in the implementation of Hajj Fund management.

Article 46

- (1) Hajj Fund is to be managed in Shariah Commercial Banks and/or Shariah Business Units.
- (2) The Hajj Fund as referred to in section (1) may be placed and/or invested.
- (3) The placement and/or investment as referred to in section (2) are made in accordance with shariah principles taking into consideration the security, prudence, profits, and liquidity aspects.

Article 47

- (1) BPKH is obligated to manage and ensure the provision of Hajj Fund at an amount equivalent to 2 (two) times the Cost of Organisation of the Hajj.
- (2) The determination of the required amount as referred to in section (1) is regulated by Ministerial Decision.

Article 48

- (1) The Hajj Fund placement and/or investment may be made in terms of banking products, securities, gold, direct investments and other investments.
- (2) The Hajj Fund placement and/or investment as referred to in section (1) are carried out in accordance with shariah principles taking into consideration the security, prudential, profits, and liquidity aspects.
- (3) Further provisions on the Hajj Fund placement and/or investment are regulated in Government Regulation.

Article 49

- (1) Hajj Fund placement and/or investment are carried out after the approval of the supervisory board.
- (2) The Hajj Fund allocated for placement and/or investment as referred to in section (1) are transferred from Hajj Account to BPKH account.

Article 50

In managing the Hajj Fund, BPKH uses unit of count in rupiah.

Article 51

Further provisions on the procedures for Hajj Fund management are regulated in Government Regulation.

CHAPTER VI
ACCOUNTABILITY

Article 52

- (1) The executive board is obligated to submit accountability reports on the implementation of Hajj Fund management to the supervisory board on monthly, quarterly, semi-annually and annually basis.
- (2) The accountability reports on the implementation of Hajj Fund management as referred to in section (1) consist of performance reports and financial statement.
- (3) The financial statement as referred to in section (2) includes budget realization reports, operational reports, cash flow statements, balance sheets, and notes to the financial statements.
- (4) The financial statement as referred to in section (3) is prepared and presented in accordance with the applicable accounting standards.
- (5) BPKH is obligated to submit accountability reports on the implementation of Hajj Fund management to the President and DPR through the Minister every 6 (six) months.
- (6) The accountability reports on the implementation of Hajj Fund management are audited by the Audit Board of the Republic of Indonesia in accordance with the provisions of legislation.
- (7) BPKH is obligated to submit the accountability reports on the implementation of Hajj Fund management already audited by the Audit Board of the Republic of Indonesia to the President and DPR through the Minister not later than June 30th in the following year.
- (8) The accountability reports on the implementation of Hajj Fund management as referred to in section (5) are

published in the form of executive summary in not less than 2 (two) nation wide electronic media by no later than July 31st in the following year.

Article 53

- (1) The executive board members and the supervisory board members are jointly responsible for any loss resulting from the placement and/or investment of the entire Hajj Fund caused by mistakes and/or negligence in its management.
- (2) The executive board members and the supervisory board members are discharged from the responsibility for any loss as referred to in section (1), if they are able to demonstrate that:
 - a. the loss is not due to their mistakes or negligence;
 - b. they have carried out the management and supervision in good faith and prudence for the interest of and in accordance with the objectives of Hajj Fund management as referred to in Article 3;
 - c. they have no conflict of interest either directly or indirectly to the action of the Hajj Fund management that causes the loss; and
 - d. they have taken the action to prevent the loss or the continuity of such loss.
- (3) At the end of the term, the executive board members and the supervisory board members are to submit accountability reports on the implementation of their duties to the President and DPR.

CHAPTER VII SUPERVISION

Article 54

- (1) Supervision to BPKH is carried out internally and externally.
- (2) BPKH internal supervision is carried out by the supervisory board.

- (3) BPKH external supervision is carried out by DPR based on the audit findings by the Audit Board of the Republic of Indonesia.

CHAPTER VIII COORDINATION AND COOPERATION WITH OTHER INSTITUTIONS

Article 55

- (1) In carrying out its duties and functions, BPKH coordinates with ministries/institutions related to the hajj management, financial services, and investment, both domestically and abroad.
- (2) BPKH may cooperate with business entities and/or institutions, both domestically and abroad, in order to improve the quality of Hajj Fund management and BPKH institutional development and guidance.
- (3) The coordination and cooperation as referred to in section (1) and section (2) are carried out in the preparation and determination of policies related to the improvement in the quality of Hajj Fund management

CHAPTER IX CLOSING PROVISIONS

Article 56

At the time this Law comes into force, all provisions relating to the Hajj Fund management in Law Number 13 of 2008 on Organisation of the Hajj and all regulations being the implementing regulations of Law Number 13 of 2008 on Organisation of the Hajj are declared to remain effective as long as they do not contradict the provisions of this Law.

Article 57

The implementing regulations of this Law must be issued not later than 1 (one) year from the date of the promulgation of this Law.

Article 58

BPKH must be established not later than 1 (one) year from the date of the promulgation of this Law.

Article 59

Within not later than 6 (six) months from the establishment of BPKH, all assets and liabilities as well as legal rights and obligations attached to the Hajj Fund and the assets are to become the assets and liabilities as well as legal rights and obligations of BPKH.

Article 60

This law comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

on 17 October 2014

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

on 17 October 2014

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

signed

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 296 OF 2014

Jakarta, 16 November 2021

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,



BENNY RIYANTO

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

on 17 October 2014

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

on 17 October 2014

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

signed

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 296 OF 2014

Jakarta, 16 November 2021

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,



BENNY RIYANTO

ELUCIDATION OF
LAW NUMBER 34 OF 2014
ON
HAJJ FUND MANAGEMENT

I. GENERAL

The 1945 Constitution of the Republic of Indonesia stipulates that the state is based on the One Supreme God and guarantees the freedom of each citizen to embrace their respective religions and to act of worship according to their religion and faith.

Hajj is one of the religious obligations that an able Muslim must fulfill at least once in a lifetime. This obligation motivates the Indonesian Muslims to register for hajj hence continuously increasing the length of the waiting period as the hajj quota is limited. The increase in the number of the registered pilgrims has resulted in the accumulation of sizeable hajj fund.

The returns on accumulated hajj fund could have given good return that could be utilized towards the organization of quality hajj that could be achieved through effective, returns on efficient, transparent and accountable hajj fund management.

To ensure the ideal management of Hajj Fund management, it is necessary to formulate the Law on Hajj Fund Management to manage the BPIH paid by pilgrims as well as the DAU and other source of income from unconditional sources. The management of the Hajj Fund is undertaken in the form of investment which returns is to be directed to improve the quality of the hajj organization, rationality and efficiency of BPIH as well as to ensure the benefits of the Muslims. On the other hand, this Law also mandates the management of Hajj Fund by shariah, prudence, benefits, non-profit, transparent, and accountability principles. To conduct the Hajj Fund management, this Law established the BPKH as a public legal entity

that is independent and responsible to the President through the Minister. BPKH has domicile in the capital of the Republic of Indonesia and may have representative offices in provinces and branch offices in regencies/municipalities. BPKH organ consists of the executive board and the supervisory board. BPKH has duties to carry out Hajj Fund management that includes Hajj Fund revenues, development, expenditure, and accountability. BPKH is also authorized to place and invest Hajj Fund in accordance with shariah, prudence, security, financial returns, and liquidity principles. In addition, BPKH is also authorized to cooperate with other institutions.

In carrying out these duties and functions, BPKH is obligated to manage Hajj Fund transparently and accountably for the optimum interests of the Hajj Pilgrims and the benefit of the Muslims, to provide information through the media about performance, financial conditions and assets, and the results of its development periodically by semi-annually, provide information to the Hajj Pilgrims on the returns paid on BPIH and/or Special BPIH through a virtual account of each Pilgrims, accounting in accordance with applicable accounting standards, report the implementation of Hajj Fund management periodically every 6 (six) months to the Minister and DPR, pay the returns on BPIH and/or Special BPIH periodically to the virtual account of each Hajj Pilgrims, and refund the difference of balance of BPIH and/or Special BPIH deposit and the fixed amount of current year's BPIH and/or the Special BPIH to the Hajj Pilgrims.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Point a

The term "shariah principle" means that all and every Hajj Fund management are based on the comprehensive shariah principles.

Point b

The term "prudential principle" means that the Hajj Fund management is carried out carefully, thoroughly, safely, and in

an orderly manner taking into consideration financial risk aspects.

Point c

The term "financial returns" principle means that the Hajj Fund management must be able to provide financial returns or benefit for the Hajj Pilgrims and Muslims community.

Point d

The term "non-profit" principle means that the Hajj Fund management is carried out through business management prioritizing the use of the results of development funds to provide maximum benefits for the Hajj Congregation and the benefit of Muslims, but with no dividend distribution to the managing parties.

Point e

The term "transparent" principle means that the Hajj Fund management must be carried out transparently and honestly by the provision of information to the public, especially to Hajj pilgrims on the implementation and results of Hajj Fund management.

Point f

The term "accountable" principle means that the Hajj Fund management must be carried out accurately and accountable to the public, especially to Hajj Pilgrims.

Article 3

Sufficiently clear.

Article 4

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

Section (1)

Sufficiently clear.

Section (2)

The term “in its capacity as the legal representative” means being allowed to use the terms *Qualitate Qua* or 'qq' so that the account is in favor of BPKH in its capacity as the legal representative of the Hajj Pilgrims in banking which can be abbreviated to 'account a.n. BPKH qq Hajj Pilgrim'.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 7

Section (1)

The deposit fund of Hajj Pilgrims is the fund that are not recorded in the state budget.

Section (2)

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Sufficiently clear.

Article 10

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Activities for the Muslims benefit include the activities of the hajj congregation services, education and Islamic propagation, health, socio-religious, economic community, as well as the construction of worship facilities and infrastructure.

Point h

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Sufficiently clear.

Article 14

Sufficiently clear.

Article 15

Sufficiently clear.

Article 16

Section (1)

The term "virtual account" means the virtual account that is linked to a master account. The virtual account has BPKH's identification number which is opened by the bank at the request of the BPKH to be subsequently provided by BPKH to the Hajj Pilgrims as the account number to receive the returns.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 17

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term "corporate" means the principle of fund management based on the management pattern as practiced by companies or corporations, prioritizing efficiency and effectiveness in the use of resources and outputs.

Article 21

Sufficiently clear.

Article 22

Sufficiently clear.

Article 23

Sufficiently clear.

Article 24

Sufficiently clear.

Article 25

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Sufficiently clear.

Article 34

Sufficiently clear.

Article 35

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

Sufficiently clear.

Article 38

Sufficiently clear.

Article 39

Sufficiently clear.

Article 40

Sufficiently clear.

Article 41

Sufficiently clear.

Article 42

Sufficiently clear.

Article 43

Sufficiently clear.

Article 44

Sufficiently clear.

Article 45

Section (1)

Sufficiently clear.

Section (2)

The term "annual work plan and budget" means the annual work plan and budget documents that contain programs, activities, performance targets, and Hajj Fund management budgets.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 46

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The term "security aspect" means the Hajj Fund management must be carried out by prioritizing the security aspect in anticipating the risk of loss of Hajj Fund management to ensure the funding of Hajj Administration. In addition to that, in investing it also considers aspects of risks including risk of default, reputation, market, and operational.

The term "financial returns" means that a portion of the Hajj Fund can be placed and/or invested in accordance with shariah principles and taking into consideration risk factors and liquidity in nature.

The term "liquidity" means considering the ability and smoothness of payment for the current and future congregation of Hajj.

Article 47

Section (1)

The term "manage" means the placement of Hajj Funds in shariah banking products taking into consideration the security, returns, and liquidity aspects.

Section (2)

Sufficiently clear.

Article 48

Sufficiently clear.

Article 49

Sufficiently clear.

Article 50

Sufficiently clear.

Article 51

Sufficiently clear.

Article 52

Sufficiently clear.

Article 53

Sufficiently clear.

Article 54

Sufficiently clear.

Article 55

Sufficiently clear.

Article 56

Sufficiently clear.

Article 57

Sufficiently clear.

Article 58

Sufficiently clear.

Article 59

Sufficiently clear.

Article 60

Sufficiently clear.